

CARLOS M. CLET (SUBSTITUTED BY HIS HEIRS JOCELYN A. CLET, CHARLOTTE PORTIA CLET, JOSEF CARLOS CHINO CLET, AND JAN CARLOS CLET), SELVI M. CLET, ANNABEL M. CLET-CATABAY, LALEN M. ...

Ponente: SADANG, J.

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SADANG, J.:

This is an ordinary appeal from the April 1, 2011 Decision[1] of the Regional Trial Court of Batangas City, Branch 3, in Civil Case No. 7305, an action for specific performance and damages.

Antecedents of the Appeal

On May 22, 2003, plaintiffs-appellants Carlos M. Clet,[2] Selvi M. Clet, Annabel M. Clet-Catabay, Lalen M. Clet-Salagubang, Noelito M. Clet, and Jani M. Clet (hereafter, plaintiffs) filed a Complaint[3] for specific performance and damages against defendant-appellant Norma Clet-Solis (hereafter, defendant). Roberto Solis, defendant's husband, was impleaded as co-defendant.

Plaintiffs alleged that sometime in 1965, defendant, as sole heir and in representation of her deceased father, Aniceto Clet (Aniceto), sold Aniceto's undivided share in the land previously owned by her paternal grandparents, Sancho and Florentina Melo, in favor of Juanito Clet, plaintiffs' father, who died on January 18, 2002. Defendant confirmed the sale in an undated and unnotarized affidavit witnessed by Epifania Clet and Rodolfo Clet. The sale was not registered because the deed of conveyance was not executed and at that time defendant and Juanito did not see the need for such deed in view of the trust and confidence between them, being niece and uncle. The lot is now covered by Transfer Certificate of Title (TCT) No. T-50362 issued on September 20, 2002 wherein defendant is a co-owner to the extent of one-seventh (1/7) of the property. The lot had been subdivided under Subdivision Plan Psd-04-155041 and the portion sold by defendant to Juanito is designated as Lot No. 2743-C-2-F. After the death of Juanito, plaintiffs demanded of defendant in writing to execute the deed of sale but the latter refused.

Plaintiffs prayed that defendant be ordered to execute the deed of sale and to pay P500,000.00 as moral damages, P100,000.00 as attorney's fees, and P20,000.00 as costs and expenses of litigation.

In her Answer With Counterclaim,[4] defendant averred that: 35 years ago, she borrowed P700.00 from her uncle Juanito; she was made to sign an affidavit and there were no witnesses present when she signed; to her surprise, she received a letter from plaintiffs' lawyer asking her to sign a deed of sale dated February 18, 2003 to which she replied that she was amenable to give one-half of her share as payment for her P700.00 loan; previously, she received a letter from the Register of Deeds of Batangas City asking her conformity to Subdivision Plan Psd-04-155041 to which she replied that she is not selling her one-seventh share.

By way of affirmative defense, defendant alleged that the complaint states no cause of action and the claim on which the action is based is unenforceable under the Statute of Frauds.

Defendant prayed for an award of P500,000.00 as moral damages because plaintiffs effected a survey without her consent, P20,000.00 as exemplary damages, and P100,000.00 as attorney's fees.

At the pre-trial, the parties entered into stipulations as shown by the May 20, 2005 Order of the RTC which reads:

ORDER

In today's scheduled pre-trial, parties stipulated on the following: (1) the hereditary share of the defendants is 1/7 of the entire property which is 466 square meters; (2) due execution of the Affidavit marked as Exhibit "1"; (3) the contents of Exhibit "1"; and 4) defendants did not send any demand letter to the plaintiffs to vacate the property.[5]

x x x x x x x x

After trial, the RTC rendered the appealed decision, the fallo of which reads:

WHEREFORE, foregoing considered, this Court holds the defendant liable in this wise:

1. Defendant to execute a Deed of Conveyance up to the extent of her ½ out of her 1/7[th] hereditary share from her paternal grandparents located at Alangilan, Batangas City in favor of the plaintiffs;
2. Defendant to pay P20,000 for and as attorney's fees, and
3. Cost of litigation expenses.

SO ORDERED.[6]

The RTC ruled that there is no contract to speak of because the agreement between defendant and Juanito was "not determined," however, it appears from defendant's testimony that she merely used her share in the lot as a collateral for her loan and what passed to the plaintiffs was a mere mortgage. The RTC also ruled that the unnotarized affidavit has no legal effect and cannot be used to compel defendant to give effect thereto; however, considering that defendant admitted having sold 100 square meters of her share to Juanito and that to buy peace with her relatives she is willing to part with one-half of her one-seventh share, she should be liable thereon.

Both parties appealed and filed their respective notice of appeal.[7]

Defendant assigns this lone alleged error:

THE COURT A QUO COMMITTED GRAVE AND SERIOUS ERROR IN REQUIRING DEFENDANT NORMA TO EXECUTE IN FAVOR OF THE PLAINTIFFS A DEED OF CONVEYANCE OF ½ OUT OF HER 1/7th HEREDITARY SHARE FROM HER PATERNAL GRANDPARENTS' PROPERTY.[8]

On the other hand, the plaintiffs raise the following errors:

I. IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO COMMITTED GRAVE AND REVERSIBLE ERROR WHEN IT DETERMINED THAT THERE IS NO CONTRACT TO SPEAK OF CONSIDERING THAT ALL THE ELEMENTS FOR A CONTRACT OF SALE ARE PRESENT IN THE CASE AT BAR.

II. IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO COMMITTED GRAVE AND REVERSIBLE ERROR IN ITS INTERPRETATION THAT TCT NO. T-50362 UNDER PLAN PSD 04-155041, SPECIFICALLY LOT 2743-C-2-F, WAS MERELY USED AS A COLLATERAL OR SECURITY, THE TRUTH OF THE FACT BEING THAT THE SAME WAS USED AS PAYMENT OF THE ALLEGED LOAN OF DEFENDANTS-APPELLANTS.

III. IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO COMMITTED GRAVE AND REVERSIBLE ERROR IN ITS INTERPRETATION THAT THE AFFIDAVIT, ALTHOUGH

UNDATED AND UNNOTARIZED HOLDS NO LEGAL EFFECT DESPITE THE FACT THAT ITS DUE EXECUTION AND GENUINENESS WAS STIPULATED UPON DURING THE PRE-TRIAL AND WAS FURTHER ADMITTED IN EVIDENCE BY THE COURT A QUO.

IV. IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO COMMITTED GRAVE AND REVERSIBLE ERROR IN ITS FINDING THAT THE DEFENDANT NORMA IS ONLY LIABLE TO EXECUTE A DEED OF CONVEYANCE UP TO THE EXTENT OF $\frac{1}{2}$ OUT OF HER $\frac{1}{7}$ HEREDITARY SHARE.

V. IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO COMMITTED GRAVE AND REVERSIBLE ERROR IN ITS RULING THAT THE PLAINTIFF-APPELLANTS ARE NOT ENTITLED TO PHP500,000 MORAL DAMAGES, AND ONLY PHP20,000.00 ATTORNEY'S FEES, INSTEAD OF THE PHP100,000.00 ATTORNEY'S FEES PLUS THE ACCUMULATED APPEARANCE FEES PRAYED FOR BY THE PLAINTIFFS-APPELLANTS.

VI. ASSUMING, WITHOUT ADMITTING, AND ONLY FOR THE SAKE OF ARGUMENT, THAT THERE EXISTS A LOAN BETWEEN THE LATE JUANITO CLET AND DEFENDANTS-APPELLANTS NORMA, IT IS RESPECTFULLY SUBMITTED THAT THE HONORABLE COURT A QUO STILL COMMITTED GRAVE AND REVERSIBLE ERROR IN RULING THAT DEFENDANT-APPELLANT NORMA IS LIABLE FOR THE LEGAL RATE OF INTEREST IN HER OBLIGATION AS THE SAME IS NOT COMMENSURATE TO THE VALUE OF THE LOAN GIVEN IN THE YEAR 1965.[9]

Arguments

Defendant contends that an unaccepted offer of compromise is not an admission of liability and that the award of one-half of defendant's hereditary share is grossly disproportionate to her P700.00 loan. Defendant also argues that Juanito took nearly 30 years before seeking payment of defendant's loan.

Plaintiffs argue that there was a valid contract of sale between defendant and Juanito and the finding of the RTC that there was a mortgage is not borne out by the evidence. Petitioners cite the ruling in *Tigno et al. v. Aquino, et al.*[10] that the absence of notarization does not invalidate the transaction evidenced therein. They argue that the affidavit is a private document whose authenticity was proved by the testimonies of the witnesses thereto and defendant's admission that she signed it. Plaintiffs insist on the award of moral damages due to the unjust refusal of defendant to execute the deed of sale. They also argue that the attorney's fees awarded by the RTC is considerably inadequate.

RULING

It has been held that conclusions and findings of fact of the trial court are entitled to great weight on appeal because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.[11] Naturally, this principle is not without exceptions. Factual findings of the trial court are entitled to respect and are not to be disturbed on appeal, unless some facts and circumstances of weight and substance, having been overlooked or misinterpreted, might materially affect the disposition of the case.[12]

The RTC ruled that the 1965 agreement between defendant and Juanito was only a loan with mortgage, reasoning thus:

“However, reading from the oral testimony of defendant, it appears that her hereditary share was only used as a collateral or security of her loan. The use of the term debt (*utang*) in an agreement helps to point out that the transaction intended by the parties was a loan with mortgage, because the term “*utang*” implies the existence of creditor-debtor relationship. In effect, what passes through the successors-in-interest of Juanito Clet is a mere mortgage, and the ownership of the things mortgaged is retained by defendant.”[13] (underscoring

supplied)

Upon a close scrutiny of the records, we find no competent evidence to support the RTC's findings. Even the testimony of defendant cited by the RTC does not prove that the parties agreed to a loan secured by a mortgage. Defendant admitted that there is no documentary evidence of the P700.00 loan.[14] Her only evidence of the alleged loan is her self-serving testimony which was obviously intended to counter the allegation that there was a sale. Since there is no competent evidence of the loan, necessarily, there can be no accessory contract of mortgage.

We cannot sustain the finding of the RTC that defendant had sold one-half of her hereditary rights to plaintiffs because it is not supported by the evidence. It is clear from defendant's evidence that she merely offered to sell to plaintiffs one-half of her share in the lot but plaintiffs refused the offer and in fact filed this action to compel defendant to execute a sale over her entire share. In short, there was no meeting of the minds between the parties as to the object and cause of the contract.

We shall now come to the probative value and significance of the affidavit of defendant (Exh. 1)[15] which reads:

AFFIDAVIT

I, Norma C. Solis, married, of legal age, Filipino and a resident of San Juan, Metro Manila, after having been duly sworn depose and say:

1. That I am the only surviving daughter of the late ANICETO CLET my only brother having died during the liberation period;
2. That, sometime in 1965, I sold to my uncle, JUANITO CLET, for SEVEN HUNDRED PESOS (P700.00), my right to whatever share I may be entitled to a small parcel of land situated in Alangilan, Batangas City and owned by my paternal grandparents, SANCHO CLET and FLORENTINA MELO;
3. I am executing this affidavit to attest to the truth of all the foregoing facts for all legal intents and purposes.

AFFIANT SAYETH NO MORE.

(Sgd.) NORMA C. SOLIS
(Affiant)

OATH

SUBSCRIBED AND SWORN to before me this ____ at Batangas City, affiant exhibiting to me her CTC No. ____ issued on ____ at ____.

It must be noted that Exh. 1 is exactly worded as plaintiffs' Exh. A, however, Exh. A bears the signatures of instrumental witnesses Rodolfo Clet and Epifania Clet. Both exhibits are signed by defendant.

It is clear from the evidence, and plaintiffs so alleged in their complaint, that there was no written contract of sale between defendant and Juanito, plaintiffs' predecessor-in-interest. This is precisely the reason why plaintiffs filed this action—to compel defendant to execute the deed. Plaintiffs' action is simply based on the affidavit above-quoted.

Defendant does not deny having signed the affidavit (Exh. 1) as, in fact, she stipulated on its due execution during the pre-trial. A perusal of the affidavit shows that defendant acknowledged that in 1965 she sold to Juanito her share in the subject land owned by her grandparents for P700.00. There is nothing in the affidavit to show that the sale was in writing. At bottom, plaintiffs' action is clearly based on an oral contract of sale, which brings us to the affirmative defense of defendant that the sale is unenforceable.

As a consensual contract, sale is perfected by mere consent[16] which is manifested by a meeting of the minds as to the offer and acceptance thereof on the subject matter, price and terms of payment of the price.[17] Contracts shall be obligatory, in whatever form they may have been entered into provided all the essential requisites for their validity are present.[18] However, “when the law requires that a contract be in some form in order that it may be valid or enforceable, or that a contract be proved in a certain way, that requirement is absolute and indispensable.”[19] As to contract enforceability, the applicable provisions of the the Civil Code are, as follows:

Article 1358. The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by Article 1403, No. 2 and 1405.

x x x x x x x x

Art. 1403. The following contracts are unenforceable, unless they are ratified:

x x x x x x x x

2. Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or some note or memorandum thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing, or a second evidence of its contents.

x x x x x x x x

(e) An agreement for the leasing for a longer period than a year, or for the sale of real property or of an interest therein;

x x x x x x x x

Art. 1405. Contracts infringing the Statute of Frauds, referred to in No. 2 of Article 1403, are ratified by the failure to object to the presentation of oral evidence to prove the same, or by the acceptance of benefits under them. (All underscorings supplied)

The term “statute of frauds” in Article 1403 (2) is descriptive of statutes which require certain classes of contracts to be in writing. The purpose of the statute of frauds is to prevent fraud and perjury in the enforcement of obligations depending for their evidence the unassisted memory of witnesses by requiring certain enumerated contracts and transactions to be evidenced by a writing signed by the party to be charged.[20]

The following discourse of Professor Tolentino on the Statute of Frauds is instructive:

A contract falling under the statute of frauds cannot be proved without the writing or memorandum thereof. Hence, an oral contract of sale of real property cannot be enforced x x x. Neither can such oral contract be made the basis of an action for damages caused by non-performance thereof.

The statute of frauds, however, simply provides for the manner in which contracts covered under it shall be proved. It does not attempt to make such contracts invalid if not executed in writing, but only only makes ineffective the action for specific performance. The contract exists and is valid, though it may not be clothed with the necessary form, and the effect of non-compliance with the statute is simply that no action can be proved unless the requirement is complied with. Oral evidence of the contract will be excluded upon timely objection.[21] (Underscoring supplied)

In this case, the contract of sale was not in writing and there is no writing or memorandum thereof. The affidavit executed by defendant cannot be considered as a writing or memorandum of the oral contract because there is no

showing that it is contemporaneous with the oral contract. The memorandum contemplated by law serves the function of assisting the memory of the parties and their witnesses as to the details of an oral contract.[22] Obviously, such function would not be served if the memorandum is not contemporaneous with the oral contract which it evidences.

Further, plaintiffs did not present witnesses to testify on the alleged oral contract. The witness they presented, Rodolfo Clet, merely testified on the execution of the affidavit. He did not testify that he was present when the alleged 1965 oral contract was entered into by defendant and Juanito. He did not give the details of the oral contract aided by a memorandum thereof. The same may be said of plaintiffs' other witness, Jani Clet.

Nonetheless, while the affidavit is not a memorandum of the oral contract it is competent proof of defendant's ratification of the oral contract. As earlier stated, defendant stipulated on the due execution of the affidavit (Exh. 1) during the pre-trial.[23] Section 4, Rule 129 of the Revised Rules on Evidence, on judicial admissions, states that an "admission made by a party in the course of the proceedings in the same case, does not not require proof." Thus, the admissions of parties during the pre-trial, as embodied in the pre-trial order, are binding and conclusive upon them.[24] Moreover, in this case, defendant testified that she voluntarily signed the affidavit, knowing fully well what it states and the import of its contents. She admitted knowledge of the English language, having reached second year college.[25]

The admission of the genuineness and due execution of a document means that the party whose signature it bears admits that he voluntarily signed the document; that at the time it was signed it was in words and figures as set out in the pleading of the party relying upon it; that the document was delivered; and that any formalities required by law, such as a seal, an acknowledgment, or revenue stamp, which it lacks, are waived by him. However, it does not preclude a party from arguing against the document by evidence of fraud, mistake, compromise, payment, statute of limitations, estoppel and want of consideration.[26] On this point, defendant averred that she was reluctant at first to sign the document but she ultimately signed it upon being convinced by Juanito. This does not prove, however, that defendant was coerced or misled into signing the affidavit. Indeed, her admission of the due execution of the document negates coercion or fraud.

That defendant had ratified the oral contract of sale by her execution of the affidavit is further shown by her stipulation at the pre-trial that she never sent a demand letter to plaintiffs to vacate the property. The stipulation shows that plaintiffs had taken possession of the property subject of the oral contract. Defendant's non-action regarding said possession reinforces the existence of the oral contract of sale. It also belies her contention in this appeal that the affidavit does not reflect the true agreement between her and Juanito that she would only transfer 100 square meters of her share as payment for a P700.00 loan. If defendant's allegation were true, she should have immediately brought an action to prove it. Such is the natural reaction of a party who feels so aggrieved. Yet, she did nothing and came forth with her allegation only after plaintiffs had filed this action.

All told, defendant's refusal to execute the deed of sale gave rise to a cause of action for specific performance pursuant to Articles 1357 of the Civil Code.[27]

Finally, the award of attorneys fees in the amount of P20,000.00 must be deleted considering that the RTC failed to state the factual and legal basis therefor and this court, on appeal, cannot provide the justification for said award.[28]

WHEREFORE, the appeal of plaintiffs is GRANTED and the appeal of defendant Norma Clet and her husband is DENIED. The April 1, 2011 Decision of the Regional Trial Court, Branch 3, Batangas City, in Civil Case No. 7305 is AFFIRMED with MODIFICATIONS thus: (1) defendant is ordered to execute a deed of sale over her share (1/7) in the subject property; (2) the award of attorney's fees in the amount of P20,000.00 is DELETED.

SO ORDERED.

Librea-Leagogo, J., Chairperson, and [*]Valenzuela, JJ., concur.

[*] Vice Justice Amy C. Lazaro-Javier as per Office Order No. 38-15-RSF dated February 3, 2015.

[1] Record, pp. 363-366.

[2] Per Resolution dated June 6, 2012, the deceased Carlos M. Clet was substituted by Jocelyn A. Clet (wife), Charlotte Portia A. Clet (daughter), Josef Carlos Chino A. Clet (son) and Jan Carlos A. Clet (son), Rollo, pp.186-187.

[3] Record, pp. 1-4.

[4] Id., at 80-86.

[5] Id. at 175.

[6] RTC-Decision, supra note 1 at 366.

[7] Record, pp. 373-374 and pp. 378-379.

[8] Rollo, pp. 50-51.

[9] Id. at 75-76.

[10] G.R. No. 129416, November 25, 2004.

[11] Spouses Patricio and Myrna Bernales v. Heirs of Julian Sambaan, G.R. No. 163271, January 15, 2010 citing Chase v. Buencamino, Sr., 221 Phil. 65, 78 (1985).

[12] Elmer Diamante and Tanny Boy Sta. Teresa v. People Of The Philippines, G.R. No. 180992, September 4, 2009 citing Bautista v. Castillo, G.R. No. 174405, August 26, 2008, 563 SCRA 398, 406.

[13] RTC-Decision, supra note 1 at 365-366.

[14] TSN, June 22, 2007, p. 6 and TSN, August 29, 2008, p. 3.

[15] Records, p. 303.

[16] Clemencia P. Calara, et al. v. Teresita Francisco, et al., G.R. No. 156439, September 29, 2010 citing Amado v. Salvador, G.R. No. 171401, 13 December 2007, 540 SCRA 161, 173.

[17] Id. citing Spouses Castillo v. Spouses Reyes, G.R. No. 170917, 28 November 2007, 539 SCRA 193, 197.

[18] Id. citing Art. 1356, Civil Code of the Philippines.

[19] Article 1356, Civil Code of the Philippines.

[20] Tolentino, Obligations and Contracts, Vol. 4, 1973 ed. p. 580-581.

[21] Id, at 581.

[22] Id, at 580.

[23] Pre-Trial Order, Record, p. 175.

[24] Cuenco v. Talisay Tourist Sports Complex, Inc. et al., G.R. No. 174154, October 17, 2008.

[25] TSN, October 7, 2010, p. 23.

[26] Milagros Simon and Liborio Balatico v. Guia W. Canlas, G.R. No. 148273, April 19, 2006 citing Benguet Exploration, Inc. v. Court of Appeals G.R. No. 117434, February 9, 2001, 351 SCRA 445, 459; Heirs of Amparo del Rosario v. Aurora Santos, 194 Phil. 670, 684 (1981).

[27] See Clemencia Calara, et al. v. Teresita Francisco, et al., G.R. No. 156439, September 29, 2010.

[28] See Anita A. Ledda v. Bank of the Philippine Islands, G.R. No. 200868, November 21, 2012 citing Frias v. San Diego-Sison, G.R. No. 155223, 3 April 2007, 520 SCRA 244, 259-260.

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