

FLORITE ALA-BABAE, PETITIONER, VS. ROQUE ALA, ESTRELLA ALA TOLEDO, NENITA ALA TAN, ALBERTO ALA, HEIRS OF PAULINO ALA, NAMELY: MARION ALA, VIRGINIA ALA AND PRIMA ALA, RESPONDENTS.

SP No. 109443, July 05, 2010

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Court of Appeals

Before this Court is a Petition for Review[1] under Rule 42 of the 1997 Revised Rules of Civil Procedure of the Decision[2] dated April 16, 2009 of the Regional Trial Court, Fifth Judicial Region, Branch 17, Tabaco City in Civil Case No. T-2581 entitled "Roque Ala, Estrella Ala-Toledo, Nenita Ala Tan, Alberta Ala, Heirs of Paulino Ala, namely: Marion Ala, Virginia Ala, Tersila Ala and Prima Ala, Plaintiffs, versus Florete Ala-Babael, Defendant.", the dispositive portion of which reads:

"Finding no reversible error on the assailed decision, the same is hereby affirmed and the instant appeal is dismissed for lack of merit.

SO ORDERED."

The facts are:

On May 20, 2004, respondents Roque Ala ("Roque" for brevity), Estrella Ala-Toledo ("Toledo" for brevity), Nenita Ala-Tan ("Tan" for brevity, Alberto Ala ("Alberto" for brevity), Heirs of Paulino Ala ("Heirs of Paulino" for brevity), namely: Marlon Ala, Veronica Ala, Tarsila Ala, and Prima Ala ("Prima" for brevity) filed a Complaint[3] for Partition against petitioner Florete Ala-Babael ("Babael" for brevity) before the Municipal Circuit Trial Court of Bacacay-Malilipot, Fifth Judicial Region, Bacacay, Albay docketed as Civil Case No. B-289 averring that: Roque, Toledo, Tan, Alberto, Heirs of Paulino and Petitioner Babael are the children of Spouses Prima and Rebelato Ala ("Spouses Ala" for brevity); Spouses Ala acquired a twenty six thousand seven hundred and sixty eight (26,768) square meters parcel of land located at Misibis, Bacacay, Albay covered by Original Certificate of Title No. VH-6135; the parties are the present co-owners of the subject property; when Rebelato Ala got sick, the subject property was mortgaged to the Development Bank of the Philippines; petitioner Babael caused the Spouses Ala to execute a document transferring the subject property to the former, without any consideration; Rebelato Ala died on April 5, 1979; OCT No. VH-6135 was canceled and Transfer Certificate of Title No. PA-4463 was issued on April 15, 1982 in petitioner Babael's name; on November 24, 2003, petitioner Babael agreed to have the subject property subdivided and partitioned among the parties with the lion's share belonging to the former being the one who redeemed the subject property from DBP; when the subject property was surveyed and subdivided in accordance with the agreed sharing in the Temporary Partition Agreement, petitioner Babael refused to sign the plan and told them to change the agreement in accordance with her will; and, they exerted earnest efforts to amicably settle the case with petitioner Babael, but to no avail.

They prayed for the partition of the subject property, one half (1/2) of the subject property plus one seventh (1/7) of the other half in favor of Prima, and one seventh (1/ 7) each of the half portion of the subject property in favor

of petitioner Babael, respondents Toledo, Tan, Alberto, Roque and the Heirs of Paulino; the disclosure by petitioner Babael of the redemption price of the subject property from DBP; equal reimbursement by them of the redemption price to petitioner Babael; and, the reimbursement by petitioner Babael of not less than P10,000.00 as their litigation expenses.

Petitioner Babael filed her Answer[4] Averring, that: respondents did not exert earnest efforts to amicably settle this case with her; in 1973, Spouses Ala mortgaged the subject property to secure their P1,000.00 loan with DBP; in 1975, Spouses Aia mortgaged another parcel of land located at Misibis, Bacacay, Albay covered by OCT No. VH-18030 as security for their P3,000.00 loan with DBP; when the loan fell due, Rebelato Ala asked his children to redeem the subject property from DBP but they refused; Rebelato Ala requested her to buy the subject property from Spouses Ala for P4,000.00 and she obliged; Rebelato Ala redeemed the subject property from DBP and the title to and the release of mortgage of the subject property were given to her; the title to the subject property was transferred in her name; she declared the subject property for taxation purposes and paid the real property taxes; on November 24, 2003, she went to Tabaco City, upon respondent Alberto's request, and signed the Temporary Partition Agreement thinking that it pertains to their parents' other lot; she ceded in writing a 13,284-square meter portion of the subject property in favor of respondents; she ceded in writing another 13,284-square meter portion of the subject property to Rosette Bernabe, Leonardo Babael, Felix Babael, Janice Babael and Florile Babael and the remaining portion was ceded to Natividad Ala and Rosita Ala at 100 square meters each; respondents misled her into signing the Temporary Partition Agreement; she would not have signed the said agreement had she known beforehand that it was the subject property that was being partitioned; she retained the services of counsel for P20,000.00 plus P1,500.00 per appearance fee; and, she is entitled to P50,000.00 as moral damages for the untold worries, serious anxiety, besmirch reputation, wounded feelings and sleepless nights that she suffered.

On November 11, 2005, respondents filed their Amended Complaint[5] for Reconveyance averring, among others, that: Spouses Ala also acquired a parcel of land located at Misibis, Bacacay, Albay covered by OCT No. VH-18030 which emanated from Free Patent No. 534642; OCT No. VH-18030 covering Lot No. 8 was canceled in February 1987, subdivided into Lot Nos. 8-A and 8-B and covered by TCT Nos. T-12862 and T-126873, respectively and registered in the name of Grand Crest Realty and Development Corporation; the parties are the co-owners of the subject property after Rebelato Ala's demise; petitioner Babael sensed Rebelato Ala's impending death when she lured Spouses Ala to execute a document transferring the title of the subject property in petitioner Babael's name on February 8, 1979; on December 1, 2004, Atty. Eligeo Berango, former Mayor of Bacacay, Albay, confirmed that the said document was acknowledged before him, in his capacity as a notary public, and the transfer was bereft of any consideration; petitioner Babael deceitfully withheld from them the cancellation of OCT No. VH-6134 since April 1982 and let them pay the real property taxes continuously thinking that it was still their obligation to do so; it was only in November 2004 that they discovered petitioner Babael's fraudulent scheme; efforts were made to amicably settle the case to buy peace and end the turmoil that threatened their family relations; they asked petitioner Babael to apportion half of the subject property (Lot No. 9) to them as their collective share but the parties were hopelessly placed in a stalemate because the institution of this action gravely irked petitioner Babael who still wanted a lion's share over the subject property; the ownership over the subject property has not yet passed to an innocent purchaser for value; respondent Toledo is presently in possession of the subject property and claims that she shared her meager harvest coconuts and other crops with the parties until 2004 when she discovered the fraud committed by petitioner Babael.

They prayed for the payment of P100,000.00 as moral damages, P50,000.00 as exemplary damages and P10,000.00 as litigation expenses.

On the other hand, in petitioner Babael's answer[6], she averred that: she acquired the subject property from her

parents; in 1980, she redeemed it from DBP; the subject property is no longer part of Rebelato Ala's estate having been sold to her prior to the latter's death; the alleged sale without consideration is a figment of respondent's imagination; the deed of sale flatly spells that the subject property was sold for P4,000.00; the amicable settlement of this case was put to naught when respondent Tan hurled invectives at her person after the December 7, 2005 hearing; the deed of cession was bereft of consideration other than her love and generosity and it should be nullified because of respondents' hard heated character and attitude; and extinctive prescription on the part of respondents and acquisitive prescription on her part had already set in.

In respondent's reply[7], they averred that: in November 2003, they verified with the Register of Deeds of Albay and discovered that Spouses Ala executed a deed of sale of the subject property in favor of petitioner Babael sans consideration; respondent Prima was misled by petitioner Babael in signing the document believing that it was for the purpose of authorizing the latter to redeem the subject property from DBP on behalf of the former; on November 21, 2003, Prima was misled by petitioner Babael in signing the document believing that it was for the purpose of authorizing the latter to redeem the subject property from DBP on behalf of the former; on November 21, 2003, Atty. Luis R. Dote of the Public Attorney's Office invited petitioner Babael for a conference due to their complaint against her; during the conference at Atty. Dote's office, petitioner Babael admitted, in the presence of PAO clerical staff, that Spouses Ala did not sell the subject property to her; petitioner Babael caused her parents to sign a deed of sale without any consideration; petitioner Babael agreed to have the subject property partitioned among the parties with a lion's share belonging to her; Lot No. 8 already belongs to another person or entity; they did not know that petitioner Babael had executed a deed of cession; the deed of cession negates petitioner Babael's claim of ownership over the subject property; and, they wanted the equal partition of the subject property since petitioner Babael dishonored the temporary partition agreement after the completion of the survey.

On January 11, 2006, the Pre-Trial Conference[8] was held and the parties admitted the following facts:

A. Admitted Facts

- Identities of the parties
- That Tarcila is their sister-in-law being the wife of their deceased brother Paulino;
- That Roque, Estrella, Nenita, Alberto, Paulino and Florete are the children of Prima Besinio Ala and Rebelato Ala;
- That Rebelato Ala (sic) died last April 5, 1979;
- That during the lifetime of Rebelato and plaintiff Prima they acquired parcels of land both located at Misibis, Bacacay, Albay, one is covered by OCT No. VH-6135 otherwise known as Lot 9 and OCT No. VH018030; otherwise known as Lot 8;
- That Lot No. 8 under OCT No. VH-18030 was sold to Grandcrest Corporation;
- That the lot subject matter of this case was mortgaged to the Development Bank of the Philippines;
- That the deed of sale was duly notarized by a Notary Public;
- That there is a title in the name of the defendant. Admitted only as to the existence.
- That the instant case was filed only in the year 2002;
- That 20 years have lapsed before the filing of the instant case;
- That the Deed of Absolute Sale was duly reflected as document No. 15, page No. 3, book No. 6, series of 1979 by Eligio R. Berango;

- That the Tax Declaration is in the name of Florete Ala-Babael."

The parties disputed the following facts:

"B. Disputed Facts 1. Version of the plaintiffs;

a. That in order to buy peace or attempt to put into oblivion her fraudulent act defendant executed a deed of cession in favor of Prima Ala, et al. Only the existence of the Deed of Cession is admitted.

b. Florete Ala-Babael concealed the fact that the subject lot or lot 9 was already transferred to her name until plaintiff discovered from Sunwest Corporation that the lot already belong (sic) to Florete Ala-Babael.

c. That Florete Ala-Babael affixed her signature in a Temporary Partition Agreement of 2003 with respect to lot 9.

d. That since 1982 she caused her mother and her siblings to pay the real taxes of lot no. 9 making it appear that the lot was still in the name of her parents.

e. That she did not explain to her parents that the document she requested them to sign was in fact a transferred document.

f. That she did not give a single centavo to her parents if indeed she bought the land from her parents.

g. That Estrella Ala-Toledo was in possession of lot No. 9.

2. Version of the defendants:

a. That the property Lot No. 9 was redeemed by the defendant from the Development Bank of the Philippines.

d. That when the property was sold to the defendant a consideration of P4,000.00 was given to the spouses Rebelato and Prima Ala.

Issues Proposed By The Plaintiff:

That the Deed of Sale is not valid because there is no consideration.

Issues Proposed by The Defendant:

That the deed of sale was prepared, executed in front of Atty. Eligio Berango.

IV.

A. Factual

1. Was the payment of the taxes made by the defendant for and in behalf of the parents (sic) Rebelato Ala or was it made as payment for and in behalf of herself as owner?

2. Was the Deed of Sale in favor of the defendant duly signed by Rebelato Ala?

B. Legal

1. Was there fraud in the execution of the document of sale in favor of the defendant?

2. Did prescription and Laches set in?

3. Is the defendant a trustee of the property acquired by reason of fraud?

4. Are the plaintiffs and the defendant co-owners of the property?

5. Who is entitled to damages, the plaintiff or the defendant?

6. Is the defendant the owner and lawful possessor of the lot in question?"

On June 4, 2008, a decision[9] was rendered by the MCTC, Bacacay-Malilipot, Albay, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs as against the defendant herein:

- Ordering the defendant to reconvey the shares of the plaintiffs who are co-owners of the lot in question, the one-half portion of Lot 9 to Prima Ala and the six seventh (6/7) shares of the remaining one-half portion to the rest of the plaintiffs;

- Ordering the plaintiffs to reimburse the defendant their respective shares of the amount paid by the latter for the redemption of Lot 9 from the DBP with legal interest from 1980;

- Declaring null and void the Temporary Partition Agreement dated November 24, 2003 and the Deeds of Cession dated February 2, 2004.

- Ordering the defendant to pay the plaintiffs P10,000.00 for litigation expenses.

So ORDERED."

On appeal[10] by petitioner Babael, the RTC, Branch 17, Tabaco City affirmed the decision of the MCTC, Bacacay-Malilipot, Albay.

Hence, this petition for review assigning the following errors:

1. WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT OF TABACO CITY, IS CORRECT IN AFFIRMING THE DECISION OF THE MCTC OF BACACAY-MALILIPOT, ALBAY, STATING THAT THE DEED OF ABSOLUTE SALE (Exh. "3") IS SECURED THROUGH FRAUD AND WITHOUT ANY CONSIDERATION.

2. WHETHER OR NOT THE VENDEE FLORETE ALA-BABAE, A TRUSTEE OF THE LAND SHE BOUGHT FROM HER PARENTS REBELATO ALA AND PRIMA BESINIO ALA.

3. WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT CORRECTLY STATED THE FACTS OF THE CASE IN ITS ANTECEDENT FACTS OF ITS DECISION.

4. THAT THE REGISTRATION OF TITLE IS THE OPERATIVE ACT THAT TRANSFER OWNERSHIP OF THE LAND.

5. THAT THE COMPLAINT FOR PARTITION AND THE AMENDED COMPLAINT FOR RECONVEYANCE BY RESPONDENTS ARE BARRED BY PRESCRIPTION.

The petition is meritorious.

This Court rules that the findings of the MCTC and the RTC based on respondent's contention do not inspire belief. The lower courts found that petitioner Babael committed fraud in transferring the title to the subject property in her name since the documents relative thereto were merely entrusted to petitioner Babael by respondent Prima who had no intention to sell the same. This Court is not convinced.

The mortgage over the subject property was still subsisting when the deed of sale was executed between Spouses Ala and petitioner Babael in 1978. This Court gives credence to petitioner Babael claim that the mortgagee DBP retained possession of the documents pertaining to the subject property, particularly the owner's duplicate copy of the TCT, during the subsistence of the mortgage as it is the standard practice in the banking industry with regard

to loans secured by mortgages. Petitioner Babael was able to transfer the title in her name in 1982 upon full payment of Rebelato Ala's principal obligation with the DBP and the consequent release of the mortgage constituted on the subject property in 1980.

In respondents' memorandum[11] filed with the MCTC, they averred, among other matters, the following:

"The Defendant's next witness was Atty. Eligio Berango. Atty. Berango was heard, on September 19, 2007, having admitted that he notarized the Deed of Absolute Sale concerning Lot No. 9; that he remembered Florete gave P4,000.00 to the vendor; that he remembered that the parents requested Florete to pay the loan from the DBP and the former sold the lot to the latter; that he did not know how Florete gave the indebtedness with the DBP; that he notarized the document prior the parties went together to the DBP, among other significant things.

On cross, Atty. Berango shed light that at the time of the execution of the deed of sale, Lot No. 9 was still mortgaged; that he admitted having mentioned the phrase 'free from liens, charges and other encumbrances' in the deed of sale despite the fact the property was still mortgaged with the DBP; that he explained to the vendors in Bicol dialect that the document was a deed of sale in order to push through with the redemption and the payment of what was loaned with the DBP; that the Registry of Deeds never questioned him in indicating only one signatory when it should be both spouses, when the other one will sign on the space for 'conforme'; that the reason why he did not prepare deed of conditional sale instead of a deed of absolute was simply to ease up the matter and the inconvenience of executing a document now and execute another document again in the morro."[12] (sic).

Hence, petitioner Babael's assumption and payment of Rebalato Ala's indebtedness to DBP was the consideration of the sale of the subject property by Spouses Ala to her. The preparation and execution of a deed of absolute sale, instead of a deed of conditional sale or deed of sale with assumption of mortgage, do not alter the fact that the transaction that ensued was actually a sale of the subject property with assumption of mortgage. It was merely drafted and denominated as a deed of absolute sale to suit the purported convenience of the parties thereto.

A contract or conduct apparently honest and lawful must be treated as such until it is shown to be otherwise by either positive or circumstantial evidence. A duly executed contract carries with it the presumption of validity. The party who impugns its regularity has the burden of proving its simulation. A notarized document is executed to lend truth to the statements contained therein and to the authenticity of the signatures. Notarized documents enjoy the presumption of regularity which can be overturned only by clear and convincing evidence.

As plaintiffs in the action before the lower court, respondents have the burden to establish their case by a preponderance of evidence, or evidence which is of greater weight or more convincing than that which is offered in opposition to it.

Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.[13]

Fraud may be, and often is, proved by or : inferred from circumstances, and the circumstances proved may in some cases raise a presumption of its existence.

However, while fraud may be proved by circumstances or presumed from them, it cannot be demonstrated by mere construction, but must be proven in all cases.[14]

Trustworthy oral evidence is required to prove an implied trust because oral evidence can be easily fabricated. It cannot rest on loose, equivocal or indefinite declarations.[15]

WHEREFORE, premises considered, the Decision dated April 16, 2009 of the RTC, Branch 17, Tabaco City in

Civil Case No. T-2581 is REVERSED and SET ASIDE.

The contract of sale of real property between petitioner Babael and Spouses Ala is declared VALID.

Respondents are hereby ordered to pay petitioner Babael P20,000.00 as litigation expenses.

SO ORDERED.

Librea-Leagogo and Elbinias, JJ., concur.

Decision reversed and set aside.

[1] Rollo, pp. 13-29.

[2] Rollo, pp. 134-141.

[3] Rollo, pp. 30-33.

[4] Rollo, pp. 34-38.

[5] Rollo, pp. 39-43.

[6] Rollo, pp. 44-49.

[7] Rollo, pp. 50-52.

[8] Rollo, pp. 58-60.

[9] Rollo, pp. 85-89.

[10] Rollo, p. 90

[11] Rollo, pp. 74-84.

[12] Rollo, pp. 78-79.

[13] Delfin vs. Billones, 485 SCRA 38.

[14] Ibid.

[15] De Leon, Comments and Cases on Partnership, Agency and Trusts, 2005 edition, p. 716.

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