

MIGUEL C. TAN, PLAINTIFF-APPELLEE, VS. SPOUSES JIMMINEE TAN AND MA. CORAZON V. TAN, DEFENDANTS-APPELLANTS,

Ponente: PEREZ, J.

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PEREZ, J.:

Spouses Jimminee Tan and Ma. Corazon Tan appeal from the 28 June 2010 Decision[1] of the Regional Trial Court (RTC), 11th Judicial Region, Branch 15, Davao City, in Civil Case No. 27,886-2000, an action for dissolution and liquidation of partnership, accounting and partition, damages and attorney's fees.

The differing claims of the parties, as summarized by the RTC, are as follows –

In his complaint, the plaintiff alleges that sometime on February 16, 1999[,] he and defendant Jimminee Tan agreed to form a partnership on a fifty-fifty basis to engage in a bakery and pastry business; that he has invested a total amount of Forty Three Thousand Pesos (P43,000.00); that the business has not been doing good as it was always suffering from losses; that his business partner, defendant Jimminee Tan has not been reporting to him the status of the operation of the business; that his co-business partner Jimminee Tan has not given him his share in the Two Million Pesos winning in the Coca-[C]ola crown [raffle] won by Jimminee Tan's wife[,] Ma. Corazon V. Tan; that the Two Million Pesos raffle winning belongs to the partnership because the winning [C]oca-[C]ola crowns or caps were collected by Ma. Corazon Tan from the store owned by the partnership.

Defendants Jimminee C. Tan and Corazon V. Tan deny every material averment in the complaint and allege that Jimminee Tan has always been talking to the plaintiff about the status of their business and showing to the latter the financial record of the business; that when the plaintiff has noticed that the financial record of the business records reflected negative balance, he told Jimminee that he did not want to have anything to do with the business and demanded the return of his capital contribution of P43,000.00; that the [C]oca-[C]ola winning caps or crown were personal collection of Ma. Corazon Tan which the latter shamelessly [and] personally gathered not only from the partnership store but also from other store she would go to because of her determination to join the Coca-[C]ola Bottling Company raffle promo; that the Two Million Pesos (P2,000,000.00) winnings from the Coca-[C]ola Bottling Company promo belonged to Ma. Corazon Tan personally and not to the business partnership.

During pre-trial conference on June 21, 2000, the parties agreed on two disputed issues as follows:

1. Whether or not the partnership was dissolved; and
2. Whether or not the disputed amounts were partnership investments or loans. x x x.[2]

On 28 June 2010, the RTC rendered the herein appealed Decision³, the dispositive portion of which reads –

WHEREFORE, in light of all the foregoing considerations, judgment is hereby rendered as follows:

1. The partnership of plaintiff Miguel Tan and defendant Jimminee Tan is hereby declared dissolved.
2. Defendant Jimminee Tan is ordered to render an inventory and accounting of partnership assets or properties as of September 1999; partition and distribute the remaining partnership assets after paying all partnership

debts to third person or persons, if any.

3. Declaring that the Two Million Pesos (P2,000,000.00) winnings of [d]efendant [Ma.] Corazon Tan in the Coca-[C]ola Pamaskong Payaman Handog ng Coca-[C]ola Promotion is not part of the [p]artnership. The same is property or money belonging to [d]efendant [Ma.] Corazon Tan personally.

4. Plaintiff's claim for Attorney's Fees and litigation expenses are denied for lack of factual and legal basis.

5. Plaintiff's claim for moral, exemplary and temperate damages are likewise denied for lack of factual and legal basis; and

6. Defendants' counter-claim (sic) likewise DISMISSED for lack of merit.

SO ORDERED.

On 4 August 2010, defendants spouses Jimminee and Ma. Corazon Tan filed a Motion for Reconsideration[4] on the finding that a partnership was formally organized and should be liquidated, and on the dismissal of their counterclaims for damages and attorney's fees against plaintiff Miguel C. Tan.

On 3 January 2011, the RTC rendered an Order[5] denying the Motion for Reconsideration and denying again the appellants' counterclaims for being without merit.

The RTC reasoned –

Apparently, defendants spouses Jimminee Tan and Ma. Corazon Tan, have misread the import and significance of the decision of this court. They seem to entertain a mistaken belief that they won or were (sic) party in the above-entitled case. This is not correct.

A thorough reading and analysis of the whole content of the impugned decision would clearly and readily show that plaintiff Miguel Tan actually won in the above-entitled case as all reliefs he has prayed for in his complaint were granted except the exclusion of the two million pesos grand price winnings of defendant Ma. Corazon Tan from the partnership assets.

xxx xxx xxx.

Being the defeated party in the instant case, the defendants have no legal basis to claim [that] they are entitled to their counter-claim. Thus, their instant motion would be denied for lack of merit.

xxx xxx xxx.

More, it bears to stress that [a]ttorneys fees and litigation expenses may only be recovered if it is shown that the filing of the complaint before the court was imbued with bad faith x x x. In the instant case, the action instituted by plaintiff Miguel Tan was based on a valid cause of action. "One who makes use of his own legal right does no injury["]]. Thus, whatever damages are suffered by respondent should be borne solely by him x x x.

Thus, defendants, now appellants, take this appeal imputing the following errors to the RTC –

- THE COURT A QUO ERRED IN RESOLVING IN ITS DECISION DATED JUNE 28, 2010 THAT THE PARTNERSHIP BETWEEN THE PLAINTIFF AND DEFENDANT IS DISSOLVED AND THE DEFENDANT TO RENDER (SIC) AND ACCOUNTING OF PARTNERSHIP ASSETS OR PROPERTIES "AS OF SEPTEMBER 1999" WHEN THE PLAINTIFF DID IT ALREADY THAT MONTH, ABANDONED IT AND ORDERED THE DEFENDANT HIS INVESTMENT "WHEN ABLE".

- THE COURT A QUO ERRED IN RESOLVING THAT THE DEFENDANTS WERE ACTUALLY THE "LOSERS" AND THE PLAINTIFF THE "WINNER" DESPITE THE FACT THAT THE DEFENDANTS WERE DECLARED THE ABSOLUTE OWNERS OF THE WINNINGS OF TWO MILLION

(P2,000,000.00) PESOS GRAND PRIZE AND THE PLAINTIFF'S CLAIM FOR ATTORNEYS FEES, LITIGATION EXPENSES, MORAL, EXEMPLARY, AND TEMPERATE DAMAGES, WERE RESOUNDINGLY REJECTED AND DENIED ALSO BY THE SAID COURT (SIC) A QUO, FOR UTTERLY "LACKING IN LEGAL OR FACTUAL BASIS". AND THEREFORE, TANTAMOUNT TO A CLEARLY UNFOUNDED CIVIL ACTION.

- THE COURT A QUO ERRED IN NOT FINDING AND HOLDING THE PLAINTIFF LIABLE FOR DAMAGES FOR FILING A CLEARLY UNFOUNDED CIVIL ACTION MALICIOUSLY AND IN BAD FAITH AGAINST THE DEFENDANTS EVEN AFTER FINDING THE ASSERTION OF THE PLAINTIFF THAT THE P2,000,000.00 WAS PARTNERSHIP PROPERTY WAS "DEVOID OF FACTUAL AND LEGAL BASIS" BECAUSE "THERE IS NOTHING IN THE EVIDENCE ADDUCED BY THE PLAINTIFF THAT THE CROWNS CAME FROM THE PARTNERSHIP BAKERY".

The assigned errors may be restated in the following simple terms:

- Did the RTC correctly rule that the partnership between the parties was dissolved as of September 1999, with the obligation to account and liquidate the partnership affairs arising from such date?
- Did appellee Miguel file an unfounded civil action that justifies an award of damages to the appellants?

The Court's Ruling

The appeal is bereft of merit.

The parties who are blood relatives do not dispute the existence of a partnership between them.

A partnership exists when two or more persons consensually bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.[6] From the foregoing, a partnership is created when the following elements concur: (1) two or more persons bind themselves to contribute money, property or industry to a common fund; and (2) intention on the part of the partners to divide the profits among themselves.[7]

Moreover, a partnership is a consensual contract as it is perfected upon mere consent of the parties.[8] It may be constituted in any form in order to be valid and binding such as written, oral, express or be implied from the acts and declarations of the parties. The execution of a public instrument, however, is indispensable when any of the parties contribute an immovable property or a real right to the partnership.[9] In addition, a registration of the said public instrument with the Securities and Exchange Commission (SEC) is required if the capital contribution is three thousand pesos (P3,000.00) or more, in money or property.[10] Nonetheless, the failure to comply with the registration requirement does not prevent the formation of the partnership or affect its liability and that of the partners to third persons.[11] This is because the only objective of the registration is to make the instrument open to the public and to provide notice to interested parties.[12]

Based on the above, a partnership may be created by the oral agreement of the parties as long as the partners make the necessary contributions to their joint venture with the intent to share in the gains or losses of the enterprise. As much is stated in *Tocao v. Court of Appeals*[13], where the Supreme Court emphasized that an oral contract of partnership is as good as a written one provided that the parties have complied with the requisites of a partnership.

In the present case, records show that, sometime on February 1999, appellant Jimminee and appellee Miguel verbally agreed to engage in a bakery business, establish a common fund for the said purpose and divide its profits or losses. These are borne out from a perusal of the respective testimonies of the parties:

Appellant Maria Corazon

Q: According to the plaintiff in his testimony he entered into partnership with your husband in an on[-]going business already being ran by your husband, is that true?

A: Yes, sir.

Q: Who invited to be (sic) partner in the existing business?

A: My Husband's uncle matched existing assets of my husband in cash.

Q: How much did your uncle contribute to the on-going business of your husband so that he will be considered as a partner?

A: I am not sure of the exact amount, it's only my husband who knows about that.

Q: But you know that your uncle contributed much for the business?

A: Yes, sir.

Q: How about you Mrs. Tan were you also a partner in the business of your husband?

A: No sir, I merely help and acted as a [c]ashier in the store.[14]

Appellant Jimminee Tan

Q: Mr. Tan please tell the court do you confirm the testimony (sic) the evidence of plaintiff Miguel Tan, your uncle, that there was a partnership that was entered into between him and you in a business?

A: Yes, sir.

Q: Would you be able to tell the court what kind of business did you and your uncle enter into?

A: We had a bakery business at Sasa.

Q: What is the name of your bakery business?

A: JMJ Foodhouse.

x x x.

Q: Please tell the court Mr. Tan if you can recall when did you and your uncle enter into your partnership, what year and what date?

A: Around February 1999.

x x x.

Q: Was the partnership entered into writing?

A: No, sir. Just (sic) verbal agreement between me and my uncle. Being family we had verbal agreement but he knows it will be under my name as sole proprietor

x x x.

Q: What was the other terms and conditions of the verbal partnership agreement with regard to earnings and losses?

A: 50-50.[15]

Appellee Miguel Tan

Q: Why do you know the defendants in this case?

A: They are my business partners, Jimene Tan is my nephew.

Q: So defendant Jimene Tan is your business partner and your nephew?

A: Yes, sir.

Q: You were talking about business partner between you and defendant Jimene Tan, what is the nature of that business partnership?

A: Bakery.

Q: Please tell us what is the name of that bakery business?

A: JMJ Bakeshop.

Q: What does JMJ stands for?

A: J is Jimeneee, M is Mike and J is Jayson or Jose.

Q: Who gave that name JMJ to your bakery business?

A: We agreed with Jimeneee Tan.

Q: Where is the location of the JMJ Bakery business? A: At Kilometer Eleven, Sasa, Davao City.

Q: Please tell us how was the business partnership between you and Jimeneee Tan formed?

A: Verbal.

Q: When was this verbal agreement between you and defendant Jimeneee Tan took place?

A: February 14, 1999.

x x x.

Q: What was the agreement with relative to the contribution of the capital?

A: 50-50 basis.

Q: what is that 50-50 basis?

A: That I will give P35,000.00 and that he will also give P35,000.00 in cash.

Q: How about the management and control of the bakery business?

A: Both of us will manage.

x x x.

Q: After withdrawing the P35,000.00 what did you do?

A: Jimeneee Tan acknowledged that he received the P35,000.00.[16]

From the foregoing, it is clear that the RTC did not err when it found the existence of an oral contract of partnership between appellant Jimminee and appellee Miguel. They, however, differ as to when the partnership ended, as to what assets belong to the partnership and what should be returned to the partners.

For their part, appellants assert that the partnership was terminated during a meeting on September 1999.[17] Appellee Miguel, on the other hand, claims that the partnership was dissolved on the date of his actual demand for dissolution or on 14 December 1999.[18] The difference of a few months became material after appellant Ma. Corazon won P2,000,000.00 in a marketing promotion by Coca-Cola Philippine Inc. in December 1999.

Dissolution is defined as the change in the relation of the parties caused by any partner ceasing to be associated in the carrying on the business[19] together. During dissolution, the partnership continues for purposes of liquidation and its legal personality is retained until the complete winding up of its business culminating in its termination.[20]

Article 1830 of the New Civil Code provides for the manner of the dissolution of a partnership, thus –

(1) Without violation of the agreement between the partners:

(a) By the termination of the definite term or particular undertaking specified in the agreement;

(b) By the express will of any partner, who must act in good faith, when no definite term or particular is specified;

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking;

(d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this article, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) When a specific thing which a partner had promised to contribute to the partnership, perishes before the delivery; in any case by the loss of the thing, when the partner who contributed it having reserved the ownership thereof, has only transferred to the partnership the use or enjoyment of the same; but the partnership shall not be dissolved by the loss of the thing when it occurs after the partnership has acquired the ownership thereof;

(5) By the death of any partner;

(6) By the insolvency of any partner or of the partnership;

(7) By the civil interdiction of any partner;

(8) By decree of court under the following article.

Thus, by law, a partnership may be terminated by the express will of any partner at any time under either of these situations:

a. If there is no violation of the partnership agreement, and no definite term or particular is specified, provided the withdrawing partner acts in good faith.

b. There is a contravention of the agreement between the parties, where the circumstances do not permit a dissolution under any other provision under Article 1830.

The evidence of both parties created an open-ended partnership that had neither term nor particulars as to when their agreement would end or as to any other matter except as to the amount of their common contribution and the equal sharing of profits and losses. As is common in verbal partnership agreements especially between relatives which is the case here the parties did not provide for causes for the dissolution of their agreement.

Appellee Miguel made the claim that their joint business never made a profit and appellants, who managed the business, did not account for the affairs of the bakery and pastry business although the latter were not beyond asking appellee Miguel for additional contributions to keep the losing enterprise going.

The partnership losses, without proof of fraud, mismanagement or imprudence, is hardly a violation of the partnership agreement. Business profits are never guaranteed even in the best-managed businesses, and sharing in the risk of business losses is intrinsic in a partnership business.

As held in *Villareal v. Ramirez*[21] –

x x x in the pursuit of a partnership business, its capital is either increased by profits earned or decreased by losses sustained. It does not remain static and unaffected by the changing fortunes of the business.

Neither is the demand for additional fund contribution to be considered a violation of the partnership agreement. Again the need for capital over and above than the initial contribution of the partners is dictated by the fortunes of the business.

As to appellee Miguel's claim that appellants never kept him informed how the business is doing by making a proper accounting of their common business affairs, the Court finds no sufficient evidence other than, appellee

Miguel's self-serving and uncorroborated claims, to prove that appellants withheld important information from him or that he had at anytime actually demanded to inspect the partnership books or records.

In sum there is absence of evidence of a clear violation of any term of the parties' verbal partnership agreement, thus by law any partner may in good faith terminate the partnership pursuant to Article 1830(1)(b) of the Civil Code.

In this case, evidence preponderates that appellant Jimminee and appellee Miguel met at McDonalds, J.P. Laurel St., Davao City on September 1999, wherein the latter communicated his intention to withdraw from the partnership because of its failure to generate profits and the refusal of appellee Miguel to contribute more funds to their bakery business. There being no proof that appellee Miguel was acting in bad faith, this communication effectuated a voluntary dissolution of the partnership through appellee Miguel's express will to discontinue a losing partnership and his refusal to place new funds at risk by carrying out a non-profitable business.

The conclusion by the RTC as to this fact is amply supported by the following testimonies of appellant Jimminee and appellee Miguel –

Appellant Jimminee

Q: What was his reply with regard to your request for additional infusion of capital?

A: Our last meeting was September 1999...

Q: Where did you meet?

A: McDonald at Bajada.

x x x.

Q: You and your uncle (sic) talking about the business?

A: Yes, sir.

x x x.

Q: Please tell the court Mr. Tan what conclusion did you arrive at finally after you and your uncle discussed the losing business?

A: When I showed him the records, since that was already September and I showed to him the records (sic) And as of August 1999 it was negative P99,000.00 in terms of cash flow. Meaning I was using my money amounting to P21,000.00 to keep the business running. In short I was asking him to invest an additional P21,000.00 so that we still keep the 50-50 partnership of the bakery.

Q: How did your uncle react to that suggestion of yours that he will also infuse an additional P21,000.00?

A: He is not willing.

Q: What did he tell you?

A: His initial suggestion was to close the bakery.

Q: What did you say to that?

A: I told him I cannot do so because I have a lease contract for one year which will end (sic) on February 2000.

X x x.

Q: Alright, that was your answer. What did he say because you said you wanted to continue with your business?

A: He said he is out of the business and his investment of P43,000.00 will be loan to me payable when able.

Q: What other suggestions did he say with regard to the amount of P43,000.00 to be paid when able?

A: he said no interest. If you are able to pay me[,] you pay me.

x x x.

Q: Was there a written contract between you for the dissolution of your partnership?

A: No, also verbal. Since he said he is out and since the business is under my name [,] verbally he is out.[22]

Appellee Miguel Tan

Q: Your nephew Mr. Jimminee Tan told me that once in a while you and him talked about your business but not in the store but you would meet him in some other place specifically [McDonalds]’?

A: Yes.

Q: You talked about your business at [McDonalds] at J.P. Laurel?

A: Yes.

Q: Now, I understand also from him that after March of 1999 you never went to the establishment anymore, you just continue meeting at [McDonalds]’?

A: No.

Q: No?

A: Yes.

Q: Please tell the Honorable Court when did you stop going to the establishment?

A: Only lately when I already believed that it’s helpless. I even asked Jimminee to sell the bakery business so that we can recover whatever we can recover.

Q: And what month was this Mr. Tan?

A: About August.

Q: When you said that the business was already hopeless and you even suggested to your nephew to sell the business, you stopped going there anymore?

A: Once in a while because the place is too far.

x x x.

Q: While you said that sometime in August you already just went to the place once in a while because it’s too far, you of course admit that Jimminee being the one managing the business was there more often than you?

A: Yes, sir.

Q: And did you not ever tell Jimminee sometime after March and before August that you were pulling out of the partnership and giving the entire business of the partnership to him but you requested him only to reimburse (sic) what you have invested to the partnership at any time when there is money available?

A: Not anytime, immediately, because I was exasperated already. He’s always asking for money.

Q: So, you said you wanted him to pay immediately your investment, how much was that?

A: P46,000.00.

Q: And he could not do that outright?

A: He agreed to pay it, payable when able without interest.

Q: You agree?

A: No, I did not agree.

Q: You never agree?

A: Yes, I never agree.

Q: You wanted cash?

A: Yes, as soon as possible.[23]

x x x.

Q: x x x. I recall that Mr. Tan that yesterday that it was Jimminee Tan who suggested to you that, Uncle I will just refund your investment on installment. Please don't charge me interest?

A: Payable when able.

Q: Payable when able?

A: Yes.

Q: Please don't charge me any interest?

A: Yes.

Q: That was your testimony yesterday, right?

A: Yes.

Q: So, it was he who suggested that (sic)?

A: Yes.

Q: What month was that?

A: I cannot remember.[24]

As the partnership under consideration was already dissolved, any of its partners may demand an accounting of his interest as against the surviving partner or the person continuing the business, at the date of its dissolution.[25] This is because a formal account is a necessary incident to the dissolution of the partnership.[26] This being so, the Court holds that appellee Miguel has the right to demand the return of any of his remaining interest in the partnership after its business affairs have been liquidated.

On this score, the RTC correctly ordered the appellants to render an inventory and accounting of the partnership's assets as of its voluntary dissolution on September 1999.

But appellants argue that the RTC's order for a formal account of the partnership is erroneous since appellee Miguel had already converted his investment of P43,000.00 to a personal loan of the appellants, which would be payable "when able", thus there is nothing to return to him by way of partnership assets.[27]

The Court is not swayed by this claim.

In a contract of loan, one of the parties delivers to another, a money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid.[28] Just like any other contract, the elements of a loan are (1) consent of the contracting parties; (2) object certain which is the subject matter of the contract; and (3) cause of the obligation which is established.[29]

Evidently, the element of cause of obligation is absent in the case at bar. The obligation to pay the loan was left solely to the will of the supposed debtor, the appellants, when they promised to settle the amount of P43,000.00 "when able".

It is a hornbook rule in this jurisdiction that a contract containing a condition which makes its fulfillment dependent exclusively upon the uncontrolled will of one of the contracting parties, is considered void.[30]

It is also the case that appellee Miguel cannot demand full return of his contribution, by converting the full amount of his capital to a debt by his partner, pending the liquidation of the property assets. It is possible that after the payment of the partnership debts and obligations there is nothing left to be returned to appellee Miguel thus nothing to be lent to the remaining partner.

Thus even assuming that indeed appellee Miguel had agreed to treat the return of his capital as a loan to the

appellants, this does not dispense with the legal necessity to account for the remaining assets of the partnership business and to attribute to the partner their share in the remaining assets of the business.

With regard to the issue of whether the P2,000,000.00 winnings of appellant Ma. Corazon in the Coca-Cola Promo should be included in the partnership assets, the Court agrees with the RTC that said prize “is not part of the asset or property of the partnership”. The Court finds the conclusion of the RTC in this regard to be consistent with the evidence and human experience, viz –

The Coca-cola crowns collected and used by defendant Corazon Tan for her entries in the COCA-COLA PAMASKONG PAYAMAN promotion raffle of Coca-cola Bottling Company cannot be considered properties of the partnership.

xxx xxx xxx.

There is nothing in the evidence adduced by plaintiff Miguel Tan showing that the winning Cocal-cola crowns that won the grand prize of Two Million Pesos (P2,000,000.00) for defendant Corazon Tan in the Coca-cola promotion came from the partnership bakery.

It must be noted that defendant Corazon Tan gathered and collected Coca-cola crowns (tansan) not only from the premises of (sic) partnership JMJ bakery but also from many other sources. Thus, it is difficult, if not impossible, to ascertain the source of the Coca-cola crowns (tansan) that won the grand prize for Corazon Tan.[31]

The Court now resolves the only remaining issue on whether appellants are entitled to their counterclaims.

On this issue, appellants argue that appellee Miguel filed a clearly unfounded suit and is thus liable for damages to the appellants. As proof of the baseless character of the suit below, appellants would refer the Court to the appealed Decision itself where according to them the RTC denied appellee Miguel the reliefs prayed for in the complaint.

After a scrutiny of the records in this case, the Court fails to find evidence indicating that appellee Miguel exercised his right to ask for a formal account of the partnership’s assets in bad faith or in the conscious and intentional design to do a wrongful act for a dishonest purpose or moral obliquity[32], which the RTC ignored or failed to consider when it decided to deny appellants’ counterclaims. It must be stressed that bad faith when alleged by a party, must be proven by clear and convincing evidence[33] for the law always presumes good faith.[34]

On the contrary, the RTC found the existence of a partnership between the parties and as appellee Miguel alleged in his complaint, the legal necessity to make a liquidation of their partnership’s remaining assets after appellee Miguel terminated their joint arrangement by an act of will.

This Court re-affirms the right of a litigant to bring suit on the basis of a valid action. A contrary ruling that imposes a burden on the right to bring suit to enforce a right or to remedy a wrong undermines the peaceful resolution of disputes.

As stressed by the Supreme Court in *Diaz v. Davao Light and Power Co. Inc.*,[35] viz –

In a free society, controversies are heard and settled under the rule of law in the forum of the courts of justice. It is one of the virtues of our system of government that a person who feels aggrieved does not have to take the law into his or her hands or resort to the use of force for the vindication of injury. The courts are there to hear and act on the complaint. The right to litigate is an escape valve to relieve the pressures of personal disagreements that might otherwise explode in physical confrontation. It is necessary not only for upholding one’s claims when they are unjustly denied but also for the maintenance of peace, if not goodwill, among

incipient antagonists. Without the right to litigate, conflicting claims cannot be examined and resolved in accordance with one of the primary purposes of government, which is to provide for a just and orderly society.

ACCORDINGLY, the appeal is DENIED and the Decision dated June 28, 2010 is AFFIRMED.

SO ORDERED.

Camello, J., Ch, and Inting , JJ., concur.

[1] Annex “1”, Rollo, pp. 87-101; Records, pp. 248-277.

[2] Id. at pp. 87-88 and pp. 248-249.

[3] Supra note 1.

[4] Annex “B”, Rollo, pp. 140-141; Records, pp. 275-295.

[5] Records, pp. 310-311.

[6] Article 1767 of the Civil Code of the Philippines.

[7] Infra note 13.

[8] Comments and Cases on Partnership Agency and Trusts, De Leon and De Leon, Jr., 2010 Edition, p. 11.

[9] Article 1771 – A partnership contract may be constituted in any form, except where immovable property or real rights are contributed thereto, in which case a public instrument shall be necessary.

[10] Article 1772- Every contract of partnership having a capital of three thousand pesos or more, in money or property, shall appear in a public instrument, which must be recorded in the Office of the Securities and Exchange Commission.

x x x.

[11] Supra note 8, p. 64.

[12] Id., p. 65.

[13] GR No. 127405, 4 October 2000

[14] TSN, 24 September 2002, p. 3.

[15] TSN, 21 July 2005, pp. 8-13.

[16] TSN, 28 February 2001, pp. 126-129.

[17] Appellants’ Brief, Rollo, pp. 31-32 and p. 45.

[18] Appellee’s Brief, Rollo, p. 118.

[19] Article 1828 of the Civil Code.

[20] Ortega v. Court of Appeals, GR No. 109248, 3 July 1995.

[21] GR No. 144214, 14 July 2003.

[22] TSN, 21 July 2005, pp. 17-22.

[23] TSN, 27 February 2002, pp. 167-171.

[24] TSN, 28 February 2002, pp. 183-184.

[25] Article 1842 – The right to an account of his interest shall accrue to any partner, or his legal representative as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary.

[26] Comments and Cases on Partnership Agency and Trusts, 2010 Edition, De Leon and De Leon, Jr., p. 143.

[27] Appellants' Brief, Rollo, p. 45.

[28] Article 1933 of the Civil Code – By the contract of loan, one of the parties delivers to another, either something not consumable so that the latter may use the same for a certain time and return it, in which case the contract is called a commodatum; or money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid, in which case the contract is simply called a loan or mutuum.

[29] Pentacapital Investment Corporation v. Mahinay, GR No. 171736, 5 July 2010.

[30] Spouses Almeda v. The Court of Appeals, GR No. 113412, 17 April 1996.

[31] Supra note 1 at pp. 97-98.

[32] GF Equity, Inc. v. Valenzona, GR No. 156841, 30 June 2005.

[33] College of the Immaculate Concepcion v. National Labor Relations Commission, GR No. 167563, 22 March 2010.

[34] Tankeh v. Development Bank of the Philippines, GR No. 171428, 11 November 2013.

[35] GR No. 160959, 3 April 2007.

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