

**JOEL E. EALDAMA, CORA MARIE V. EALDAMA,
PLAINTIFFS-APPELLEES, VS. MADELEINE TAN CHAN,
DEFENDANT-APPELLEE, DANILO TAN CHAN,
DEFENDANT-APPELLANT.**

Ponente: LAGURA-YAP, J.

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LAGURA-YAP, J.:

The present appeal seeks to nullify the April 3, 2009 Decision[1] and the September 14, 2009 Order,[2] both issued by Regional Trial Court, Branch 29, Iloilo City (RTC) in Civil Case No. 05-28706 for Rescission of Contract with Damages.

THE ANTECEDENTS

On October 17, 2005, appellees, filed the Complaint[3] against appellant Danilo and her wife, Madeleine, pertinent portion thereof reads:

2.

On December 10, 2001, defendants Madeleine and Danilo Tan Chan executed a Deed of Sale in favor of plaintiff Joel E. Ealdama, which was notarized by Notary Public Evaristo Rene D. De Leon and entered as Document No. 407; Page 83; Book VIII; Series of 2001, a copy of said Deed of Conditional Sale is hereto attached as Annex “A” and made an integral Part of this Complaint;

3.

The Deed of Conditional Sale was executed for the purchase of a portion of Lot No. 2947-A-3, under Transfer Certificate of Title No. T-126739 registered under the name of Defendant Madeleine Tan Chan.[4] This agreement in paragraph 5 of the Deed of Conditional Sale and quoted as follows: “That the herein VENDOR desires to sell and the VENDEE desires to buy a portion of the aforesaid Lot NO. 2947-A-3-B, AS PER subdivision Plan hereto attached as Annex “A”;

4.

On December 6, 2001, plaintiff Joel Ealdama paid and delivered TWO HUNDRED FIFTY THOUSAND PESOS (PhP 250,000.00) to defendant Madeleine Tan Chan as initial payment for the above-described property and in compliance of the conditional sale. A copy of the receipt covering such payment is hereto attached as Annex “B” and made an integral part of this complaint;

5.

Thereafter, plaintiff Joel E. Ealdama made subsequent payments, enumerated as follows:

Date

Amount Paid

Attached as

January 5, 2002

PhP 35,000.00

Annex "C"

May 1, 2002

PhP 30,000.00

Annex "D"

June 16, 2002

PhP 10,000.00

Annex "E"

x x x

6.

On August 8, 2005, plaintiff through counsel, sent a registered Formal Demand to Madeleine, that she fulfill her obligations to the plaintiffs or find alternative ways to settle the matter. Until this day, Madeleine never attempted to contact the plaintiffs or the undersigned. x x x

7.

Until this day, Madeleine has not complied with her obligation to the plaintiffs, as set forth in letter C, page two (2) of the Deed of the Conditional Sale. It states:

"c. The VENDOR hereby acknowledges her obligation to provide a concrete road leading to the property sold from the national Road not later than six (6) months from date;"

Madeleine failed and continues to fail to perform her obligation to the plaintiffs, causing them damage, sleepless nights and severe anxiety. Letter D, page two (2) of the same Deed further provides:

"d. Failure on the part of any of the parties to comply with any of the terms and conditions set forth in this Deed shall be a ground for the rescission hereof;"

8.

Furthermore, plaintiffs recently discovered that Madeleine mortgaged the subject property of this case in favor of BPI Family Savings Bank., x x x

9.

Due to Madeleine's neglect and non-performance of her obligation, the plaintiffs were constrained to hire the services of the undersigned counsel thereby paying attorney's fee of PhP 40,000.00 and agreeing to pay appearance fee of PhP 1,500 per court appearance;

PRAYER

WHEREFORE, based on the facts and circumstances abovementioned, plaintiffs hereby earnestly pray to this Honorable Court, after due process and hearing, to:

- Rescind the Deed of Conditional Sale executed between plaintiff Joel E. Ealdama and defendant Madeleine Tan Chan;
- Restore the parties of the Conditional Sale to their previous status quo by ordering Madeleine to return the payments made by the plaintiffs in the total amount of (Php 325,000.00);
- Award actual damages in favor of the plaintiffs in the amount of (Php 40,000.00) for attorney's fees and Php 1,500.00 for every court appearance; (emphasis supplied)

x x x

On February 13, 2006, appellant Danilo filed his Answer.[5]

During pre-trial the parties stipulated that appellant Danilo and Madeleine are husband and wife, but have been separated in fact even before the instant case was filed.[6]

Trial ensued.

To prove their case, appellees presented the following: (a) various receipts,[7] showing that Madeleine received various amounts from appellee Joel on different dates; (b) the Formal Letter[8] of Demand from appellees' counsel addressed to Madeleine; (c) TCT No. T-126739 covering the subject property in the name of Madeleine, married to appellant Danilo,[9] and (d) Real Estate Mortgage[10] over the subject property, executed by Madeleine and appellant Danilo.

The appellees also presented the Deed of Conditional Sale.[11] It reads:

DEED OF CONDITIONAL SALE

KNOW ALL MEN BY THESE PRESENTS:

This DEED is made and executed by and between:

MADELEINE TAN CHAN, of legal age, Filipino, married to Danilo Tan Chan, and a resident of Iloilo City, Philippines, hereinafter called the VENDOR;

- and -

JOEL E. EALDAMA, likewise of legal age, Filipino, single and a resident of Alta Tierra Village, Jaro, Iloilo City, Philippines, hereinafter called the VENDEE;

W I T N E S S E T H:

That the VENDOR is the registered owner of a certain real property, known as Lot No. 2947-A-3, situated at Brgy. Hibao-an, Mandurriao, Iloilo City, covered by TCT No. T-136739,12 herein-below more particularly described as follows:

x x x

That the herein VENDOR desires to sell and the VENDEE desires to buy a portion of the aforesaid Lot No. 2947-A-3, containing an area of FIVE HUNDRED FIFTY TWO (552) SQUARE METERS, more or less, designated as LOT NO. 2947-A-3-B, as per proposed Subdivision Plan hereto attached as Annex "A";

NOW THEREFORE, for and in consideration of the sum of EIGHT HUNDRED TWENTY FIVE THOUSAND (P825,000.00) PESOS, the VENDOR hereby SELLS, TRANSFERS AND CONVEY by way of this Deed a portion of said Lot No. 2947-A-3, designated as Sub-Lot No. 2947-A-3-B, with an area of FIVE HUNDRED FIFTY TWO (552) SQUARE METERS, more or less, to the herein VENDEE, his heirs and assigns, subject to whatever lien is inscribed in the Certificate of Title covering thereof and under the following terms and conditions:

- The VENDEE agrees to pay the VENDOR upon the execution hereof the sum of TWO HUNDRED FIFTY THOUSAND (P250,000.00) PESOS as initial payment;

- The balance of FIVE HUNDRED SEVENTY FIVE THOUSAND (P575,000.00) PESOS shall be paid as follows:

- b.1. The amount of FIVE HUNDRED THOUSAND (P500,000.00) PESOS shall be paid upon the release of the loan the VENDEE has to secure from the PAG-IBIG FUND in the City of Iloilo;

- b.2. The remaining amount of SEVENTY FIVE THOUSAND (P75,000.00) PESOS shall be paid in SIX (6) equal monthly installments at TWELVE THOUSAND FIVE HUNDRED (P12,500.00) PESOS per installment beginning January 31, 2002 and every month thereafter until fully paid at an agreed interest of FOURTEEN (14%) PER CENTUM per annum to be computed on a diminishing scheme;

- The VENDOR hereby acknowledges her obligation to provide a concrete road leading to the property sold from the National Road not later than six (6) months from date;

- Failure on the part of any of the parties to comply with any of the terms and conditions set forth in this Deed shall be a ground for the rescission hereof;

- In the event full payment has been made and absolute transfer be made of the property sold to the VENDEE, payments for taxes and fees for the affective transfer of the property sold shall be for the account of the VENDEE.

IN WITNESS WHEREOF, We have hereunto set our hands this 10th day of December, 2001, in the City of Iloilo, Philippines.

(SGD.)

MADELEINE TAN CHAN

Vendor

(SGD.)

JOEL E. EALDAMA

Vendee

With My Marital Conformity

(SGD.)

DANILA TAN CHAN

On April 3, 2009, the RTC issued the assailed Decision the dispositive portion of which reads:

WHEREFORE, in consideration of all the foregoing, judgment is hereby rendered in favour of the plaintiffs and against the defendants. The Deed of Conditional Sale executed between plaintiffs Spouses Joel Ealdama and Cora Marie Ealdama and defendants Spouse Danilo and Madeleine Tan Chan is hereby rescinded. They are, therefore, restored to the status they had prior to the said contract, for which reason, said defendants are hereby ordered:

- to return the full amount of Php 325,000.00 representing the payments made as consideration of the property

plus 12% per annum from the date of the execution of this contract until fully paid;

- to pay Php50,000.00 as moral damages;
- to pay Php50,000.00 as exemplary damages;
- to pay attorney's fees of Php40,000.00; and
- to pay the costs of the suit.

SO ORDERED.

In holding appellant Danilo liable together with his wife Madeleine, the RTC ratiocinated as follows:[13]

x x x this Court finds that since defendant Danilo does not disown his signatures on the Deed of Conditional Sale and on the Receipt for the sum of P250,000.00 as initial payment, there is no doubt that both parties executed the Deed of Conditional Sale. Danilo failed to prove that his consent was vitiated or that his signatures were obtained thru mistake, violence, intimidation, undue influence or fraud, or that he is disqualified to enter into contracts pursuant to Art. 1327, New Civil Code. He also failed to adduce sufficient evidence to prove that he signed the document without fully knowing its import because the moment he affixed his signature thereon, he became bound by all the terms stipulated therein. He, thus, opened himself to all the legal obligations that may arise from their breach. x x x

On motion for reconsideration, the RTC modified its decision via the September 14, 2009 Order, pertinent portion thereof reads:

Based on the foregoing, therefore, this Court finds no cause to overturn its findings holding the defendant liable to return the full amount of P325,000.00 representing the payment made as consideration of the property plus 12% per annum from the date of the execution of the contract until fully paid. The award with respect to moral and exemplary damage, not having been supported with evidence, is reconsidered and is, therefore, set aside. The judgment against him to pay attorney's fees of P40,000.00 and costs of suit stand.

SO ORDERED.

Although the RTC deleted the award of damages, it still sustained the directive for appellant Danilo to return to appellees the P325,000.00, ratiocinating as follows:[14]

x x x the movant admitted that he ceased communicating with his wife only in the year 2005. If this is so, then their relationship as husband and wife with all the rights and obligation appurtenant to the same must have worked towards the advancement of their conjugal partnership. The sale of the property subject hereof redound to the benefit of such partnership. He, in fact, even acknowledged that he signed on the Deed of Conditional Sale showing that he expressly gave his conformity to the sale entered by his wife. Being a party to a perfected contract carries with it duties and responsibilities, thus, being an active participant in the said conditional sale, he is duty bound to honor the agreement. x x x

Not contented, appellant Danilo filed this appeal.

ASSIGNMENT OF ERRORS

- THE RTC ERRED IN FINDING APPELLANT DANILO LIABLE TO RETURN THE AMOUNT OF P325,000.00 PLUS LEGAL INTERESTS CONSIDERING THAT THE SALE WAS BETWEEN APPELLEES AND MADELEINE;
- THE RTC ERRED IN ADMITTING THE DEED OF CONDITIONAL SALE DESPITE NON-PAYMENT OF THE REQUISITE DOCUMENTARY STAMP TAX;

- THE RTC ERRED IN FINDING APPELLANT DANILO LIABLE TO PAY ATTORNEY'S FEES AND COST OF SUIT.

Appellant Danilo insists that the RTC should not have ordered him to return to appellees, the P325,000.00. He says his consent was vitiated when he signed the Deed of Conditional Sale. He was under the mistaken notion that since the property was registered under the name of his wife, Madeleine, he will not incur any liability from the transaction. He also pointed out that the sale was only between Madeleine and appellees as shown by the evidences proffered by the latter. The receipts of payments made by appellees, the appellees' demand letter, the allegations and the relief sought in the complaint show that only Madeleine is liable.

Appellant Danilo further argues^[15] that under the National Internal Revenue Code, deeds of sale and conveyances are subject to documentary stamp tax. If there is a failure to stamp taxable documents, it shall not be admitted or used in evidence in any court until the required stamp have been affixed. The RTC should not have admitted the Deed of Conditional Sale because no documentary stamp was affixed on it.

Finally, appellant Danilo contends that the award of attorney's fees against him has no basis. He did not act in bad faith so as to compel appellees to litigate. He did not also receive the demand letter from the appellees because it was addressed to Madeleine. This demonstrates the fact that as far as he is concerned, no obligation was demanded from him. He cannot be declared in default so as to compel appellees to go to court. The assailed decision does not contain the legal basis for the award of attorney's fees.

Appellees did not file a brief.^[16]

THE COURT'S RULING

The appeal is MERITORIOUS.

Ei incumbit probatio qui dicit, non qui negat. He who asserts, not he who denies, must prove. If the plaintiff, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner facts on which he bases his claim, the defendant is under no obligation to prove his exception or defense.^[17]

The main issue in this appeal is whether appellant Danilo is liable under the Deed of Conditional Sale.^[18]

We find that he is not. Appellees failed to present sufficient evidence to show appellant Danilo's liability.

The Deed of Conditional Sale indicates that the party to the transaction was only appellant Danilo's wife, Madeleine, as vendor, and appellee Joel, as vendee. In the said contract, it was only Madeleine who undertook to sell to appellee Joel the subject property. It was only Madeleine who agreed to provide a concrete road leading to the subject property. Appellee Joel also agreed to give payments only to Madeleine. In fact, the four receipts adduced by appellees reveal that it was Madeleine who received the payments from appellee Joel, totalling to P325,000.00. The finding^[19] of the RTC in the assailed Decision that appellant Danilo did not disown his signature in one receipt amounting to P250,000.00, is without any basis. No such testimony was made by him. In the first place, appellant Danilo's name does not appear in any of the four receipts adduced, including the receipt for the P250,000.00.

Appellees' Complaint quoted above, establishes the fact that they have a cause of action only against Madeleine. Paragraph 3 states that the subject property is registered in the name of Madeleine. Paragraph 4 states that appellee Joel paid P250,000.00 to Madeleine. Paragraph 6 alleges that appellees made formal demands to Madeleine. Paragraph 7 states that Madeleine failed to comply with her obligation. Paragraph 8 states that appellees discovered that Madeleine mortgaged the subject property. Paragraph 9 alleges that Madeleine's neglect and non-performance of her obligation forced appellees to hire a lawyer. Even the relief sought by appellees was

directed only against Madeleine. Appellees prayed that the court order Madeleine to return the payments made by appellees amounting to P325,000.00.

It is worth mentioning that appellees' formal letter of demand was addressed to Madeleine. Therein, appellees urged her to comply with her obligations under the Deed of Conditional Sale.

To Us, all of these circumstances show that appellant Danilo has no accountability under the transaction entered into by Madeleine.

In making a contrary finding, however, the RTC ruled that because appellant Danilo was a signatory to the Deed of Conditional Sale and he did not dispute his signature on it, he opened himself to all the legal obligations that may arise from the breach thereof.

The RTC also pointed out that since appellant ceased communicating with Madeleine only in 2005, the sale of the subject property in 2001 redounded to the benefit of the conjugal partnership. The RTC said this is another reason to hold appellant Danilo liable.

We cannot agree.

There is nothing in the records to sustain a finding that indeed, the sale of the subject property redounded to the benefit of the conjugal partnership. To make a sweeping conclusion that this was the case simply because appellant Danilo and Madeleine were not yet estranged at the time of sale, is purely speculative and conjectural. There must be a showing that some advantage clearly accrued to the welfare of the conjugal partnership. No evidence was presented to prove this material fact.

Even if appellant Danilo was a signatory to the Deed of Conditional Sale, such circumstances does not make him automatically liable. It must be first shown that the subject property is conjugal and not the exclusive property of Madeleine. This is because under either the system of absolute community^[20] or conjugal partnership of gains,^[21] the consent of the other spouse is only necessary in the sale of conjugal property.

Appellant Danilo participated in the Deed of Conditional Sale by merely giving his marital consent thereto. In order for him to be liable, it must be shown that his consent is material and necessary for the validity of the transaction. In other words, it must be established that the subject property is conjugal, for it would certainly be incongruous to hold Danilo accountable under the Deed of Conditional Sale if his consent was not needed in the transaction in the first place.

Appellees, however, failed to adduce evidence to prove the nature of the subject property. They even failed to establish the property regime of the Spouses Chan. This is fatal because, as was already discussed, appellant Danilo's liability attaches only if the subject property is conjugal. In *Muñoz, Jr. v. Ramirez, et al.*,^[22] the Supreme Court ruled that the written consent of the husband is not necessary in transactions involving the property of his wife. Thus, any defect in the signature of the husband would be immaterial. In the same way that if the subject property is the exclusive property of Madeleine, then the written consent of Danilo in the Deed of Conditional Sale is unnecessary and immaterial, and Danilo cannot be held accountable under it.

In all, We find that appellees failed to adduce sufficient evidence to prove appellant Danilo's liability under the Deed of Conditional Sale. The allegations and appellees' own prayer in the complaint; the demand letter and the receipts adduced; the appellees' failure to establish the nature of the subject property; and the fact that there was no evidence that the sale of the subject property redounded to the benefit of the conjugal partnership leads Us to dismiss the complaint against appellant Danilo.

With the following disquisition, We find it unnecessary to discuss the other issues raised.

WHEREFORE, the appeal is GRANTED. The assailed April 3, 2009 Decision and September 14, 2009 Order are AFFIRMED with MODIFICATION as to make these applicable only to defendant MADELEINE TAN CHAN. The complaint against appellant DANILO TAN CHAN is DISMISSED.

SO ORDERED.

Lagura-Yap, & Quijano-Padilla *, JJ. concur.

*Acting Junior Member per Office Order No. 472-13-ABR dated December 12, 2013.

[1] Records, p. 203.

[2] Records, p. 221.

[3] Records, p. 1.

[4] Also referred elsewhere as, “subject property.”

[5] Records, p. 21. NOTE: Madeleine file her own Answer on July 4, 2006 (Records, p. 63), but this was stricken off the records, and she was ultimately declared in default, per Order dated December 21, 2006 (Records, p. 112)

[6] Records, p. 93.

[7] Exhibits “B,” “C,” “D,” and “E,” records, p.9, p.10, p.11 and p. 12, respectively.

[8] Exhibit “F,” records, p. 13.

[9] Exhibit “G,” records, p. 31.

[10] Exhibit “H,” records, p. 85.

[11] Exhibit “A,” for appellees; Exhibit “1,” for appellant; Records, p. 6. Records, p. 6.

[12] Should be “T-126739.”

[13] Records, pp. 209-210.

[14] Records, p. 222.

[15] Citing, The Fundamentals of Taxation, 12th Edition by Hector S. de Leon, pp. 147-153.

[16] Rollo, p. 77.

[17] Heirs Of William Sevilla, et al. v. Sevilla, et al., G.R. No. 150179, April 30, 2003.

[18] Assailed Decision, records, pp. 3-4; rollo, pp. 34-35.

[19] Records, pp. 209-210.

[20] Article, 96, Family Code: The administration and enjoyment of the community property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the common properties, the other spouse may assume sole powers of administration. These powers do not include

disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

[21] Art. 124. The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

[22] G.R. No. 156125, August 25, 2010.

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