

CHIAO LIONG TAN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, HON. MANUEL T. MURO, PRESIDING JUDGE, RTC OF MANILA, BRANCH 54 AND TAN BAN YONG, RESPONDENTS.*G.R. No. 106251. November 19, 1993*

Ponente: NOCON, J.

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Petitioner seeks in this petition the reversal of the Court of Appeals' decision dated May 15, 1992 in CA-G.R. CV No. 29982 affirming the unfavorable decision of the trial court[1] in his suit for replevin and damages.

Petitioner Chiao Liong Tan claims to be the owner of a motor vehicle, particularly described as Isuzu Elf van, 1976 Model with Motor No. 44999-2 and Chassis No. 9646780 which he purchased in March, 1987. As owner thereof, petitioner says he has been in possession, enjoyment and utilization of the said motor vehicle until it was taken from him by his older brother, Tan Ban Yong, the private respondent herein.

Petitioner relies principally on the fact that the Isuzu Elf van is registered in his name under Certificate of Registration No. 1501909. He claims in his testimony before the trial court that the said vehicle was purchased from Balintawak Isuzu Motor Center for a price of over P100,000.00; that he sent his brother to pay for the van and the receipt for payment was placed in his (petitioner's) name because it was his money that was used to pay for the vehicle; that he allowed his brother to use the van because the latter was working for his company, the CLT Industries; and that his brother later refused to return the van to him and appropriated the same for himself.

On the other hand, private respondent testified that CLT Industries is a family business that was placed in petitioner's name because at that time he was then leaving for the United States and petitioner is the remaining Filipino in the family residing in the Philippines. When the family business needed a vehicle in 1987 for use in the delivery of machinery to its customers, he asked petitioner to look for a vehicle and gave him the amount of P5,000.00 to be deposited as down payment for an Isuzu Elf Van which would be available in about a month. After a month, he himself paid the whole price out of a loan of P140,000.00 which he obtained from his friend Tan Pit Sin. Inasmuch as the receipt for the downpayment was placed in the name of petitioner and since he was still on good terms with him, private respondent allowed the registration of the vehicle in petitioner's name. It was also their understanding that he would keep the van for himself because CLT Industries was not in a position to pay him. Hence, from the time of the purchase, he had been in possession of the vehicle including the original registration papers thereof, but allowing petitioner from time to time to use the van for deliveries of machinery.

Tan Pit Sin who had known private respondent since 1968, not only because they were classmates but also because of their business dealings with each other, confirmed that private respondent borrowed from him P140,000.00 in March, 1987 to buy an Isuzu Elf van. In fact, he had borrowed said vehicle for a few times.

Gina Lu, an employee of the Balintawak Isuzu Motors, testified that private respondent paid the balance of the purchase price of the Isuzu Elf van in the amount of P133,000.00 but the receipt was issued in the name of Chiao Liong Tan to make the records consistent because it was the latter who made the deposit of P5,000.00. Thereafter,

the Isuzu Elf van was released to him.

After hearing the trial court found for private respondent. The dispositive portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered declaring defendant Tan Ban Yong to be the owner of and entitled to the possession of the vehicle described in par. 2 of the Complaint, and the plaintiff is hereby ordered to deliver possession thereof to the said defendant or in the alternative if such delivery cannot be made, to the sum of P138,000.00 as the value of the vehicle taking into account the depreciation of the vehicle but offset by the inflation rate; in either alternative, plaintiff is also ordered to pay to said defendant consequential damages of P20,000.00 for the latter having been deprived of the possession and use of the vehicle and to pay the costs. All amounts adjudged herein, except costs, shall bear interest at the legal rate from date of this decision, until delivery of the vehicle or the alternative payment of the value thereof as well as payment of consequential damages is paid; the interest applies to the value of the vehicle if return thereof is delayed. No cost."[2]

Finding no merit in the appeal, the respondent Court of Appeals affirmed the decision of the trial court. Undaunted by his successive failures, petitioner comes to us and raised the following errors allegedly committed by the respondent Court of Appeals, to wit:

"1. x x x in finding the testimonies of private respondent's witnesses credible,

"2. x x x in disregarding the Certificate of Registration of the subject motor vehicle as proof of ownership by the petitioner-appellant. "[3]

Since the Court of Appeals merely affirmed the trial court's assessment of the credibility of the witnesses that testified before it, petitioner is in effect questioning the factual findings of said court and its appraisal of their testimony, which this Court cannot review, its jurisdiction being limited to questions of law. The considerable weight given to the findings of the trial court is not without any reason. It had the opportunity to observe the demeanor of witnesses which is usually not reflected in the transcript of records. The profundity of the conclusions thus reached is just the result of such observance. When the Court of Appeals affirmed said findings, it goes to show that no misapprehension of facts was committed as said Court has the power to scrutinize said factual findings under existing rules of procedures.

In concluding that the testimonies of Tan Ban Yong, Tan Pit Sin and Gina Lu cast doubt on the petitioner's ownership of the motor vehicle in question, both the trial court and the Court of Appeals attached significance to their respective interlocking accounts on how the motor vehicle was acquired, complete with the financing source and mode of repayment. Respondent Tan Ban Yong's declaration that he borrowed P140,000.00 from Tan Pit Sin and paid the balance of the purchase price of the motor vehicle himself to Gina Lu of the Balintawak Isuzu Motors, is corroborated by the above-mentioned persons themselves. Tan Pit Sin not only confirmed the loan but also stated that the same was paid in three (3) months; P50,000.00 on the first payment; another P50,000.00 on the second payment and P40,000.00 on the last payment.[4] Gina Lu, who testified at the instance of petitioner, declared that the downpayment of P5,000.00 was paid by petitioner and so the receipt for the same was issued in his name but the balance of P133,000.00 was paid by private respondent and to make the record consistent, she issued the receipt in the name of petitioner again.

In contrast to the clear and categorical averments of private respondent and the witnesses in this case negating petitioner's ownership of the motor vehicle in question, petitioner's averments before the trial court and this Court are not only disparate but conflicting. In his testimony below, petitioner averred that he used his own money to purchase the motor vehicle by paying the sum of P100,000.00,[5] which testimony is negated by his admission on page 5 of his petition[6] before this Court that private respondent borrowed money from Tan Pit Sin with which to purchase the subject motor vehicle. Then, in his pleading before the court below, particularly in his reply to the

answer of private respondent, petitioner alleged that the motor vehicle was intended for his exclusive use and not to service the family business.[7] And yet, in his petition before this Court, he claimed that the subject motor vehicle was purchased for CLT Industries, which he solely owned and accordingly, registered in the latter's name.[8] On top of these entangled averments, petitioner did not have in his possession the Certificate of Registration of the motor vehicle and the official receipt of payment for the same, thereby lending credence to the claim of private respondent who has possession thereof, that he owns the subject motor vehicle.

A certificate of registration of a motor vehicle in one's name indeed creates a strong presumption of ownership. For all practical purposes, the person in whose favor it has been issued is virtually the owner thereof unless proved otherwise. In other words, such presumption is rebuttable by competent proof.

The New Civil Code recognizes cases of implied trust other than those enumerated therein.[9] Thus, although no specific provision could be cited to apply to the parties herein, it is undeniable that an implied trust was created when the certificate of registration of the motor vehicle was placed in the name of petitioner although the price thereof was not paid by him but by private respondent. The principle that a trustee who puts a certificate of registration in his name cannot repudiate the trust by relying on the registration is one of the well-known limitations upon a title. A trust, which derives its strength from the confidence one reposes on another especially between brothers, does not lose that character simply because of what appears in a legal document.

Even under the Torrens System of land registration, this Court in some instances did away with the irrevocability or indefeasibility of a certificate of title to prevent injustice against the rightful owner of the property.[10]

It is true that the judgment[11] in a replevin suit must only resolve in whom is the right of possession. Primarily, the action of replevin is possessory in character and determines nothing more than the right of possession. However, when the title to the property is distinctly put in issue by the defendant's plea and by reason of the policy to settle in one action all the conflicting claims of the parties to the possession of the property in controversy, the question of ownership may be resolved in the same proceeding.

Procedure-wise, the Court observes that the action by petitioner as plaintiff in the trial court was only one for Replevin and Damages. Since replevin is only a provisional remedy where the replevin plaintiff claims immediate delivery of personal property pending the judgment of the trial court in a principal case,[12] the petitioner should have filed in the trial court as a main case an action to recover possession of the Isuzu Elf van which was in the possession of the private respondent. Logically, the basis of petitioner's cause of action should have been his ownership of said van.

In the State of California, from whose Code of Procedure[13] we copied our rule on replevin, their old replevin rule which allowed the immediate delivery of the chattel at the commencement of the action upon application with bond by the replevin plaintiff had already been struck down as early as July 1, 1971 in the case of *Blair v. Pitchess*. [14] As in fact, on June 12, 1972 when the United States Supreme Court struck down as unconstitutional the Florida and Pennsylvania replevin statutes in *Fuentes v. Shevin*, [15] most of the states, on their own, changed their replevin statutes to include a mandatory preliminary hearing before the writ could be issued, similar to our mandatory preliminary hearing before the writ of preliminary injunction can be issued. [16]

If that had been the case in this jurisdiction, then the trial judge would have discovered right away at the preliminary hearing that private respondent should have immediately staked his claim of ownership and that would have created serious doubts about petitioner's claim of ownership. Most likely, the writ would not have been issued and the complaint would have been dismissed *motu proprio* by the trial court upon the discovery that the petitioner did not have a principal case therein. As it is, the complaint proceeded its course to the detriment of private respondent.

Finally, although a "replevin" action is primarily one for possession of personalty, yet it is sufficiently flexible to authorize a settlement of all equities between the parties, arising from or growing out of the main controversy.[17] Thus, in an action for replevin where the defendant is adjudged entitled to possession, he need not go to another forum to procure relief for the return of the replevied property or secure a judgment for the value of the property in case the adjudged return thereof could not be had. Appropriately, the trial court rendered an alternative judgment.

WHEREFORE, the questioned decision being in accordance with the law, the instant petition for review is hereby DENIED for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.
Puno, J., no part.

[1] Penned by Judge Manuel T. Muro, RTC, Branch 54, Manila.

[2] Records, pp. 68-69.

[3] Rollo, p. 5.

[4] TSN, March 22, 1990, p. 5.

[5] TSN, November 16, 1989, pp. 30-31.

[6] Rollo, p. 6.

[7] Records, p. 22.

[8] Rollo, p. 6.

[9] Art. 1447, New Civil Code.

[10] Bornales, IAC, G.R. No. 75336, 166 SCRA 524 (1988); Amerol v. Bagumbayan, G.R. No. L-33261, 154 SCRA 403 (1987); Cardiente v. IAC, G.R. No. 73651, 155 SCRA 689 (1987).

[11] Sec. 9, Rule 60, Rules of Court.

[12] Section 1, Rule 60, Rules of Court; Calo v. Roldan, 76 Phil. 445; Regalado, Florenz D., Remedial Law Compendium; Vol. 1, pp. 436-437 and Francisco, Vicente, Jr., The Revised Rules of Court in the Philippines, Annotated and Commented, Vol. IV-A, pp. 386-3817.

[13] Enacted in 1872.

[14] 45 ALR 3d 1206.

[15] 407 U.S. 67, 32 L. Ed. 2d 556, 92 S. Ct. 1983.

[16] Section 5, Rule 58, Rules of Court, as amended by BP 224.

[17] Hales-Mullaly, Inc. Cannon, 119 P 2d 46, 48, 189 Okl. 613, cited in Words and Phrases, Replevin, Vol. 37, permanent ed.

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