YU BUN GUAN, PETITIONER, VS. ELVIRA ONG, RESPONDENT.

G.R. No. 144735. October 18, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

A simulated deed of sale has no legal effect, and the transfer certificate of title issued in consequence thereof should be cancelled. Pari delicto does not apply to simulated sales.

Statement of the Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the April 25, 2000 Decision[1] and the August 31, 2000 Resolution[2] of the Court of Appeals[3] (CA) in CA-GR CV No. 61364. The decretal portion of the Decision reads as follows:

> "We cannot see any justification for the setting aside of the contested Decision.
>
> "THE FOREGOING CONSIDERED, the appealed Decision is hereby AFFIRMED."[4]

The assailed Resolution denied petitioner's "Supplemental Motion for Reconsideration with Leave to Submit [Newly] Discovered Evidence."

The CA sustained the Decision of the Regional Trial Court (RTC) of Makati City (Branch 60), which had disposed as follows:[5]

> "23. WHEREFORE, the Court hereby renders judgment as follows:
>
> 23.1. The Deed of Sale dated July 24, 1992 (Exh. EE or Exh. 3) is declared VOID.
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> 23.2. The plaintiff ELVIRA ONG is declared the OWNER of the property covered by Transfer Certificate of Title No. 217614, Registry of Deeds, Makati (Exh. DD).
>
> 23.3. The Register of Deeds, City of Makati is ordered to:
>
> 23.2.1. Cancel Transfer Certificate of Title No. 181033 (Exh. HH); and
>
> 23.2.2. Issue in lieu thereof, a transfer certificate of title in the name of ELVIRA A. ONG, of legal age, single, Filipino';
>
> 23.[4]. The defendant YU BUN GUAN is ordered to pay to the said plaintiff, the following:
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> 23.[4].1. P48,631.00 - As reimbursement of the capital gains tax (Exh. FF);
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> 23.[4].2. Six (6) percent of P48,631.00 - per annum from November 23, 1993, until the said P48,631.00 is paid - as damages
>
> 23.[4].3. P100,000.00 - as moral damages;
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> 23.[4].4. P 50,000.00 - as exemplary damages;

23.[4].5. P 100,000.00 - as attorney's fees.

23.[5]. The COUNTERCLAIM is DISMISSED.

23.[6]. Cost is taxed against the defendant.

"24. In Chambers, City of Makati, June 23, 1998."

The Facts

The antecedents of the case are succinctly summarized by the Court of Appeals in this wise:

"[Herein respondent] said that she and [petitioner] are husband and wife, having been married according to Chinese rites on April 30, 1961. They lived together until she and her children were abandoned by [petitioner] on August 26, 1992, because of the latter's `incurable promiscuity, volcanic temper and other vicious vices'; out of the reunion were born three (3) children, now living with her [respondent].

"She purchased on March 20, 1968, out of her personal funds, a parcel of land, then referred to as the Rizal property, from Aurora Seneris, and supported by Title No. 26795, then subsequently registered on April 17, 1968, in her name.

"Also during their marriage, they purchased, out of their conjugal funds, a house and lot, in 1983, thereafter, registered in their names, under Title No. 118884.

"Before their separation in 1992, she `reluctantly agreed' to the [petitioner's] `importunings' that she execute a Deed of Sale of the J.P. Rizal property in his favor, but on the promise that he would construct a commercial building for the benefit of the children. He suggested that the J.P. Rizal property should be in his name alone so that she would not be involved in any obligation. The consideration for the `simulated sale' was that, after its execution in which he would represent himself as single, a Deed of Absolute Sale would be executed in favor of the three (3) children and that he would pay the Allied Bank, Inc. the loan he obtained.

"Because of the `glib assurances' of [petitioner], [respondent] executed a Deed of Absolute Sale in 1992, but then he did not pay the consideration of P200,000.00, supposedly the `ostensible' valuable consideration. On the contrary, she paid for the capital gains tax and all the other assessments even amounting to not less than P60,000.00, out of her personal funds.

"Because of the sale, a new title (TCT No. 181033) was issued in his name, but to `insure' that he would comply with his commitment, she did not deliver the owner's copy of the title to him.

"Because of the refusal of [petitioner] to perform his promise, and also because he insisted on delivering to him the owner's copy of the title [to] the JP Rizal property, in addition to threats and physical violence, she decided executing an Affidavit of Adverse Claim.

"Also to avoid burdening the JP Rizal property with an additional loan amount, she wrote the Allied Bank, Inc. on August 25, 1992, withdrawing her authority for [petitioner] to apply for additional loans.

"To save their marriage, she even sought the help of relatives in an earnest effort [at] reconciliation, not to mention a letter to [petitioner] on November 3, 1992.

"[Petitioner], on the other hand, filed with the RTC, Makati, in 1993 (Case No. M-2905), a `Petition for Replacement' of an owner's duplicate title.

"Attached to the Petition was the Affidavit of Loss dated March 26, 1993, in which he falsely made it appear that the owner's copy of the title was lost or misplaced, and that was granted by the court in an Order dated September 17, 1993, following which a new owner's copy of the title was issued to [petitioner].

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> "Upon discovery of the `fraudulent steps' taken by the [petitioner], [respondent] immediately executed an Affidavit of Adverse Claim on November 29, 1993.
>
> "She precisely asked the court that the sale of the JP Rizal property be declared as null and void; for the title to be cancelled; payment of actual, moral and exemplary damages; and attorney's fees.
>
> "It was, on the other hand, the version of [petitioner] that sometime in 1968 or before he became a Filipino, `through naturalization,' the JP Rizal property was being offered to him for sale. Because he was not a Filipino, he utilized [respondent] as his `dummy' and agreed to have the sale executed in the name of [respondent], although the consideration was his own and from his personal funds.
>
> "When he finally acquired a Filipino citizenship in 1972, he purchased another property being referred to as the `Juno lot' out of his own funds. If only to reflect the true ownership of the JP Rizal property, a Deed of Sale was then executed in 1972. Believing in good faith that his owner's copy of the title was lost and not knowing that the same was surreptitiously `concealed' by [respondent], he filed in 1993 a petition for replacement of the owner's copy of the title, in court.
>
> "[Petitioner] added that [respondent] could not have purchased the property because she had no financial capacity to do so; on the other hand, he was financially capable although he was disqualified to acquire the property by reason of his nationality. [Respondent] was in pari delicto being privy to the simulated sale.
>
> "Before the court a quo, the issues were: who purchased the JP Rizal property? [W]as the Deed of Sale void? and damages.[6]

Ruling of the Trial Court

After examining the evidence adduced by both parties, the RTC found that the JP Rizal property was the paraphernal property of respondent, because (1) the title had been issued in her name; (2) petitioner had categorically admitted that the property was in her name; (3) petitioner was estopped from claiming otherwise, since he had signed the Deed of Absolute Sale that stated that she was the "absolute and registered owner"; and (4) she had paid the real property taxes thereon.[7]

The trial court further held that the in pari delicto rule found in Articles 1411 and 1412 of the Civil Code was not applicable to the present case, because it would apply only to existing contracts with an illegal cause or object, not to simulated or fictitious contracts or to those that were inexistent due to lack of an essential requisite such as cause or consideration.[8] It likewise voided the Deed of Absolute Sale of the JP Rizal property for having been simulated and executed during the marriage of the parties.[9]

Ruling of the Court of Appeals

The Court of Appeals upheld the trial court's findings that the JP Rizal property had been acquired by respondent alone, out of her own personal funds. It ruled thus:

> "x x x [T]he JP Rizal property was purchased by the [respondent] alone; therefore it is a paraphernal property. As a matter of fact, the title was issued in her name, Exh. `DD'. This was even admitted by [petitioner] in the Answer that the sale was executed in her name alone. He also signed the sale mentioning [respondent] to be an absolute owner; therefore, he should be estopped from claiming otherwise. She alone likewise did the payment of the taxes."[10]

The CA debunked the contention of petitioner that he had purchased the property out of his own funds and merely used respondent as his dummy.[11] It also held that the latter was not in pari delicto with him, because the contract was simulated or fictitious due to the lack of consideration. The contract was deemed void for having been executed during the couple's marriage.[12] The CA likewise affirmed the award of actual, moral and

exemplary damages to respondent.[13]

Hence, this Petition.[14]

Issues

In his Memorandum, petitioner raises the following issues for the Court's consideration:

> I
>
> "Whether or not the Court of Appeals gravely erred in not applying [the] rules on co-ownership under Article 144 of the New Civil Code in determining the proprietary rights of the parties herein even as respondent herself expressly declared that the money with which she allegedly bought the property in question in 1968 came from her funds, salaries and savings at the time she and petitioner already lived as husband and wife.
>
> II
>
> "Whether or not the Court of Appeals likewise palpably erred in declaring the sale of the subject property to herein petitioner in 1992 to be fictitious, simulated and inexistent.
>
> III
>
> "Whether or not the Court of Appeals further erred in not applying the `[in] pari delicto' rule to the sale of the subject property in favor of the petitioner in 1992 contrary to the express declaration to that effect in the very same case it cited (Rodriguez v. Rodriguez; 20 SCRA 908) in the decision herein sought to be reviewed.
>
> IV
>
> "Whether or not the Court of Appeals gravely erred in annul[l]ing the title (TCT No. 181033) to the subject property in the name of herein petitioner in the absence of actual fraud."[15] (Underscoring in the original.)

This Court's Ruling

The Petition is devoid of merit.

First Issue: Nature of the Property

Petitioner contends that the JP Rizal property should be deemed as co-owned, considering that respondent testified during trial that the money she used in purchasing it had come from her income, salaries and savings, which are conjugal in nature.

On the other hand, respondent maintains that the finding of the two lower courts that the property was acquired using funds solely owned by her is binding and supported by evidence. She further argues that the two defenses of petitioner are contradictory to each other because, if the property is co-owned, he cannot claim to own it in its entirety.

We find no reason to disturb the findings of the RTC and the CA that the source of the money used to acquire the property was paraphernal. This issue is factual in nature. It is axiomatic that "factual findings of the trial court, especially when affirmed by the Court of Appeals, as in this case, are binding and conclusive on the Supreme Court. It is not the function of this Court to reexamine the lower courts' findings of fact. While there are exceptions to this rule, petitioner has not shown its entitlement to any of them."[16]

The testimony of petitioner as to the source of the money he had supposedly used to purchase the property was at best vague and unclear. At first he maintained that the money came from his own personal funds. Then he said that it came from his mother; and next, from his father. Time and time again, "we [have] held that the unnatural

and contradictory testimony of a witness, x x x makes him unreliable x x x."[17] His statement that the JP Rizal property was bought with his own money can hardly be believed, when he himself was unsure as to the source of those funds.

On the other hand, the capacity of respondent to purchase the subject property cannot be questioned. It was sufficiently established during trial that she had the means to do so. In fact, her testimony that she had purchased several other lots using her personal funds was not disputed.

Equally without merit is the contention of petitioner that, because he was a Chinese national at the time, respondent was merely used as a dummy in acquiring the property; thus, she could not have legally acquired title thereto. He testified that sometime during the last month of 1968, he had consulted a certain Atty. Flores, who advised him that the property be registered in the name of respondent. However, TCT No. 217614 had been issued earlier on April 17, 1968. Thus, it appears that the subject property had already been bought and registered in the name of respondent, long before Atty. Flores allegedly advised him to have the property registered in her name.

We therefore agree with the CA's affirmation of the RTC's findings that the property had been acquired using respondent's paraphernal property. The CA ruled thus:

> "The fact however, is that Yu never refuted Elvira's testimony that: (a) the money with which she acquired the JP Rizal property came from: (1) her income as a cashier in the Hong Kiat Hardware; (2) income from her paraphernal property - a lot in Guadalupe; (3) her savings from the money which her parents gave her while she was still a student; and (4) the money which her sister gave her for helping her run the beauty parlor; (b) her parents were well off - they had stores, apartments and beauty parlors from which they derived income; (c) before her marriage she bought lots in different places (p. 8, TSN, Jan. 26, 1998; pp. 22-23, TSN March 10, 1998)."[18]

Second Issue: Fictitious, Simulated and Inexistent Sale

Next, petitioner argues that there was a valid sale between the parties, and that the consideration consisted of his promise to construct a commercial building for the benefit of their three children and to pay the loan he had obtained from Allied Bank.

We disagree. In Rongavilla v. Court of Appeals,[19] the Court declared that a deed of sale, in which the stated consideration had not in fact been paid, is null and void:

> "The `problem' before the Court is whether a deed which states a consideration that in fact did not exist, is a contract, without consideration, and therefore void ab initio, or a contract with a false consideration, and therefore, at least under the Old Civil Code, voidable. x x x."
>
> "In our view, therefore, the ruling of this Court in Ocejo, Perez & Co. vs. Flores, 40 Phil. 921[,] is squarely applicable herein. In that case we ruled that a contract of purchase and sale is null and null and void and produces no effect whatsoever where the same is without cause or consideration in that the purchase price which appears thereon as paid has in fact never been paid by the purchaser to vendor."[20]

In the present case, it is clear from the factual findings of both lower courts that the Deed of Sale was completely simulated and, hence, void and without effect. No portion of the P200,000 consideration stated in the Deed was ever paid. And, from the facts of the case, it is clear that neither party had any intention whatsoever to pay that amount.

Instead, the Deed of Sale was executed merely to facilitate the transfer of the property to petitioner pursuant to an agreement between the parties to enable him to construct a commercial building and to sell the Juno property to

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their children. Being merely a subterfuge, that agreement cannot be taken as the consideration for the sale.

Third Issue: Inapplicability of the in Pari Delicto Principle

> The principle of in pari delicto provides that when two parties are equally at fault, the law leaves them as they are and denies recovery by either one of them. However, this principle does not apply with respect to inexistent and void contracts. Said this Court in Modina v. Court of Appeals:[21]

"The principle of in pari delicto non oritur actio denies all recovery to the guilty parties inter se. It applies to cases where the nullity arises from the illegality of the consideration or the purpose of the contract. When two persons are equally at fault, the law does not relieve them. The exception to this general rule is when the principle is invoked with respect to inexistent contracts."[22]

Fourth Issue:
Cancellation of TCT

Finally, based on the foregoing disquisition, it is quite obvious that the Court of Appeals did not err in ordering the cancellation of TCT No. 181033, because the Deed of Absolute Sale transferring ownership to petitioner was completely simulated, void and without effect. In fact, there was no legal basis for the issuance of the certificate itself.

WHEREFORE, the Petition is hereby DENIED and the assailed Decision AFFIRMED. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), and Sandoval-Gutierrez, JJ., concur.
Vitug, J., on official leave.

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[1] Rollo, pp. 32-45.

[2] Rollo, p. 47.

[3] First Division. Written by J. Bernardo Ll. Salas; concurred in by JJ Salome A. Montoya (presiding justice and Division chair), and Presbitero J. Velasco Jr. (member).

[4] Assailed Decision, p. 14; rollo, p. 45.

[5] RTC Decision, p. 31; penned by Judge Pedro N. Laggui.

[6] CA Decision, pp. 3-8; rollo, pp. 34-39.

[7] RTC Decision, p. 6; rollo, p. 68.

[8] Ibid., p. 10; rollo, p. 72.

[9] Id., pp. 10-11; rollo, pp. 72-73.

[10] Assailed CA Decision, p. 8; rollo, p. 39.

[11] Ibid., p. 9; rollo, p. 40.

[12] Id., p. 13; rollo, p. 44.

[13] Id., pp. 13-14; rollo, pp. 44-45.

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[14] The case was deemed submitted for decision on July 19, 2001 upon the Court's receipt of respondent's Memorandum which was signed by Atty. Prospero A. Crescini. Petitioner's Memorandum, signed by Attys. Agripino C. Baybay III and Dionisio U. Flores, was received by the Court on June 27, 2001.

[15] Petitioner's Memorandum, pp. 7-8; rollo, pp. 144-145. Original in capital letters.

[16] Mars Construction Enterprises, Inc. v. Philippine National Construction Corporation, 325 SCRA 624, February 15, 2000, per Panganiban, J.

[17] Madrid, Eligio v. Court of Appeals, 332 SCRA 570, May 31, 2000, per Mendoza, J.

[18] Assailed Decision, p. 11; rollo, p. 42.

[19] 294 SCRA 289, August 17, 1998, per Quisumbing, J.

[20] Rongavilla v. Court of Appeals, 294 SCRA 289, 305, August 17, 1998, per Quisumbing, J.

[21] 317 SCRA 696, 702-703, October 29, 1999, per Purisima, J.

[22] Ibid., pp. 702-703.

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