

SALVADOR COMILANG, PETITIONER, VS. FRANCISCO BURCENA AND MARIANO BURCENA, RESPONDENTS.

G.R. NO. 146853. February 13, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on certiorari of the Decision[1] dated October 16, 2000 of the Court of Appeals (CA) in CA-G.R. CV No. 53794 which affirmed in toto the Decision dated March 28, 1996 of the Regional Trial Court, Branch 22, Narvacan, Ilocos Sur (RTC) and the CA Resolution dated December 19, 2000 which denied petitioner's motion for reconsideration.

The factual background of the case is as follows:

On April 29, 1985, Francisco Burcena and Mariano Burcena (respondents), together with their mother, Dominga Reclusado Vda. de Burcena (Dominga), filed a complaint for annulment of document with damages against Salvador Comilang (petitioner). The complaint alleges that: respondents are the owners of a 918-square meter parcel of land located in Manueva, Santa, Ilocos Sur and the house with a floor area of 32 square meters built thereon; respondents acquired the subject property through their earnings while working abroad; the subject property was declared for taxation purposes in Dominga's name as administrator thereof; on or about March 12, 1984, petitioner caused the execution of a Deed of Donation[2] over said property by taking advantage of Dominga's blindness, old age and physical infirmity; the said Deed of Donation is null and void because: (a) Dominga had no right to donate the same since she is not its owner, (b) Dominga did not give her consent and was misled to the execution of such document, (c) granting Dominga had authority to donate, the donation is void because the property donated is the only property declared in her name and therefore she could not have reserved for herself in full ownership sufficient property to support herself; petitioner is in possession of the subject property, depriving respondents of its ownership and enjoyment of its fruits.[3]

In his Answer dated February 24, 1986, petitioner contends that: the Deed of Donation was freely and voluntarily executed by Dominga in consideration of her love and affection for him; the subject property was acquired by Dominga together with her two sisters, Aniceta Reclusado and Juana Reclusado, long before respondents went to Hawaii; Dominga erected a house on the land long before the outbreak of World War II; Dominga financed out of her own money the construction of the house and subsequent improvements thereof, she being a merchant when she could still travel to Cagayan Valley; granting that respondents had been sending money to Dominga, said money already belonged to her; if Dominga used said money for improving the house, respondents have no right over the house.[4]

During the pendency of the case and before she could take the witness stand, Dominga died.[5] Following pre-trial, trial on the merits ensued. Witnesses for the plaintiffs were respondents and their aunt, Margarita Burcena (Margarita); while petitioner testified on his own behalf.

On March 28, 1996, the RTC rendered a Decision in favor of the respondents, the dispositive portion of which

reads as follows:

WHEREFORE, decision is hereby rendered declaring the parcel of land and the improvement therein consisting of the house mentioned and described under paragraph 3 of the complaint, owned by the plaintiffs Francisco Burcena and Mariano Burcena, but declaring the possession of the defendant in good faith and further:

- a) That the Deed of Donation, Exhibit “1” and submarkings null and void;
- b) That the defendant must vacate the property and turnover the same to the plaintiffs.
- c) Without pronouncement as to moral, actual and other forms of damages as well as non-accounting of the produce from the property by virtue of the defendant’s possession, thereof, as well as attorney’s fees.

SO ORDERED.[6]

The RTC held that the donation is void because Dominga could not have validly disposed of the subject property since it was bought with the money sent by respondents while working abroad, although declared for taxation purposes in Dominga’s name.

Dissatisfied, petitioner filed an appeal with the CA. In its Decision dated October 16, 2000, the CA found no cogent reason to disturb the factual findings of the RTC, as well as the latter’s assessment of the credibility of witnesses. The CA held that the case involves an implied trust known as purchase price resulting trust under Article 1448 of the Civil Code where property sold is granted to one party but the price is paid for by another; that the evidence presented by the respondents convincingly show that the subject property was bought with money belonging to respondents but declared in Dominga’s name as administrator thereof; and that Dominga’s act of donating the property to petitioner was beyond her authority and capacity, done without the consent of the real owners, herein respondents. Thus, the CA sustained the conclusion of the RTC that the donation is void.[7]

Petitioner filed a motion for reconsideration[8]but it was denied by the CA in its Resolution dated December 19, 2000.[9]

Hence, the present petition for review on certiorari anchored on the following assigned errors:

The Honorable Court of Appeals erred:

- IN DECLARING IN ITS QUESTIONED DECISION xxx THAT “xxx implied trust arises over the subject property xxx”; xxx; AND/OR
- IN DECIDING THE INSTANT CASE NOT IN ACCORDANCE WITH LAW AND/OR APPLICABLE DECISIONS OF THIS HONORABLE COURT; AND/OR
- IN MISAPPRECIATING CIRCUMSTANCES OF SUBSTANCE AND VALUE WHICH GREATLY AFFECT THE OUTCOME OF THE CASE OR REVERSE THE DECISION OF THE HONORABLE REGIONAL TRIAL COURT OF NARVACAN, ILOCOS SUR, BRANCH 22.[10]

Petitioner assails the CA’s application of the principle of implied trust to nullify the Deed of Donation executed in his favor. He asserts that the existence of an implied trust between respondents and Dominga in relation to the subject property was never treated by the RTC nor was it brought in issue on appeal before the CA. Petitioner further argues that Margarita’s statement on the witness stand that Dominga told her that the respondents sent her money to buy the subject property, should not have been given weight or credence by the RTC and the CA because it is hearsay and has no probative value.

On the other hand, respondents maintain that the CA has the judicial prerogative to rule on matters not assigned as

errors in an appeal if indispensable or necessary to the just resolution of the case. As to Margarita's testimony, respondents submit that it is not hearsay since Margarita merely stated what Dominga said.

The petition is bereft of merit.

Once a court acquires jurisdiction over a case, it has wide discretion to look upon matters which, although not raised as an issue, would give life and meaning to the law. Indeed, the Rules of Court recognize the broad discretionary power of an appellate court to consider errors not assigned. Section 8, Rule 51 of the 1997 Rules of Civil Procedure provides:

SEC. 8 Questions that may be decided. No error which does not affect the jurisdiction over the subject matter or the validity of the judgment appealed from or the proceedings therein will be considered, unless stated in the assignment of errors, or closely related to or dependent on an assigned error and properly argued in the brief, save as the court may pass upon plain errors and clerical errors.

Thus, an appellate court is clothed with ample authority to review rulings even if they are not assigned as errors in the appeal in these instances: (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.[11]

In this case, since the petitioner directly brought in issue on appeal in his Appellant's Brief the declaration of the RTC that Dominga could not have validly disposed of the subject property because respondents are the real owners of the subject property since it was bought with money sent by them, it was well-within the CA's authority to review and evaluate the propriety of such ruling. In holding that an implied trust exists between respondents and Dominga in relation to the subject property and therefore Dominga had no right to donate the same to petitioner, the CA merely clarified the RTC's findings.

Article 1448 of the Civil Code on implied trust provides:

Art. 1448. There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child. (Emphasis supplied)

The trust created under the first sentence of Article 1448 is sometimes referred to as a purchase money resulting trust, the elements of which are: (a) an actual payment of money, property or services, or an equivalent, constituting valuable consideration; and (b) such consideration must be furnished by the alleged beneficiary of a resulting trust.[12] Respondents have shown that the two elements are present in the instant case. Dominga was merely a trustee of the respondents in relation to the subject property. Therefore, Dominga could not have validly donated the subject property to petitioner, as expressly provided in Article 736 of the Civil Code, thus:

Art. 736. Guardians and trustees cannot donate the property entrusted to them.

Truly, nobody can dispose of that which does not belong to him.[13] Anent Margarita's testimony that Dominga told her that the respondents sent her (Dominga) money to buy the subject property, it cannot be categorized as

hearsay evidence. Margarita's testimony was not presented to prove the truth thereof, but only to establish the fact that Dominga narrated to Margarita the source of the funds used in the purchase of the subject property.[14] What was sought to be admitted in evidence, and what was actually admitted in evidence, was the fact that the statement was made by Dominga to Margarita, not necessarily that the matters stated by her were true. The said utterance is in the nature of an independently relevant statement which may be admitted in evidence as such, but not necessarily to prove the truth thereof.[15]

Thus, while it is true that the testimony of a witness regarding a statement made by another person, if intended to establish the truth of the fact asserted in the statement, is clearly hearsay evidence, it is otherwise if the purpose of placing the statement in the record is merely to establish the fact that the statement was made or the tenor of such statement. Regardless of the truth or falsity of a statement, when the fact that it has been made is relevant, the hearsay rule does not apply and the statement may be shown. As a matter of fact, evidence as to the making of the statement is not secondary but primary, for the statement itself may constitute a fact in issue, or be circumstantially relevant as to the existence of such a fact.[16] For this reason, the statement attributed to Dominga regarding the source of the funds used to purchase the subject property related to the court by Margarita is admissible if only to establish the fact that such statement was made and the tenor thereof.

Besides, the testimony of Margarita is not the main basis for the RTC's decision. In fact, her testimony is not indispensable. It merely serves to corroborate the testimonies of the respondents on the source of the funds used in purchasing the subject property. The testimonies of all three witnesses for the plaintiffs were found to be convincing and credible by the RTC. This Court will not alter the findings of the RTC on the credibility of witnesses, principally because trial courts have vastly superior advantages in ascertaining the truth and in detecting falsehood as they have the opportunity to observe the manner and demeanor of witnesses while testifying.[17]

All told, the CA did not commit any reversible error in rendering the assailed Decision dated October 16, 2000 and the Resolution dated December 19, 2000 in CA-G.R. CV No. 53794. The factual determinations of the CA therein are binding and conclusive upon this Court as no compelling reasons exist necessitating a re-examination or reversal of the same.

WHEREFORE, the petition is DENIED and the assailed Decision and Resolution are AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago and Chico-Nazario, JJ., concur
Callejo, Sr., J., no part.

[1] Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justices Romeo J. Callejo, Sr. (now Associate Justice of this Court) and Juan Q. Enriquez, Jr.

[2] In the Deed of Donation, the disputed land is described as "[a] combined vegetable land with an area of ".0518 Sqms." (sic) and also a residential lot with an area of "400 Sqms." (sic) and a house built thereon, xxx." Records, p. 23.

[3] Records, pp. 1-2.

[4] Id., p. 18.

[5] Id., p. 93.

[6] Id., pp. 170-171.

[7] CA rollo, p. 180.

[8] Id., p. 186.

[9] Id., p. 192.

[10] Rollo, p. 16.

[11] *Mendoza v. Bautista*, G.R. No. 143666, March 18, 2005, 453 SCRA 691, 702-703; *Sumipat v. Banga*, G.R. No. 155810, August 13, 2004, 436 SCRA 521, 532-533; *Catholic Bishop of Balanga v. Court of Appeals*, 332 Phil. 206, 217-218 (1996).

[12] *Tigno v. Court of Appeals*, 345 Phil. 486, 499 (1997); *Morales v. Court of Appeals*, G.R. No. 117228, June 19, 1997, 274 SCRA 282, 299; 76 Am. Jur. 2d Trusts § 180.

[13] *Marquez v. Court of Appeals*, 360 Phil. 843, 850 (1998); *Esquejo v. Fortaleza and D. Fortaleza*, 121 Phil. 201, 204 (1965).

[14] TSN, Testimony of Margarita Burcena, August 9, 1989, p. 4.

[15] *Bon v. People*, G.R. No. 152160, January 13, 2004, 419 SCRA 101, 110.

[16] *Republic v. Heirs of Felipe Alejaga, Sr.*, 441 Phil. 656, 672 (2002); *D.M. Consunji, Inc. v. Court of Appeals*, G.R. No. 137873, April 20, 2001, 357 SCRA 249, 255.

[17] *People v. Dalag*, 450 Phil. 304, 314 (2003); *Marco v. Court of Appeals*, 339 Phil. 467, 471 (1997).

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