ESTRELLA PIGAO, ROMEO PIGAO, EMMANUEL PIGAO, ISABELITA ABAD, PURITA SARTIGA, CESAR PIGAO, TERESITA PIGAO, VIRGILIO PIGAO AND EVANGELINE KIUNISALA, PETITIONERS, VS. SAMUEL RABANI...

G.R. NO. 150712. May 02, 2006

Ponente: CORONA, J.

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CORONA, J.:

This petition for review seeks the reversal of the decision[1] of the Court of Appeals (CA) dated October 29, 2001 in CA-G.R. CV No. 60069, the dispositive portion of which read:

> WHEREFORE, the decision rendered in Civil Case No. Q-96-26270 on February 27, 1998 is hereby REVERSED and SET ASIDE. As prayed for in the answer, Transfer Certificate of Title No. 56210 over the 240 square-meter lot located at 92 (now 102) K-5th Street, Kamuning, Quezon City issued in the name of Eusebio Pigao's children is hereby ordered CANCELLED and the Register of Deeds of Quezon City is hereby ordered to ISSUE a new one in lieu thereof in the names of both Eusebio Pigao's children and Samuel Rabanillo, with the front half portion of the lot pertaining to the latter and the back half portion pertaining to the former.
>
> Let a copy of this decision be furnished the Register of Deeds of Quezon City for proper action.
>
> SO ORDERED.[2]

The antecedent facts follow.

Sometime in 1947, the late Eusebio Pigao, petitioners' father, together with his family, settled on a 240 square meter lot located at 92 (now 102) K-5th Street, Kamuning, Quezon City. The parcel of land used to be government property owned by the People's Homesite and Housing Corporation (PHHC),[3] under Transfer Certificate of Title (TCT) No. 27287.[4] Eusebio applied for the purchase of the subject lot and a contract to sell for a consideration of P1,022.19 was thereafter entered into by Eusebio and PHHC.

In 1959, Eusebio executed a deed of assignment of rights over one-half of the property in favor of respondent, for a consideration of P1,000. Respondent proceeded to occupy the front half portion, established a residential building thereon, and paid the amortizations for the said portion.

In 1970, Eusebio executed a deed of mortgage over the same half-portion of the property in favor of respondent. After the amortizations on the subject lot were fully paid in 1973, the PHHC issued a deed of sale over the entire lot in favor of Eusebio. Consequently, TCT No. 197941 was issued in Eusebio's name. In 1978, respondent executed an affidavit of adverse claim over the front half portion of the lot registered in Eusebio's name. This affidavit was duly annotated on TCT No. 197941. On June 17, 1979, Eusebio died and was survived by his children, herein petitioners.

In 1988, after the Office of the Register of Deeds of Quezon City was gutted by fire, petitioner Estrella Pigao applied for the reconstitution of the original of TCT No. 197941 that was burned. This was approved in 1990 and TCT No. RT-11374 was issued, still in the name of Eusebio. This reconstituted title no longer carried the annotation of the adverse claim of respondent.

In 1992, petitioners executed an extrajudicial settlement of Eusebio's estate among themselves, including the entire subject lot. As a consequence, TCT No. 56210 was issued for the entire lot in the name of petitioners. Respondent continued to occupy the front half portion through his tenant, Gil Ymata. On January 29, 1996, petitioners instituted civil case no. Q-96-26270 in the Regional Trial Court (RTC) of Quezon City, Branch 95, against respondent and Ymata wherein they sought to quiet their title over the entire lot and to recover possession of the front half portion. They averred that Eusebio's deed of assignment and deed of mortgage were clouds on their title which should be nullified.[5] The RTC ruled in favor of petitioners:

> WHEREFORE, judgment is hereby rendered in the following:
>
> - Declaring [petitioners] the absolute owners of the entire land described in TCT No. 56210 and declaring the deed of assignment issued by the late Eusebio Pigao in favor of [respondent] null and void.
>
> - Ordering [petitioners] to pay [respondent] the value of the house and improvements thereon in the event that they choose to appropriate the same in which case [respondent] is given the right of retention until he has been reimbursed by [petitioners]; or to compel [respondent] to buy the land in case they choose not to. In the latter case, [respondent] cannot be compelled to buy the land if the value thereof is higher than the value of the improvements.
>
> - Dismissing the case against defendant Gil Ymata for lack of cause of action there being no privity of contract between him and [petitioners];
>
> - Dismissing both [petitioners'] and [respondent's] claims for damages and attorney's fees there being no satisfactory warrant thereto; and
>
> - No pronouncements as to costs.
>
> IT IS SO ORDERED.[6]

As stated earlier, the CA reversed the RTC decision and ruled in favor of respondent.

Petitioners filed this petition on the following grounds:

> I.
>
> THE [CA] ERRED IN DECLARING THAT THE SUBJECT DEED OF ASSIGNMENT IS VALID AND THAT THERE IS NO PROHIBITION [AGAINST] THE SALE [OF] RIGHTS OVER THE AWARDED LOT MADE BY EUSEBIO PIGAO.
>
> II.
>
> THE [CA] ERRED IN DECLARING THAT A RELATIONSHIP OF IMPLIED TRUST OVER THE [ONE-HALF] (1/2) PORTION OF THE SUBJECT LOT WAS CREATED BETWEEN EUSEBIO PIGAO AND [RESPONDENT].[7]

The first issue before us is the validity of the deed of assignment whereby Eusebio assigned to respondent his rights to half of the lot. Petitioners argue that the lot subject of this case was public land granted by the PHHC to their predecessor, Eusebio. Hence, they contend that Section 118 of Commonwealth Act No. 141 (CA 141)[8] otherwise known as the Public Land Act, was applicable:

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> Sec. 118. Except in favor of the Government or any of its branches, units, or institutions, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations. (emphasis supplied)
>
> xxx xxx xxx

Petitioners assert that the deed of assignment was null and void because it was entered into during the prohibited period,[9] i.e., the entire period from the date of approval of Eusebio's application to purchase up to five years from and after the date of issuance of the patent to him in 1973. Respondent counters that CA 141 did not apply because it covered only homestead or sales patents.[10]We agree that CA 141 was inapplicable. The proscription under CA 141 on re-sale within the five-year restricted period referred to free patents and homestead lands only.[11] Here, the lot in dispute was neither homestead land nor one acquired through patent. It was owned by PHHC, a government corporation,[12] under TCT No. 27287.[13]

It was not disputed that Eusebio and respondent entered into a deed of assignment in 1959, long before PHHC executed a (final) deed of sale in favor of Eusebio in 1973. At that time, title to the lot was still in the name of PHHC. The deed of assignment itself explicitly stated that the property was "owned by the PHHC."[14] And when the (final) deed of sale was issued by PHHC in favor of Eusebio in 1973, this deed contained a prohibition against the alienation of the lot:

> (2) Within a period of one year from the issuance of the Certificate of Title by virtue of this deed, no transfer or alienation whatsoever of the property subject hereof, in whole or in part, shall be made or registered without the written consent of the Vendor, and such transfer or alienation may be made only in favor of persons qualified to acquire residential lands under the laws of the Philippines.[15]

The CA, however, held that what was assigned by Eusebio in 1959 was his right to buy, own and occupy the front half portion of the lot and not the lot itself. It went on to conclude that the deed of assignment was perfectly valid since Eusebio was under no prohibition to sell such right.

Petitioners insist there was such a prohibition. To support their claim, they request this Court to take judicial notice of the fact that the pro-forma conditional contracts-to- sell between PHHC and applicants for the purchase of its lots contained a condition stating that "the applicant agree(d) not to sell, assign, encumber, mortgage, lease, sublet or in any other manner affect his right under this contract, at any time, in any manner whatsoever, in whole or in part, without first obtaining the written consent of the Corporation." Although they admitted that they failed to present during the trial the conditional contract to sell between Eusebio and PHHC, they claimed that they did not have a copy thereof.[16] In fact, what they submitted to this Court was a copy of a conditional contract to sell between a certain Armando Bernabe and the PHHC pertaining to a lot located at 94 K-5th St., Kamuning, Quezon City[17] to prove the existence of the aforementioned condition. Respondent objects to this attempt of petitioners to seek admission of evidence which was presented neither during trial nor on appeal.[18]

We agree with respondent. We cannot take cognizance of this document - the conditional contract to sell between Bernabe and the PHHC alleged to be the pro-forma contract used by PHHC with its applicants - which petitioners are presenting for the first time. This document is not among the matters the law mandatorily requires us to take judicial notice of.[19] Neither can we consider it of public knowledge nor capable of unquestionable demonstration nor ought to be known to judges because of their judicial functions.[20] We have held that:

> Matters of judicial notice have three material requisites: (1) the matter must be one of common and general

> knowledge; (2) it must be well and authoritatively settled and not doubtful or uncertain; and (3) it must be known to be within the limits of jurisdiction of the court. The power of taking judicial notice is to be exercised by courts with caution. Care must be taken that the requisite notoriety exists and every reasonable doubt on the subject should be promptly resolved in the negative.[21] (emphasis supplied)

Consequently, for this document to be properly considered by us, it should have been presented during trial and formally offered as evidence. Otherwise, we would be denying due process of law to respondent:

> It is settled that courts will only consider as evidence that which has been formally offered. xxx If [petitioners] neglected to offer [any document] in evidence, however vital [it] may be, [they] only have themselves to blame, not respondent who was not even given a chance to object as the documents were never offered in evidence.
>
> A document, or any article for that matter, is not evidence when it is simply marked for identification; it must be formally offered, and the opposing counsel given an opportunity to object to it or cross-examine the witness called upon to prove or identify it. A formal offer is necessary since judges are required to base their findings of fact and judgment only - and strictly - upon the evidence offered by the parties at the trial. To allow a party to attach any document to his pleading and then expect the court to consider it as evidence may draw unwarranted consequences. The opposing party will be deprived of his chance to examine the document and object to its admissibility. The appellate court will have difficulty reviewing documents not previously scrutinized by the court below. The pertinent provisions of the Revised Rules of Court on the inclusion on appeal of documentary evidence or exhibits in the records cannot be stretched as to include such pleadings or documents not offered at the hearing of the case.[22]

Besides, this document does not even pertain to the lot and parties involved here. Accordingly, it is neither relevant nor material evidence. But even assuming that it were, then it would substantially affect the outcome of the case so respondent should have been given the chance to scrutinize the document and object to it during the trial of the case. It is too late to present it now when nothing prevented petitioners from introducing it before.

Nevertheless, we hold that the deed of assignment between Eusebio and respondent is null and void for being contrary to public policy. Under PHHC rules, preference for the purchase of residential lots from the PHHC was accorded to bona fide occupants of such lots.[23] This policy was supported by the PHHC charter given that one of the purposes of the PHHC was:

> to acquire, develop, improve, subdivide, lease and sell lands and construct, lease and sell buildings or any interest therein in the cities and populous towns in the Philippines with the object of providing decent housing for those who may be found unable otherwise to provide themselves therewith.[24] (emphasis supplied)

Eusebio, as a bona fide occupant of the subject lot, had a vested right to buy the property. This did not, however, give him the unbridled freedom to transfer his right to a third party, specially one who was unqualified to avail of it. Undoubtedly, the PHHC was clothed with authority to determine if a person was qualified to purchase a residential lot from it. The right to purchase was a personal right that the qualified applicant, as determined by PHHC, must personally exercise. As a personal right, it could not be transferred to just another person.

Any transfer of rights, to be valid, must be in line with the policy of PHHC which was to provide "decent housing for those who may be found unable otherwise to provide themselves therewith." Thus, any transfer of an applicant's right to buy a lot was invalid if done without the consent of PHHC. The same policy was enunciated by the terms of the deed of sale.[25] There is no showing that the PHHC's approval for the assignment of half of the lot to respondent was ever obtained. Stated otherwise, there is no proof that respondent would have been allowed to avail of the preferential rights exclusively granted to bona fide occupants of PHHC-owned lots like Eusebio. Thus, the assignment of rights by Eusebio to respondent, who was not a bona fide occupant of the lot,

frustrated the public policy of the government. It should therefore be struck down as null and void.

It follows that the second issue of whether an implied trust relationship was created between Eusebio and his heirs as trustees and respondent as beneficiary must also be resolved against respondent. We do not agree with the reasoning of the CA:

> xxx [A]fter the execution of the deed of assignment, [respondent] proceeded to buy the front half portion from PHHC by paying the amortizations due thereon in exercise of the right which he purchased by way of deed of assignment. He also established his residence on this portion since he was then secure in the knowledge that he eventually will own the same portion having also purchased this right to own in the deed of assignment. Therefore, when the purchase price for the entire lot was finally paid, the deed of its conveyance was finally executed and the title to the entire lot was issued in Eusebio Pigao's name, an implied trust relationship was created over the front half portion between Pigao and [respondent].
>
> Per Article 1448 of the Civil Code, "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 party is referred to as the trustee, while the latter is referred to as the beneficiary.
>
> In the case at bench, the trustee is Pigao, who, with the title to the entire lot issued to him, holds the front half portion thereof in trust for [respondent], who is the beneficiary.
>
> xxx xxx xxx[26]

The CA declared that Article 1448 of the Civil Code was applicable:

> 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.
>
> xxx xxx xxx

In Morales v. Court of Appeals,[27] we extensively discussed the concept of "trust:"

> A trust is the legal relationship between one person having an equitable ownership in property and another person owning the legal title to such property, the equitable ownership of the former entitling him to the performance of certain duties and the exercise of certain powers by the latter.
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> xxx xxx xxx
>
> Trusts are either express or implied. Express trusts are created by the intention of the trustor or of the parties, while implied trusts come into being by operation of law, either through implication of an intention to create a trust as a matter of law or through the imposition of the trust irrespective of, and even contrary to, any such intention. In turn, implied trusts are either resulting or constructive trusts. Resulting trusts are based on the equitable doctrine that valuable consideration and not legal title determines the equitable title or interest and are presumed always to have been contemplated by the parties. They arise from the nature or circumstances of the consideration involved in a transaction whereby one person thereby becomes invested with legal title but is obligated in equity to hold his legal title for the benefit of another.
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> xxx xxx xxx
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> A resulting trust is exemplified by Article 1448 of the Civil Code xxx
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> The trust created under the first sentence of Article 1448 is sometimes referred to as a purchase money resulting trust. The trust is created in order to effectuate what the law presumes to have been the intention of the parties in the circumstances that the person to whom the land was conveyed holds it as trustee for the

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> person who supplied the purchase money.
>
> To give rise to a purchase money resulting trust, it is essential that there be:
>
> - an actual payment of money, property or services, or an equivalent, constituting valuable consideration;
>
> - and such consideration must be furnished by the alleged beneficiary of a resulting trust.
>
> There are recognized exceptions to the establishment of an implied resulting trust. The first is stated in the last part of Article 1448 itself. Thus, where A pays the purchase money and title is conveyed by absolute deed to A's child or to a person to whom A stands in loco parentis and who makes no express promise, a trust does not result, the presumption being that a gift was intended. Another exception is, of course, that in which an actual contrary intention is proved. Also where the purchase is made in violation of an existing statute and in evasion of its express provision, no trust can result in favor of the party who is guilty of the fraud.[28]

Another exception to the establishment of an implied resulting trust under Article 1448 is when its enforcement contravenes public policy. We have already ruled that the transfer of rights by Eusebio to respondent was null and void ab initio for being contrary to public policy. As we held in Ramos v. Court of Appeals:[29]

> Otherwise stated, as an exception to the law on trusts, "[a] trust or a provision in the terms of a trust is invalid if the enforcement of the trust or provision would be against public policy, even though its performance does not involve the commission of a criminal or tortious act by the trustee." The parties must necessarily be subject to the same limitations on allowable stipulations in ordinary contracts, i.e., their stipulations must not be contrary to law, morals, good customs, public order, or public policy. What the parties then cannot expressly provide in their contracts for being contrary to law and public policy, they cannot impliedly or implicitly do so in the guise of a resulting trust.[30] (emphasis supplied)

Admittedly, respondent shouldered half of the amortizations which were received by Eusebio's wife[31] and paid to the PHHC for the purchase of the lot. He also paid for the realty taxes for the said portion.[32] However, this was not an implied trust wherein petitioners held the title over the front half portion in trust for respondent. Otherwise, it would again run against public policy.

WHEREFORE, the instant petition is hereby GRANTED. The Court of Appeals decision dated October 29, 2001 in CA-G.R. CV No. 60069 is REVERSED and SET ASIDE. The decision of the Regional Trial Court of Quezon City, Branch 95 in Civil Case No. Q-96-26270 is REINSTATED.

SO ORDERED.

Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.
Puno, (Chairperson), on leave.

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[1] Penned by Associate Justice Ramon A. Barcelona and concurred in by Associate Justices Bernardo P. Abesamis and Perlita J. Tria Tirona of the Fifth Division of the Court of Appeals; rollo, p. 7.

[2]Id., p. 21.

[3] Now known as the National Housing Authority which was created by PD 757 dated July 31, 1975. The NHA took over the powers and functions of the dissolved PHHC.

[4]Rollo, p. 7.

[5]CA records, p. 13.

[6] Id., p. 16.

[7] Rollo, p. 35.

[8] As amended by CA 456 (1939).

[9] Rollo, p. 36.

[10] Id., p. 82.

[11]Amper, et al. v. The Hon. Presiding Judge, Branch III, CFI-Misamis Or., et al., 207 Phil. 282, 289 (1983); Del Rosario v. Bonga, G.R. No. 136308, 23 January 2001, 350 SCRA 101, 112.

[12] People's Homesite and Housing Corporation v. Court of Industrial Relations, G.R. No. L-31890, 29 May 1987, 150 SCRA 296, 308.

[13]Agustin v. Court of Appeals, 422 Phil. 686, 696 (2001).

[14]RTC records, p. 162.

[15] Id., p. 94.

[16] Rollo, pp. 40-41, 95.

[17] Id., p. 41.

[18] Id., p. 83.

[19]Sec. 1 of Rule 129 of the Revised Rules of Court provides:
Section 1. Judicial notice, when mandatory. - A court shall take judicial notice, without the introduction of evidence, of the existence and territorial extent of states, their political history, forms of government and symbols of nationality, the law of nations, the admiralty and maritime courts of the world and their seals, the political constitution and history of the Philippines, the official acts of the legislative, executive and judicial departments of the Philippines, the laws of nature, the measure of time, and the geographical divisions.

[20] Id., Sec. 2.

[21] D.O. Plaza Management Corp. v. Co-Owners Heirs of Andres Atega, G.R. No. 158526, 16 December 2004, 447 SCRA 171, citing Catungal v. Hao, G.R. No. 134972, 22 March 2001, 355 SCRA 29.

[22] Candido v. Court of Appeals, 323 Phil. 95, 99-100 (1996), citations omitted.

[23] Martires v. Court of Appeals, G.R. Nos. 78036-37, 3 August 1990, 188 SCRA 306, 311; Godoy v. Ramirez, G.R. No. L-46612, 29 November 1988, 168 SCRA 85, 90; Kempis v. Gonzales, G.R. No. L-31701, 31 October 1974, 60 SCRA 439, 448-449 and Guardiano v. Encarnacion, 139 Phil. 702, 709 (1969).

[24]Sec. 2 (a), Commonwealth Act No. 648, as amended by Sec. 11 (a), Annex A of Executive Order No. 399 dated January 5, 1951, as cited in Caballero v. Court of Appeals, G.R. No. 59888, 29 January 1993, 218 SCRA 56, 61; Ibay v. Intermediate Appellate Court, G.R. No. 67279, 3 June 1992, 209 SCRA 510, 517; People's Homesite and Housing Corporation v. Court of Industrial Relations, supra at note 12, p. 309.

[25]Supra at note 15.

[26]Rollo, pp. 17-18, citations omitted.

[27] G.R. No. 117228, 19 June 1997, 274 SCRA 282.

[28] Id., pp. 297-299, citations omitted.

[29] G.R. No. 108121, 10 May 1994, 232 SCRA 348.

[30]Id., pp. 361-362, citations omitted. See also Rizal Surety & Insurance Co. v. CA, 329 Phil. 786, 805 (1996), citing Mindanao Development Authority v. Court of Appeals, 5 April 1982, 113 SCRA 429, 436-437.

[31] TSN, p. 40.

[32]Rollo, p. 8.

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