

JALLALUDIN ABDULRAHMAN GULAM, PETITIONER, VS. SPOUSES CATALINO AND RICARDA SANTOS, RESPONDENTS.

G.R. NO. 151458. August 31, 2006

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AUSTRIA-MARTINEZ, J.:

The question of whether or not petitioner has fully paid the stipulated price under the Contract to Sell between him and respondents is a question of fact that is not proper in the present petition for review on certiorari under Rule 45 of the Rules of Court, as only questions of law may be raised therein,[1] save for certain exceptions,[2] which are not present in this case.

Petitioner and respondents entered into a Contract to Sell on January 1994, whereby the latter agreed to sell to petitioner a 72-square meter parcel of land located in Sampaloc, Manila, for the price of P1,700,000.00, including a 2-storey townhouse to be constructed by respondents on the property. The terms of payment were as follows: P500,000.00 to be paid on the first month of construction, another P500,000.00 to be paid on the second month of construction, the remaining balance to be added on the full payment of the contract price; and a reservation of P50,000.00 shall be paid by petitioner. A final deed of sale shall be executed by respondents upon full payment of the contract price, with petitioner bearing the costs of the taxes. Written on the contract is the note: "Received the amount of Five Hundred Thousand Pesos only (P500,000.00) representing Partial Payment of Full Downpayment."

Two years after the execution of the Contract to Sell, petitioner filed against respondents an action for Specific Performance, asking the Regional Trial Court (RTC) of Manila, Branch 50, to order respondents to execute a final deed of sale, plus damages and costs. Petitioner contended that he already fulfilled his end of the bargain by paying the stipulated amount, including the taxes, or a total of P2,050,000.00, broken down as follows:

UCPB Check No. 157244 dated March 3, 1993

P 50,000.00

UCPB Check CMRO 19635 dated Jan. 19, 1994

P 500,000.00

UCPB Check CMRO 40154 dated March 8, 1994

P 300,000.00

Private receipt made on March 9, 1994

P 500,000.00

UCPB Check CMRO 40154 dated March 22, 1994

P 200,000.00

Private receipt in the contract to sell

P 500,000.00[3]

Respondents denied petitioner's allegations, claiming that petitioner is yet to fully pay the agreed price, having paid only P1,000,000.00, exclusive of the P50,000.00 reservation fee. According to respondents, petitioner paid P500,000.00 upon the execution of the Contract to Sell, as acknowledged in the Contract to Sell, and another P500,000.00 in two separate payments made in March 1994. Thus, respondents set up a counter-claim by asking for the rescission of the contract due to petitioner's refusal to abide by its terms.

On September 17, 1998, the RTC rendered a Decision dismissing the complaint and ordering the rescission of the Contract to Sell. The dispositive portion of the Decision reads:

WHEREFORE, the foregoing facts considered, the case against the defendant is hereby dismissed. The reciprocal obligation between the plaintiff and the defendant is hereby ordered rescinded under Article 1191 of the Civil Code. This Article recognizes an implied or tacit revolutionary condition in reciprocal obligations. It is a condition imposed exclusively by law, even if there is no corresponding agreement between the parties. In reciprocal obligations, when one party has performed his part of the contract, the other party incurs in delay hence, the party who has performed or is ready and willing to perform may rescind the obligation if the other does not perform or is not ready and willing to perform (Civil Code of the Phils. Vol. IV Tolentino, 1986 ed p. 176).

Under the circumstances the failure of the plaintiff to pay their correlative obligation was not a casual breach but it was a breach of contract tainted with fraud or malice (dolo) as distinguished from mere negligence (culpa) (Luzon Brokerage Co., Inc. vs. Wantime Building Co., Inc. 43 SCRA 93).

The amount of P1,100,000.00, the amount admitted by the defendant to have been paid by the plaintiffs and received by herein defendant is hereby declared as forfeited in favor of the defendants to be applied as rental of the house from June of 1994 up to the time of rendition of judgment and the payment of P20,000.00 a month from the time of rendition of the judgment until the plaintiff and all persons claiming rights under him shall have finally vacated the premises, and to pay the amount of P200,000.00 by way of attorney's fees for unjustly refusing to comply with their obligation in bad faith thus forcing the defendants to litigate this matter in court. The amount of P200,000.00 by way of moral damages and to pay the amount of P100,000.00 by way of exemplary damages and cost.

SO ORDERED.[4]

Petitioner appealed to the Court of Appeals (CA), docketed as CA-

G.R. CV No. 62803, and in a Decision[5] promulgated on June 22, 2001, the CA affirmed the RTC Decision, with modification as to the amount of damages. The dispositive portion of the CA Decision reads:

IN VIEW OF ALL THE FOREGOING, the appealed Decision is hereby AFFIRMED with the modification that the award of attorney's fees as well as moral damages is reduced to P75,000.00 and P50,000.00, respectively. Costs against appellant.

SO ORDERED.[6]

Petitioner sought reconsideration of the decision but this was denied by the CA in its Resolution dated January 10, 2002.[7]

Hence, this petition based on the following assignment of errors:

First Assigned Error

THE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THE PLAINTIFF VIOLATED SECTIONS 20[8] AND 22[9] OF RULE 132 OF THE RULES OF COURT.

Second Assigned Error

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT PLAINTIFF MR. GULAM DID NOT OR WAS INCOMPETENT TO TESTIFY ON DUE EXECUTION OF THE RECEIPT IN THE CONTRACT TO SELL, NORHAYA, THE PLAINTIFF'S WIFE SHOULD HAVE BEEN ASKED INSTEAD SINCE SHE WOULD BE COMPETENT ON THIS MATTER BUT THE ISSUE ON SAID RECEIPT ON THE CONTRACT TO SELL WAS INSTEAD AVOIDED ON DIRECT EXAMINATION, MR. GULAM WAS ALSO DECLARED INCOMPETENT TO TESTIFY ON THE MARCH 9, 1994 RECEIPT FOR THE AMOUNT OF P500,000.00 SINCE IT WAS NORHAYA WHO MADE THE PAYMENT THEREOF, MR GULAM CANNOT TESTIFY ON THE DUE EXECUTION OF SAID RECEIPT.

Fourth Assigned Error [sic]

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE PLAINTIFF MISERABLY FAILED TO ESTABLISH THEIR CLAIM, THEIR CAUSE OF ACTION AGAINST DEFENDANTS ARE HEREBY DISMISSED AGAINST THE DEFENDANTS HAVING PROVED OR ESTABLISHED THEIR CLAIM THROUGH PREPONDERANCE OF EVIDENCE THAT THE PLAINTIFF TRIED TO AVOID THEIR OBLIGATION IN RECIPROCAL ONE BY FRAUDULENT MEANS WITH THE USE OF CLEAVER [sic] MANIPULATIONS IN EVIDENT BAD FAITH SHOWS THAT THE DEFENDANTS ARE ENTITLED TO RESCISSION OF THE CONTRACT.

Fifth Assigned Error [sic]

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE AMOUNT OF P1,100,000.00 ADMITTED BY THE DEFENDANT [sic] TO HAVE BEEN RECEIVED BY PLAINTIFFS AND RECEIVED TO BE APPLIED AS PAYMENT OR RENTAL OF THE HOUSE FROM JUNE 1994 TO THE TIME OF RENDITION OF THE JUDGMENT AND PAYMENT OF P20,000.00 A MONTH FROM THE TIME OF RENDITION OF THE JUDGMENT UNTIL THE PLAINTIFF AND ALL PERSONS CLAIMING RIGHTS UNDER HIM SHALL HAVE FINALLY VACATED THE PREMISES.[10]

The Court notes that the above-quoted assignment of errors is an exact reproduction of assigned errors I, III, IV and V raised in the appeal brief filed by petitioner with the CA, except assigned error II,[11] which was not raised in the present petition.

As Comment, respondents adopted their Defendants-Appellees' Brief filed with the CA.

Petitioner's arguments basically hinge on his claim of overpayment. These arguments, however, do not raise any question of law. As stated at the outset, the principal issue in this case, i.e., whether petitioner has fully paid the stipulated price under the Contract to Sell, thus entitling him to the execution of a final deed of sale, is one of fact, which is beyond the province of Rule 45 of the Rules of Court.

As earlier mentioned, the exceptions adverted to, to wit:[12]

- (1) when the factual findings of the Court of Appeals and the trial court are contradictory;

- (2) when the findings are grounded entirely on speculations, surmises, or conjectures;
- (3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;
- (4) when there is grave abuse of discretion in the appreciation of facts;
- (5) when the appellate court, in making its findings, goes beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) when the judgment of the Court of Appeals is premised on a misapprehension of facts;
- (7) when the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;
- (8) when the findings of fact are themselves conflicting;
- (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) when the findings of fact of the Court of Appeal are premised on the absence of evidence but such findings are contradicted by the evidence on record.

are not present in the present case.

Moreover, the Court finds no plausible reason to analyze and weigh all over again the evidence already considered by the RTC and the CA, especially since these findings are not tainted with any capriciousness or palpable error. The rule is that where the factual findings of both courts are in accord, the same are binding on this Court.[13]

The RTC sifted through the evidence on record, testimonial as well as documentary, to determine the veracity of petitioner's claim that there was overpayment, due to the alleged issuance of several checks and cash payments to respondents, and ruled that petitioner failed to prove his claim of overpayment. It was the RTC's finding that the receipt acknowledging the payment of the sum of P500,000.00, which allegedly was signed by respondent Ricarda Santos (Santos) on March 9, 1994 and which was examined by the NBI, cannot be given any credence because Santos denied having furnished any specimen signature from which the signature in the receipt may be compared, in violation of Sections 20 and 22 of the Rules of Court. Instead, the RTC gave weight to the conclusion of the PNP Crime Laboratory that "the documents were written by two different persons." The RTC also observed that the issuance by petitioner of UCPB Check No. CMR0 19635 dated January 19, 1994 for P500,000.00 is actually the payment acknowledged in the contract as it coincides with the stipulation in the contract wherein petitioner had to pay P500,000.00 on the first month of construction, which in fact, started in January 1994. The RTC also ruled that petitioner cannot testify on the alleged receipt of these contested amounts as he was not present during the time that it was made, since according to petitioner himself, it was his wife Norhaya who allegedly made the payments.[14] The RTC, meanwhile, gave credence to respondent's claim that petitioner is yet to pay the full amount of the purchase price, relying on the two letters sent by petitioner's wife Norhaya to Santos admitting that the amount of P1,100,000.00 has already been given to respondents, and a balance of P446,036.00 in the purchase price remains, exclusive of the cost of labor and improvements, and which Norhaya seeks to reimburse from respondents.[15]

The CA sustained the RTC's findings, stating that the receipt dated March 9, 1994 is a forgery. It also ruled that respondents are entitled to a rescission of the Contract to Sell as petitioner failed to comply with his obligations under the contract, to wit:

In the final analysis, it is apparent that appellant has not kept his own end of the bargain in the Contract. A computation of the payments made based on evidence on hand, without including the bogus receipt dated March 9, 1994, would eventually show that appellant had only paid a total of P1,100,000.00, thus leaving an unpaid balance of more or less P600,000.00 (Exhibit "13"). This is bolstered by the appellant's admission in a letter addressed to appellees through his counsel (Exhibit "3") wherein he asserted that he had already paid P1,500,000.00. Likewise, in a letter by appellant's wife to appellees, admitting having paid only P1,500,000.00. This is contrary to his later claim that he had already paid a total of P2,050,000.00 by March 22, 1994. If this were true, why was appellant's wife still paying for the house on May 7, 1994 (Exhibits "15" and "15-A"), as correctly observed by appellees.

All told, We are in accord with the finding of the lower court that appellant committed a substantial breach when he tried to weasel out of his obligation through fraudulent means by utilizing a forged check and receipt. Appellant's vain attempt to cloak with legal color his devious scheme to acquire at all costs the house and lot at the expense of the rightful owner. Correspondingly, appellees are entitled to avail of the provisions of Article 1191 of the Civil Code, which authorizes an injured party in a reciprocal obligation to rescind an obligation to be decreed by the court, in case one of the obligors should not comply with what is incumbent upon him. Surely, the introduction of forged documents can be considered a significant breach in the reciprocal obligation as would warrant the resolution of the contract. [16]

x x x x

The Court agrees with the foregoing evaluation of both the RTC and the CA, as it finds support in the evidence on record. Despite his protestations, petitioner failed to show any reversible error committed by the RTC and the CA.

Petitioner, however, insists that the CA erred in holding that his testimony with regard to the payments made by his wife was hearsay. Petitioner argues that the purpose of such testimony was merely to establish the fact that such statement was made.

It is a hornbook doctrine of evidence that a witness can testify only to those facts which he knows of his personal knowledge, which means those facts which are derived from his perception.[17] A witness may not testify as to what he merely learned from others either because he was told or read or heard the same. Such testimony is considered hearsay and may not be received as proof of the truth of what he has learned. The hearsay rule is based upon serious concerns about the trustworthiness and reliability of hearsay evidence inasmuch as such evidence are not given under oath or solemn affirmation and, more importantly, have not been subjected to cross-examination by opposing counsel to test the perception, memory, veracity, and articulateness of the out-of-court declarant or actor upon whose reliability on which the worth of the out-of-court statement depends.[18]

True, petitioner's statements may be considered as independently relevant statements and may be admissible not as to the veracity thereof but to the fact that they had been thus uttered.[19] However, the admissibility of his testimony to such effect should not be equated with its weight and sufficiency.[20] Admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade.[21] In this case, both the RTC and the CA refused to give credence to petitioner's testimony, and the Court finds no reason to doubt the assessments made by both courts. Even assuming that his wife, indeed, told him that payments were made on these dates, still, it does not follow that it is sufficient proof to establish his claim of overpayment. These should be weighed vis-à-vis the other evidence on record, which, as appraised by the RTC and the CA, do not support petitioner's claim.

Although Norhaya testified, she did not, however, give any credible testimony regarding these alleged payments. In fact, Norhaya failed to testify on the alleged separate payment made in the amount of P500,000.00, which was annotated on the Contract to Sell.[22] With regard to the alleged payment and receipt made on March 9, 1994,

respondent Santos categorically denied having received any payment on said date.[23] Moreover, the RTC and the CA chose to ignore her testimony, and instead gave weight to the testimony of the PNP Crime Laboratory Document Examiner that the signature appearing on the receipt was not made by respondent Santos based on her standard signature.[24] On this score, the Court will not interfere with the judgment exercised by the RTC and the CA since it is in the best position to assess the credibility of witnesses and their testimonies because of its unique opportunity to observe the witnesses firsthand and note their demeanor, conduct and attitude under grilling examination. As such, its evaluation of the credibility of witnesses is accorded great respect.[25]

Finally, petitioner laments the disregard made on the NBI finding that the signature of respondent Santos appearing on the March 9, 1994 receipt was genuine. On this score, it should be stressed that although they may have probative value, reception in evidence of expert testimonies is within the discretion of the court.[26] The RTC and the CA did not commit any error in disregarding the NBI's finding since it was convincingly shown that the specimen signature of respondent Santos from which the signature on the receipt was compared, was not actually supplied by Santos but by petitioner. Thus, as correctly stated by the CA:

A fortiori, We agree with the trial court that the NBI expert is considered to have no adequate knowledge of the genuine signatures of the parties whose signatures are claimed to be forged, for this witness was not in possession of the genuine signatures of the appellees. Moreover, opinion of handwriting experts are not necessarily binding upon the courts, the experts' function being to place before the court data upon which the court can form its own opinion. x x x[27]

Verily, the RTC and the CA did not err in dismissing petitioner's complaint and ordering the rescission of the Contract to Sell.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated June 22, 2001 in CA-G.R. CV No. 62803 and its Resolution dated January 10, 2002 are hereby AFFIRMED.

Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] *Air Philippines Corporation v. International Business Aviation Services Philippines, Inc.*, G.R. No. 151963, September 9, 2004, 438 SCRA 51, 76.

[2] *Fuentes v. Court of Appeals*, 335 Phil. 1163, 1168 (1997).

[3] *Records*, pp. 1-4.

[4] *Id.* at 372-373.

[5] Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Martin S. Villarama, Jr. and Sergio L. Pestaño, concurring.

[6] *CA rollo*, p. 137.

[7] *Id.* at 160.

[8] *Proof of Private Document*.

[9] *How Genuineness of Authenticity Proved*.

[10] Rollo, pp. 13-14.

[11] II. THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE PLAINTIFF AND HIS WITNESS LACKS THAT CANDOR AND TRUTHFULNESS AS THEY TRIED TO SEEK REFUGE AND BASED THEIR CLAIM ON SPECULATIONS, THEIR CAUSE OF ACTION NOT HAVING ANY LEGS TO STAND ON MUST FALL AND ARE THEREFORE ESTOPPED FROM DENYING THE EXISTENCE OF DEFENDANTS (sic) CLAIM.

[12] Fuentes v. Court of Appeals, supra note 2, at 1168-1169.

[13] David v. Manila Bulletin Publishing Company, Inc., 400 Phil. 838, 845. (2000).

[14] Records, pp. 364-371.

[15] See Exhibits 11 to 12-D, id. at 273-278.

[16] CA rollo, p. 136.

[17] Rules of Court, Rule 130, Section 36.

[18] Country Bankers Insurance Corporation v. Lianga Bay and Community Multi-Purpose Cooperative, Inc., 425 Phil. 511, 520 (2002).

[19] People v. Velasquez, G.R. Nos. 132635 & 143872-75, February 21, 2001, 352 SCRA 455, 476.

[20] People v. Manhuyod, Jr., 352 Phil. 866, 885 (1998).

[21] People v. Navarro, 357 Phil. 1010, 1031 (1998).

[22] See TSN, September 25 and October 2, 1996.

[23] TSN, March 12, 1997, pp. 18-19.

[24] TSN, October 29, 1997, pp. 22-27.

[25] Cirelos v. Hernandez, G.R. No. 146523, June 15, 2006.

[26] Cebu Shipyard and Engineering Works, Inc. v. William Lines, Inc., 366 Phil. 439, 454 (1999).

[27] CA rollo, p. 135.

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