UNION BANK OF THE PHILIPPINES, PETITIONER, VS. SPS. ALFREDO ONG AND SUSANA ONG AND JACKSON LEE, RESPONDENTS.

G.R. NO. 152347. June 21, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

By this petition for review under Rule 45 of the Rules of Court, petitioner Union Bank of the Philippines (Union Bank) seeks to set aside the decision[1] dated December 5, 2001 of the Court of Appeals (CA) in CA-G.R. No. 66030 reversing an earlier decision of the Regional Trial Court (RTC) of Pasig City in Civil Case No. 61601, a suit thereat commenced by the petitioner against the herein respondents for annulment or rescission of sale in fraud of creditors.

The facts:

Herein respondents, the spouses Alfredo Ong and Susana Ong, own the majority capital stock of Baliwag Mahogany Corporation (BMC). On October 10, 1990, the spouses executed a Continuing Surety Agreement in favor of Union Bank to secure a P40,000,000.00-credit line facility made available to BMC. The agreement expressly stipulated a solidary liability undertaking.

On October 22, 1991, or about a year after the execution of the surety agreement, the spouses Ong, for P12,500,000.00, sold their 974-square meter lot located in Greenhills, San Juan, Metro Manila, together with the house and other improvements standing thereon, to their co-respondent, Jackson Lee (Lee, for short). The following day, Lee registered the sale and was then issued Transfer Certificate of Title (TCT) No. 4746-R. At about this time, BMC had already availed itself of the credit facilities, and had in fact executed a total of twenty-two (22) promissory notes in favor of Union Bank.

On November 22, 1991, BMC filed a Petition for Rehabilitation and for Declaration of Suspension of Payments with the Securities and Exchange Commission (SEC). To protect its interest, Union Bank lost no time in filing with the RTC of Pasig City an action for rescission of the sale between the spouses Ong and Jackson Lee for purportedly being in fraud of creditors.

In its complaint, docketed as Civil Case No. 61601 and eventually raffled to Branch 157 of the court, Union Bank assailed the validity of the sale, alleging that the spouses Ong and Lee entered into the transaction in question for the lone purpose of fraudulently removing the property from the reach of Union Bank and other creditors. The fraudulent design, according to Union Bank, is evidenced by the following circumstances: (1) insufficiency of consideration, the purchase price of P12,500,000.00 being below the fair market value of the subject property at that time; (2) lack of financial capacity on the part of Lee to buy the property at that time since his gross income for the year 1990, per the credit investigation conducted by the bank, amounted to only P346,571.73; and (3) Lee did not assert absolute ownership over the property as he allowed the spouses Ong to retain possession thereof under a purported Contract of Lease dated October 29, 1991.

Answering, herein respondents, as defendants a quo, maintained, in the main, that both contracts of sale and lease over the Greenhills property were founded on good and valid consideration and executed in good faith. They also scored Union Bank for forum shopping, alleging that the latter is one of the participating creditors in BMC's petition for rehabilitation.

Issues having been joined, trial followed. On September 27, 1999, the trial court, applying Article 1381 of the Civil Code and noting that the evidence on record "present[s] a holistic combination of circumstances distinctly characterized by badges of fraud," rendered judgment for Union Bank, the Deed of Sale executed on October 22, 1991 by the spouses Ong in favor of Lee being declared null and void.

Foremost of the circumstances adverted to relates to the execution of the sale against the backdrop of the spouses Ong, as owners of 70% of BMC's stocks, knowing of the company's insolvency. This knowledge was the reason why, according to the court, the spouses Ong disposed of the subject property leaving the bank without recourse to recover BMC's indebtedness. The trial court also made reference to the circumstances which Union Bank mentioned in its complaint as indicia of conveyance in fraud of creditors.

Therefrom, herein respondents interposed an appeal to the CA which docketed their recourse as CA-G.R. No. 66030.

In its Decision dated December 5, 2001, the CA reversed and set aside the trial court's ruling, observing that the contract of sale executed by the spouses Ong and Lee, being complete and regular on its face, is clothed with the prima facie presumption of regularity and legality. Plodding on, the appellate court said:

> In order that rescission of a contract made in fraud of creditors may be decreed, it is necessary that the complaining creditors must prove that they cannot recover in any other manner what is due them. xxx.
>
> There is no gainsaying that the basis of liability of the appellant spouses in their personal capacity to Union Bank is the Continuing Surety Agreement they have signed ... on October 10, 1990. However, the real debtor of Union Bank is BMC, which has a separate juridical personality from appellants Ong. Granting that BMC was already insolvent at the time of the sale, still, there was no showing that at the time BMC filed a petition for suspension of payment that appellants Ong were themselves bankrupt. In the case at bench, no attempt was made by Union Bank, not even a feeble or half-hearted one, to establish that appellants spouses have no other property from which Union Bank, as creditor of BMC, could obtain payment. While appellants Ong may be independently liable directly to Union Bank under the Continuing Surety Agreement, all that Union Bank tried to prove was that BMC was insolvent at the time of the questioned sale. No competent evidence was adduced showing that appellants Ong had no leviable assets other than the subject property that would justify challenge to the transaction.[2]

Petitioner moved for a reconsideration of the above decision but its motion was denied by the appellate court in its resolution of February 21, 2002.[3]

Hence, petitioner's present recourse on its submission that the appellate court erred:

> - xxx WHEN IT CONSIDERED THAT THE SALE TRANSACTION BETWEEN [RESPONDENTS SPOUSES ONG AND LEE] ENJOYS THE PRESUMPTION OF REGULARITY AND LEGALITY AS THERE EXISTS ALSO A PRESUMPTION THAT THE SAID SALE WAS ENTERED IN FRAUD OF CREDITORS. PETITIONER THEREFORE NEED NOT PROVE THAT RESPONDENTS SPOUSES ONG DID NOT LEAVE SUFFICIENT ASSETS TO PAY THEIR CREDITORS. BUT EVEN THEN, PETITIONER HAS PROVEN THAT THE SPOUSES HAVE NO OTHER ASSETS.
>
> - IN CONCLUDING, ASSUMING EX-GRATIA ARGUMENTI THAT THE SALE BETWEEN DEFENDANT-APPELLANTS ENJOY THE PRESUMPTION OF REGULARITY AND LEGALITY, THAT

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> THE EVIDENCE ADDUCED BY THE PETITIONER ... WAS NOT SUFFICIENT TO OVERCOME THE PRESUMPTION.
>
> - xxx IN FINDING THAT IT WAS [RESPONDENT] LEE WHO HAS SUFFICIENTLY PROVEN THAT THERE WAS A VALID AND SUFFICIENT CONSIDERATION FOR THE SALE.
>
> - xxx IN NOT FINDING THAT JACKSON LEE WAS IN BAD FAITH WHEN HE PURCHASED THE PROPERTY.[4]

Petitioner maintains, citing China Banking Corporation vs. Court of Appeals,[5] that the sale in question, having been entered in fraud of creditor, is rescissible. In the same breath, however, petitioner would fault the CA for failing to consider that the sale between the Ongs and Lee is presumed fraudulent under Section 70 of Act No. 1956, as amended, or the Insolvency Law. Elaborating on this point, petitioner states that the subject sale occurred thirty (30) days prior to the filing by BMC of a petition for suspension of payment before the SEC, thus rendering the sale not merely rescissible but absolutely void.

We resolve to deny the petition.

In effect, the determinative issue tendered in this case resolves itself into the question of whether or not the Ong-Lee contract of sale partakes of a conveyance to defraud Union Bank. Obviously, this necessitates an inquiry into the facts and this Court eschews factual examination in a petition for review under Rule 45 of the Rules of Court, save when, as in the instant case, a clash between the factual findings of the trial court and that of the appellate court exists,[6] among other exceptions.

As between the contrasting positions of the trial court and the CA, that of the latter commends itself for adoption, being more in accord with the evidence on hand and the laws applicable thereto.

Essentially, petitioner anchors its case on Article 1381 of the Civil Code which lists as among the rescissible contracts "[T]hose undertaken in fraud of creditors when the latter cannot in any other manner collect the claim due them."

Contracts in fraud of creditors are those executed with the intention to prejudice the rights of creditors. They should not be confused with those entered into without such mal-intent, even if, as a direct consequence thereof, the creditor may suffer some damage. In determining whether or not a certain conveying contract is fraudulent, what comes to mind first is the question of whether the conveyance was a bona fide transaction or a trick and contrivance to defeat creditors.[7] To creditors seeking contract rescission on the ground of fraudulent conveyance rest the onus of proving by competent evidence the existence of such fraudulent intent on the part of the debtor, albeit they may fall back on the disputable presumptions, if proper, established under Article 1387 of the Code.[8]

In the present case, respondent spouses Ong, as the CA had determined, had sufficiently established the validity and legitimacy of the sale in question. The conveying deed, a duly notarized document, carries with it the presumption of validity and regularity. Too, the sale was duly recorded and annotated on the title of the property owners, the spouses Ong. As the transferee of said property, respondent Lee caused the transfer of title to his name.

There can be no quibbling about the transaction being supported by a valid and sufficient consideration. Respondent Lee's account, while on the witness box, about this angle of the sale was categorical and straightforward. An excerpt of his testimony:

> Atty. De Jesus :

> Before you prepared the consideration of this formal offer, as standard operating procedure of buy and sell, what documents were prepared?
>
> xxx xxx xxx
>
> Jackson Lee:
>
> A. There is a downpayment.
>
> Q. And how much was the downpayment?A. P2,500,000.00.
>
> Q. Was that downpayment covered by a receipt signed by the seller?A. Yes, Sir, P500,000.00 and P2,000,000.00
>
> xxx xxx xxx
>
> Q. Are you referring to the receipt dated October 19, 1991, how about the other receipt dated October 21, 1991?
>
> A. Yes, Sir, this is the same receipt.
>
> xxx xxx xxx
>
> Q. Considering that the consideration of this document is for P12,000,000.00 and you made mention only of P2,500,000.00, covered by the receipts, do you have evidence to show that, finally, Susana Ong received the balance of P10,000,000.00?
>
> A. Yes, Sir.
>
> Q. Showing to you a receipt denominated as Acknowledgement Receipt, dated October 25, 1991, are you referring to this receipt to cover the balance of P10,000,000.00?
>
> A. Yes, sir.[9]

The foregoing testimony readily proves that money indeed changed hands in connection with the sale of the subject property. Respondent Lee, as purchaser, paid the stipulated contract price to the spouses Ong, as vendors. Receipts presented in evidence covered and proved such payment. Accordingly, any suggestion negating payment and receipt of valuable consideration for the subject conveyance, or worse, that the sale was fictitious must simply be rejected.

In a bid to attach a badge of fraud on the transaction, petitioner raises the issue of inadequate consideration, alleging in this regard that only P12,500,000.00 was paid for property having, during the period material, a fair market value of P14,500,000.00.

We do not agree.

The existence of fraud or the intent to defraud creditors cannot plausibly be presumed from the fact that the price paid for a piece of real estate is perceived to be slightly lower, if that really be the case, than its market value. To be sure, it is logical, even expected, for contracting minds, each having an interest to protect, to negotiate on the price and other conditions before closing a sale of a valuable piece of land. The negotiating areas could cover various items. The purchase price, while undeniably an important consideration, is doubtless only one of them. Thus, a scenario where the price actually stipulated may, as a matter of fact, be lower than the original asking price of the vendor or the fair market value of the property, as what perhaps happened in the instant case, is not out of the ordinary, let alone indicative of fraudulent intention. That the spouses Ong acquiesced to the price of P12,500,000.00, which may be lower than the market value of the house and lot at the time of alienation, is

certainly not an unusual business phenomenon.

Lest it be overlooked, the disparity between the price appearing in the conveying deed and what the petitioner regarded as the real value of the property is not as gross to support a conclusion of fraud. What is more, one Oliver Morales, a licensed real estate appraiser and broker, virtually made short shrift of petitioner's claim of gross inadequacy of the purchase price. Mr. Morales declared that there exists no gross disparity between the market value of the subject property and the price mentioned in the deed as consideration. He explained why:

> ATTY. EUFEMIO:
>
> Q. I am showing to you the said two (2) exhibits Mr. Morales and I would like you to go over the terms and conditions stated therein and as an expert in real estate appraiser (sic) and also as a real estate broker, can you give this Honorable Court your considered opinion whether the consideration stated therein P12,500,000.00 in the light of all terms and conditions of the said Deed of Absolute Sale and Offer to Purchase could be deemed fair and reasonable?
>
> xxx xxx xxx
>
> MR. MORALES:
>
> A. My opinion generally a Deed of Absolute Sale indicated prescribed not only the amount of the consideration. There are also other expenses involved in the sales. I do not see here other payment of who takes care of capital gains stocks (sic) in this Deed of Sale neither who shouldered the documentary stamps or even transfer tax. That is my comment regarding this.
>
> Q. Precisely Mr. Witness we have also shown to you the Offer to Purchase which has been marked as Exhibit "9" as to the terms which we are asking?
>
> xxx xxx xxx
>
> A. Well, it says here in item C of the conditions the Capital Gains Stocks (sic), documentary stamps, transfer tax registration and broker's fee for the buyer's account. I do not know how much is this worth. If at all in condition (sic) to the 12.5 million which is the selling price, may I, therefore aside (sic) how much is the total cost pertaining to this. The capital gains tax on (sic), documentary stamps, transfer tax are all computed on the basis of the consideration which is P12.5 M, the capital gain stocks (sic) is 5%, 5% of 12.5 M.
>
> xxx xxx xxx
>
> Yes sir if the 5% capital gains tax and documentary stamps respectively shall be added to the 12.5 Million before the inclusion of the transfer tax, the amount will be already in the vicinity of P13,250.000.
>
> Q. With such consideration Mr. Witness and in the light of the terms and conditions in the said Offer to Purchase and Deed of Absolute Sale could you give your opinion as to whether the consideration is fair and reasonable.
>
> xxx xxx xxx
>
> A. With our proposal of P14.5 M as compared now to P13,250,000.00 may I give my opinion that generally there will be two appraisers. In fairness to the situation, they should not vary by as much as 7% down so we are playing at a variance actually of about 15%. In my experience in this profession for the last 27 years as I have said in fairness if there is another appraisal done by another person, that kind of difference is very marginal should at least indicate the fairness of the property and so therefore the only way to find out is to determine the difference between the P14.5 M and the P13,250,000.00. My computation indicates that it is close to 10% something like that difference. What is the question again?

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Q. Whether it is fair and reasonable under the circumstances.

A. I have answered already the question and I said maximum of 15%.

Q. So based on your computation this is about 10% which is fair and reasonable.

A That is right sir.[10]

Withal, the consideration of the sale is fair and reasonable as would justify the conclusion that the sale is undoubtedly a true and genuine conveyance to which the parties thereto are irrevocably and undeniably bound.

It may be stressed that, when the validity of sales contract is in issue, two veritable presumptions are relevant: first, that there was sufficient consideration of the contract[11]; and, second, that it was the result of a fair and regular private transaction.[12] If shown to hold, these presumptions infer prima facie the transaction's validity, except that it must yield to the evidence adduced[13] which the party disputing such presumptive validity has the burden of overcoming. Unfortunately for the petitioner, it failed to discharge this burden. Its bare allegation respecting the sale having been executed in fraud of creditors and without adequate consideration cannot, without more, prevail over the respondents' evidence which more than sufficiently supports a conclusion as to the legitimacy of the transaction and the bona fides of the parties.

Parenthetically, the rescissory action to set aside contracts in fraud of creditors is accion pauliana, essentially a subsidiary remedy accorded under Article 1383 of the Civil Code which the party suffering damage can avail of only when he has no other legal means to obtain reparation for the same.[14] In net effect, the provision applies only when the creditor cannot recover in any other manner what is due him.

It is true that respondent spouses, as surety for BMC, bound themselves to answer for the latter's debt. Nonetheless, for purposes of recovering what the eventually insolvent BMC owed the bank, it behooved the petitioner to show that it had exhausted all the properties of the spouses Ong. It does not appear in this case that the petitioner sought other properties of the spouses other than the subject Greenhills property. The CA categorically said so. Absent proof, therefore, that the spouses Ong had no other property except their Greenhills home, the sale thereof to respondent Lee cannot simplistically be considered as one in fraud of creditors.

Neither was evidence adduced to show that the sale in question peremptorily deprived the petitioner of means to collect its claim against the Ongs. Where a creditor fails to show that he has no other legal recourse to obtain satisfaction for his claim, then he is not entitled to the rescission asked.[15]

For a contract to be rescinded for being in fraud of creditors, both contracting parties must be shown to have acted maliciously so as to prejudice the creditors who were prevented from collecting their claims.[16] Again, in this case, there is no evidence tending to prove that the spouses Ong and Lee were conniving cheats. In fact, the petitioner did not even attempt to prove the existence of personal closeness or business and professional interdependence between the spouses Ong and Lee as to cast doubt on their true intent in executing the contract of sale. With the view we take of the evidence on record, their relationship vis-à-vis the subject Greenhills property was no more than one between vendor and vendee dealing with each other for the first time. Any insinuation that the two colluded to gyp petitioner bank is to read in a relationship something which, from all indications, appears to be purely business.

It cannot be overemphasized that rescission is generally unavailing should a third person, acting in good faith, is in lawful possession of the property,[17] that is to say, he is protected by law against a suit for rescission by the registration of the transfer to him in the registry.

As recited earlier, Lee was - and may still be - in lawful possession of the subject property as the transfer to him

was by virtue of a presumptively valid onerous contract of sale. His possession is evidenced by no less than a certificate of title issued him by the Registry of Deeds of San Juan, Metro Manila, after the usual registration of the corresponding conveying deed of sale. On the other hand, the bona fides of his acquisition can be deduced from his conduct and outward acts previous to the sale. As testified to by him and duly noted by the CA, respondent Lee undertook what amounts to due diligence on the possible defects in the title of the Ongs before proceeding with the sale. As it were, Lee decided to buy the property only after being satisfied of the absence of such defects.[18]

Time and again, the Court has held that one dealing with a registered parcel of land need not go beyond the certificate of title as he is charged with notice only of burdens which are noted on the face of the register or on the certificate of title.[19] The Continuing Surety Agreement, it ought to be particularly pointed out, was never recorded nor annotated on the title of spouses Ong. There is no evidence extant in the records to show that Lee had knowledge, prior to the subject sale, of the surety agreement adverted to. In fine, there is nothing to remotely suggest that the purchase of the subject property was characterized by anything other than good faith.

Petitioner has made much of respondent Lee not taking immediate possession of the property after the sale, stating that such failure is an indication of his participation in the fraudulent scheme to prejudice petitioner bank.

We are not persuaded.

Lee, it is true, allowed the respondent spouses to continue occupying the premises even after the sale. This development, however, is not without basis or practical reason. The spouses' continuous possession of the property was by virtue of a one-year lease[20] they executed with respondent Lee six days after the sale. As explained by the respondent spouses, they insisted on the lease arrangement as a condition for the sale in question. And pursuant to the lease contract aforementioned, the respondent Ongs paid and Lee collected rentals at the rate of P25,000.00 a month. Contrary thus to the petitioner's asseveration, respondent Lee, after the sale, exercised acts of dominion over the said property and asserted his rights as the new owner. So, when the respondent spouses continued to occupy the property after its sale, they did so as mere tenants. While the failure of the vendee to take exclusive possession of the property is generally recognized as a badge of fraud, the same cannot be said here in the light of the existence of what appears to be a genuine lessor-lessee relationship between the spouses Ong and Lee. To borrow from Reyes vs. Court of Appeals,[21] possession may be exercised in one's own name or in the name of another; an owner of a piece of land has possession, either when he himself physically occupies the same or when another person who recognizes his right as owner is in such occupancy.

Petitioner's assertion regarding respondent Lee's lack of financial capacity to acquire the property in question since his income in 1990 was only P346,571.73 is clearly untenable. Assuming for argument that petitioner got its figure right, it is clearly incorrect to measure one's purchasing capacity with one's income at a given period. But the more important consideration in this regard is the uncontroverted fact that respondent Lee paid the purchase price of said property. Where he sourced the needed cash is, for the nonce, really of no moment.

The cited case of China Banking[22] cannot plausibly provide petitioner with a winning card. In that case, the Court, applying Article 1381 (3) of the Civil Code, rescinded an Assignment of Rights to Redeem owing to the failure of the assignee to overthrow the presumption that the said conveyance/assignment is fraudulent. In turn, the presumption was culled from Article 1387, par. 2, of the Code pertinently providing that "[A]lienation by onerous title are also presumed fraudulent when made by persons against whom some judgment has been rendered in any instance or some writ of attachment has been issued."

Indeed, when the deed of assignment was executed in China Banking, the assignor therein already faced at that time an adverse judgment. In the same case, moreover, the Court took stock of other signs of fraud which tainted

the transaction therein and which are, significantly, not obtaining in the instant case. We refer, firstly, to the element of kinship, the assignor, Alfonso Roxas Chua, being the father of the assignee, Paulino. Secondly, Paulino admitted knowing his father to be insolvent. Hence, the Court, rationalizing the rescission of the assignment of rights, made the following remarks:

> The mere fact that the conveyance was founded on valuable consideration does not necessarily negate the presumption of fraud under Article 1387 of the Civil Code. There has to be valuable consideration and the transaction must have been made bona fide.[23]

There lies the glaring difference with the instant case.

Here, the existence of fraud cannot be presumed, or, at the very least, what were perceived to be badges of fraud have been proven to be otherwise. And, unlike Alfonso Roxas Chua in China Banking, a judgment has not been rendered against respondent spouses Ong or that a writ of attachment has been issued against them at the time of the disputed sale.

In a last-ditch attempt to resuscitate a feeble cause, petitioner cites Section 70 of the Insolvency Law which, unlike the invoked Article 1381 of the Civil Code that deals with a valid but rescissible contract, treats of a contractual infirmity resulting in nullity no less of the transaction in question. Insofar as pertinent, Section 70 of the Insolvency Law provides:

> Sec. 70. If any debtor, being insolvent, or in contemplation of insolvency, within thirty days before the filing of a petition by or against him, with a view to giving a preference to any creditor or person having a claim against him xxx makes any xxx sale or conveyance of any part of his property, xxx such xxx sale, assignment or conveyance is void, and the assignee, or the receiver, may recover the property or the value thereof, as assets of such insolvent debtor. xxx. Any payment, pledge, mortgage, conveyance, sale, assignment, or transfer of property of whatever character made by the insolvent within one (1) month before the filing of a petition in insolvency by or against him, except for a valuable pecuniary consideration made in good faith shall be void. xxx. (Emphasis added)

Petitioner avers that the Ong-Lee sales contract partakes of a fraudulent transfer and is null and void in contemplation of the aforequoted provision, the sale having occurred on October 22, 1991 or within thirty (30) days before BMC filed a petition for suspension of payments on November 22, 1991.

Petitioner's reliance on the afore-quoted provision is misplaced for the following reasons:

First, Section 70, supra, of the Insolvency Law specifically makes reference to conveyance of properties made by a "debtor" or by an "insolvent" who filed a petition, or against whom a petition for insolvency has been filed. Respondent spouses Ong have doubtlessly not filed a petition for a declaration of their own insolvency. Neither has one been filed against them. And as the CA aptly observed, it was never proven that respondent spouses are likewise insolvent, petitioner having failed to show that they were down to their Greenhills property as their only asset.

It may be that BMC had filed a petition for rehabilitation and suspension of payments with the SEC. The nagging fact, however is that BMC is a different juridical person from the respondent spouses. Their seventy percent (70%) ownership of BMC's capital stock does not change the legal situation. Accordingly, the alleged insolvency of BMC cannot, as petitioner postulates, extend to the respondent spouses such that transaction of the latter comes within the purview of Section 70 of the Insolvency Law.

Second, the real debtor of petitioner bank in this case is BMC. The fact that the respondent spouses bound themselves to answer for BMC's indebtedness under the surety agreement referred to at the outset is not reason

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enough to conclude that the spouses are themselves debtors of petitioner bank. We have already passed upon the simple reason for this proposition. We refer to the basic precept in this jurisdiction that a corporation, upon coming into existence, is invested by law with a personality separate and distinct from those of the persons composing it.[24] Mere ownership by a single or small group of stockholders of nearly all of the capital stock of the corporation is not, without more, sufficient to disregard the fiction of separate corporate personality.[25]

Third, Section 70 of the Insolvency Law considers transfers made within a month after the date of cleavage void, except those made in good faith and for valuable pecuniary consideration. The twin elements of good faith and valuable and sufficient consideration have been duly established. Given the validity and the basic legitimacy of the sale in question, there is simply no occasion to apply Section 70 of the Insolvency Law to nullify the transaction subject of the instant case.

All told, we are far from convinced by petitioner's argumentation that the circumstances surrounding the sale of the subject property may be considered badges of fraud. Consequently, its failure to show actual fraudulent intent on the part of the spouses Ong defeats its own cause.

WHEREFORE, the instant petition is DENIEDand the assailed decision of the Court of Appeals is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona, and Azcuna, JJ., concur.

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[1] Penned by then Associate Justice Romeo A. Brawner (now COMELEC Commissioner), with Associate Justice Elvi John S. Asuncion and Associate Justice Juan Q. Enriquez, Jr., concurring; Rollo, pp. 52-67.

[2] Id. at 60.

[3] Id. at 68.

[4] Id. at 21-22.

[5] G.R. No. 129644, March 7, 2000, 327 SCRA 378.

[6] Manila Banking Corporation vs. Silverio, G.R. No. 132887, August 11, 2005, 466 SCRA 438.

[7] Tolentino, Civil Code of the Philippines, Vol. IV, 1991 ed., pp. 575-576.

[8] Ibid, citing Ayles v. Reyes, 18 Phil. 243.

[9] TSN, March 3, 1998, pp. 51-54.

[10] TSN, February 17, 1998, pp. 12-13, 20-25.

[11] Section 3(r), Rule 131, Rules of Court.

[12] Section 3(p), Rule 131, Rules of Court.

[13] Suntay vs. Court of Appeals, G.R. No. 112592, December 19, 1995, 251 SCRA 421.

[14] Suria vs. IAC, G.R. No. L-73893, June 30, 1987, 151 SCRA 661.

[15] Tolentino, Civil Code, supra, p. 585.

[16] Cuizon vs. Court of Appeals, G.R. No. 102096, August 22, 1996, 260 SCRA 645.

[17] Art. 1385 of the Civil Code - xxx Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.

[18] CA Decision, pp. 11-12, citing TSN, March 3, 1998, pp. 43-48.

[19] San Lorenzo Development Corporation vs. Court of Appeals, G.R. No. 124242, January 21, 2005, 449 SCRA 99.

[20] Records, pp. 16-18.

[21] G.R. No. 127608, Sept. 30, 1999, 315 SCRA 626.

[22] Supra note 5.

[23] At p. 389.

[24] Jardine Davies, Inc. vs. JRB Realty, Inc., G.R. No. 151438, July 15, 2005, 463 SCRA 555.

[25] Sunio vs. NLRC, G.R. No. L-57767, Jan. 31, 1984, 127 SCRA 390.

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