

VICENTE G. VILLARANDA, PETITIONER, VS. SPOUSES HONORIO G. VILLARANDA AND ANA MARIA Y. VILLARANDA; AND COLORHOUSE LABORATORIES, INC., RESPONDENTS.

G.R. No. 153447. February 23, 2004

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-153447/>

PANGANIBAN, J.:

Without the wife's consent, the husband's alienation or encumbrance of conjugal property prior to the effectivity of the Family Code is not void, but merely voidable.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, challenging the October 25, 2001 Decision[2] and the April 23, 2002 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 55810. The assailed Decision disposed as follows:

“UPON THE VIEW WE TAKE OF THIS CASE, the present appeal is hereby DISMISSED and the judgment appealed from AFFIRMED in toto. Costs shall be taxed against appellant.”[4]

The assailed Resolution denied petitioner's Motion for Reconsideration.

The trial court's Decision that was affirmed by the CA had disposed as follows:

“WHEREFORE, judgment is hereby rendered in favor of plaintiffs and against defendant:

“(a) ORDERING the latter to reconvey to plaintiffs Lot 448-B-7 covered by Transfer Certificate of Title No. T-65893 Registry of Deeds of Cagayan de Oro City located at Divisoria, Cagayan de Oro City, in his name without any consideration; and

“(b) ORDERING defendant to choose his 500 square-meter portion on the lot of plaintiffs at Bontola, Macasandig, Cagayan de Oro City. After he shall have chosen his 500 square meter portion of the lot of plaintiff, plaintiff shall thru a surveyor, segregate this portion. After the subdivision plan shall have been approved by the Executive Director of the DENR, Region 10, Cagayan de Oro City, to execute a deed of conveyance in favor of defendant over this 500 square-meter portion of his land located at Bontola, Macasandig, Cagayan de Oro City, also without consideration;

“(c) With this judgment, plaintiffs and intervenor may now consummate their transaction.

“WITHOUT PRONOUNCEMENT AS TO COSTS.”[5]

The Facts

This controversy revolves around a Deed of Exchange executed by and between two brothers, herein Petitioner Vicente Villaranda and Private Respondent Honorio Villaranda.

A 471-square-meter parcel of land located at Divisoria, Cagayan de Oro City, was left to the two brothers and

their eight other siblings by their parents. Estate Administrator Bebianio Luminarias leased 124 square meters of the property to Honorio starting on May 1, 1976, until May 31, 1986. Vicente, on the other hand, inherited 64.22 square meters of the property that had not been leased to Honorio.[6]

On July 6, 1976, the two brothers executed the assailed Deed of Exchange. Under this instrument, Vicente agreed to convey his 64.22-square-meter portion to Honorio, in exchange for a 500-square-meter property in Macasandig, Cagayan de Oro City, which was covered by Transfer Certificate of Title (TCT) No. 2138.[7]

After the execution of the Deed, Honorio took possession of the 64.22-square-meter lot and constructed a building thereon.[8]

Years later, on April 6, 1992, a subdivision plan for Lot 448-B was completed, in pursuit of which TCT No. T-65893 for the 64.22 square-meter share of Vicente was issued in his name and designated as Lot 448-B-7. The other heirs were issued their own TCTs for their respective shares.[9]

Honorio and his wife, Respondent Ana Maria Y. Villaranda, then brought an action for specific performance[10] before the Regional Trial Court (RTC) of Cagayan de Oro City (Branch 24) to compel Vicente to comply with his obligations under the Deed of Exchange. The spouses alleged that they could not fully use or dispose of their Macasandig property, because Vicente had yet to identify and delineate his undivided 500- square-meter portion of the property. They asked the court to compel him to do so, as well as to convey to them the 64.22-square-meter Divisoria lot, in compliance with his obligations under the Deed.[11]

During the pendency of the case, Honorio conditionally sold the Divisoria lot to Colorhouse Laboratories, Inc. which, by virtue thereof, intervened in the civil case.[12]

Vicente did not deny that he had entered into the Deed of Exchange with Honorio. The former, however, averred that he was not bound thereby,[13] contending that because the property had not been delivered, the Deed had not been consummated. Moreover, he claimed that the Deed had already been revoked by both parties.[14] According to him, he, together with his co-heirs, requested Honorio to agree to its rescission, because the considerations therein were iniquitous. Honorio agreed, provided certain conditions he had disclosed were met.[15] Vicente contended that he had complied with those conditions; and that, therefore, he and respondent spouses had already revoked the Deed of Exchange.

During pretrial, the parties stipulated the following facts: (a) the existence and due execution of the Deed of Exchange; (b) the identity of the parties; (c) the existence of TCT No. T-65893, which had been registered in the Registry of Deeds of Cagayan de Oro City in the name of petitioner; and (d) the physical possession by Colorhouse, through Honorio, of the 64.22-square-meter Divisoria lot.[16] As already stated, the trial court ruled in favor of respondent spouses.

Ruling of the Court of Appeals

On appeal, the CA held that the provisions of the Civil Code were applicable to the case at bar, since the Deed of Exchange had been entered into prior to the enactment of the Family Code.[17] Thus, the absence of the wife's signature on the Deed made it only voidable,[18] not void.

The CA further found that Ana was aware of the execution of the Deed,[19] and yet she brought no action for its annulment within ten (10) years from its execution. Her omission or refusal to rescind it, as well as her act of joining her husband in filing the case for specific performance, points to the conclusion that she assented to the Deed.[20]

The CA also ruled that the spouses' cause of action had accrued, not from the date of the execution of the Deed, but only from the moment Vicente refused to cause the transfer of his title to Honorio, some two months before the filing of the present case. It was only then that the prescriptive period commenced to run.[21]

Further, the CA held that as regards the capacity of the parties to enter into the Deed of Exchange, the only time to be reckoned with was the moment of its execution.[22] Honorio acquired his American citizenship only in September 1992, which was years thereafter.[23] The CA further explained that according to the 1987 Constitution, a natural-born citizen of the Philippines who had lost Philippine citizenship may own private lands.[24]

Finally, the appellate court ruled that the circumstances at the time the parties entered into the Deed showed that the consideration was not altogether unconscionable as to warrant voiding the Contract.[25]

Hence, this Petition.[26]

The Issues

In his Memorandum,[27] petitioner raises two issues for our consideration:

I.

“Whether there was a perfected and consummated deed of exchange on account of the following:

- a) There was no specific identification and delineation of the object of the Deed of Exchange and that there was a condition precedent for petitioner to examine and accept the specific area to effect the exchange;
- b) There was a need for another contract to be executed in order to identify the object of the exchange;
- c) There was no acceptance and actual delivery of the 500 square meters lot to petitioner at any given time;

II.

Whether the Deed of Exchange which was not signed by the wife of Respondent Honorio G. Villaranda is valid and enforceable.”[28]

The Court's Ruling

The Petition has no merit.

First Issue:

Perfection and Consummation of the Deed of Exchange

Petitioner argues that the Contract was not perfected or consummated because, at the time of its execution, its object was not determinate or at least not determinable without need for a new agreement between the parties, as mandated by the provisions of the law on sales.[29] He argues that, first, he has to make an ocular inspection of the area; second, the particular 500-square-meter portion of the Macasandig lot that is the object of the Deed still has to be particularly identified and delineated; third, the finally determined portion is still subject to the acceptance and agreement of the parties; and lastly, absent a delineation of the specified portion, no delivery — which is essential to the perfection of the contract — is possible.[30] He further contends that, at best, he merely gave a qualified acceptance amounting to a counter-offer, which was contingent upon the final delineation and

acceptance of the 500-square-meter portion.[31]

Respondent spouses, on the other hand, argue that petitioner should not be allowed to adopt a new theory of the case by impugning the validity of the Deed based on a different ground that was not alleged in the pleadings or raised before the lower and the appellate courts.[32]

In any event, respondent spouses contend that the Deed contains all the essential elements of a contract —consent, object and consideration.[33] They insist that what needs to be executed is not another contract to give effect to their original agreements, but one in the nature of a partition agreement.[34] They aver that the Deed is akin to a contract of co-ownership, because it involves the conveyance of an undivided interest over land. Further agreement between the parties is necessary only to effect partition of the properties and thus terminate the existing co-ownership.[35]

Respondent Colorhouse raises the same issues as those brought up by respondent spouses. It adds that when petitioner asked that the agreement be revoked, he was estopped from claiming its non-perfection, because revocation presupposes the existence of a valid contract.[36]

Petitioner's contentions must fail. It is well-settled that points of law, theories, issues and arguments not brought to the attention of the lower court need not be — and ordinarily will not be — considered by a reviewing court, as they cannot be raised for the first time at that late stage.[37] Basic rules of fair play, justice and due process impel this rule. Any issue raised for the first time on appeal is barred by estoppel.[38]

There are, however, exceptions to the general rule.[39] Though not raised below, the following issues may be considered by the reviewing court: lack of jurisdiction over the subject matter, as this issue may be raised at any stage; plain error;[40] jurisprudential developments affecting the issues; or the raising of a matter of public policy.[41]

Too late in the day is petitioner's argument that the Deed of Exchange is null and void on the ground that the object of the contract is not determinate or at least determinable. Considering that this issue does not fall under any of the enumerated exceptions, there is no cogent reason for the Court to pass upon it.

Second Issue:

Absence of Spouse's Signature

Petitioner also contends that the Deed of Exchange is null and void because the signature of Honorio's wife, Ana, does not appear on the instrument.[42] To support his argument, he cites the Family Code; as well as *Garcia v. Court of Appeals*[43] and *Nicolas v. Court of Appeals*,[44] in which the Court declared the Deeds of Sale void because of the absence of the wives' conformity to the disposition of the conjugal properties involved therein.

Respondents, on the other hand, argue that the absence of the signature of Ana on the Deed does not prove lack of her consent thereto, because a contract may validly exist even if the parties have not reduced their stipulations to writing.[45] Too, assuming that her consent to the Deed is lacking, such fact would not render the agreement void, but merely voidable.[46]

Indeed, petitioner's contention is untenable. The Deed was entered into on July 6, 1976, while the Family Code took effect only on August 3, 1998. Laws should be applied prospectively only, unless a legislative intent to give them retroactive effect is expressly declared or is necessarily implied from the language used.[47] Hence, the provisions of the Civil Code, not the Family Code,[48] are applicable to the present case. The Macasandig lot was part of Honorio and Ana's conjugal properties. The relevant provisions of the Civil Code on the disposition of real properties of the conjugal partnership are the following:

“Article 166. Unless the wife has been declared a non compos mentis or a spendthrift, or is under civil interdiction or is confined in a leprosarium, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife’s consent. x x x

“Article 173. The wife may, during the marriage, and within ten years from the transaction questioned, ask the courts for the annulment of any contract of the husband entered into without her consent, when such consent is required, or any act or contract of the husband which tends to defraud her or impair her interest in the conjugal partnership property. Should the wife fail to exercise this right, she or her heirs, after the dissolution of the marriage, may demand the value of the property fraudulently alienated by the husband.”

According to Article 166, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife’s consent. This provision, however, must be read in conjunction with Article 173 of the same Code. The latter states that an action to annul an alienation or encumbrance may be instituted by the wife during the marriage and within ten years from the transaction questioned. *Videlicet*, the lack of consent on her part will not make the husband’s alienation or encumbrance of real property of the conjugal partnership void, but merely voidable.[49] Hence, the Deed is valid until and unless annulled.

In this case, the records show no evidence that any action to annul the transfer made by Honorio was ever brought by Ana within ten years from “the transaction questioned.” Her right to bring an action to invalidate the contract has thus prescribed. Hence, the assailed Deed is still valid and enforceable.

Moreover, in *Papa v. Montenegro*,[50] the Court explained that the legal prohibition against the disposition of conjugal property by one spouse without consent of the other has been established for the benefit, not of third persons, but only of the other spouse for whom the law desires to save the conjugal partnership from damages that might be caused. Not being the proper party, Vicente cannot avail himself of the remedy prescribed by Article 173.

Furthermore, his reliance on *Garcia v. Court of Appeals* and *Nicolas v. Court of Appeals* is misplaced. Unlike the present case, the cited cases involve a Petition brought by one of the spouses for the annulment of the contracts entered into by the other spouse. Additionally, we must point out that contrary to petitioner’s contention, the contracts involved therein were not void *ab initio*, but merely voidable.

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

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 24-39.

[2] *Id.*, pp. 41-51; Tenth Division. Penned by Justice Renato C. Dacudao, with the concurrence of Justices Ruben T. Reyes (Division chairman) and Mariano C. del Castillo (member).

[3] *Id.*, p. 53.

[4] Assailed CA Decision, p. 10; rollo, p. 50.

[5] Records, p. 423.

[6] CA Decision, p. 3; rollo p. 43.

[7] *Ibid.*

[8] Ibid.

[9] Ibid.

[10] Civil Case No. 92-317.

[11] CA Decision p. 2; rollo, p. 42.

[12] Ibid.

[13] Ibid.

[14] Id., pp. 7 & 47.

[15] Ibid.

[16] Id., pp. 2 & 42.

[17] CA Decision, p. 4; rollo, p. 44.

[18] Ibid.

[19] Id., pp. 5-6 & 13-14.

[20] Ibid.

[21] Ibid.

[22] Id., pp. 8 & 15.

[23] Ibid.

[24] Ibid.

[25] Id., pp. 8-9 & 15-16.

[26] The case was deemed submitted for decision on May 6, 2003, upon this Court's receipt of Respondent Colorhouse's Memorandum, which was signed by Atty. Francis U. Ku. Respondent Spouses' Memorandum, signed by Atty. Francis Saturnino C. Juan, was received by the Court on April 25, 2003. Petitioner's Memorandum, signed by Atty. Leovigildo D. Tandog Jr., was filed on April 8, 2003.

[27] Rollo, pp. 104-121.

[28] Petitioner's Memorandum, p. 6-7; rollo, p. 109-110. Original partly in upper case.

[29] According to Article 1458 of the New Civil Code, it is necessary that the object of a contract, such as a deed of exchange, must be determinate or at least determinable at the time the contract is entered into. Article 1460 of the Code says that to be determinate, the thing, which is the object of the contract, must be particularly designated or physically segregated from all others of the same class. The law also states, however, that it is enough that the thing is capable of being made determinate without the necessity of a new or further agreement between the parties.

[30] Petitioner's Memorandum, pp. 7-11; rollo, pp. 110-114.

[31] Id., pp. 11 & 114.

[32] Ibid.

[33] Respondent spouses Villaranda's Memorandum, p. 19; rollo, p. 146.

[34] Ibid.

[35] Id., pp. 20 & 147.

[36] Respondent Colorhouse's Memorandum, p. 9; rollo, p. 160.

[37] Del Rosario v. Bonga, 350 SCRA 101, 108, January 23, 2001; Orosa v. CA, 329 SCRA 652, 661, April 5, 2000; Victorias Milling Co., Inc. v. CA, 389 Phil. 184, 195, June 19, 2000; Philippine Basketball Association v. CA, 337 SCRA 358, 369-370, August 8, 2000; Manila Bay Club Corporation v. CA, 315 Phil. 805, 825, July 11, 1995; Keng Hua Paper Products Co., Inc. v. CA, 349 Phil. 925, February 12, 1998; Arcelona v. CA, 345 Phil. 250, October 2, 1997; Mendoza v. CA, 274 SCRA 527, June 20, 1997; Remman Enterprises, Inc. v. CA, 335 Phil. 1150, February 26, 1997.

See also Section 15, Rule 44 of the 1997 Rules of Civil Procedure, which reads as follows:

“Sec. 15. Questions that may be raised on appeal. — Whether or not the appellant has filed a motion for new trial in the court below, he may include in his assignment of errors any question of law or fact that has been raised in the court below and which is within the issues framed by the parties.”

[38] Jimenez v. Patricia, Inc., 340 SCRA 525, 531, September 18, 2000.

[39] Del Rosario v. Bonga, 350 SCRA 101, January 23, 2001.

[40] Section 8, Rule 51 of the 1997 Rules of Civil Procedure, provides:

“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.”

[41] Bersamin, Appeal and Review in the Philippines, 2nd ed., p. 176.

[42] Petitioner's Memorandum, p. 13; rollo, p. 116.

[43] 215 SCRA 380, July 16, 1984.

[44] 154 SCRA 635, 643, October 12, 1987.

[45] Respondent's Memorandum, p. 13; rollo, p. 140.

[46] Id., pp. 15 & 142.

[47] Article 4, New Civil Code; Gailardo v. Borrromeo, 161 SCRA 500, May 25, 1988; Nilo v. CA, 128 SCRA 519, April 2, 1984.

[48] The Family Code states:

“Art. 124. x x x These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.”

[49] Rojas v. CA, 192 SCRA 709, 723, December 26, 1990; Reyes v. De Leon, 126 Phil. 710, June , 1967; Heirs of Christina Ayuste v. CA, 372 Phil. 370, September 2, 1999.

[50] 54 Phil. 331, 341, January 30, 1930.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.