BERMAN MEMORIAL PARK, INC. AND LUISA CHONG, PETITIONERS, VS. FRANCISCO CHENG, RESPONDENT.

G.R. NO. 154630. May 06, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Berman Memorial Park, Inc. (BMPI) is the owner and operator of the Iloilo Memorial Park (IMP) located in Jaro, Iloilo City. One of the sales counselors of the corporation was Luisa Chong.

Francisco Cheng had been a businessman for 50 years, engaged in the purchase and sale of salt, monggo, soya and other commodities under the business name "Timberland Native Products and Supplies."[2] Among his employees was an accountant.

On January 18, 1994, Conchita Cheng, Francisco Cheng's wife, died. On January 20, 1994, Cheng purchased from BMPI a memorial lot, identified as 12-Lot Family Estate, Jr., in the IMP for the interment of his wife. He and BMPI executed, on the said date, At-Need Purchase Agreement No. 2280 in which he bound and obliged himself to pay its purchase price of P150,000.00, thus: P50,000.00 as downpayment; P50,000.00 on or before March 7, 1994; and P50,000.00 on or before April 22, 1994.[3] The remains of Conchita were interred in the said lot.

Cheng made a downpayment of P50,000.00 and executed a promissory note, obliging himself to pay the balance of P100,000.00 on or before the said due date.[4] Cheng was able to pay the P100,000.00 via postdated check,[5] less P1,000.00 representing Chong's cash offer for the deceased which she and BMPI had agreed would be deducted from her future commissions.[6] However, Cheng remitted to BMPI, on April 22, 1994, the amount of P49,750.00 as additional payment of the said lot although he had already paid the price in full.[7]

Sometime in May 1994, Cheng purchased from the BMPI a bigger lot in the IMP where the remains of his wife would be transferred. He was shown a price list of the lots in the said park, including 24-Lot Family Estate, Sr., with an at-need price of P350,000.00, inclusive of the cost of perpetual care. BMPI offered to sell the said lot to Cheng at a pre-need price of P250,000.00, less P110,000.00 of his payment of P150,000.00 for Lot 12, or in the net price of P140,000.00. He was given a computation of the price for his consideration and approval. Cheng agreed to purchase 24-Lot Family Estate, Sr. for the price of P250,000.00, inclusive of P8,100.00 for perpetual care, less P110,000.00 of the P150,000.00 paid by him for 12-Lot, or the net price of P140,000.00, inclusive of the cost of perpetual care for the lot. Cheng and BMPI executed, on May 11, 1994, Pre-Need Purchase Agreement No. 2318 covering the transaction.[8] Cheng bound and obliged himself to pay on the following terms: P50,000.00 as downpayment, the balance payable in 24 monthly installments of P4,625.00, commencing on May 31, 1994, with 21% interest on the unpaid balance. Cheng remitted the downpayment of P50,000.00, and was able to pay 17 of the 24 monthly installments due from June 30, 1994 to November 17, 1995, or in the total amount of P78,625.00.[9]

Subsequently, Cheng received a statement of account from BMPI showing that he still had a balance of P32,375.00.[10] In a Letter dated January 3, 1996, Cheng, through counsel, informed BMPI that he had, in fact,

made an overpayment of P77,375.00 for the two lots, demanded that the excess payment be refunded to him, and that the Certificate of Ownership for 24-Lot be issued to him.[11] In a statement of account Cheng prepared, he declared that he had a net balance due from BMPI in the amount of P57,414.82, inclusive of interest of P12,414.82.[12] He stated therein that the cost of the two lots was P250,000.00, and that he had made a total payment of P327,375.00.

BMPI came out with its statement of account dated March 22, 1996, showing that the purchase price of 24-Lot was P140,000.00[13] and that Cheng had an outstanding account of P33,875.62 for the said lot. In his Reply-Letter dated April 2, 1996, Cheng insisted that even if the two lots cost P311,000.00, he still had a balance, in his favor, amounting to P26,375.00.[14] In an effort to reconcile their differences, a conference among Cheng, Chong and the accountant of BMPI was held, to no avail.

On July 24, 1996, Cheng filed a Complaint against the IMP, not against BMPI, and Luisa Chong in the Regional Trial Court (RTC) of Iloilo City, for specific performance with damages. He alleged that the IMP was a corporation duly organized and existing in the Philippines and that he had purchased 24-Lot from the IMP for P250,000.00, less the amount of P150,000.00 he had paid for 12-Lot, or a net price of P100,000.00. He asserted that he had made an overpayment of P77,375.00 for the said lot. He prayed that, after due proceedings, judgment be rendered in his favor:

> WHEREFORE, it is most respectfully prayed of this Honorable Court that, after due notice and hearing, judgment be rendered, to wit:
>
> - Declaring that the 24-Lot Family Estate, Sr. (an interest space) as having been fully paid and ordering defendant to convey to plaintiff the Certificate of Ownership over it;
>
> - Ordering defendant to return to plaintiff the total sum of P77,375.00 representing overpayment made by plaintiff on his purchase of the aforedescribed interment space plus interest at the legal rate;
>
> - Ordering defendant to pay plaintiff the sum of P5,000.00 as actual expenses, P30,000.00 as attorney's fees, and P20,000.00 as exemplary damages;
>
> - Ordering defendant to pay plaintiff the sum of P100,000.00 as moral damages;
>
> - To pay the costs of suit;
>
> - For such other reliefs and remedies that are just deemed and equitable in the premises.[15]

In her answer with counterclaim, Chong admitted the allegation in the complaint that the IMP was a corporation duly registered and organized in the Philippines (although it was not). She further alleged that the price of 24-Lot was actually P350,000.00, but that the IMP had agreed to sell the lot to Cheng for P250,000.00, less P110,000.00 of the P150,000.00 price of 12-Lot; as was the standard operating procedure, out of the amount of P150,000.00 which was the total price of 12-Lot, only P110,000.00 was to be credited to Cheng because the said amount was the pre-need price. Chong alleged that the difference of P40,000.00 (P150,000.00 less P110,000.00) belonged to the IMP.[16] Appended to their answer was a copy of the Pre-Need Purchase Agreement of the parties as Annex "1" thereof.

During the pre-trial, the parties agreed to reset the same to give time to Atty. Florecita B. Gelvezon, a certified public accountant, to determine whether or not Cheng had overpaid, or whether he still had a balance due for the purchase of the two lots.[17] On January 22, 1997, the trial court granted the motion and gave Atty. Gelvezon two weeks to submit her report.[18] She submitted her report on February 6, 1997, showing that Cheng still had a balance of P32,375.00 due in favor of BMPI for 24-Lot, based on the purchase price of P140,000.00 for the said

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lots.[19] Cheng filed his comments/observations/objections to the report. He appended thereto the handwritten computation of BMPI on the cost of the two lots and the computations thereof.[20] For their part, Chong and BMPI agreed to the report of Atty. Gelvezon.[21]

During the trial, Cheng testified that he purchased 24-Lot for P250,000.00 and that he discovered his overpayment during the first week of November 1994.[22] He signed a blank document in printed form which turned out to be the Pre-Need Purchase Agreement because he was sick with hernia and had to be operated on in five days.[23] He was not given a copy of the Pre-Need Purchase Agreement.[24] He knew that the purchase price of a lot under a Pre-Need Purchase Agreement was P250,000.00.[25]

Carmen S. Majarocon, the bookkeeper and accountant of BMPI, testified that on January 19, 1994, Cheng and his brother Santiago Cheng arrived in the office to buy a lot at the IMP.[26] She showed them the price list of the lots.[27] She explained to them that the at-need price of 12-Lot was P150,000.00, while the at-need price of 24-Lot, which was bigger than Lot 12, was P350,000.00. Cheng opted to buy 12-Lot, and signed the At-Need Purchase Agreement[28] and Promissory Note.[29] Cheng then returned to BMPI on May 11, 1994 and agreed to purchase 24-Lot at the pre-need price of P250,000.00, less P110,000.00 of the P150,000.00 he had paid for 12-Lot, or the net price of P140,000.00.[30] She averred that the difference of P40,000.00 between the price of P150,000.00 for 12-Lot and the price of P110,000.00 credited to Cheng belonged to BMPI. She also testified that Cheng signed the Pre-Need Purchase Agreement on May 11, 1994,[31] and was given a copy of the contract, and her computations of the purchase price of 24-Lot.[32] As of September 1996, Cheng had a balance on his account in the amount of P38,634.75.[33] Chong corroborated Majarocon's testimony.

On January 8, 1998, the trial court rendered judgment in favor of Cheng. The fallo of the decision reads:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendants.
>
> - Ordering defendants to return or reimburse plaintiff the amount of P28,625.00 representing the overpayment that the latter made in purchasing the 24-Lot Family Estate, Sr. to earn legal interest from the filing of the complaint until fully paid or returned.
>
> - Ordering defendants to pay plaintiff, jointly and severally:

a) P20,000.00 as and for attorney's fees;
b) P30,000.00 as moral damages;
c) Dismissing the counterclaim.

> Costs against the defendants.
>
> SO ORDERED.[34]

The trial court ruled that since Cheng purchased 24-Lot to upgrade 12-Lot where the remains of his wife were interred, the total amount of P150,000.00 which he paid for 12-Lot should be deducted from P250,000.00 (the purchase price of 24-Lot), instead of only P110,000.00 as claimed by Chong and BMPI.

The decision was appealed by Chong and BMPI to the Court of Appeals (CA), which rendered judgment on January 18, 2001 affirming the decision of the RTC.[35] Their motion for reconsideration was also denied by the appellate court.[36]

Chong and BMPI, now the petitioners, filed their petition for review on certiorari of the decision and resolution of the CA. The petitioners aver that:

I.

RESPONDENT KNEW AND UNDERSTOOD THE TWO (2) TRANSACTIONS HE ENTERED INTO AND WAS BENEFITED BY THE PROCESS CALLED UPGRADING.

II.

THERE IS BASIS FOR THE PETITIONERS TO CREDIT ONLY P110,000.00 OUT OF THE P150,000.00 PAYMENTS MADE BY RESPONDENT AT THE TIME HE DECIDED TO PURCHASE THE BIGGER LOT.

III.

THERE IS NO BASIS FOR DECLARING THAT RESPONDENT HAS ALREADY MADE AN OVERPAYMENT OF P28,625.00. ON THE CONTRARY, HE IS STILL LIABLE TO PAY PETITIONERS THE SUM OF P38,634.75 REPRESENTING THE BALANCE OF HIS PRINCIPAL ACCOUNT PLUS SURCHARGES AS OF SEPTEMBER 11, 1996.[37]

The petitioners assert that the at-need price of 12-Lot was P150,000.00, while that of 24-Lot was P350,000.00. BMPI sold 24-Lot for the pre-need price of P250,000.00, less P110,000.00 of his payment for 12-Lot, or the net price of P140,000.00 inclusive of costs for perpetual care, and to which the respondent agreed. The petitioners explained why only P110,000.00 of the price of P150,000.00 for 12-Lot was credited to the respondent for the purchase price of 24-Lot, thus:

> Under this practice of upgrading which the petitioner corporation allows, when a client purchases an At-Need 12-Lot Family Estate, Jr. and after paying the price he upgrades it to a 24-Lot Family Estate, Sr., the former labels it not as an At-Need 24-Lot Family Estate, Sr. but a Pre-Need 24-Lot Family Estate, Sr. which has a lower price of P250,000.00. However, since at the time of the purchase, he gets it at the at-need price, his payment of P150,000.00 is not fully credited to his next purchase. He is charged the at-need cost of P40,000.00 because the at-need price of a 12-Lot Family Estate, Jr. is P150,000.00 while its pre-need price is P110,000.00. The P40,000.00 serves as a cost for the burden imposed on the corporation which is in charge for all these arrangements and predicaments for the change of burial lot from a smaller At-Need 12-Lot Family Estate, Jr. to Pre-Need 24-Lot Family Estate, Sr., a different burial lot. It should be noted that when a client made his first purchase, it was at an at-need price. When he made his second purchase in a process called upgrading, the price is already a pre-need one.
>
> It would have been different should a client made (sic) his first purchase of the lot at a pre-need price and after payment of the pre-need price, he changes the lot to a bigger one at a pre-need price because, by then, there would be no at-need cost. The whole pre-need price paid by him in the contract is credited to his second upgraded contract. However, he pays a bigger price with a total of P350,000.00.
>
> Respondent was benefited by this upgrading of the contract from At-Need 12-Lot Family Estate, Jr. to Pre-Need 24-Lot Family Estate, Sr.[38]

The petitioners maintained that the CA failed to consider the evidence on record, including the acts of the parties, simultaneously with and subsequent to their execution of the Pre-Need Purchase Agreement on May 11, 1994, and the incredibility of the respondent's lone testimony.

In his comment on the petition, the respondent alleged that the issues raised by the petitioners are factual; hence, improper under Rule 45 of the Rules of Court. Moreover, the respondent pointed out, the issues presented by the petitioners are unsubstantial matters.

The petition is meritorious.

Before resolving the merits of the petition, however, we have to address and resolve the issue as to whether or not the IMP has the capacity to sue as petitioner and be sued as defendant in the RTC; and whether or not BMPI is an indispensable party in the RTC, and in this case.

The rule is that only natural or juridical persons or entities authorized by law may be parties in a civil case.[39] A sole proprietorship is not vested with juridical personality and cannot sue or file or defend an action. There is no law authorizing sole proprietorship to file a suit. A sole proprietorship does not possess a judicial personality separate and distinct from the personality of the owner of the enterprise.[40]

In this case, the IMP is not a corporation and does not have a juridical personality that could enable it to be a party defendant in the RTC. It is only a business name used by BMPI for the memorial park it owned and operated. In fact, it is clearly indicated in the At-Need Purchase Agreement and Pre-Need Purchase Agreement dated January 20 and May 11, 1994, respectively, that the seller of the lots is BMPI, and that the IMP is owned and operated by it. It is BMPI which has the juridical personality to be sued by the respondent as the plaintiff in the RTC. Indeed, the real party-in-interest as party-defendant in the RTC is BMPI, the signatory to the said agreements which the respondent sought to enforce therein. Since a contract may be enforced only by the parties thereto as against each other, the real parties-in-interest, either as plaintiff or defendant in an action based on the said contract, must be the parties to the said contract. If the real party-in-interest as defendant is not impleaded as such, then the complaint must be dismissed on the ground that it states no cause of action, unless the complaint is later amended to implead the said party-defendant in substitution. In this case, petitioner Chong did not pursue the issue in the RTC and in the CA. In fact, she erroneously declared in her answer to the complaint that the IMP was a corporation. However, it is not too late for the Court to order the impleading of the BMPI as party-defendant in the RTC, and party-petitioner in this case, conformably with the following ruling:

> The complaint then should have been amended to implead Yao Ka Sin as plaintiff in substitution of Yao Ka Sin Trading. However, it is now too late in the history of this case to dismiss this petition and, in effect, nullify all proceedings had before the trial court and the respondent Court on the sole ground of petitioner's lack of capacity to sue. Considering that private respondent did not pursue this issue before the respondent Court and this Court; that, as We held in Juasing, the defect is merely formal and not substantial, and an amendment to cure such defect is expressly authorized by Section 4, Rule 10 of the Rules of Court which provides that "[a] defect in the designation of the parties may be summarily corrected at any stage of the action provided no prejudice is caused thereby to the adverse party;" and that "[a] sole proprietorship does not, of course, possess any juridical personality separate and apart from the personality of the owner of the enterprise and the personality of the persons acting in the name of such proprietorship," We hold and declare that Yao Ka Sin should be deemed as the plaintiff in Civil Case No. 5064 and the petitioner in the instant case. As this Court stated nearly eighty (80) years ago in Alonso v. Villamor:
>
> No one has been misled by the error in the name of the party-plaintiff. If we should, by reason of this error, send this case back for amendment and new trial, there would be on the retrial the same complaint, the same answer, the same defense, the same interests, the same witnesses, and the same evidence. The name of the plaintiff would constitute the only difference between the old trial and the new. In our judgment, there is not enough in a name to justify such action.[41]

Resultably, then, the complaint in the RTC and the petition at bench are amended to implead BMPI as party-defendant/respondent in substitution of the IMP.

And now on the merits of the petition.

We agree with the respondent that the threshold issue in this case "whether the petitioners and the respondent had agreed that the net price of 24-Lot was only P140,000.00 as it appears in the Pre-Need Purchase Agreement[42] is factual. We, likewise, agree with his contention that under Rule 45 of the Rules of Court, only issues of law may

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be raised in this Court. However, the said rule is without exception. In Josefa v. Zhandong Trading Corporation,[43] the Court held that, under Rule 45 of the Rules of Court, it may delve into and resolve factual issues on the following reasons: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the finding of absence of facts is contradicted by the presence of evidence on record; (8) the findings of the CA are contrary to those of the trial court; (9) the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.

In this case, the May 11, 1994 Pre-Need Purchase Agreement[44] between the BMPI and the respondent plainly and unequivocally states that the purchase price of 24-Lot is P140,000.00, payable as follows:

> That the consideration of the above shall be as follows:
>
> Price P131,900.00
>
> Perpetual Care P 8,100.00
>
> Total P140,000.00
>
> Down Payment P 50,000.00
>
> Balance Due P 90,000.00
>
> PURCHASER agrees to pay to the SELLER therefore the sum of ONE HUNDRED FORTY THOUSAND ONLY (P140,000.00) in Philippine Currency as follows: P50,000.00 upon the signing of this agreement by PURCHASER receipt of which is hereby acknowledged, and the remainder in installments of P4,625.00 on the 31st day of each and every month for 2 yrs/(24) months, commencing on May 31, 1994, until the entire balance has been paid. Interest shall be charged at the rate of 21% per annum on the unpaid balance. All payments for interment space shall be applied first to interest, next to the purchase price and the balance to the Perpetual Care Fund.[45]

The respondent signed the agreement and was furnished with a copy. Indeed, the respondent confirmed in his complaint that he signed the agreement.

The respondent cannot feign ignorance of the terms of the agreement by alleging that he affixed his signature on a blank form, and on his barefaced and self-serving pretext that he was suffering from hernia and had to be operated on in five days.

First. At the bottom of the agreement is the advice given to the respondent: "Please Read This Contract."[46]

Second. The respondent had been a businessman for 50 years before he signed the agreement. The Court cannot believe that he would sign a blank agreement without first reading and reviewing the terms and conditions contained therein. The respondent is presumed to take ordinary care of his concerns;[47] that the private transaction was fair and regular;[48] that the ordinary course of business has been followed;[49] and that the respondent intended the ordinary consequences of his voluntary act.[50]

Third. The respondent admitted in his Comment dated February 13, 1997 that he had agreed to the conversion of 12-Lot to 24-Lot, and that the petitioner furnished him a computation which he appended to his pleading. The computation shows that the net price of 24-Lot is P140,000.00, thus:

Conversion of 12-Lot Jr. F.E. to 24-Lot Sr. F.E.

Cost of 24-Lot Sr. F.E.

P250,000.00

Less : Cost of 12-Lot Jr. F.E.

P110,000.00

Balance

P140,000.00

Less : Downpayment

50,000.00

Balance

P 90,000.00

Monthly Installment on Balance of P90,000.00

1 yr. P8,380.00/mo.

2 yrs. P4,625.00/mo.[51]

Fourth. The respondent complied with the terms and conditions of the Pre-Need Purchase Agreement and made the requisite downpayment and the monthly installments for 17 months without any plaint. He never demanded for a copy of the said agreement, or complained to the petitioners that the contents thereof did not reflect their arrangement, or demanded that the said agreement be reformed to reflect their true agreement. It was only when the respondent received the statement of his account from BMPI sometime in March 1996 that he alleged for the first time that he had overpaid BMPI for 24-Lot.

Fifth. The respondent failed to adduce evidence that he was suffering from hernia and that he was to be operated on in five days after signing the May 11, 1994 Pre-Need Purchase Agreement.

Article 1370 of the New Civil Code provides that if the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control. No amount of extrinsic aids are required and no further extraneous sources are necessary in order to ascertain the parties' intent, determinable as it is, from the contract itself. The records are clear that the respondent understood the nature of the contract he entered into.

If, indeed, the stipulations as embodied in the aforementioned Pre-Need Purchase Agreement were not the true intention of the parties, the respondent should have filed the corresponding action for reformation of the contract. But he did not.

The hornbook rule on interpretation of contracts gives primacy to the intention of the parties, which is the law among them. Ultimately, their intention is to be deciphered not from the unilateral post facto assertions of one of the parties, but from the language used in the contract. And when the terms of the agreement, as expressed in such language, are clear, they are to be understood literally, just as they appear on the face of the contract.[52]

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The Decisions of the Regional Trial Court

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and the Court of Appeals are SET ASIDE. Another judgment is rendered, ORDERING the respondent to pay to Berman Memorial Park, Inc. the amount of P32,375.00, representing his unpaid installments plus the corresponding surcharge, with interest at 12% per annum to be computed from May 1996, when the total amount of the principal obligation became due and demandable, until actual payment thereof. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

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[1] In substitution of Iloilo Memorial Park. (Vide, pp. 11-12, infra)

[2] TSN, 25 June 1997, pp. 2, 10.

[3] Records, p. 80. (Exhibit "A")

[4] Id. at 103. (Exhibit "4")

[5] Id. at 82-83. (Exhibits "C" and "D")

[6] TSN, 7 October 1997, p. 8.

[7] Records, p. 84. (Exhibit "E")

[8] Id. at 81, 118. (Exhibits "B" and "15")

[9] Id. at 93. (Exhibit "K")

[10] Id.

[11] Id. at 93-94.

[12] Id. at 84. (Exhibit "E")

[13] Id. at 85. (Exhibit "F")

[14] Id. at 88-89. (Exhibit "I")

[15] Id. at 8.

[16] Id. at 24-33.

[17] Id. at 49-50.

[18] Id. at 51.

[19] Id. at 55-57.

[20] Id. at 59-64.

[21] Id. at 67-69.

[22] TSN, 25 June 1997, p. 6.

[23] Id. at 11, 12.

[24] Records, p. 81. (Exhibit "B")

[25] Id. at 12.

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[26] TSN, 22 September 1997, p. 3.

[27] Records, p. 100. (Exhibit "1")

[28] Id. at 80. (Exhibit "A")

[29] Id. at 103. (Exhibit "4")

[30] TSN, 9 September 1997, pp. 21-22.

[31] Id. at 22.

[32] Id. at 23.

[33] Id. at 28.

[34] Records, p. 240.

[35] Rollo, pp. 53-59.

[36] Id. at 61.

[37] Id. at 30.

[38] Id. at 32.

[39] Section 1, Rule 3 of the Rules of Court.

[40] Mangila v. Court of Appeals, G.R. No. 125027, 12 August 2002, 387 SCRA 162.

[41] Yao Ka Sin Trading v. Court of Appeals, G.R. No. 53820, 15 June 1992, 209 SCRA 763.

[42] Records, p. 80. (Exhibit "A")

[43] G.R. No. 150903, 8 December 2003, 417 SCRA 269.

[44] Records, pp. 81, 118. (Exhibits "B" and "15")

[45] Records, p. 81.

[46] Id. at 118. (Exhibit "15")

[47] Section 2(a), Rule 131 of the Revised Rules of Evidence.

[48] Section 3(p), Id.

[49] Section 3(q), Id.

[50] Section 3(c), Id.

[51] Records, p. 64.

[52] Cruz v. Court of Appeals, G.R. No. 126713, 27 July 1998, 293 SCRA 239.

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