

LYDIA SUMIPAT, LAURITO SUMIPAT, ALEJANDRO SUMIPAT, ALICIA SUMIPAT, AND LIRAFE SUMIPAT, PETITIONERS, VS. BRIGIDO BANGA, HERMINIGILDO TABOTABO, VIVIANO TABOTABO, BERNARDITA ANIÑON...

G.R. No. 155810. August 13, 2004

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TINGA, J.:

This is a Petition for Review on Certiorari[1] of the Decision[2] of the Court of Appeals which reversed and set aside the decision[3] of the Regional Trial Court (RTC) and partially annulled the Deed of Absolute Transfer and/or Quitclaim (the deed) subject of this case.

We quote the appellate court's findings of fact:

The spouses Placida Tabo-tabo and Lauro Sumipat, who contracted marriage on July 20, 1939, acquired three parcels of land two of which were covered by Original Certificate of Title No. P-17842 and Transfer Certificate of Title No. T-15826.

The couple was childless.

Lauro Sumipat, however, sired five illegitimate children out of an extra-marital affair with Pedra Dacola, namely: herein defendants-appellees Lydia, Laurito, Alicia, Alejandro and Lirafe, all surnamed Sumipat.

On January 5, 1983, Lauro Sumipat executed a document denominated "DEED OF ABSOLUTE TRANSFER AND/OR QUIT-CLAIM OVER REAL PROPERTIES" (the assailed document) in favor of defendants-appellees covering the three parcels of land (the properties). On the document appears the signature of his wife Placida which indicates that she gave her marital consent thereto.

It appears that on January 5, 1983 when the assailed document was executed, Lauro Sumipat was already very sick and bedridden; that upon defendant-appellee Lydia's request, their neighbor Benjamin Rivera lifted the body of Lauro Sumipat whereupon Lydia guided his (Lauro Sumipat's) hand in affixing his signature on the assailed document which she had brought; that Lydia thereafter left but later returned on the same day and requested Lauro's unlettered wife Placida to sign on the assailed document, as she did in haste, even without the latter getting a responsive answer to her query on what it was all about.

After Lauro Sumipat's death on January 30, 1984, his wife Placida, hereinafter referred to as plaintiff-appellant, and defendants-appellees jointly administered the properties 50% of the produce of which went to plaintiff-appellant.

As plaintiff-appellant's share in the produce of the properties dwindled until she no longer received any and learning that the titles to the properties in question were already transferred/made in favor of the defendants-appellees, she filed a complaint for declaration of nullity of titles, contracts, partition, recovery of ownership now the subject of the present appeal.

Defendant-appellee Lydia disclaims participation in the execution of the assailed document, she claiming to

have acquired knowledge of its existence only on January 10, 1983 or five days after its execution when Lauro Sumipat gave the same to her.

Branch 6 of the Regional Trial Court of Dipolog City decided the case in favor of defendants-appellees, it holding that by virtue of the assailed document the due execution of which was not contested by plaintiff-appellant, the properties were absolutely transferred to defendants-appellees.[4]

The trial court found that the subject properties are conjugal having been acquired during the marriage of Lauro Sumipat and Placida Tabotabo (Placida). However, because Placida failed to question the genuineness and due execution of the deed and even admitted having affixed her signature thereon, the trial court declared that the entirety of the subject properties, and not just Lauro Sumipat's conjugal share, were validly transferred to the defendants, the petitioners herein.[5]

On appeal,[6] the appellate court held that since Placida was unlettered,[7] the appellees, the petitioners herein, as the parties interested in enforcing the deed, have the burden of proving that the terms thereof were fully explained to her.[8] This they failed to do.

Under the Civil Code, a contract where consent is given through mistake, violence, intimidation, undue influence or fraud is voidable.[9] In order that mistake may invalidate consent, it should refer to the substance of the thing which is the object of the contract, or to those conditions which have principally moved one or both parties to enter into the contract.[10]

The appellate court found that Placida did not understand the full import of the deed because the terms thereof were not explained to her either by the petitioners or by the notary public before whom the deed was acknowledged. According to the appellate court, Judge Pacifico Garcia (Judge Garcia), before whom the deed was acknowledged, did not identify Placida as having appeared before him on January 5, 1983 to acknowledge the deed. The jurat indicates that it was only Lauro Sumipat who appeared before Judge Garcia and to whom he explained the contents of the deed. Further, the appellate court noted that Judge Garcia himself was under the impression that the deed conveyed the exclusive properties of Lauro Sumipat. Hence, he could not have explained to Placida that the deed actually transferred the conjugal properties of Lauro Sumipat and Placida.[11]

The Court of Appeals, therefore, annulled the deed insofar as it covers Placida's conjugal share in the subject properties because the latter's consent thereto was vitiated by mistake when she affixed her signature on the document.

The petitioners filed a Motion for Reconsideration on the grounds of estoppel, absence of fraud and prescription. The appellate court denied the Motion for Reconsideration in its Resolution[12] dated October 16, 2002 ruling that the grounds relied upon have been addressed in its Decision dated April 11, 2002. Anent the ground of prescription, the appellate court held that since the properties were acquired through fraud or mistake, the petitioners are considered trustees of an implied trust for the benefit of Placida. Citing jurisprudence,[13] the Court of Appeals ruled that actions based on implied or constructive trust prescribe 10 years from the issuance of a Torrens Title over the property. Since two (2) of the subject properties were issued Transfer Certificates of Title (TCT) Numbered T-40037[14] and T-40038[15] under the petitioners' names on August 18, 1987, the Complaint for declaration of nullity of titles, partition, recovery of ownership and possession, reconveyance, accounting and damages, which was filed on March 3, 1993, was filed well within the prescriptive period.

The petitioners are now before this Court principally claiming that Placida freely consented to the execution of the deed and that they did not commit fraudulent acts in connection with its execution. They also reiterate their argument that the Court of Appeals should have dismissed the case on the ground of prescription. It is their contention that the present action being one to annul a contract on the ground of fraud, it should have been filed

within four (4) years from the discovery of fraud or registration of the instrument with the Registry of Deeds.

The respondents filed their Comment[16] dated February 7, 2003, essentially echoing the findings of the Court of Appeals on the matter of Placida's consent. According to them, Placida was deceived and misled into affixing her signature on the deed. They further claim that Placida did not actually appear before the notary public to acknowledge the instrument.

In their Reply[17] dated April 29, 2003, the petitioners insist that Placida was not illiterate and that Lauro Sumipat validly transferred the titles over the properties in question to them. They also argue that if Placida did not understand the import of the deed, she could have questioned Lauro Sumipat about it since the deed was executed a year before the latter died.

The trial court and the Court of Appeals are in agreement that the subject properties are conjugal, having been acquired during the marriage of Lauro Sumipat and Placida. They came out, however, with disparate denouements. While the trial court upheld the validity of the deed as an instrument of transfer of all the litigated parcels of land in their entirety on the ground that Placida failed to question its authenticity and due execution, the appellate court struck the deed down insofar as the conjugal share of Placida is concerned based on its finding that her consent was vitiated by mistake.

At bottom, the crux of the controversy is whether the questioned deed by its terms or under the surrounding circumstances has validly transferred title to the disputed properties to the petitioners.

A perusal of the deed reveals that it is actually a gratuitous disposition of property — a donation — although Lauro Sumipat imposed upon the petitioners the condition that he and his wife, Placida, shall be entitled to one-half (1/2) of all the fruits or produce of the parcels of land for their subsistence and support. The preliminary clauses of the deed read:

That conscious of my advanced age and failing health, I feel that I am not capable anymore of attending to and maintaining and keeping in continuous cultivation my above described properties;

That my children are all desirous of taking over the task of maintaining my properties and have demonstrated since childhood the needed industry and hard work as they have in fact established possession over my real properties and introduced more improvements over my lands, the fruit of which through their concerted efforts and labors, I myself and my family have enjoyed;

That it would be to the best interest of my above mentioned children that the ownership over my above described properties be transferred in their names, thereby encouraging them more in developing the lands to its fullest productivity.[18]

The deed covers three (3) parcels of land.[19] Being a donation of immovable property, the requirements for validity set forth in Article 749 of the Civil Code should have been followed, viz:

Art. 749. In order that the donation of the immovable may be valid, it must be made in a public document, specifying therein the property donated and the value of the charges which the donee must satisfy.

The acceptance may be made in the same deed of donation or in a separate public document, but it shall not take effect unless it is done during the lifetime of the donor.

If the acceptance is made in a separate instrument, the donor shall be notified thereof in an authentic form, and this step shall be noted in both instruments.

Title to immovable property does not pass from the donor to the donee by virtue of a deed of donation until and unless it has been accepted in a public instrument and the donor duly notified thereof. The acceptance may be

made in the very same instrument of donation. If the acceptance does not appear in the same document, it must be made in another. Where the deed of donation fails to show the acceptance, or where the formal notice of the acceptance, made in a separate instrument, is either not given to the donor or else not noted in the deed of donation and in the separate acceptance, the donation is null and void.[20]

In this case, the donees' acceptance of the donation is not manifested either in the deed itself or in a separate document. Hence, the deed as an instrument of donation is patently void.

We also note the absence of any proof of filing of the necessary return, payment of donor's taxes on the transfer, or exemption from payment thereof. Under the National Internal Revenue Code of 1977, the tax code in force at the time of the execution of the deed, an individual who makes any transfer by gift shall make a return and file the same within 30 days after the date the gift is made with the Revenue District Officer, Collection Agent or duly authorized Treasurer of the municipality in which the donor was domiciled at the time of the transfer.[21] The filing of the return and payment of donor's taxes are mandatory. In fact, the registrar of deeds is mandated not to register in the registry of property any document transferring real property by way of gifts inter vivos unless a certification that the taxes fixed and actually due on the transfer had been paid or that the transaction is tax exempt from the Commissioner of Internal Revenue, in either case, is presented.[22]

Neither can we give effect to the deed as a sale, barter or any other onerous conveyance, in the absence of valid cause or consideration and consent competently and validly given.[23] While it is true that the appellate court found Placida's consent to have been vitiated by mistake, her testimony on the matter actually makes out a case of total absence of consent, not merely vitiation thereof. She testified in this regard, thus:

Q-

What have you been doing on that day on January 5, 1983?

A-

I was at home boiling water.

Q-

While you were boiling water in the house, at that time who arrived, if there was any?

A-

Lydia Sumipat arrived.

Court:-(To the witness)

Q-

Who is this Lydia Sumipat?

A-

The daughter of my husband with his paramour.

Q-

How old was she?

A-

I did not know if she was already 30 years old at that time because he was born in 1950.

Atty. Legorio:-(To the witness)

Q-

When you said Lydia Sumipat, you are referring to one of the defendants in this case?

A-

Yes, sir. She is the one.

Q-

This Lydia Sumipat you are referring to as one of the principal defendant and daughter of your husband with his paramour, in January, 1983 what was her educational attainment, if you know?

A-

She has already finished schooling.

Q-

Do you know what she obtained?

A-

Teacher.

Q-

You said she arrived in the afternoon of January 5, 1983 in your house while you were boiling water. What did she do when she arrived there?

A-

She brought with her a paper.

Q-

What did she say to you?

A-

She told me to sign that paper immediately because there is the witness waiting and so I asked from her what was that paper I am going to sign. I asked her because I am unlettered but she said never mind just sign this immediately.

Q-

By the way, what is your highest educational attainment?

A-

I have never gone to school.

Q-

Do you know how to read or to write?

A-

I know how to write only my name.

Q-

You know how to write your name only?

A-

Yes, sir.

Q-

You said she told you to sign that piece of paper and you asked her what was that and she told you “you just sign that”, what did you do then?

A-

She was in a hurry to let me sign that document so I signed it without knowing what was that.

Q-

Did she tell you that piece of paper was a document wherein the land including your land in Siayan were to be given to them?

A-

I did not give my land.[24]

During cross-examination, Placida again denied any knowledge of the nature of the deed:

q

You are aware that the titles over these lots had already been transferred in the name of the defendants?

a

They surreptitiously transferred the title in their names, I do not know about it.

q

You mean to say you signed a document transferring them in their names?

a

There was a piece of paper brought to me to be signed by Lydia; I asked what’s all about but she did not tell me; I was forced to sign considering that according to her somebody was waiting for it.

q

What do you mean that you are force to sign?

a

She told me to sign that paper immediately because there is a witness waiting that paper but she was alone when she came to me.

q

So you signed that paper?

a

I signed it because she was in a hurry.

q

That was done during the lifetime of your husband?

a

Yes, sir.

q

And your husband also signed that paper?

a

I do not know because I have not seen my husband signed, Lydia only came to me to let me sign that paper.

q

Is it not a fact that you and your husband were brought before the office of Judge Pacifico Garcia of Manukan, and in the office you signed that document?

a

I have not gone to the Municipal building of Manukan and I do not know Judge Garcia.

q

But what you know now that the titles are transferred in the name of the defendants?

a

It was Lydia who caused the transfer of the titles in their names.

q

And you know that fact when you signed that paper?

a

At the time I signed the paper, I do not know yet that the title would be transferred, it was only at the time when I requested my niece to follow it up because according to them I am no longer entitled to the land.[25]

In *Baranda v. Baranda*,[26] this Court declared that the deeds of sale questioned therein are not merely voidable (as intimated by the plaintiffs themselves in their complaint for annulment of the deeds and reconveyance of the lots) but null and void ab initio as the supposed seller declared under oath that she signed the deeds without knowing what they were. The significant circumstance meant, the Court added, that her consent was not merely marred by vices of consent so as to make the contracts voidable, but that she had not given her consent at all.

Parenthetically, as Placida's Complaint is entitled Declaration of Nullity of Titles; Contracts; Partition, Recovery of Ownership and Possession; Reconveyance; Accounting and Damages with Prayer for Preliminary Injunction and Receivership, the validity of the deed was directly assailed, but its absolute nullity was not specifically raised as an issue. Nevertheless, both the RTC and the appellate court took the cue from Placida's theory that the deed is merely voidable as regards her conjugal share of the properties. However, since the real issue is whether the questioned deed has validly transferred ownership of the litigated properties, it is appropriate for the Court to inquire into the form of the deed and the existence of valid consent thereto to ascertain the validity or nullity of the deed.

From the substantive and procedural standpoints, the objectives to write *finis* to a protracted litigation and avoid multiplicity of suits are worth pursuing at all times. Conformably, we have ruled in a number of cases that an appellate court is accorded broad discretionary power to consider even errors not assigned. We have applied this tenet, albeit as a matter of exception, in the following instances: (1) grounds not assigned as errors but affecting jurisdiction over the subject matter; (2) matters not assigned as errors on appeal but are evidently plain or clerical errors within contemplation of law; (3) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (4) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (5) matters not assigned as errors on appeal but closely related to an error assigned; and (6) matters not assigned as errors on appeal but upon which the determination of a question properly assigned is dependent.[27]

In the instant case, the validity of the deed was directly assailed although both parties are of the view that it is not an absolute nullity. The correct characterization of the deed is, therefore, determinative of the present controversy. Elsewise framed, the issue of validity or nullity is interwoven with the positions adopted by the parties and the rulings made by the courts below. Hence, we shall be resolute in striking down the deed especially as it appears on its face to be a patent nullity.

Having said this, we shall now proceed to the issue of prescription. Being an absolute nullity, both as a donation and as a sale, the deed is subject to attack at any time, in accordance with the rule in Article 1410 of the Civil Code that an action to declare the inexistence of a void contract does not prescribe.

We are thus unimpressed by the petitioners' contention that the appellate court should have dismissed Placida's appeal on the ground of prescription. Passage of time cannot cure the fatal flaw in an inexistent and void contract.[28] The defect of inexistence of a contract is permanent and incurable; hence, it cannot be cured either by ratification or by prescription. [29]

Turning now to the effects of the absolute nullity of the deed, it is well-settled that when there is a showing of illegality, the property registered is deemed to be simply held in trust for the real owner by the person in whose name it is registered, and the former then has the right to sue for the reconveyance of the property. The action for the purpose is also imprescriptible. As long as the land wrongfully registered under the Torrens system is still in the name of the person who caused such registration, an action in *personam* will lie to compel him to reconvey the property to the real owner.[30]

One final note. After this Decision shall have become final and executory, the parties may either extrajudicially divide the estates of Lauro Sumipat and Placida Tabotabo pursuant to Rule 74 of the Rules of Court or judicially settle the estates pursuant to Rules 78, et seq., in accordance with this Decision and the law.

WHEREFORE, the instant Petition for Review on Certiorari is DENIED. The Decision of the Regional Trial Court dated September 29, 1997 and the Decision of the Court of Appeals dated April 11, 2002, as well as its Resolution dated October 16, 2002, are VACATED. In lieu thereof, judgment is hereby rendered in favor of the respondents, to wit: (i) DECLARING the Deed of Absolute Transfer and/or Quitclaim dated January 5, 1983 NULL AND VOID; and (ii) ORDERING the CANCELLATION of Transfer Certificates of Title Numbered T-40037 and T-40038 (Zamboanga del Norte) and the tax declaration covering the unregistered parcel of land, all issued in the names of the petitioners Lydia, Laurito, Alicia, Alejandro and Lirafe, all surnamed Sumipat, and the REINSTATEMENT of Original Certificate of Title No. P-17842 (Zamboanga del Norte) Transfer Certificate Title No. T-15826 (Zamboanga del Norte) and the tax declaration covering the unregistered parcel of land, all in

the name of “Lauro Sumipat . . . married to Placida Tabotabo.”

Costs against the petitioners.

SO ORDERED.

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

[1] Rollo, pp. 4-12; Dated October 30, 2002.

[2] Id. at 24-33; Dated April 11, 2002; Penned by Associate Justice Conchita Carpio Morales (now an Associate Justice of this Court) and concurred in by Associate Justices Martin S. Villarama, Jr. and Sergio L. Pestaño.

[3] Id. at 14-20; Dated September 29, 1997.

[4] Id. at 24-26.

[5] Id. at 18.

[6] Placida Tabotabo’s heirs, the respondents herein, were substituted as appellants in the Court of Appeals when she passed away; CA Records, pp. 18-19.

[7] In response to a query on her highest educational attainment, Placida replied that she has never gone to school and knows only how to write her name; Decision of the Court of Appeals dated April 11, 2002; Rollo, p. 29; See also TSN, August 3, 1994, p. 7, Direct Testimony of Placida Tabotabo.

[8] Art. 1332. When one of the parties is unable to read, or if the contract is in a language not understood by him, and mistake or fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former. [Civil Code]

[9] Article 1330.

[10] Article 1331.

[11] Supra, note 1 at 31-32, referring to TSN, February 27, 1996, p. 5, Testimony of Judge Pacifico Garcia.

[12] Id. at 34-35.

[13] Manangan v. Delos Reyes, G.R. No. 115794, June 10, 1999, 308 SCRA 139.

[14] RTC Records, p. 16, Annex C of the Complaint.

[15] Id. at 17, Annex D of the Complaint.

[16] Supra, note 1 at 40-55.

[17] Id. at 59-60.

[18] RTC Records, pp. 13-14, Annex A of the Complaint.

[19] Two (2) of these parcels are registered under the Torrens system and covered by Original Certificate of Title (OCT) No. P-17842 and TCT No. T-15825. The third parcel is not registered either under the Spanish Mortgage Law or the Land Registration Act, Act No. 496. The two (2) registered parcels are now covered by TCT Nos. T-40038 and T-40037 under the petitioners’ names; RTC Records, pp. 16-17, Annexes C and D of the Complaint.

[20] Tolentino, Arturo, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE

PHILIPPINES, Vol. II, 1992, pp. 557-558, citations omitted.

[21] Sec. 125, National Internal Revenue Code of 1977.

[22] Sec. 88, National Internal Revenue Code of 1977.

[23] See Arts. 1318, 1319, 1330, 1350, 1458, 1468, 1469 and 1638, Civil Code.

[24] TSN, August 3, 1994, pp. 6-7; Direct examination of Placida Tabotabo.

[25] TSN, October 18, 1994, pp. 7-8; Cross-examination of Placida Tabotabo.

[26] G.R. No. L-73275, May 20, 1987, 150 SCRA 59.

[27] Catholic Bishop of Balanga v. Court of Appeals, G.R. No. 112519, November 14, 1996, 264 SCRA 181, citations omitted. See also Santos v. Court of Appeals, G.R. No. 100963, April 6, 1993, 221 SCRA 42.

[28] Spouses Rongavilla v. Court of Appeals, 355 Phil. 721 (1998).

[29] Tolentino, Arturo, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, Vol. IV, 1991, p. 633, citations omitted.

[30] Salomon v. Intermediate Appellate Court, G.R. No. 70263, May 14, 1990, 185 SCRA 352.

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