

FELOMINA ABELLANA, PETITIONER, VS. SPOUSES ROMEO PONCE AND LUCILA PONCE AND THE REGISTER OF DEEDS OF BUTUAN CITY, RESPONDENTS.

G.R. No. 160488. September 03, 2004

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This is a petition for review on certiorari assailing the June 16, 2003 decision[2] of the Court of Appeals in CA-G.R. CV No. 69213, which reversed and set aside the August 28, 2000 decision[3] of the Regional Trial Court of Butuan City, Branch 2, in Civil Case No. 4270.

The facts as testified to by petitioner Felomina Abellana are as follows:

On July 15, 1981, Felomina, a spinster, pharmacist and aunt of private respondent Lucila Ponce, purchased from the late Estela Caldoza-Pacres a 44,297[4] square meter agricultural lot[5] with the intention of giving said lot to her niece, Lucila. Thus, in the deed of sale,[6] the latter was designated as the buyer of Lot 3, Pcs-10-000198, covered by Original Certificate of Title No. P-27, Homestead Patent No. V-1551 and located at Los Angeles, Butuan City.[7] The total consideration of the sale was P16,500.00, but only P4,500.00 was stated in the deed upon the request of the seller.[8]

Subsequently, Felomina applied for the issuance of title in the name of her niece. On April 28, 1992, Transfer Certificate of Title (TCT) No. 2874[9] over the subject lot was issued in the name of Lucila.[10] Said title, however, remained in the possession of Felomina who developed the lot through Juanario Torreon[11] and paid real property taxes thereon.[12]

The relationship between Felomina and respondent spouses Romeo and Lucila Ponce, however, turned sour. The latter allegedly became disrespectful and ungrateful to the point of hurling her insults and even attempting to hurt her physically. Hence, Felomina filed the instant case for revocation of implied trust to recover legal title over the property.[13]

Private respondent spouses Lucila, also a pharmacist, and Romeo, a marine engineer, on the other hand, claimed that the purchase price of the lot was only P4,500.00 and that it was them who paid the same. The payment and signing of the deed of sale allegedly took place in the office of Atty. Teodoro Emboy in the presence of the seller and her siblings namely, Aquilino Caldoza and the late Lilia Caldoza.[14]

A year later, Juanario approached Lucila and volunteered to till the lot, to which she agreed.[15] In 1987, the spouses consented to Felomina's proposal to develop and lease the lot. They, however, shouldered the real property taxes on the lot, which was paid through Felomina. In 1990, the spouses demanded rental from Felomina but she refused to pay because her agricultural endeavor was allegedly not profitable.[16]

When Lucila learned that a certificate of title in her name had already been issued, she confronted Felomina who claimed that she already gave her the title. Thinking that she might have misplaced the title, Lucila executed an

affidavit of loss which led to the issuance of another certificate of title in her name.[17]

On August 28, 2000, the trial court rendered a decision holding that an implied trust existed between Felomina and Lucila, such that the latter is merely holding the lot for the benefit of the former. It thus ordered the conveyance of the subject lot in favor of Felomina. The dispositive portion thereof, reads:

IN VIEW OF THE FOREGOING, judgment is hereby rendered declaring, directing and ordering that:

a)

An implied trust was created with plaintiff as trustor and private defendant Lucila A. Ponce married to private defendant Engr. Romeo D. Ponce as trustee pursuant to Article 1448 of the New Civil Code;

b)

The implied trust, having been created without the consent of the trustee and without any condition, is revoked;

c)

The private defendants, who are spouses, execute the necessary deed of conveyance in favor of the plaintiff of the land, covered by and embraced in TCT NO. T-2874, in controversy and in the event private defendants refuse to execute the deed of conveyance, the public defendant City Register of Deeds of Butuan to cancel TCT No. T-2874 and issue a new one in lieu thereof in the name of the plaintiff;

d)

The private defendants spouses to pay jointly and severally plaintiff the sum of PhP25,000.00 as attorney's fees and PhP4,000.00 as expenses of litigation;

e)

The dismissal of the counterclaim of private defendants spouses[;] and

f)

The private defendants to pay the costs.

SO ORDERED.[18]

Private respondent spouses appealed to the Court of Appeals which set aside the decision of the trial court ruling that Felomina failed to prove the existence of an implied trust and upheld respondent spouses' ownership over the litigated lot. The appellate court further held that even assuming that Felomina paid the purchase price of the lot, the situation falls within the exception stated in Article 1448 of the Civil Code which raises a disputable presumption that the property was purchased by Felomina as a gift to Lucila whom she considered as her own daughter. The decretal portion thereof, states –

WHEREFORE, premises considered, the appealed decision of the Regional Trial Court, Branch 2, Butuan City, in Civil Case No. 4270, is hereby REVERSED AND SET ASIDE. A new one is heretofore rendered dismissing the complaint below of plaintiff-appellee, F[e]lolina Abellana.

SO ORDERED.[19]

Felomina filed a motion for reconsideration but the same was denied.[20] Hence, the instant petition.

The issue before us is: Who, as between Felomina and respondent spouses, is the lawful owner of the controverted lot? To resolve this issue, it is necessary to determine who paid the purchase price of the lot.

After a thorough examination of the records and transcript of stenographic notes, we find that it was Felomina and not Lucila who truly purchased the questioned lot from Estela. The positive and consistent testimony of Felomina alone, that she was the real vendee of the lot, is credible to debunk the contrary claim of respondent spouses. Indeed, the lone testimony of a witness, if credible, is sufficient as in the present case.[21] Moreover, Aquilino Caldoza, brother of the vendor and one of the witnesses[22] to the deed of sale, categorically declared that Felomina was the buyer and the one who paid the purchase price to her sister, Estela.[23]

Then too, Juanario, who was allegedly hired by Lucila to develop the lot, vehemently denied that he approached and convinced Lucila to let him till the land. According to Juanario, he had never spoken to Lucila about the lot and it was Felomina who recruited him to be the caretaker of the litigated property.[24]

The fact that it was Felomina who bought the lot was further bolstered by her possession of the following documents from the time of their issuance up to the present, to wit: (1) the transfer certificate of title[25] and tax declaration in the name of Lucila;[26] (2) the receipts of real property taxes in the name of Felomina Abellana for the years 1982-1984, 1992-1994 and 1995;[27] and (3) the survey plan of the lot.[28]

Having determined that it was Felomina who paid the purchase price of the subject lot, the next question to resolve is the nature of the transaction between her and Lucila.

It appears that Felomina, being of advanced age[29] with no family of her own, used to purchase properties and afterwards give them to her nieces. In fact, aside from the lot she bought for Lucila (marked as Exhibit “R-2”), she also purchased 2 lots, one from Aquilino Caldoza (marked as Exhibit “R-1”) and the other from Domiciano Caldoza (marked as Exhibit “R-3”), which she gave to Zaida Bascones (sister of Lucila), thus:

Q

I am showing to you again Exhibit R, according to you[,] you bought Exhibits R-1, R-2 and R-3, do you remember that?

A

Yes sir.

x x x x x x x x

Q

Aquilin[o] Caldoza conveyed this land in Exhibit R-1 to you?

A

Yes, sir.

Q

Is this now titled in your name?

A

No. I was planning to give this land to my nieces. One of which [was] already given to Mrs. [Lucila] Ponce.

Q

I am talking only about this lot in Exhibit R-1[.]

A

Not in my name.

Q

In whose name was this lot in Exhibit R-1 now?

A

In the name of Zaida Bascones.

Q

Who prepared the deed of sale?

A

At the start it was in the name of Rudy [Torreon].[30] Because Rudy [Torreon] knew that there is some trouble already about that lot he made a deed of sale to the name of Zaida Bascones, which I planned to give that land to her (sic).

Q

As regards Exhibit R-1, you bought it actually?

A

Yes, sir.

Q

But the ... original deed of sale was in the name of Rudolfo [Torreon]?

A

Yes, sir.

Q

And later on Rudolfo [Torreon] again transferred it to Zaida Bascones?

A

Yes, sir.[31]

Likewise, in the case of Lucila, though it was Felomina who paid for the lot, she had Lucila designated in the deed as the vendee thereof and had the title of the lot issued in Lucila's name. It is clear therefore that Felomina donated the land to Lucila. This is evident from her declarations, viz:

Witness

A

In 1981 there was a riceland offered so I told her that I will buy that land and I will give to her later (sic), because since 1981 up to 1992 Mrs. Lucila Ponce has no job.

Q

Where is the land located?

A

In Los Angeles, Butuan City.

Q

Who was the owner of this land?

A

The owner of that land is Mrs. Estela Caldoza-Pacr[e]s.

The husband is Pacr[e]s.

x x x x x x x x

Q

What did you do with this land belonging to Mrs. Estela-Caldoza- Pacr[e]s?

A

I paid the lot, then worked the lot, since at the start of my buying the lot until now (sic).

Q

You said that you told Lucila Ponce that you would give the land to her later on, what did you do in connection with this intention of yours to give the land to her?

A

So I put the name of the title in her name in good faith (sic).

Q

You mean to tell the court that when you purchased this land located at Los Angeles, Butuan City, the instrument of sale or the deed of sale was in the name of Lucila Ponce?

A

Yes, sir.[32]

x x x x x x x x

Q

Did you not ask your adviser Rudolfo [Torreon] whether it was wise for you to place the property in the name of Lucila Ponce when you are the one who is the owner?

A

Because we have really the intention to give it to her.[33]

Generally, contracts are obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present. When, however, the law requires that a contract be in some form in order that it may be valid, that requirement is absolute and indispensable. Its non-observance renders the contract void and of no effect.[34] Thus, under Article 749 of the Civil Code –

Article 749. In order that the donation of an immovable property 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.

In the instant case, what transpired between Felomina and Lucila was a donation of an immovable property which was not embodied in a public instrument as required by the foregoing article. Being an oral donation, the transaction was void.[35] Moreover, even if Felomina enjoyed the fruits of the land with the intention of giving effect to the donation after her demise, the conveyance is still a void donation mortis causa, for non-compliance with the formalities of a will.[36] No valid title passed regardless of the intention of Felomina to donate the property to Lucila, because the naked intent to convey without the required solemnities does not suffice for gratuitous alienations, even as between the parties inter se.[37] At any rate, Felomina now seeks to recover title over the property because of the alleged ingratitude of the respondent spouses.

Unlike ordinary contracts (which are perfected by the concurrence of the requisites of consent, object and cause pursuant to Article 1318[38] of the Civil Code), solemn contracts like donations are perfected only upon compliance with the legal formalities under Articles 748[39] and 749.[40] Otherwise stated, absent the solemnity requirements for validity, the mere intention of the parties does not give rise to a contract. The oral donation in the case at bar is therefore legally inexistent and an action for the declaration of the inexistence of a contract does not prescribe.[41] Hence, Felomina can still recover title from Lucila.

Article 1448[42] of the Civil Code on implied trust finds no application in the instant case. The concept of implied trusts is that from the facts and circumstances of a given case, the existence of a trust relationship is inferred in order to effect the presumed intention of the parties.[43] Thus, one of the recognized exceptions to the establishment of an implied trust is where a contrary intention is proved, [44] as in the present case. From the testimony of Felomina herself, she wanted to give the lot to Lucila as a gift. To her mind, the execution of a deed with Lucila as the buyer and the subsequent issuance of title in the latter's name were the acts that would effectuate her generosity. In so carrying out what she conceived, Felomina evidently displayed her unequivocal intention to transfer ownership of the lot to Lucila and not merely to constitute her as a trustee thereof. It was only when their relationship soured that she sought to revoke the donation on the theory of implied trust, though as previously discussed, there is nothing to revoke because the donation was never perfected.

In declaring Lucila as the owner of the disputed lot, the Court of Appeals applied, among others, the second sentence of Article 1448 which states –

“x x x However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child.”

Said presumption also arises where the property is given to a person to whom the person paying the price stands in loco parentis or as a substitute parent.[45]

The abovesited provision, however, is also not applicable here because, first, it was not established that Felomina stood as a substitute parent of Lucila; and second, even assuming that she did, the donation is still void because the transfer and acceptance was not embodied in a public instrument. We note that said provision merely raised a presumption that the conveyance was a gift but nothing therein exempts the parties from complying with the formalities of a donation. Dispensation of such solemnities would give rise to anomalous situations where the formalities of a donation and a will in donations inter vivos, and donations mortis causa, respectively, would be done away with when the transfer of the property is made in favor of a child or one to whom the donor stands in loco parentis. Such a scenario is clearly repugnant to the mandatory nature of the law on donation.

While Felomina sought to recover the litigated lot on the ground of implied trust and not on the invalidity of donation, the Court is clothed with ample authority to address the latter issue in order to arrive at a just decision that completely disposes of the controversy.[46] Since rules of procedure are mere tools designed to facilitate the attainment of justice, they must be applied in a way that equitably and completely resolve the rights and obligations of the parties.[47]

As to the trial court's award of attorney's fees and litigation expenses, the same should be deleted for lack of basis. Aside from the allegations in the complaint, no evidence was presented in support of said claims. The trial court made these awards in the dispositive portion of its decision without stating any justification therefor in the ratio decidendi. Their deletion is therefore proper.[48]

Finally, in deciding in favor of Felomina, the trial court ordered respondent spouses to execute a deed of sale over the subject lot in favor of Felomina in order to effect the transfer of title to the latter. The proper remedy,

however, is provided under Section 10 (a), Rule 39 of the Revised Rules of Civil Procedure which provides that “x x x [i]f real or personal property is situated within the Philippines, the court in lieu of directing a conveyance thereof may by an order divest the title of any party and vest it in others, which shall have the force and effect of a conveyance executed in due form of law.”

WHEREFORE, in view of all the foregoing, the petition is GRANTED and the June 16, 2003 decision of the Court of Appeals in CA-G.R. CV No. 69213 is REVERSED and SET ASIDE. The August 28, 2000 decision of the Regional Trial Court of Butuan City, Branch 2, in Civil Case No. 4270, is REINSTATED with the following MODIFICATIONS:

- (1) Declaring petitioner Felomina Abellana as the absolute owner of Lot 3, Pcs-10-000198;
- (2) Ordering the Register of Deeds of Butuan City to cancel TCT No. T-2874 in the name of respondent Lucila Ponce and to issue a new one in the name of petitioner Felomina Abellana; and
- (3) Deleting the awards of attorney’s fees and litigation expenses for lack of basis.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, and Azcuna, JJ., concur.
Carpio, J., on official leave.

[1] Also spelled as “Filomena” in some parts of the records.

[2] Penned by Associate Justice Rodrigo V. Cosico and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Hakim S. Abdulwahid (Rollo, p. 28).

[3] Penned by Judge Rosarito F. Dabalos (Rollo, p. 59).

[4] In the Deed of Sale, the area of the lot is 44,298 (See Exhibit “A”, Records, p. 7), while in the Transfer Certificate of Title, the lot area is 44,297 square meters (Records, p. 392).

[5] Particularly described as follows:

“A PARCEL OF LAND (Lot 3, Pcs-10-000198, being a portion of Lot 564 and 565, Cad-121, Butuan-Cabadbaran Public Land Subdivision), situated in the Barrio of Los Angeles, Municipality of Cabadbaran, Province of Agusan del Norte, Island of Mindanao. Bounded on the NE., along line 1-2, by Lot 2, of the Consolidation Subdivision plan Pcs-10-000198, on the SE., along line 2-3, by Lot 566, Butuan-Cabadbaran Cad. 121, on the SW., along line 3-4, by Lot 4, of the Consolidation Subdivision plan Pcs-10-000198, on the NW., along line 4-1, by Lot 563, Butuan-Cabadbaran Cad. 121.” (Transfer Certificate of Title, Exhibit “B”, Rollo, p. 392)

[6] Exhibit “A”, Records, p. 7.

[7] TSN, 7 November 1995, pp. 69-70; 27 November 1995, pp. 188-191.

[8] TSN, 28 November 1995, pp. 284-285.

[9] Exhibit “B”, Rollo, p. 392.

[10] TSN, 7 November 1995, pp. 75-76; 28 November 1995, p. 298.

- [11] TSN, 7 November 1995, pp. 75-79.
- [12] TSN, 7 November 1995, pp. 85-86.
- [13] TSN, 27 November 1995, pp. 150-160.
- [14] TSN, 26 July 1996, p. 503; 4 November 1996, pp. 542-544; 28 November 1996, pp. 589-592.
- [15] TSN, 26 July 1996, pp. 506-508.
- [16] TSN, 26 July, 1996, pp. 509-510.
- [17] TSN, 26 July 1996, pp. 510-512.
- [18] Rollo, pp. 113-114.
- [19] Rollo, p. 37.
- [20] Resolution dated October 2, 2003 (Rollo, p. 51).
- [21] Nazareno v. Court of Appeals, G.R. No. 138842, 18 October 2000, 343 SCRA 637, 652.
- [22] The other witness was the late Lilia Caldoza, sister of the seller.
- [23] TSN, 29 November 1995, pp. 237-240.
- [24] TSN, 18 September 1997, pp. 709-712.
- [25] Exhibit “B”, Records, p. 392.
- [26] Exhibit “Q”, Records, p. 407.
- [27] Exhibits “N”-“P”, Records, pp. 404-406.
- [28] Exhibit “R”, Records, p. 408.
- [29] She was 76 years old when she testified on November 7, 1995.
- [30] Son of Juanario Torreon and interchangeably referred to as “Rudy” and “Rudolfo” in the transcript of stenographic notes.
- [31] TSN, 27 November 1995, pp. 180-181.
- [32] TSN, 7 November 1995, pp. 69-70 (Emphasis supplied).
- [33] TSN, 27 November 1995, p. 188 (Emphasis supplied).
- [34] Dauden-Hernaez v. De los Angeles, G.R. No. L-27010, 30 April 1969, 27 SCRA 1276, 1281-1282; Vitug, Compendium of Civil Law and Jurisprudence, 1993 edition, pp. 549-550.
- [35] Bagnas v. Court of Appeals, G.R. No. 38498, 10 August 1989, 176 SCRA 159, 167; Pershing Tan Queto v. Court of Appeals, G.R. No. L-35648, 27 February 1987, 148 SCRA 54, 57-58.
- [36] Pershing Tan Queto v. Court of Appeals, *supra*.
- [37] Concurring Opinion of Justice Reyes, J.B.L. in Armentia v. Patriarca, 125 Phil. 382, 395 (1966).
- [38] Article 1318. There is no contract unless the following requisites concur:
- (1) Consent of the contracting parties;

- (2) Object certain which is the subject matter of the contract;
- (3) Cause of the obligation which is established.

[39] Article 748. The donation of a movable may be made orally or in writing.

An oral donation requires the simultaneous delivery of the thing or of the document representing the right donated.

If the value of the personal property donated exceeds five thousand pesos, the donation and the acceptance shall be made in writing. Otherwise, the donation shall be void.

[40] Vitug, Compendium of Civil Law and Jurisprudence, 1993 edition, p. 536.

[41] Felix Gochan and Sons Realty Corporation v. Heirs of Raymundo Baba, G.R. No. 138945, 19 August 2003, 409 SCRA 306, 314.

[42] Art. 1448. There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child.

[43] Padilla v. Court of Appeals, 152 Phil. 548, 561 (1973); Morales v. Court of Appeals, G.R. No. 117228, 19 June 1997, 274 SCRA 282, 299.

[44] Morales v. Court of Appeals, *supra*.

[45] Morales, *supra*.

[46] Diamanon v. Department of Labor and Employment, 384 Phil. 15, 22-23 (2000).

[47] Cometa v. Court of Appeals, G.R. No. 141855, 6 February 2001, 351 SCRA 294, 307.

[48] Siguan v. Lim, 376 Phil. 840, 856 (1999).

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