

**THE SECRETARY OF EDUCATION AND DR. BENITO TUMAMAO,
SCHOOLS DIVISION SUPERINTENDENT OF ISABELA, PETITIONERS,
VS. HEIRS OF RUFINO DULAY, SR., REPRESENTED BY IGNACIA
VICENTE, RUFIN...**

G.R. NO. 164748. January 27, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 78314 which affirmed the Decision[2] of the Regional Trial Court (RTC) of Santiago City, Isabela, Branch 35, in Civil Case No. 35-2397.

The spouses Rufino Dulay, Sr. and Ignacia Vicente were the owners of a parcel of land located in Rizal, Santiago, Isabela, with an area of 29,002 square meters. The lot was covered by Original Certificate of Title No. P-6776.

On August 3, 1981, the spouses Dulay executed a deed of donation[3] over a 10,000-square-meter portion of their property in favor of the Ministry of Education and Culture (now the Department of Education, Culture and Sports [DECS]). The deed provided, among others:

That for and in consideration of the benefits that may be derived from the use of the above described property which is intended for school purposes, the said DONORS do by by (sic) these presents TRANSFER AND CONVEY by way of DONATION unto the DONEE, its successors and assigns, the above property to become effective upon the signing of this document.[4]

The property was subdivided. On April 13, 1983, Transfer Certificate of Title (TCT) No. T-143337[5] covering the portion identified as Lot 8858-A was issued in the name of the Ministry of Education and Culture, represented by Laurencio C. Ramel, the Superintendent of Schools of Isabela. However, the property was not used for school purposes and remained idle.

Sometime in 1988, the DECS, through its Secretary, started construction of the Rizal National High School building on a parcel of land it acquired from Alejandro Feliciano. The school site was about 2 kilometers away from the land donated by the spouses Dulay.

In a letter[6] to the DECS Secretary dated August 19, 1994, the spouses Dulay requested that the property be returned to them considering that the land was never used since 1981, or a period of more than 13 years. On August 28, 1994, the Barangay Council of Rizal, Santiago City issued Resolution No. 39[7] recognizing the right of the donors to redeem the subject parcel of land because of the DECS' failure to utilize it for the intended purpose. It further resolved that the Rizal National High School no longer needed the donated land "considering its distance from the main campus and [the] failure to utilize the property for a long period of time."

On December 22, 1994, Rufino Dulay, Sr. passed away at the age of 80.[8] His heirs sought the help of the Sangguniang Panlungsod of Santiago City via an undated letter[9] requesting the approval of a resolution

allowing them to redeem the donated property. The Sangguniang Panlungsod denied the request inasmuch as the city government was not a party to the deed of donation.[10]

On August 31, 1997, the heirs of Dulay, Sr., herein respondents, filed a complaint for the revocation of the deed of donation and cancellation of TCT No. T-143337 before the RTC of Santiago City, Isabela, Branch 35, against the DECS Secretary and Dr. Benito Tumamao, the Schools Division Superintendent of Isabela. Respondents alleged that there was a condition in the deed of donation: that the DECS, as donee, utilize the subject property for school purposes, that is, the construction of a building to house the Rizal National High School. Respondents alleged that the DECS did not fulfill the condition and that the land remained idle up to the present. Respondents also averred that the donation inter vivos was inofficious, since the late Rufino Dulay, Sr. donated more than what he could give by will.

Petitioners, through the Office of the Solicitor General (OSG), interposed the following defenses: (a) the DECS complied with said condition because the land was being used by the school as its technology and home economics laboratory; (b) the donation was not inofficious for the donors were the owners of five other parcels of land, all located at Rizal, Santiago City; (c) the DECS acquired the disputed property by virtue of purchase made on December 8, 1997 by the barangay of Rizal, Santiago City in the amount of P18,000.00 as certified by its former Barangay Captain, Jesus San Juan;[11] and (d) the action of the respondents had prescribed. The OSG also claimed that students planted a portion of the land with rice, mahogany seedlings, and fruit-bearing trees; the produce would then be sold and the proceeds used for the construction of a school building on the subject property.

In their Reply,[12] respondents denied that the donated land was being used as a technology and home economics laboratory, and averred that there were no improvements on the property. Moreover, the fact that rice was planted on the lot was contrary to the intended purpose of the donation. The respondents likewise denied that the property had been sold to the barangay. While the other properties of the late donor had been sold, the deeds thereon had not been registered, and the tax declarations not yet transferred in the names of the purchasers.

Thereafter, trial ensued. On March 6, 2001, an ocular inspection of the property was conducted by the parties and their respective counsels, including the Presiding Judge. It was confirmed that the land was barren, save for a small portion which was planted with palay. A demolished house was also found in the periphery of the donated lot.[13]

On December 26, 2002, the trial court rendered its decision in favor of respondents. The fallo reads:

WHEREFORE, in the light of the foregoing considerations, the Court hereby DECLARES the deed of donation, Exhibit "A," executed by the late Rufino Dulay, Sr. and his wife Ignacia Vicente over a portion of the land covered by O.C.T. No. P-6776 and now covered by T.C.T. No. T-143337 in the name of the donee Department of Education and Culture as REVOKED. The defendant DECS is ORDERED to execute the deed of reconveyance of the land in favor of the plaintiffs heirs of Rufino Dulay, Sr.

SO ORDERED.[14]

In revoking the deed of donation, the trial court ruled that the donation was subject to a resolutory condition, namely, that the land donated shall be used for school purposes. It was no longer necessary to determine the intended "school purpose" because it was established that the donee did not use the land. Thus, the condition was not complied with since the property was donated in July 1981. Moreover, the DECS did not intend to use the property for school purposes because a school had already been built and established in another lot located in the same barangay, about two kilometers away from the subject land. Finally, the trial court rejected petitioners' contention that the donation was inofficious.

Aggrieved, the OSG appealed the decision to the CA.

On July 30, 2004, the appellate court rendered judgment affirming the decision. The court held that the DECS failed to comply with the condition in the donation, that is, to use the property for school purposes. The CA further ruled that the donation was onerous considering that the donee was burdened with the obligation to utilize the land for school purposes; therefore, the four-year prescriptive period under Article 764 of the New Civil Code did not apply. Moreover, the CA declared that a deed of donation is considered a written contract and is governed by Article 1144 of the New Civil Code, which provides for a 10-year prescriptive period from the time the cause of action accrues. According to the CA, the respondents' cause of action for the revocation of the donation should be reckoned from the expiration of a reasonable opportunity for the DECS to comply with what was incumbent upon it.

Petitioners filed a motion for reconsideration, which the CA denied.

Petitioners seek relief from this Court via petition for review on certiorari, contending that:

I.

THE DEPARTMENT OF EDUCATION, THROUGH THE RIZAL NATIONAL HIGH SCHOOL, HAD COMPLIED WITH THE CONDITION IMPOSED IN THE DEED OF DONATION.

II.

RESPONDENTS' RIGHT TO SEEK THE REVOCATION OF THE DEED OF DONATION, IF THERE BE ANY, IS ALREADY BARRED BY PRESCRIPTION AND LACHES.[15]

The Court shall resolve the issues raised by petitioners seriatim.

The donee failed to comply with the condition imposed in the deed of donation

The issue of whether or not petitioner DECS was able to comply with the condition imposed in the deed of donation is one of fact. There is a question of fact when the doubt or difference arises as to the truth or falsehood of alleged facts or when the query necessarily solicits calibration of the whole evidence considering mostly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and probabilities of the situation.[16] Under Rule 45 of the 1997 Rules of Civil Procedure, only questions of law may be raised in a petition for review on certiorari, for the simple reason that this Court is not a trier of facts. It is not for the Court to calibrate the evidence on record, as this is the function of the trial court. Although there are well-defined exceptions to the rule, nevertheless, after a review of the records, we find no justification to depart therefrom. Moreover, the trial court's findings of facts, as affirmed by the appellate court on appeal, are binding on this Court, unless the trial and appellate courts overlooked, misconstrued or misinterpreted facts and circumstances of substance which, if considered, would change the outcome of the case. The case has been reviewed thoroughly, and we find no justification to reverse the CA decision.

Petitioners, through the OSG, maintain that the condition (to use the property for school purposes) is not limited to the construction of a school building, but includes utilizing it as a technology and home economics laboratory where students and teachers plant palay, mahogany seedlings, and fruit-bearing trees. The OSG insists that the donee did not specify in the deed that the property should be used for the construction of a school building. According to the OSG, the proceeds of the harvest were used and are still being used by the Rizal National High School for the construction and improvement of its present school site. Moreover, it was verified that there was palay planted on the donated property during the ocular inspection on the property.

In their comment on the petition, respondents dispute petitioners' contentions, and aver that no evidence was presented to prove that, indeed, palay, mahogany seedlings and fruit-bearing trees were planted on the property. Respondents also emphasized that when the trial court inspected the subject property, it was discovered to be barren and without any improvement although some portions thereof were planted with palay. Petitioners even failed to adduce evidence to identify the person who planted the palay.

The contention of petitioners has no merit.

As gleaned from the CA decision, petitioners failed to prove that the donated property was used for school purposes as indicated in the deed of donation:

We find it difficult to sustain that the defendant-appellants have complied with the condition of donation. It is not amiss to state that other than the bare allegation of the defendant-appellants, there is nothing in the records that could concretely prove that the condition of donation has been complied with by the defendant-appellants. In the same breadth, the planting of palay on the land donated can hardly be considered and could not have been the "school purposes" referred to and intended by the donors when they had donated the land in question. Also, the posture of the defendant-appellants that the land donated is being used as technology and home economics laboratory of the Rizal National High School is far from being the truth considering that not only is the said school located two kilometers away from the land donated but also there was not even a single classroom built on the land donated that would reasonably indicate that, indeed, classes have been conducted therein. These observations, together with the un rebutted ocular inspection report made by the trial court which revealed that the land donated remains idle and without any improvement thereon for more than a decade since the time of the donation, give Us no other alternative but to conclude that the defendant-appellants have, indeed, failed to comply with what is incumbent upon them in the deed of donation.[17]

In its Order[18] dated March 6, 2001, the RTC reiterated that during the ocular inspection of the property conducted in the presence of the litigants and their counsel, it observed that "the land was barren; there were no improvements on the donated property though a portion thereof was planted with palay [and a demolished house built in 1979.]"

Moreover, petitioners failed to adduce a shred of evidence to prove that the palay found in the property was planted by DECS personnel or at its instance or even by students of the Rizal National High School. No evidence was adduced to prove that there were existing plans to use the property for school purposes. Petitioners even debilitated their cause when they claimed in the trial court that the barangay acquired the property by purchase, relying on the certification of former Barangay Captain Jesus San Juan.

The right to seek the revocation of donation had not yet prescribed when respondents filed their complaint

Anent the second issue, we reject the contention of the OSG that respondents' cause of action is already barred by prescription under Article 764 of the New Civil Code, or four years from the non-compliance with the condition in the deed of donation. Since such failure to comply with the condition of utilizing the property for school purposes became manifest sometime in 1988 when the DECS utilized another property for the construction of the school building, the four-year prescriptive period did not commence on such date. Petitioner was given more than enough time to comply with the condition, and it cannot be allowed to use this fact to its advantage. It must be stressed that the donation is onerous because the DECS, as donee, was burdened with the obligation to utilize the land donated for school purposes. Under Article 733 of the New Civil Code, a donation with an onerous cause is essentially a contract and is thus governed by the rules on contract.[19] We fully agree with the ruling of the appellate court:

xxx With this, [we] decline to apply the four-year prescriptive period for the revocation of donation provided under Article 764 of the New Civil Code and instead apply the general rules on contracts since Article 733 of

the same Code, specifically provided that onerous donations shall be governed by the rules on contracts.

Corollarily, since a deed of donation is considered a written contract, it is governed by Article 1144 of the New Civil Code, which provides that the prescriptive period for an action arising from a written contract is ten (10) years from the time the cause of action accrues. In the case of donation, the accrual of the cause of action is from the expiration of the time within which the donee must comply with the conditions or obligations of the donation. In the instant case, however, it must be noted that the subject donation fixed no period within which the donee can comply with the condition of donation. As such, resort to Article 1197 of the New Civil Code is necessary. Said article provides that if the obligation does not fix a period, but from its nature and the circumstances it can be inferred that a period was intended, the courts may fix the duration thereof. Indeed, from the nature and circumstances of the condition of the subject donation, it can be inferred that a period was contemplated by the donors. The donors could not have intended their property to remain idle for a very long period of time when, in fact, they specifically obliged the defendant-appellants to utilize the land donated for school purposes and thus put it in good use. xxx[20]

In *Central Philippine University v. Court of Appeals*,^[21] a case squarely in point, we have established that the legal possibility of bringing the action begins with the expiration of a reasonable opportunity for the donee to fulfill what has been charged upon it by the donor. Likewise, we held that even if Article 1197 of the New Civil Code provides that the courts may fix the duration when the obligation does not determine the period but from its nature and circumstances it can be inferred that a period was intended, the general rule cannot be applied because to do so would be a mere technicality and would serve no other purpose than to delay or lead to an unnecessary and expensive multiplication of suits.^[22]

Altogether, it has been 16 years since the execution of the deed of donation. Petitioner DECS failed to use the property for the purpose specified in the deed of donation. The property remained barren and unutilized. Even after respondents sought the return of the property before the courts, petitioner DECS still failed to draw up plans to use the property for school purposes. In fine, petitioner DECS has no use for the property; hence, the same shall be reverted to the respondents.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV No. 78314 dated July 30, 2004 is AFFIRMED.

SO ORDERED.

Panganiban, C.J., Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Bienvenido L. Reyes, with Associate Justices Eugenio S. Labitoria and Rosalinda Asuncion-Vicente, concurring; rollo, pp. 39-45.

[2] Penned by Pairing Judge Fe Albano Madrid; id. at 77-84.

[3] Rollo, p. 46.

[4] Id.

[5] Id. at 47.

[6] Records, p. 169; Exhibit "F."

[7] Id. at 175.

[8] Id. at 167; Exhibit "D."

[9] Id. at 172.

[10] See Records, p. 173.

[11] The certification reads:

To Whom It May Concern:

This is to certify that Brgy. Rizal, Santiago City has purchased a lot containing an area of 10,000 sq. m. at a price of EIGHTEEN THOUSAND PESOS (P18,000.00) from the late Rufino Dulay, Sr. during my incumbency as Brgy. Captain of said Barangay.

(Sgd.)

JESUS D. SAN JUAN

Ex-Barangay Capt.

Rizal, Santiago City

(Records, p. 74; Annex "F.")

[12] Records, p. 79.

[13] *Id.* at 262.

[14] *Id.* at 302.

[15] Rollo, p. 23.

[16] *Philippine National Bank v. Court of Appeals*, 392 Phil. 156 (2000), citing *Bernardo v. Court of Appeals*, G.R. No. 101680, December 7, 1992, 216 SCRA 224.

[17] Rollo, p. 43.

[18] Records, p. 262.

[19] Arturo M. Tolentino, *Commentaries and Jurisprudence on the Civil Code of the Philippines*, Vol. II, pp. 505-506.

[20] Rollo, pp. 43-44 (*Italics supplied*).

[21] 316 Phil. 616 (1995).

[22] *Id.* at 626-627.

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