

CONCEPCION R. AINZA, SUBSTITUTED BY HER LEGAL HEIRS, DR. NATIVIDAD A. TULIAO, CORAZON A. JALECO AND LILIA A. OLAYON, PETITIONERS, VS. SPOUSES ANTONIO PADUA AND EUGENIA PADUA, RE...

G.R. NO. 165420. June 30, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This petition for review on certiorari assails the February 24, 2004 decision of the Court of Appeals in CA-G.R. CV No. 70239,[1] and its September 28, 2004 resolution, denying reconsideration thereof.[2]

In her complaint for partition of real property, annulment of titles with damages,[3] Concepcion Ainsa (Concepcion) alleged that respondent-spouses Eugenia (Eugenia) and Antonio Padua (Antonio) owned a 216.40 sq. m. lot with an unfinished residential house located at No. 85-A Durian corner Pajo Sts., Barangay Quirino 2-C, Project 2, Quezon City, covered by Transfer Certificate of Title No. 271935. Sometime in April 1987, she bought one-half of an undivided portion of the property from her daughter, Eugenia and the latter's husband, Antonio, for One Hundred Thousand Pesos (P100,000.00).

No Deed of Absolute Sale was executed to evidence the transaction, but cash payment was received by the respondents, and ownership was transferred to Concepcion through physical delivery to her attorney-in-fact and daughter, Natividad Tuliao (Natividad). Concepcion authorized Natividad and the latter's husband, Ceferino Tuliao (Ceferino) to occupy the premises, and make improvements on the unfinished building.

Thereafter, Concepcion alleged that without her consent, respondents caused the subdivision of the property into three portions and registered it in their names under TCT Nos. N-155122, N-155123 and N-155124 in violation of the restrictions annotated at the back of the title.

On the other hand, Antonio averred that he bought the property in 1980 and introduced improvements thereon. Between 1989 and 1990, he and his wife, Eugenia, allowed Natividad and Ceferino to occupy the premises temporarily. In 1994, they caused the subdivision of the property and three (3) separate titles were issued.

Thereafter, Antonio requested Natividad to vacate the premises but the latter refused and claimed that Concepcion owned the property. Antonio thus filed an ejectment suit on April 1, 1999. Concepcion, represented by Natividad, also filed on May 4, 1999 a civil case for partition of real property and annulment of titles with damages.

Antonio claimed that his wife, Eugenia, admitted that Concepcion offered to buy one third (1/3) of the property who gave her small amounts over several years which totaled P100,000.00 by 1987 and for which she signed a receipt.

On January 9, 2001, the Regional Trial Court of Quezon City, Branch 85, rendered judgment[4] in favor of Concepcion, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants and ordering:

- the subdivision of the subject property between the said plaintiff and defendants in equal shares with one-half of the property, including the portion occupied by the spouses Severino and Natividad Tuliao to be awarded to the plaintiff;
- the cancellation of Transfer Certificates of Title Nos. N-155122, N-155123, N-155124 of the Registry of Deeds of Quezon City;
- the defendants to pay to the plaintiff P50,000.00 as attorney's fees.

SO ORDERED.[5]

The trial court upheld the sale between Eugenia and Concepcion. It ruled that the sale was consummated when both contracting parties complied with their respective obligations. Eugenia transferred possession by delivering the property to Concepcion who in turn paid the purchase price. It also declared that the transfer of the property did not violate the Statute of Frauds because a fully executed contract does not fall within its coverage.

On appeal by the respondents, the Court of Appeals reversed the decision of the trial court, and declared the sale null and void. Applying Article 124 of the Family Code, the Court of Appeals ruled that since the subject property is conjugal, the written consent of Antonio must be obtained for the sale to be valid. It also ordered the spouses Padua to return the amount of P100,000.00 to petitioners plus interest.[6]

The sole issue for resolution in this petition for review is whether there was a valid contract of sale between Eugenia and Concepcion.

A contract of sale is perfected by mere consent, upon a meeting of the minds on the offer and the acceptance thereof based on subject matter, price and terms of payment.[7]

In this case, there was a perfected contract of sale between Eugenia and Concepcion. The records show that Eugenia offered to sell a portion of the property to Concepcion, who accepted the offer and agreed to pay P100,000.00 as consideration. The contract of sale was consummated when both parties fully complied with their respective obligations. Eugenia delivered the property to Concepcion, who in turn, paid Eugenia the price of One Hundred Thousand Pesos (P100,000.00), as evidenced by the receipt which reads:

R E C E I P T

Received the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) as payment for the lot on 85-A Durian St., Project 2, Quezon City, from Mrs. Concepcion R. Ainza, on April, 1987.

_____(Sgd.)_____

Mrs.. Eugenia A. Padua[8]

The verbal contract of sale between Eugenia and Concepcion did not violate the provisions of the Statute of Frauds that a contract for the sale of real property shall be unenforceable unless the contract or some note or memorandum of the sale is in writing and subscribed by the party charged or his agent.[9] When a verbal contract has been completed, executed or partially consummated, as in this case, its enforceability will not be barred by the Statute of Frauds, which applies only to an executory agreement.[10] Thus, where one party has performed his obligation, oral evidence will be admitted to prove the agreement.[11]

In the instant case, the oral contract of sale between Eugenia and Concepcion was evidenced by a receipt signed by Eugenia. Antonio also stated that his wife admitted to him that she sold the property to Concepcion.

It is undisputed that the subject property was conjugal and sold by Eugenia in April 1987 or prior to the effectivity of the Family Code on August 3, 1988, Article 254 of which repealed Title V, Book I of the Civil Code provisions on the property relations between husband and wife. However, Article 256 thereof limited its retroactive effect only to cases where it would not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws. In the case at bar, vested rights of Concepcion will be impaired or prejudiced by the application of the Family Code; hence, the provisions of the Civil Code should be applied.

In *Felipe v. Heirs of Aldon, et al.*,^[12] the legal effect of a sale of conjugal properties by the wife without the consent of the husband was clarified, to wit:

The legal ground which deserves attention is the legal effect of a sale of lands belonging to the conjugal partnership made by the wife without the consent of the husband.

It is useful at this point to re-state some elementary rules: The husband is the administrator of the conjugal partnership. (Art. 165, Civil Code) Subject to certain exceptions, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent. (Art. 166, *Idem.*) And the wife cannot bind the conjugal partnership without the husband's consent, except in cases provided by law. (Art. 172, *Idem.*)

In the instant case, Gimena, the wife, sold lands belonging to the conjugal partnership without the consent of the husband and the sale is not covered by the phrase "except in cases provided by law." The Court of Appeals described the sale as "invalid" – a term which is imprecise when used in relation to contracts because the Civil Code uses specific names in designating defective contracts, namely: rescissible (Arts. 1380 et seq.), voidable (Arts. 1390 et seq.), unenforceable (Arts. 1403, et seq.), and void or inexistent (Arts. 1409 et seq.).

The sale made by Gimena is certainly a defective contract but of what category? The answer: it is a voidable contract.

According to Art. 1390 of the Civil Code, among the voidable contracts are "[T]hose where one of the parties is incapable of giving consent to the contract." (Par. 1.) In the instant case Gimena had no capacity to give consent to the contract of sale. The capacity to give consent belonged not even to the husband alone but to both spouses.

The view that the contract made by Gimena is a voidable contract is supported by the legal provision that contracts entered by the husband without the consent of the wife when such consent is required, are annulable at her instance during the marriage and within ten years from the transaction questioned. (Art. 173, Civil Code).

Gimena's contract is not rescissible for in such a contract all the essential elements are untainted but Gimena's consent was tainted. Neither can the contract be classified as unenforceable because it does not fit any of those described in Art. 1403 of the Civil Code. And finally, the contract cannot be void or inexistent because it is not one of those mentioned in Art. 1409 of the Civil Code. By process of elimination, it must perforce be a voidable contract.

The voidable contract of Gimena was subject to annulment by her husband only during the marriage because he was the victim who had an interest in the contract. Gimena, who was the party responsible for the defect, could not ask for its annulment. Their children could not likewise seek the annulment of the contract while the marriage subsisted because they merely had an inchoate right to the lands sold. (Emphasis supplied)

The consent of both Eugenia and Antonio is necessary for the sale of the conjugal property to be valid. Antonio's consent cannot be presumed.^[13] Except for the self-serving testimony of petitioner Natividad, there is no evidence that Antonio participated or consented to the sale of the conjugal property. Eugenia alone is incapable of giving consent to the contract. Therefore, in the absence of Antonio's consent, the disposition made by Eugenia is

voidable.[14]

The contract of sale between Eugenia and Concepcion being an oral contract, the action to annul the same must be commenced within six years from the time the right of action accrued.[15] Eugenia sold the property in April 1987 hence Antonio should have asked the courts to annul the sale on or before April 1993. No action was commenced by Antonio to annul the sale, hence his right to seek its annulment was extinguished by prescription.

Even assuming that the ten (10)-year prescriptive period under Art. 173 should apply, Antonio is still barred from instituting an action to annul the sale because since April 1987, more than ten (10) years had already lapsed without any such action being filed.

In sum, the sale of the conjugal property by Eugenia without the consent of her husband is voidable. It is binding unless annulled. Antonio failed to exercise his right to ask for the annulment within the prescribed period, hence, he is now barred from questioning the validity of the sale between his wife and Concepcion.

WHEREFORE, the petition is GRANTED. The decision dated February 24, 2004 of the Court of Appeals in CA-G.R. CV No. 70239 and its resolution dated September 28, 2004 are REVERSED and SET ASIDE. The decision dated January 9, 2001 of the Regional Trial Court of Quezon City, Branch 85, in Civil Case No. Q-99-37529, is REINSTATED.

SO ORDERED.

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

[1] Rollo, pp. 30-39; penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Buenaventura J. Guerrero and Regalado E. Maambong, concurring.

[2] Rollo, p. 40.

[3] Id. at 44-51.

[4] Id. at 72-78. Penned by Judge Pedro M. Areola.

[5] Id. at 78.

[6] Id. at 39.

[7] Alcantara-Daus v. De Leon, G.R. No. 149750, 16 June 2003, 404 SCRA 74, 79.

[8] CA Rollo, p. 51.

[9] Alfredo v. Borrás, G.R. No. 144225, 17 June 2003, 404 SCRA 145, 158.

[10] Cordial v. Miranda, G.R. No. 135495, 14 December 2000, 348 SCRA 158, 160.

[11] Id. at 171.

[12] 205 Phil. 537, 541-542 (1983).

[13] Gavieres v. Administrators of Peña, 13 Phil. 449, 454 (1909).

[14] Art. 1390, par. 1, Civil Code.

[15] Article 1145, Civil Code.

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