SPOUSES REX AND CONCEPCION AGGABAO, PETITIONERS, VS. DIONISIO Z. PARULAN, JR. AND MA. ELENA PARULAN, RESPONDENTS.

G.R. No. 165803. September 01, 2010

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

On July 26, 2000, the Regional Trial Court (RTC), Branch 136, in Makati City annulled the deed of absolute sale executed in favor of the petitioners covering two parcels of registered land the respondents owned for want of the written consent of respondent husband Dionisio Parulan, Jr. On July 2, 2004, in C.A.-G.R. CV No. 69044,[1] the Court of Appeals (CA) affirmed the RTC decision.

Hence, the petitioners appeal by petition for review on certiorari, seeking to reverse the decision of the CA. They present as the main issue whether the sale of conjugal property made by respondent wife by presenting a special power of attorney to sell (SPA) purportedly executed by respondent husband in her favor was validly made to the vendees, who allegedly acted in good faith and paid the full purchase price, despite the showing by the husband that his signature on the SPA had been forged and that the SPA had been executed during his absence from the country.

We resolve the main issue against the vendees and sustain the CA's finding that the vendees were not buyers in good faith, because they did not exercise the necessary prudence to inquire into the wife's authority to sell. We hold that the sale of conjugal property without the consent of the husband was not merely voidable but void; hence, it could not be ratified.

Antecedents

Involved in this action are two parcels of land and their improvements (property) located at No. 49 Miguel Cuaderno Street, Executive Village, BF Homes, Parañaque City and registered under Transfer Certificate of Title (TCT) No. 63376[2] and TCT No. 63377[3] in the name of respondents Spouses Maria Elena A. Parulan (Ma. Elena) and Dionisio Z. Parulan, Jr. (Dionisio), who have been estranged from one another.

In January 1991, real estate broker Marta K. Atanacio (Atanacio) offered the property to the petitioners, who initially did not show interest due to the rundown condition of the improvements. But Atanacio's persistence prevailed upon them, so that on February 2, 1991, they and Atanacio met with Ma. Elena at the site of the property. During their meeting, Ma. Elena showed to them the following documents, namely: (a) the owner's original copy of TCT No. 63376; (b) a certified true copy of TCT No. 63377; (c) three tax declarations; and (d) a copy of the special power of attorney (SPA) dated January 7, 1991 executed by Dionisio authorizing Ma. Elena to sell the property.[4] Before the meeting ended, they paid P20,000.00 as earnest money, for which Ma. Elena executed a handwritten Receipt of Earnest Money, whereby the parties stipulated that: (a) they would pay an additional payment of P130,000.00 on February 4, 1991; (b) they would pay the balance of the bank loan of the respondents amounting to P650,000.00 on or before February 15, 1991; and (c) they would make the final

payment of P700,000.00 once Ma. Elena turned over the property on March 31, 1991.[5]

On February 4, 1991, the petitioners went to the Office of the Register of Deeds and the Assessor's Office of Parañaque City to verify the TCTs shown by Ma. Elena in the company of Atanacio and her husband (also a licensed broker).[6] There, they discovered that the lot under TCT No. 63376 had been encumbered to Banco Filipino in 1983 or 1984, but that the encumbrance had already been cancelled due to the full payment of the obligation.[7] They noticed that the Banco Filipino loan had been effected through an SPA executed by Dionisio in favor of Ma. Elena.[8] They found on TCT No. 63377 the annotation of an existing mortgage in favor of the Los Baños Rural Bank, also effected through an SPA executed by Dionisio in favor of Ma. Elena, coupled with a copy of a court order authorizing Ma. Elena to mortgage the lot to secure a loan of P500,000.00.[9]

The petitioners and Atanacio next inquired about the mortgage and the court order annotated on TCT No. 63377 at the Los Baños Rural Bank. There, they met with Atty. Noel Zarate, the bank's legal counsel, who related that the bank had asked for the court order because the lot involved was conjugal property.[10]

Following their verification, the petitioners delivered P130,000.00 as additional down payment on February 4, 1991; and P650,000.00 to the Los Baños Rural Bank on February 12, 1991, which then released the owner's duplicate copy of TCT No. 63377 to them.[11]

On March 18, 1991, the petitioners delivered the final amount of P700,000.00 to Ma. Elena, who executed a deed of absolute sale in their favor. However, Ma. Elena did not turn over the owner's duplicate copy of TCT No. 63376, claiming that said copy was in the possession of a relative who was then in Hongkong.[12] She assured them that the owner's duplicate copy of TCT No. 63376 would be turned over after a week.

On March 19, 1991, TCT No. 63377 was cancelled and a new one was issued in the name of the petitioners.

Ma. Elena did not turn over the duplicate owner's copy of TCT No. 63376 as promised. In due time, the petitioners learned that the duplicate owner's copy of TCT No. 63376 had been all along in the custody of Atty. Jeremy Z. Parulan, who appeared to hold an SPA executed by his brother Dionisio authorizing him to sell both lots.[13]

At Atanacio's instance, the petitioners met on March 25, 1991 with Atty. Parulan at the Manila Peninsula.[14] For that meeting, they were accompanied by one Atty. Olandesca.[15] They recalled that Atty. Parulan "smugly demanded P800,000.00" in exchange for the duplicate owner's copy of TCT No. 63376, because Atty. Parulan represented the current value of the property to be P1.5 million. As a counter-offer, however, they tendered P250,000.00, which Atty. Parulan declined,[16] giving them only until April 5, 1991 to decide.

Hearing nothing more from the petitioners, Atty. Parulan decided to call them on April 5, 1991, but they informed him that they had already fully paid to Ma. Elena.[17]

Thus, on April 15, 1991, Dionisio, through Atty. Parulan, commenced an action (Civil Case No. 91-1005 entitled Dionisio Z. Parulan, Jr., represented by Jeremy Z. Parulan, as attorney in fact, v. Ma. Elena Parulan, Sps. Rex and Coney Aggabao), praying for the declaration of the nullity of the deed of absolute sale executed by Ma. Elena, and the cancellation of the title issued to the petitioners by virtue thereof.

In turn, the petitioners filed on July 12, 1991 their own action for specific performance with damages against the respondents.

Both cases were consolidated for trial and judgment in the RTC.[18]

Ruling of the RTC

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After trial, the RTC rendered judgment, as follows:

> WHEREFORE, and in consideration of the foregoing, judgment is hereby rendered in favor of plaintiff Dionisio A. Parulan, Jr. and against defendants Ma. Elena Parulan and the Sps. Rex and Concepcion Aggabao, without prejudice to any action that may be filed by the Sps. Aggabao against co-defendant Ma. Elena Parulan for the amounts they paid her for the purchase of the subject lots, as follows:
>
> 1. The Deed of Absolute Sale dated March 18, 1991 covering the sale of the lot located at No. 49 M. Cuaderno St., Executive Village, BF Homes, Parañaque, Metro Manila, and covered by TCT Nos. 63376 and 63377 is declared null and void.
>
> 2. Defendant Mrs. Elena Parulan is directed to pay litigation expenses amounting to P50,000.00 and the costs of the suit.
>
> SO ORDERED.[19]

The RTC declared that the SPA in the hands of Ma. Elena was a forgery, based on its finding that Dionisio had been out of the country at the time of the execution of the SPA;[20] that NBI Sr. Document Examiner Rhoda B. Flores had certified that the signature appearing on the SPA purporting to be that of Dionisio and the set of standard sample signatures of Dionisio had not been written by one and the same person;[21] and that Record Officer III Eliseo O. Terenco and Clerk of Court Jesus P. Maningas of the Manila RTC had issued a certification to the effect that Atty. Alfred Datingaling, the Notary Public who had notarized the SPA, had not been included in the list of Notaries Public in Manila for the year 1990-1991.[22]

The RTC rejected the petitioners' defense of being buyers in good faith because of their failure to exercise ordinary prudence, including demanding from Ma. Elena a court order authorizing her to sell the properties similar to the order that the Los Baños Rural Bank had required before accepting the mortgage of the property.[23] It observed that they had appeared to be in a hurry to consummate the transaction despite Atanacio's advice that they first consult a lawyer before buying the property; that with ordinary prudence, they should first have obtained the owner's duplicate copies of the TCTs before paying the full amount of the consideration; and that the sale was void pursuant to Article 124 of the Family Code.[24]

Ruling of the CA

As stated, the CA affirmed the RTC, opining that Article 124 of the Family Code applied because Dionisio had not consented to the sale of the conjugal property by Ma. Elena; and that the RTC correctly found the SPA to be a forgery.

The CA denied the petitioners' motion for reconsideration.[25]

Issues

The petitioners now make two arguments: (1) they were buyers in good faith; and (2) the CA erred in affirming the RTC's finding that the sale between Mrs. Elena and the petitioners had been a nullity under Article 124 of the Family Code.

The petitioners impute error to the CA for not applying the "ordinary prudent man's standard" in determining their status as buyers in good faith. They contend that the more appropriate law to apply was Article 173 of the Civil Code, not Article 124 of the Family Code; and that even if the SPA held by Ma. Elena was a forgery, the ruling in Veloso v. Court of Appeals[26] warranted a judgment in their favor.

Restated, the issues for consideration and resolution are as follows:

1)

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Which between Article 173 of the Civil Code and Article 124 of the Family Code should apply to the sale of the conjugal property executed without the consent of Dionisio?

2)

Might the petitioners be considered in good faith at the time of their purchase of the property?

3)

Might the ruling in Veloso v. Court of Appeals be applied in favor of the petitioners despite the finding of forgery of the SPA?

Ruling

The petition has no merit. We sustain the CA.

1.

Article 124, Family Code, applies to sale of conjugal
properties made after the effectivity of the Family Code

The petitioners submit that Article 173 of the Civil Code, not Article 124 of the Family Code, governed the property relations of the respondents because they had been married prior to the effectivity of the Family Code; and that the second paragraph of Article 124 of the Family Code should not apply because the other spouse held the administration over the conjugal property. They argue that notwithstanding his absence from the country Dionisio still held the administration of the conjugal property by virtue of his execution of the SPA in favor of his brother; and that even assuming that Article 124 of the Family Code properly applied, Dionisio ratified the sale through Atty. Parulan's counter-offer during the March 25, 1991 meeting.

We do not subscribe to the petitioners' submissions.

To start with, Article 254[27] the Family Code has expressly repealed several titles under the Civil Code, among them the entire Title VI in which the provisions on the property relations between husband and wife, Article 173 included, are found.

Secondly, the sale was made on March 18, 1991, or after August 3, 1988, the effectivity of the Family Code. The proper law to apply is, therefore, Article 124 of the Family Code, for it is settled that any alienation or encumbrance of conjugal property made during the effectivity of the Family Code is governed by Article 124 of the Family Code.[28]

Article 124 of the Family Code provides:

> Article 124. The administration and enjoyment of the conjugal partnership property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.
>
> In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the

offer is withdrawn by either or both offerors.

Thirdly, according to Article 256[29] of the Family Code, the provisions of the Family Code may apply retroactively provided no vested rights are impaired. In Tumlos v. Fernandez,[30] the Court rejected the petitioner's argument that the Family Code did not apply because the acquisition of the contested property had occurred prior to the effectivity of the Family Code, and pointed out that Article 256 provided that the Family Code could apply retroactively if the application would not prejudice vested or acquired rights existing before the effectivity of the Family Code. Herein, however, the petitioners did not show any vested right in the property acquired prior to August 3, 1988 that exempted their situation from the retroactive application of the Family Code.

Fourthly, the petitioners failed to substantiate their contention that Dionisio, while holding the administration over the property, had delegated to his brother, Atty. Parulan, the administration of the property, considering that they did not present in court the SPA granting to Atty. Parulan the authority for the administration.

Nonetheless, we stress that the power of administration does not include acts of disposition or encumbrance, which are acts of strict ownership. As such, an authority to dispose cannot proceed from an authority to administer, and vice versa, for the two powers may only be exercised by an agent by following the provisions on agency of the Civil Code (from Article 1876 to Article 1878). Specifically, the apparent authority of Atty. Parulan, being a special agency, was limited to the sale of the property in question, and did not include or extend to the power to administer the property.[31]

Lastly, the petitioners' insistence that Atty. Parulan's making of a counter-offer during the March 25, 1991 meeting ratified the sale merits no consideration. Under Article 124 of the Family Code, the transaction executed sans the written consent of Dionisio or the proper court order was void; hence, ratification did not occur, for a void contract could not be ratified.[32]

On the other hand, we agree with Dionisio that the void sale was a continuing offer from the petitioners and Ma. Elena that Dionisio had the option of accepting or rejecting before the offer was withdrawn by either or both Ma. Elena and the petitioners. The last sentence of the second paragraph of Article 124 of the Family Code makes this clear, stating that in the absence of the other spouse's consent, the transaction should be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or upon authorization by the court before the offer is withdrawn by either or both offerors.

2.
Due diligence required in verifying not only vendor's title,
but also agent's authority to sell the property

A purchaser in good faith is one who buys the property of another, without notice that some other person has a right to, or interest in, such property, and pays the full and fair price for it at the time of such purchase or before he has notice of the claim or interest of some other persons in the property. He buys the property with the belief that the person from whom he receives the thing was the owner and could convey title to the property. He cannot close his eyes to facts that should put a reasonable man on his guard and still claim he acted in good faith.[33] The status of a buyer in good faith is never presumed but must be proven by the person invoking it.[34]

Here, the petitioners disagree with the CA for not applying the "ordinary prudent man's standard" in determining their status as buyers in good faith. They insist that they exercised due diligence by verifying the status of the TCTs, as well as by inquiring about the details surrounding the mortgage extended by the Los Baños Rural Bank.

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They lament the holding of the CA that they should have been put on their guard when they learned that the Los Baños Rural Bank had first required a court order before granting the loan to the respondents secured by their mortgage of the property.

The petitioners miss the whole point.

Article 124 of the Family Code categorically requires the consent of both spouses before the conjugal property may be disposed of by sale, mortgage, or other modes of disposition. In Bautista v. Silva,[35] the Court erected a standard to determine the good faith of the buyers dealing with a seller who had title to and possession of the land but whose capacity to sell was restricted, in that the consent of the other spouse was required before the conveyance, declaring that in order to prove good faith in such a situation, the buyers must show that they inquired not only into the title of the seller but also into the seller's capacity to sell.[36] Thus, the buyers of conjugal property must observe two kinds of requisite diligence, namely: (a) the diligence in verifying the validity of the title covering the property; and (b) the diligence in inquiring into the authority of the transacting spouse to sell conjugal property in behalf of the other spouse.

It is true that a buyer of registered land needs only to show that he has relied on the face of the certificate of title to the property, for he is not required to explore beyond what the certificate indicates on its face.[37] In this respect, the petitioners sufficiently proved that they had checked on the authenticity of TCT No. 63376 and TCT No. 63377 with the Office of the Register of Deeds in Pasay City as the custodian of the land records; and that they had also gone to the Los Baños Rural Bank to inquire about the mortgage annotated on TCT No. 63377. Thereby, the petitioners observed the requisite diligence in examining the validity of the TCTs concerned.

Yet, it ought to be plain enough to the petitioners that the issue was whether or not they had diligently inquired into the authority of Ma. Elena to convey the property, not whether or not the TCT had been valid and authentic, as to which there was no doubt. Thus, we cannot side with them.

Firstly, the petitioners knew fully well that the law demanded the written consent of Dionisio to the sale, but yet they did not present evidence to show that they had made inquiries into the circumstances behind the execution of the SPA purportedly executed by Dionisio in favor of Ma. Elena. Had they made the appropriate inquiries, and not simply accepted the SPA for what it represented on its face, they would have uncovered soon enough that the respondents had been estranged from each other and were under de facto separation, and that they probably held conflicting interests that would negate the existence of an agency between them. To lift this doubt, they must, of necessity, further inquire into the SPA of Ma. Elena. The omission to inquire indicated their not being buyers in good faith, for, as fittingly observed in Domingo v. Reed:[38]

> What was required of them by the appellate court, which we affirm, was merely to investigate - as any prudent vendee should - the authority of Lolita to sell the property and to bind the partnership. They had knowledge of facts that should have led them to inquire and to investigate, in order to acquaint themselves with possible defects in her title. The law requires them to act with the diligence of a prudent person; in this case, their only prudent course of action was to investigate whether respondent had indeed given his consent to the sale and authorized his wife to sell the property.[39]

Indeed, an unquestioning reliance by the petitioners on Ma. Elena's SPA without first taking precautions to verify its authenticity was not a prudent buyer's move.[40] They should have done everything within their means and power to ascertain whether the SPA had been genuine and authentic. If they did not investigate on the relations of the respondents vis-à-vis each other, they could have done other things towards the same end, like attempting to locate the notary public who had notarized the SPA, or checked with the RTC in Manila to confirm the authority of Notary Public Atty. Datingaling. It turned out that Atty. Datingaling was not authorized to act as a Notary

Public for Manila during the period 1990-1991, which was a fact that they could easily discover with a modicum of zeal.

Secondly, the final payment of P700,000.00 even without the owner's duplicate copy of the TCT No. 63376 being handed to them by Ma. Elena indicated a revealing lack of precaution on the part of the petitioners. It is true that she promised to produce and deliver the owner's copy within a week because her relative having custody of it had gone to Hongkong, but their passivity in such an essential matter was puzzling light of their earlier alacrity in immediately and diligently validating the TCTs to the extent of inquiring at the Los Baños Rural Bank about the annotated mortgage. Yet, they could have rightly withheld the final payment of the balance. That they did not do so reflected their lack of due care in dealing with Ma. Elena.

Lastly, another reason rendered the petitioners' good faith incredible. They did not take immediate action against Ma. Elena upon discovering that the owner's original copy of TCT No. 63376 was in the possession of Atty. Parulan, contrary to Elena's representation. Human experience would have impelled them to exert every effort to proceed against Ma. Elena, including demanding the return of the substantial amounts paid to her. But they seemed not to mind her inability to produce the TCT, and, instead, they contented themselves with meeting with Atty. Parulan to negotiate for the possible turnover of the TCT to them.

3.
Veloso v. Court of Appeals cannot help petitioners

The petitioners contend that the forgery of the SPA notwithstanding, the CA could still have decided in their favor conformably with Veloso v. Court of Appeals,[41] a case where the petitioner husband claimed that his signature and that of the notary public who had notarized the SPA the petitioner supposedly executed to authorize his wife to sell the property had been forged. In denying relief, the Court upheld the right of the vendee as an innocent purchaser for value.

Veloso is inapplicable, however, because the contested property therein was exclusively owned by the petitioner and did not belong to the conjugal regime. Veloso being upon conjugal property, Article 124 of the Family Code did not apply.

In contrast, the property involved herein pertained to the conjugal regime, and, consequently, the lack of the written consent of the husband rendered the sale void pursuant to Article 124 of the Family Code. Moreover, even assuming that the property involved in Veloso was conjugal, its sale was made on November 2, 1987, or prior to the effectivity of the Family Code; hence, the sale was still properly covered by Article 173 of the Civil Code, which provides that a sale effected without the consent of one of the spouses is only voidable, not void. However, the sale herein was made already during the effectivity of the Family Code, rendering the application of Article 124 of the Family Code clear and indubitable.

The fault of the petitioner in Veloso was that he did not adduce sufficient evidence to prove that his signature and that of the notary public on the SPA had been forged. The Court pointed out that his mere allegation that the signatures had been forged could not be sustained without clear and convincing proof to substantiate the allegation. Herein, however, both the RTC and the CA found from the testimonies and evidence presented by Dionisio that his signature had been definitely forged, as borne out by the entries in his passport showing that he was out of the country at the time of the execution of the questioned SPA; and that the alleged notary public, Atty. Datingaling, had no authority to act as a Notary Public for Manila during the period of 1990-1991.

WHEREFORE, we deny the petition for review on certiorari, and affirm the decision dated July 2, 2004 rendered by the Court of Appeals in C.A.-G.R. CV No. 69044 entitled "Dionisio Z. Parulan, Jr. vs. Ma. Elena Parulan and

Sps. Rex and Concepcion Aggabao" and "Sps. Rex and Concepcion Aggabao vs. Dionisio Z. Parulan, Jr. and Ma. Elena Parulan."

Costs of suit to be paid by the petitioners.

SO ORDERED.

Carpio Morales, (Chairperson), Del Castillo,[*] Villarama, Jr., and Sereno, JJ., concur.

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[*] Additional member per Special Order No. 879 dated August 13, 2010

[1] Rollo, pp. 55-66; penned by Associate Justice Jose C. Mendoza (now a Member of this Court), with Associate Justice Eugenio S. Labitoria (retired) and Associate Justice Edgardo P. Cruz (retired) concurring.

[2] Id., pp. 174-175.

[3] Id., pp. 176-178.

[4] Id., p. 23.

[5] Id., p. 123.

[6] Id., p. 23.

[7] Id, pp. 23-24.

[8] Id., p. 23.

[9] Id., p. 23-24.

[10] Id.

[11] Id., pp. 24-25.

[12] Id., p. 57.

[13] Id., p. 110.

[14] Id., p. 26.

[15] Id., p. 110.

[16] Id., p. 26.

[17] Id., p. 105.

[18] Id., pp. 14-15.

[19] Id., p. 56.

[20] Id., p. 58.

[21] Id., p. 59.

[22] Id., pp. 58-59.

[23] Id., pp. 59-60.

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[24] Id., p. 60.

[25] Supra, at note 3.

[26] G.R. No. 102737, August 21, 1996, 260 SCRA 593.

[27] Article 254. Titles III, IV, V, VI, VII, VIII, IX, XI and XV of Book I of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, as amended, and Articles 17, 18, 19, 27, 28, 29, 30, 31, 39, 40, 41 and 42 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended, and all laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent herewith are hereby repealed.

[28] Alfredo v. Borras, G.R. No. 144225, June 17, 2003, 404 SCRA 145; Heirs of Ignacia Aguilar-Reyes v. Mijares, G.R. No. 143826, August 28, 2003, 410 SCRA 97; Sps. Guiang v. Court of Appeals, G.R. No. 125172, June 26, 1998, 291 SCRA 372.

[29] Article 256. This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws.

[30] G.R. No. 137650, April 12, 2000, 330 SCRA 718.

[31] Under Article 1876, Civil Code, a general agency comprises all the business of the principal, but a special agency comprises one or more specific transactions.

[32] Article 1409, Civil Code.

[33] Heirs of Ignacia Aguilar-Reyes v. Mijares, G.R. No. 143826, August 28, 2003, 410 SCRA 97, 107

[34] Bautista v. Silva, G.R. No. 157434, September 19, 2006, 502 SCRA 334, 346; Aguirre v. Court of Appeals, G.R. No. 122249, January 29, 2004, 421 SCRA 310, 321.

[35] Id, p. 348.

[36] Id, p. 348.

[37] Abad v. Guimba, G.R. No. 157002, July 29, 2005, 465 SCRA 356, 366-367.

[38] G.R. No. 157701, December 9, 2005, 477 SCRA 227.

[39] Id., p. 244.

[40] Bautista v. Silva, note 34.

[41] Supra, note 26.

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