

**SOLEDAD TUCKER, JOINED BY HER HUSBAND DELMER TUCKER,
PETITIONERS, VS. SPOUSES MANUEL P. OPPUS AND MARIA PAZ M.
OPPUS, AND CARLOS OPPUS, RESPONDENTS.**

G.R. No. 166858. January 18, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari of the Court of Appeals' Decision[1] in CA-G.R. CV No. 74853, dated July 28, 2004, and its Resolution[2] dated January 26, 2005, denying petitioner's motion for reconsideration.

The facts, as stated by the Court of Appeals, are as follows:

Petitioner spouses Soledad and Delmer Tucker (Spouses Tucker) filed an action for a Sum of Money with Damages and Preliminary Attachment against respondent spouses Manuel P. Oppus and Maria Paz M. Oppus (Spouses Oppus), and their son, Carlos.

Petitioners alleged that sometime in the first week of January 1987, Maria Paz Oppus, accompanied by Acela Peralta, went to Soledad Tucker to procure a loan of P400,000.00, which she proposed to secure with a mortgage on a lot covered by TCT No. N-120581 and the house built thereon. Maria Paz Oppus represented that her family was living on the said lot; that she has a Special Power of Attorney from her husband, Manuel Oppus; and that they were willing to execute the required instruments, including a Deed of Absolute Sale of the house and lot. Egged on by Peralta, with whom Soledad Tucker had previous dealings, Soledad gave to the Spouses Oppus a loan of P400,000.00 payable in six (6) months with compounded interest of four percent (4%) per month. The Spouses Oppus delivered the Agreement[3] evidencing the transaction, the Deed of Absolute Sale[4] dated January 13, 1988, and the original duplicate owner's copy of TCT No. N-120581.

The Spouses Oppus paid the monthly interest intermittently, and the principal loan was renewed twice for six months and then for ten months. However, after the second renewal, the Spouses Oppus failed to pay the interest for July, August and September of 1989. Thus, petitioner Soledad Tucker went to see them and discovered that the Spouses Oppus were no longer residing in the house and lot covered by TCT No. N-120581, which secured the loan granted by the Spouses Tucker to the Spouses Oppus. The said house and lot was already being occupied by the spouses Diomedes and Melinda Liganor. The Spouses Oppus and the Spouses Liganor executed a Contract to Sell dated March 25, 1988 and a Deed of Absolute Sale[5] dated April 7, 1989 over the said house and lot.

Petitioner Soledad Tucker tried to register the Deed of Absolute Sale dated January 13, 1988, but could not do so because of an annotation dated May 31, 1989 of the Affidavit of Loss of TCT No. N-120581 by the owners. Consequently, the Tuckers filed before the Regional Trial Court (RTC) of Pasig City[6] a suit for the cancellation of the said annotation. After the annotation was cancelled, Soledad Tucker caused the annotation of the Deed of Absolute Sale in her favor, and TCT No. 172138 was issued in her name.

Thereafter, petitioners filed before the RTC of Pasig City a suit for Reconveyance and/or Quieting of Title and/or

Removal of Cloud on Title to Real Property and Damages[7] against the Spouses Liganor. The Spouses Liganor, in turn, filed an action[8] to annul TCT No. 172138 in the name of petitioner Soledad Tucker. These cases were consolidated and assigned to Branch 159. In the Decision[9] dated April 21, 1995, the RTC of Pasig City, Branch 159 declared the Deed of Absolute Sale executed by the Spouses Oppus in favor of the Spouses Tucker as null and void and ordered the reconveyance of the property to the Spouses Liganor. The RTC held that the real intention of Maria Paz Oppus was to borrow money from the Spouses Tucker, and not to transfer ownership of the property, and that the agreement had the badges of pactum commisorium, and was, therefore, null and void.

As the Spouses Oppus failed to pay their loan obligation and interest thereon, petitioners filed this suit on November 9, 1995, praying for the payment of the loan principal and interest accrued; actual expenses in the amount of P150,000.00; moral and exemplary damages; attorney's fees and litigation expenses. Petitioners also alleged that sometime between 1989 and 1993, the Spouses Oppus bought a house and lot from their nephew Philip Gamboa, but, in fraud of creditors, they had the property registered in the name of their son Carlos, who was issued TCT No. 241862.[10]

On February 7, 1996, petitioners filed an Amended Complaint,[11] which described the property covered by TCT No. 241862, registered in the name of Carlos Oppus. Petitioners prayed that the sale of the said property by Philip Gamboa to Carlos Oppus be declared null and void, and in case of insolvency of the judgment debtors, the said property be held answerable for the judgment debt of the Spouses Oppus.

The Spouses Oppus and Carlos Oppus filed a motion to dismiss on the ground that plaintiffs (petitioners) had no cause of action against Carlos, and that plaintiffs are guilty of splitting a single cause of action, which is a ground for a motion to dismiss under Section 1 (e), Rule 16 of the Rules of Court.

In an Order[12] dated July 24, 1996, the trial court deferred its resolution on the motion to dismiss until the completion of the presentation of evidence by the parties.

On August 6, 2001, the trial court rendered a Decision, the dispositive portion of which reads:

WHEREFORE, foregoing premises considered, judgment is hereby rendered in favor of the plaintiffs and against the herein defendants Spouses Manuel and Maria Paz Oppus ordering them as follows:

1. to pay the plaintiffs the principal amount of FOUR HUNDRED THOUSAND PESOS (Php400,000.00), representing unpaid obligations plus 12% legal interest per annum from the time of the filing of the Complaint on November 9, 1995 until fully paid;
2. to pay plaintiffs the amount of Php16,264.18 as actual damages representing the expenses incurred by the plaintiffs in paying for the real estate taxes due on the subject property;
3. to pay the plaintiffs Php10,000.00 as moral and exemplary damages;
4. to pay plaintiffs the amount of THIRTY THOUSAND PESOS (Php30,000.00) as attorney's fees; and
5. to pay the cost of suit.

The case against defendant Carlos M. Oppus is ordered dismissed for lack of merit.[13]

Respondents' motion for reconsideration was denied by the trial court for lack of merit in an Order[14] dated October 23, 2001.

The decision of the trial court was appealed by the Spouses Tucker and the Spouses Oppus to the Court of Appeals. However, the Spouses Oppus failed to file the required Appellant's Brief; hence, their appeal was dismissed in the Resolution[15] dated April 10, 2003, so that the judgment is final in their case.

In their appeal, the Spouses Tucker assigned to the trial court the following errors:

2.1 The trial court erred in ordering the case against defendant Carlos M. Oppus dismissed for lack of merit without clearly and distinctly stating the facts and the law on which it is based in violation of Section 14, Article VII of the 1987 Constitution [Macario Tayamura, et al. vs. Intermediate Appellate Court, et al. (G.R. No. 76355, 21 May 1987)].

2.2 The trial court erred in not ruling that the sale of Lot No. 45, Block 9, TCT No. 26271, entered into by and between Philip Gamboa and Carlos M. Oppus was merely documented in the latter's name, with the intention of defrauding Tucker as creditor of the spouses Manuel and M. Paz Oppus. (p. 20, rollo)[16]

On July 28, 2004, the Court of Appeals rendered a Decision,[17] the dispositive portion of which reads:

WHEREFORE, the appeal of the Tuckers is DENIED and DISMISSED.[18]

The Court of Appeals stated that the constitutional provision that “[n]o decision shall be rendered by the trial court without expressing therein clearly and distinctly the facts and the law on which it is based” requires that the decision should state the essential ultimate facts upon which the court's conclusion is drawn. It held that a trial judge enjoys a wider latitude of determining the material facts based on the conflicting asseverations of both parties which would be the basis of his decision. The Court of Appeals noted that the trial court mentioned in its decision the testimony of petitioner Soledad Tucker and the countervailing testimonies of respondents Maria Paz and Carlos Oppus, and it gave credence to the testimonies of the Oppuses.

Petitioners’ motion for reconsideration was denied by the Court of Appeals in a Resolution[19] dated January 26, 2005.

Before this Court, petitioners raise the following issues:

I

WHETHER OR NOT THE COURT OF APPEALS DECIDED A QUESTION OF SUBSTANCE;

II

WHETHER OR NOT THE COURT OF APPEALS IN RENDERING ITS DECISION ABANDONED ITS DUTY TO LOOK INTO, CONSIDER AND EVALUATE THE HARD AND DOCUMENTED EVIDENCE OF FRAUD COMMITTED BY PRIVATE RESPONDENTS, PRESENTED BY PETITIONERS, AND IGNORED BY THE TRIAL COURT; AND

III

WHETHER OR NOT BASED ON SAID EVIDENCE, THE DECISION OF THE COURT OF APPEALS IS CONTRARY TO LAW AND JURISPRUDENCE.[20]

The main issues are: (1) whether or not the Court of Appeals considered the evidence submitted by petitioners in affirming the decision of the trial court; and (2) whether or not the evidence on record supports the decision of the Court of Appeals.

Petitioners contend that the trial court awarded to them their claim for payment of debt by the Spouses Oppus; but the Spouses Oppus defeated their bid for attachment of a lot covered by TCT No. N-120581 by fraudulently having the lot titled in the name of their son, Carlos Oppus. They contend that the trial court and the Court of Appeals did not consider the evidence submitted showing that the transfer of the lot in the name of Carlos Oppus was in fraud of creditors.

Petitioners contend that the Spouses Oppus bought the property from Philip Gamboa and made arrangements that

the sale be documented in the name of their son Carlos, who lacked the financial capacity to pay for the property, and the fact that the husband of Maria Paz Oppus had the money at that time to pay for the balance of the property.

The petition is without merit.

It is an oft-repeated principle that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case, considering that the findings of facts of the Court of Appeals, if supported by evidence, are conclusive and binding upon this Court.[21]

As found by the Court of Appeals, the trial court considered the evidence submitted by the parties, and summarized in its decision the testimonial evidence given by witnesses Soledad Tucker, Maria Paz Oppus and Carlos M. Oppus. The Court of Appeals stated:

On this particular point, the Decision [of the trial court] in fact mentioned the testimony of Soledad and her Exhibits "M," "M-1," "M-2" and "M-3," as well as the countervailing testimonies of Maria Paz and Carlos. It cannot be said at all that the Decision failed to comply with the said requirement.

Soledad said that she found out from the Barangay that it was the Oppus spouses who bought the house and lot of Philip Gamboa. This was because he was poised to sue them for the balance of the purchase price, and in connection with this there was before the Barangay a demand letter to the Oppus spouses dated September 26, 1990 (Exh. "M"); the affidavit of Philip Gamboa (Exh. "M-1"); Certification To File Action (Exh. "M-2"); and the affidavit of Barangay Chairman Vicente Basa (Exh. "M-3"). On the other hand, Maria Paz explained that Philip Gamboa had intended to sell to them his house and lot and for which an amount owed to her by Philip Gamboa was imputed as part payment. But later Maria Paz could not pay the balance and Philip Gamboa could not return the [partial] payment, and so each filed a suit against the other. This ended in an amicable settlement where the sale was rescinded and Philip Gamboa was to return the money of the Oppus spouses with the payments from his new buyer. That was when Carlos came into the picture as the new buyer to whom the property was transferred and he assumed the obligation to pay on installment the Oppus spouses. Carlos explained his financial ways and means.

The trial court gave credence to and upheld the version of Maria Paz and Carlos. Case law has it that the findings of the trial court and its assessment and probative weight of the testimonies of witnesses are accorded by the Court high respect (*Rugas vs. People*, G.R. No. 147789, Jan. 1, 2004). In the absence of any justifiable reason to deviate from the said findings, and of which We have found none, there is no reason to change or modify the trial court's findings.

The burden of proof is on the party who will be defeated if no evidence is presented on either side. He must establish his case by a preponderance of evidence which means that the evidence, as a whole, adduced by one side is superior to that of the other (*Premiere Development Bank vs. Court of Appeals*, G.R. No. 159352, April 14, 2004). The testimonies of Maria Paz and Carlos and the documents in the latter's name preponder over the simplistic assumptions of the Tuckers.[22]

From the foregoing, the Court of Appeals clearly considered the evidence on record. Based on the testimonies of the parties and the documentary evidence submitted, the Court of Appeals found that the subject lot sold by Philip Gamboa to Carlos M. Oppus, a professor at the Ateneo de Manila University, was not made in fraud of petitioners, as Carlos had the means of buying the lot. The preponderance of evidence was with respondents. It should be pointed out that the judgment debtors in this case are the spouses Manuel and Maria Paz Oppus. The property covered by TCT No. 241862,23 which is sought by petitioners to be held answerable for the judgment debt of respondent spouses Manuel and Maria Paz Oppus, is registered in the name of respondents' son, Carlos

Oppus. Thus, the Court of Appeals affirmed the decision of the trial court to dismiss the case against Carlos M. Oppus.

Factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when the said court affirms the factual findings of the trial court.²⁴ The Court has carefully reviewed the records of this case and finds no substantial reason to overturn the findings of the Court of Appeals.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV No. 74853, dated July 28, 2004, and its Resolution dated January 26, 2005, are AFFIRMED.

No costs.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Penned by Associate Justice Roberto A. Barrios, with Associate Justices Amelita G. Tolentino and Vicente S.E. Veloso, concurring; rollo, pp. 34-42.

[2] Id. at 44-45.

[3] Folder of Exhibits, p. 4.

[4] Id. at 6.

[5] Id. at 9-12.

[6] Docketed as Civil Case No. R-4310.

[7] Docketed as SCA No. 328.

[8] Civil Case No. 63101.

[9] Exhibit "H," folder of exhibits, pp. 15-20.

[10] Id. at 42.

[11] Records, pp. 54-67.

[12] Id. at 98.

[13] Id. at 363.

[14] Id. at 378.

[15] CA rollo, p. 58.

[16] Id. at 20.

[17] Rollo, pp. 34-43.

[18] Id. at 42.

[19] Id. at 44-45.

[20] Id. at 20.

[21] *Regalado v. Go*, G.R. No. 167988, February 6, 2007, 514 SCRA 616, 626-627.

[22] Rollo, pp. 41-42. (*Italics supplied.*)

[23] Exhibit “O,” folder of exhibits, p. 42.

[24] *Marquez v. Court of Appeals*, G.R. No. 116689, April 3, 2000, 329 SCRA 567, 577.

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