

RUDY S. AMPELOQUIO, SR., PETITIONER, VS. ROMEO NAPIZA, RESPONDENT.

G.R. NO. 167071. October 31, 2006

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167071/>

CHICO-NAZARIO, J.:

This Petition for Review under Rule 45 of the Rules of Court, filed by petitioner Rudy S. Ampeloquio, Sr., seeks to nullify and set aside the 26 October 2004 Decision[1] and 3 February 2005 Resolution of the Court of Appeals in CA-G.R. CV No. 69206 which affirmed, albeit with a reduction of the attorney's fees from P50,000.00 to P20,000.00, the Decision of the Regional Trial Court (RTC), Branch 27, Santa Cruz, Laguna, in Civil Case No. SC-3294.

It is undisputed that respondent Romeo Napiza, Julio Napiza, Tomas Faller, Justina Dayahan, Andalicia Maderal, Luisa Maderal, Ursula Maderal, Marcelina Maderal, Pablo Maderal, Marte Maderal, Myrna Maderal, Fernando Maderal and Rosalinda Maderal are the owners of a 23,030 square meter parcel of land situated at Barangay Palola (Malapit), Lucban, Quezon, and covered by Original Certificate of Title No. P-10786. This lot is referred to as Lot No. 3424 in the Lucban Cadastral Survey with Tax Declaration No. 4675 (Palolang Malapit property). They are also co-owners of another parcel of land known as Lot No. 3445 with Tax Declaration No. 4630, situated at Barangay Palola (Malayo), Lucban, Quezon (Palolang Malayo property).

Another unquestionable fact is that petitioner Rudy S. Ampeloquio, Sr., a real estate developer, and respondent executed a written contract known as Assignment of Rights dated 11 September 1981 which reads as follows:

ASSIGNMENT OF RIGHTS

KNOW ALL MEN BY THESE PRESENTS:

This instrument made and executed by and between: RUDY AMPELOQUIO, of legal age, Filipino citizen, residing and with postal address at Mulanay, Quezon, hereafter called FIRST PARTY; and ROMEO NAPIZA, likewise of legal age, Filipino citizen, residing and with postal address at Sta. Cruz, Laguna, hereafter called SECOND PARTY;

W I T N E S S E T H

That FIRST PARTY is the subdivider of that certain parcel of land, known as Lot No. 4685 of the Cadastral Survey of Lucban; while SECOND PARTY is one of the owners of the said property;

That to facilitate early development of the property involved, FIRST PARTY solicited the help of SECOND PARTY to persuade and induce his other co-owners in the development thereof, with a gratuity of giving SECOND PARTY a portion of the disposable area of the property to be developed equivalent to 5/100 or 5% thereof;

That the 5% area mentioned in the preceding paragraph shall be deducted from the share of the FIRST PARTY

and not from the whole disposable portion;

That FIRST PARTY is obligated to turn over the said 5/100 or 5% portion of his share to the SECOND PARTY, simultaneously with the selection of respective shares of the co-owners of the property.

That this contract shall have the force of law upon signing this instrument and as amendment to the Subdivision Agreement entered into by the FIRST PARTY and CO-OWNERS of the property.

IN TESTIMONY WHEREOF, we affixed our signatures this 11th day of September 1981 at Santa Cruz, Laguna.[2]

The established facts end there. Both petitioner and respondent's versions of how they arrived at the contract embodied in the Assignment of Rights and the subject matter of the same are at variance with each other.

According to respondent, on 5 September 1981, Andalicia Maderal invited petitioner Rudy Ampeloquio, Sr., a real estate developer, to her house at Lucban, Quezon, where she, along with Luisa Maderal and respondent, discussed the development of the Palolang Malapit property into a residential subdivision. It was agreed upon that the landowners would retain 45% of the lot area while 55% would go to petitioner as developer. This agreement was put into writing as evidenced by an unnotarized handwritten instrument denominated as "Kasunduan sa Pagde-develop ng Lupa na natatayo sa Palolang Malapit Lot No. 3424, Title No. P-10786" signed by Andalicia Maderal, Luisa Maderal and respondent.

To facilitate the early development of the same property, petitioner allegedly sought the help of respondent on 11 September 1981. On the same date, petitioner and respondent executed an Assignment of Rights whereby the latter would persuade and induce his co-owners to agree to the development of the subject property in consideration of which he shall be given 5% of the disposable portion appertaining to petitioner's share as developer.

Although the Assignment of Rights shows that the subject matter of the same is Lot No. 4685, petitioner explained that there was a typographical error in the number indicated in said instrument which should have been Lot No. 4675 representing the Tax Declaration covering the Palolang Malapit property.

On 20 October 1981, respondent was able to persuade his co-owners with the proposed development of the Palolang Malapit property which culminated in the execution of an Extra-judicial Partition with Waiver by the co-owners thereof. Pursuant to Section 1, Rule 74 of the Rules of Court, the co-owners adjudicated and partitioned among themselves the subject property. They further assigned their rights and interests over a 12,666 square meter portion of the subject property to petitioner in consideration of the latter's services in the development and improvement of said property.

On 26 October 1981, the co-owners of the subject property and petitioner formalized the "Kasunduan sa Pagde-develop ng Lupa na natatayo sa Palolang Malalapit Lot No. 3424, Title No. P-10786" dated 5 September 1981 and executed a notarized "Contract of Development" whereby they agreed that 45% of the lot area shall be retained by the owners while 55% thereof shall be allotted to Ampeloquio as compensation for his efforts in pursuing the development of the subject property. Petitioner forthwith began the development of the property dubbed as the Maderal Subdivision Project.

By way of commission for the Maderal Subdivision Project, petitioner gave respondent the amount of P20,000.00 together with a land title covering a parcel of land registered in petitioner's name. No formal deed of conveyance, however, was executed in respondent's favor.

Faulting petitioner for his failure to comply with his undertaking under the Assignment of Rights, respondent

made numerous demands, both verbal and written, for the settlement of petitioner's unpaid obligations. He also referred the matter to the barangay authorities, but no settlement materialized between the parties. Accordingly, respondent wrote Ampeloquio a Final Demand Letter dated 2 March 1995.

In a Reply Letter dated 31 March 1995, petitioner denied having any unpaid obligation to respondent and even reminded him of the sum of P20,000.00 and the title to the parcel of land he had given him.

His demands for settlement having fallen on deaf ears, respondent, on 22 June 1995, filed a complaint for "Specific Performance" against petitioner before the RTC, Branch 27, Santa Cruz, Laguna. Docketed as Civil Case No. SC-3294, the complaint alleged, inter alia, that respondent was entitled to 5% commission from petitioner which constituted 891.4 square meters portion of the subject property valued at P1,335,000.00. Accordingly, Napiza prayed that judgment be rendered ordering the delivery/conveyance of the 891.4 square meter portion of the subject property to be taken from Ampeloquio's share as well as the payment of attorney's fees, necessary expenses, and damages.

On the other hand, petitioner averred that during the month of August 1981, he had several meetings with Andalicía Maderal and Luisa Maderal. During the meeting held on the last week of August, Andalicía Maderal and Luisa Maderal agreed with petitioner for the latter to develop the Palolang Malapit property. They agreed that 55% of the lots to be developed and sold will accrue to petitioner as the developer while 45% of the same will be the share of the co-owners of the said property.

On 5 September 1981, the agreement was later put into writing in a handwritten unnotarized instrument "Kasunduan sa Pagde-develop ng Lupa na natatayo sa Palolang Malapit Lot No. 3424, Title No. P-10786" signed by Andalicía Maderal, Luis Maderal and respondent. Immediately after the signing, petitioner started the development of the property until it was finished.

Aware that the Maderals have a bigger lot which is the Palolang Malayo property, petitioner entered into an agreement "Assignment of Rights" with respondent on 11 September 1981, with the latter undertaking to convince his co-owners to award to petitioner the development of the Palolang Malayo property. As compensation for respondent's undertaking, he would be entitled to 5% commission to be taken from petitioner's share. To help respondent start with his undertaking, petitioner gave him an advance commission of P20,000.00 on 8 December 1981 plus a title of a property registered under petitioner's name.

However, respondent failed to convince his co-owners to have petitioner developed the Palolang Malayo property.

Thus, according to petitioner, respondent has no cause of action against him as his alleged obligation based on the Assignment of Rights did not come into existence for failure of respondent to comply with his undertaking of convincing his co-owners to confer the development of Palolang Malayo property in his (petitioner) favor.

In other words, while petitioner admitted that he executed with respondent the Assignment of Rights, he claimed that the subject matter of the same was not the Palolang Malapit property but the Palolang Malayo.

In fact, he insisted that there was no need to seek the services of respondent to secure the consent of the co-owners to the Palolang Malapit project because as early as 5 September 1991, or 6 days before the execution of the Assignment of Rights, the co-owners of the Palolang Malapit property already agreed to the development project.

He stressed that if it was really their intention to make the Assignment of Rights apply to Palolang Malapit property, they should have mentioned the same in the Contract of Development dated 26 October 1981.

Petitioner further proffered the defense of prescription of action. He asserted that the prescriptive period to enforce a written contract is 10 years pursuant to Article 1144 of the Civil Code. Since the Assignment of Rights

from which respondent based his claim was executed on 11 September 1981 and the demand was made only on 2 March 1995, any action based on the assignment contract is barred by prescription and/or laches.

Parenthetically, petitioner raised additional defenses of lack of jurisdiction and improper venue.

After trial, the RTC in a Decision dated 5 April 1999, rendered a judgment in favor of respondent.

The RTC ruled that the respondent's cause of action has not yet prescribed and that laches has not yet set in against respondent.

It likewise declared that the venue was properly laid since the Assignment of Rights which was the basis of the action was executed in Santa Cruz, Laguna.

On the issue of whether or not petitioner is liable to respondent based on the Assignment of Rights, the RTC ruled in the affirmative. It held that the subject matter of the Assignment of Rights was not the Palolang Malayo property but the Palolang Malapit property. To support this conclusion, the RTC pointed out that, although the assignment mentioned Lot No. 4685 as the subject matter thereof, respondent was able to explain that said number was a mere typographical error and it should be read as Lot No. 4675 representing the Tax Declaration of the Palolang Malapit property. It also clarified that the non-inclusion of the Assignment of Rights to the subsequent Contract of Development was due to the fact that the former agreement was a secret one which must not be revealed to the other co-owners of the Palolang Malapit property. Contrary to petitioner's assertion, the RTC likewise believed that the P20,000.00 given by petitioner to respondent was not an advance commission for the alleged development of the Palolang Malayo property; rather, the P20,000.00 was a commission for respondent's effort in successfully persuading his co-owners in awarding the development of the Palolang Malapit property to petitioner. The dispositive part of the RTC decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff ordering defendant to deliver to plaintiff EIGHT HUNDRED NINETY ONE and 4/100 (891.4) SQUARE METERS of land at Lot 3424 of the Cadastral Survey of Lucban situated in the Barrio of Palola [Malapit], Lucban Quezon which area should be taken from the 55% share of defendant in the subdivision project.

In the event the foregoing is no longer possible, defendant shall pay to the plaintiff the equivalent market value of the lot supposedly to be delivered to the latter.

The P20,000.00 received by plaintiff from defendant shall be deducted from the Lot area or amount due the former.

The lot covered by the title delivered by defendant to plaintiff shall be likewise deducted from defendant's obligation upon execution of a valid deed of sale.

Defendant is ordered to pay plaintiff P50,000.00 as attorney's fees.

Costs against defendant.[3]

Disgruntled, petitioner appealed to the Court of Appeals.

In the assailed Decision dated 26 October 2004, the Court of Appeals affirmed, except as to the award of attorney's fees which was reduced to P20,000.00, the 5 April 1999 decision of the RTC and dismissed the petition. The decretal portion of the decision provides:

WHEREFORE, the appeal is DISMISSED for lack of merit. Except as to the award of attorney's fees which is reduced to P20,000.00, the Decision dated 05 April 1999 in Civil Case No. SC-3294 is AFFIRMED in all other respects.

Petitioner filed a motion for reconsideration which was denied by the Court of Appeals in its 3 February 2005 Resolution.

Hence, the instant petition.

Petitioner submits the following issues:

- a) WHETHER THE DECISION OF THE CA AS WELL AS THE RESOLUTION ARE CONTRARY TO EVIDENCE, MISTAKEN AND IMPOSSIBLE, AND THAT ITS CONCLUSION ARRIVED AT LACKS, IF NOT BASED ON ERRONEOUS ASSUMPTION AND MISAPPREHENSION OF FACTS OR THERE IS GRAVE ABUSE OF DISCRETION IN THE APPRECIATION OF FACTS;
- b) THAT THE ACTION HAS ALREADY PRESCRIBED AND PLAINTIFF-APPELLEE, RESPONDENT HEREIN WAS GUILTY OF LACHES;
- c) WHETHER PLAINTIFF-APPELLEE HAS A RIGHT TO CLAIM COMPENSATION FOR VIOLATING MINISTRY ORDER NO. 35 SERIES OF 1995 OF THE MINISTRY OF LAND AND BUREAU OF DOMESTIC TRADE RE-RULES AND REGULATIONS GOVERNING THE LICENSING AND SUSPENSION OF REAL ESTATE SALESMAN, BROKERS, ETC.;
- d) WHETHER THE PARTIES ARE IN PARI-DELICTO.

On the first issue, petitioner claims that the RTC and the Court of Appeals' findings that the subject lot in the Assignment of Rights is the Palolang Malapit property and holding him liable for the 5% commission as stipulated in the Assignment of Rights is contrary to evidence. He again insists that the subject matter of the Assignment of Rights is the development into a subdivision of Lot No. 4685 or the Palolang Malayo property which project did not materialize on account of respondent's failure to convince the other co-owners of the said property to accede with the plan of development. Since respondent never fulfilled his obligation as demanded of him in the agreement, ergo, respondent should not be entitled to the commission.

Conversely, the Court of Appeals in affirming the findings of the trial court that the Palolang Malapit property was the lot referred to in the Assignment of Rights and not the Palolang Malayo, stated as follows:

While, concededly, the Assignment of Rights referred to a parcel of land, known as "Lot No. 4685", the practical construction accorded to it by both plaintiff-appellee and defendant-appellant clearly indicates that the subject matter thereof was actually "Lot No. 3424" located at Palolang Malapit. For one, there is no denying the fact that defendant-appellant gave to plaintiff-appellee the amount of P20,000.00 together with a land title as consideration for the latter's efforts in consummating the proposed development of Palolang Malapit. If the subject matter of the Assignment of Rights were lot No. 4685 purportedly situated at Palolang Malayo, no compensation need be given to plaintiff-appellant because the proposed development of Palolang Malayo did not materialize.

For another, the Assignment of Rights further stipulates that it is an "amendment to the Subdivision Agreement entered into by the FIRST PARTY and CO-OWNERS of the property", clearly indicating that the Assignment of Rights is intended to amend the earlier "Kasunduan sa Pagde-develop" executed by defendant-appellant with plaintiff-appellee and the two (2) other owners of Lot No. 3424. Bearing in mind that a contract should not be construed in parts but must be interpreted and read as a whole, it is readily apparent that the development of Lot No. 3424 contemplated in the earlier "Kasunduan sa Pagde-develop" is the self-same project referred to in the Assignment of Rights.[4]

This Court is in full accord in the conclusion of the trial court and the Court of Appeals that indeed the Palolang Malapit property was the one referred to in the Assignment of Rights. These findings of both lower courts are sufficiently supported by the evidence on record and the conclusion deduced therefrom can withstand the most

incisive inquiry. On the other hand, petitioner has miserably failed to show any justification for altering the assailed decision in the least respect. Instead, he has, in this petition, merely rehashed the same issue and argument vented before the Court of Appeals, whose decision this Court finds no fault.

The all too-familiar rule is that this Court will not, in a Petition for Review on Certiorari, entertain matters factual in nature for the simple reason that this Court is not a trier of facts.[5] It is not for this Court to calibrate the evidence on record, as this is the function of the trial court.[6] While there are exceptions to the rule, nevertheless, after a perusal of the records, there is no justification to depart therefrom. Besides, the trial court's findings of facts, as affirmed by the appellate court on appeal, are binding on this Court, unless the trial and the appellate courts overlooked, misconstrued or misinterpreted facts and circumstances of substance which, if considered, would change the outcome of the case.[7] This Court exerted painstaking effort in reviewing the case, and finds no justification to reverse the questioned ruling of the Court of Appeals.

Anent the second issue, petitioner contends that since the Assignment of Rights is a written contract, any action to enforce the same must be filed within 10 years. Given the fact that the contract was executed on 11 September 1981 and the complaint was filed only in 1995, whatever cause of action respondent may have against petitioner has already prescribed, and if not, the same is barred by laches.

Petitioner's argument is not meritorious.

Actions based upon a written contract should be brought within 10 years from the time the right of action accrues.[8] This accrual refers to the cause of action, which is defined as the act or the omission by which a party violates the right of another.[9] The period of prescription commences not from the date of the execution of the contract, but from the occurrence of the breach.[10] Prescription of actions, however, is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors and when there is any written acknowledgment of the debt by the debtor.[11] A written extrajudicial demand wipes out the period that has already elapsed and starts anew the prescriptive period.[12]

In the case under consideration, the ten-year period is to be reckoned not from the date of execution of the Assignment of Rights, i.e., on 11 September 1981, but only in March 1995 when petitioner in a Reply Letter categorically denied any obligation to respondent and refused to make good his obligation thereby violating the latter's right to be entitled to the commission as agreed by them. Thus, when respondent filed a complaint against petitioner before the RTC on 22 June 1995, the former's action had not yet prescribed.

Assuming arguendo that the cause of action of the instant case accrues on 11 September 1981 which is the date of the execution of the Assignment of Rights, still the same could not have been barred by prescription because the running of the prescriptive period had been interrupted by the written extrajudicial demand made by respondent through collection letters dated 11 January 1989 and 8 February 1990. With these demand letters, the period that had elapsed since the execution of the Assignment of Rights until 8 February 1990 is obliterated and respondent had a fresh ten-year prescriptive period starting therefrom. The ten-year period which commenced in February 1990 was again renewed through respondent's final demand letter dated 2 March 1995. Quite clearly, respondent's cause of action was filed within the prescriptive period.

Laches is also unavailing in petitioner's favor. As correctly ruled by the Court of Appeals:

Neither can laches bar [respondent's] claim for recovery. While prescription is primarily a matter of time, laches is principally a question of the inequity of permitting a claim to be enforced. The essence of laches is the failure or neglect for an unreasonable and unexplained length of time to do that which, by exercising due diligence, could or should have been done earlier; it is the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it, either has abandoned it or

declined to assert it. In this case, there is no question that the repeated demands made by [respondent] negate any presumptive neglect or omission on his part to enforce collection of his 5% commission from [petitioner].[13]

As to the third and fourth issues, petitioner asserts that respondent, who is not a real estate license broker, is prohibited by Ministry Order No. 35, Series of 1995, of the Ministry of Land and Bureau of Domestic Trade, to engage in the real estate service practice. Since the transaction entered into by petitioner and respondent was prohibited and illegal, the latter cannot recover under the doctrine of *in pari delicto*. This Court, however, observes that nowhere in petitioner's pleadings before the trial court did he allege or raise this issue. Well-settled is the rule that issues not raised and/or ventilated in the trial court cannot be raised for the first time on appeal as it would be offensive to the basic rules of fair play, justice and due process.[14]

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals dated 26 October 2004 and its Resolution dated 3 February 2005 in CA-G.R. CV No. 69206 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1]Penned by Associate Justice Rebecca De Guia-Salvador with Associate Justices Portia Aliño-Hormachuelos and Aurora Santiago-Lagman, concurring.

[2]Rollo, pp. 26-27.

[3]Rollo, p. 71.

[4]Rollo, pp. 32-33.

[5]The Secretary of Education v. Heirs of Rufino Dulay, Sr., G.R. No. 164748, 27 January 2006, 480 SCRA 452, 460.

[6]Id.

[7]Id.

[8]Pilipinas Shell Petroleum Corporation v. John Bordman Ltd. of Iloilo, Inc., G.R. No. 159831, 14 October 2005, 473 SCRA 151, 167-168.

[9]Id.

[10]Id.

[11]The Overseas Bank of Manila v. Geraldez, G.R. No. L-46541, 28 December 1979, 94 SCRA 937, 940.

[12]Id.

[13]Rollo, p. 35.

[14]BA Finance Corporation. v. Court of Appeals, G.R. No. 82040, 27 August 1991, 201 SCRA 157, 164.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.