

MARIO SIOCHI, PETITIONER, VS. ALFREDO GOZON, WINIFRED GOZON, GIL TABIJE, INTER-DIMENSIONAL REALTY, INC., AND ELVIRA GOZON, RESPONDENTS.

G.R. No. 169900. March 18, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

This is a consolidation of two separate petitions for review,[1] assailing the 7 July 2005 Decision[2] and the 30 September 2005 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 74447.

This case involves a 30,000 sq.m. parcel of land (property) covered by TCT No. 5357.[4] The property is situated in Malabon, Metro Manila and is registered in the name of "Alfredo Gozon (Alfredo), married to Elvira Gozon (Elvira)."

On 23 December 1991, Elvira filed with the Cavite City Regional Trial Court (Cavite RTC) a petition for legal separation against her husband Alfredo. On 2 January 1992, Elvira filed a notice of lis pendens, which was then annotated on TCT No. 5357.

On 31 August 1993, while the legal separation case was still pending, Alfredo and Mario Siochi (Mario) entered into an Agreement to Buy and Sell[5] (Agreement) involving the property for the price of P18 million. Among the stipulations in the Agreement were that Alfredo would: (1) secure an Affidavit from Elvira that the property is Alfredo's exclusive property and to annotate the Agreement at the back of TCT No. 5357; (2) secure the approval of the Cavite RTC to exclude the property from the legal separation case; and (3) secure the removal of the notice of lis pendens pertaining to the said case and annotated on TCT No. 5357. However, despite repeated demands from Mario, Alfredo failed to comply with these stipulations. After paying the P5 million earnest money as partial payment of the purchase price, Mario took possession of the property in September 1993. On 6 September 1993, the Agreement was annotated on TCT No. 5357.

Meanwhile, on 29 June 1994, the Cavite RTC rendered a decision[6] in the legal separation case, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered decreeing the legal separation between petitioner and respondent. Accordingly, petitioner Elvira Robles Gozon is entitled to live separately from respondent Alfredo Gozon without dissolution of their marriage bond. The conjugal partnership of gains of the spouses is hereby declared DISSOLVED and LIQUIDATED. Being the offending spouse, respondent is deprived of his share in the net profits and the same is awarded to their child Winifred R. Gozon whose custody is awarded to petitioner.

Furthermore, said parties are required to mutually support their child Winifred R. Gozon as her needs arises.

SO ORDERED.[7]

As regards the property, the Cavite RTC held that it is deemed conjugal property.

On 22 August 1994, Alfredo executed a Deed of Donation over the property in favor of their daughter, Winifred Gozon (Winifred). The Register of Deeds of Malabon, Gil Tabije, cancelled TCT No. 5357 and issued TCT No. M-10508[8] in the name of Winifred, without annotating the Agreement and the notice of lis pendens on TCT No. M-10508.

On 26 October 1994, Alfredo, by virtue of a Special Power of Attorney[9] executed in his favor by Winifred, sold the property to Inter-Dimensional Realty, Inc. (IDRI) for P18 million.[10] IDRI paid Alfredo P18 million, representing full payment for the property.[11] Subsequently, the Register of Deeds of Malabon cancelled TCT No. M-10508 and issued TCT No. M-10976[12] to IDRI.

Mario then filed with the Malabon Regional Trial Court (Malabon RTC) a complaint for Specific Performance and Damages, Annulment of Donation and Sale, with Preliminary Mandatory and Prohibitory Injunction and/or Temporary Restraining Order.

On 3 April 2001, the Malabon RTC rendered a decision,[13] the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

01. On the preliminary mandatory and prohibitory injunction:

1.1 The same is hereby made permanent by:

1.1.1 Enjoining defendants Alfredo Gozon, Winifred Gozon, Inter-Dimensional Realty, Inc. and Gil Tabije, their agents, representatives and all persons acting in their behalf from any attempt of commission or continuance of their wrongful acts of further alienating or disposing of the subject property;

1.1.2. Enjoining defendant Inter-Dimensional Realty, Inc. from entering and fencing the property;

1.1.3. Enjoining defendants Alfredo Gozon, Winifred Gozon, Inter-Dimensional Realty, Inc. to respect plaintiff's possession of the property.

02. The Agreement to Buy and Sell dated 31 August 1993, between plaintiff and defendant Alfredo Gozon is hereby approved, excluding the property and rights of defendant Elvira Robles-Gozon to the undivided one-half share in the conjugal property subject of this case.

03. The Deed of Donation dated 22 August 1994, entered into by and between defendants Alfredo Gozon and Winifred Gozon is hereby nullified and voided.

04. The Deed of Absolute Sale dated 26 October 1994, executed by defendant Winifred Gozon, through defendant Alfredo Gozon, in favor of defendant Inter-Dimensional Realty, Inc. is hereby nullified and voided.

05. Defendant Inter-Dimensional Realty, Inc. is hereby ordered to deliver its Transfer Certificate of Title No. M-10976 to the Register of Deeds of Malabon, Metro Manila.

06. The Register of Deeds of Malabon, Metro Manila is hereby ordered to cancel Certificate of Title Nos. 10508 "in the name of Winifred Gozon" and M-10976 "in the name of Inter-Dimensional Realty, Inc.," and to restore Transfer Certificate of Title No. 5357 "in the name of Alfredo Gozon, married to Elvira Robles" with the Agreement to Buy and Sell dated 31 August 1993 fully annotated therein is hereby ordered.

07. Defendant Alfredo Gozon is hereby ordered to deliver a Deed of Absolute Sale in favor of plaintiff over his one-half undivided share in the subject property and to comply with all the requirements for registering such deed.

08. Ordering defendant Elvira Robles-Gozon to sit with plaintiff to agree on the selling price of her undivided one-half share in the subject property, thereafter, to execute and deliver a Deed of Absolute Sale over the same in favor of the plaintiff and to comply with all the requirements for registering such deed, within fifteen (15) days from the receipt of this DECISION.

09. Thereafter, plaintiff is hereby ordered to pay defendant Alfredo Gozon the balance of Four Million Pesos (P4,000,000.00) in his one-half undivided share in the property to be set off by the award of damages in plaintiff's favor.

10. Plaintiff is hereby ordered to pay the defendant Elvira Robles-Gozon the price they had agreed upon for the sale of her one-half undivided share in the subject property.

11. Defendants Alfredo Gozon, Winifred Gozon and Gil Tabije are hereby ordered to pay the plaintiff, jointly and severally, the following:

11.1 Two Million Pesos (P2,000,000.00) as actual and compensatory damages;

11.2 One Million Pesos (P1,000,000.00) as moral damages;

11.3 Five Hundred Thousand Pesos (P500,000.00) as exemplary damages;

11.4 Four Hundred Thousand Pesos (P400,000.00) as attorney's fees; and

11.5 One Hundred Thousand Pesos (P100,000.00) as litigation expenses.

11.6 The above awards are subject to set off of plaintiff's obligation in paragraph 9 hereof.

12. Defendants Alfredo Gozon and Winifred Gozon are hereby ordered to pay Inter-Dimensional Realty, Inc. jointly and severally the following:

12.1 Eighteen Million Pesos (P18,000,000.00) which constitute the amount the former received from the latter pursuant to their Deed of Absolute Sale dated 26 October 1994, with legal interest therefrom;

12.2 One Million Pesos (P1,000,000.00) as moral damages;

12.3 Five Hundred Thousand Pesos (P500,000.00) as exemplary damages; and

12.4 One Hundred Thousand Pesos (P100,000.00) as attorney's fees.

13. Defendants Alfredo Gozon and Winifred Gozon are hereby ordered to pay costs of suit.

SO ORDERED.[14]

On appeal, the Court of Appeals affirmed the Malabon RTC's decision with modification. The dispositive portion of the Court of Appeals' Decision dated 7 July 2005 reads:

WHEREFORE, premises considered, the assailed decision dated April 3, 2001 of the RTC, Branch 74, Malabon is hereby AFFIRMED with MODIFICATIONS, as follows:

1. The sale of the subject land by defendant Alfredo Gozon to plaintiff-appellant Siochi is declared null and void for the following reasons:

a) The conveyance was done without the consent of defendant-appellee Elvira Gozon;

b) Defendant Alfredo Gozon's one-half (½) undivided share has been forfeited in favor of his daughter, defendant Winifred Gozon, by virtue of the decision in the legal separation case rendered by the RTC, Branch 16, Cavite;

2. Defendant Alfredo Gozon shall return/deliver to plaintiff-appellant Siochi the amount of P5 Million which the latter paid as earnest money in consideration for the sale of the subject land;

3. Defendants Alfredo Gozon, Winifred Gozon and Gil Tabije are hereby ordered to pay plaintiff-appellant Siochi jointly and severally, the following:

a) P100,000.00 as moral damages;

b) P100,000.00 as exemplary damages;

c) P50,000.00 as attorney's fees;

d) P20,000.00 as litigation expenses; and

e) The awards of actual and compensatory damages are hereby ordered deleted for lack of basis.

4. Defendants Alfredo Gozon and Winifred Gozon are hereby ordered to pay defendant-appellant IDRI jointly and severally the following:

a) P100,000.00 as moral damages;

b) P100,000.00 as exemplary damages; and

c) P50,000.00 as attorney's fees.

Defendant Winifred Gozon, whom the undivided one-half share of defendant Alfredo Gozon was awarded, is hereby given the option whether or not to dispose of her undivided share in the subject land.

The rest of the decision not inconsistent with this ruling stands.

SO ORDERED.[15]

Only Mario and IDRI appealed the decision of the Court of Appeals. In his petition, Mario alleges that the Agreement should be treated as a continuing offer which may be perfected by the acceptance of the other spouse before the offer is withdrawn. Since Elvira's conduct signified her acquiescence to the sale, Mario prays for the Court to direct Alfredo and Elvira to execute a Deed of Absolute Sale over the property upon his payment of P9 million to Elvira.

On the other hand, IDRI alleges that it is a buyer in good faith and for value. Thus, IDRI prays that the Court should uphold the validity of IDRI's TCT No. M-10976 over the property.

We find the petitions without merit.

This case involves the conjugal property of Alfredo and Elvira. Since the disposition of the property occurred after the effectivity of the Family Code, the applicable law is the Family Code. Article 124 of the Family Code provides:

Art. 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 the recourse to the court by the wife for a 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 the powers of disposition or encumbrance which must have the 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. (Emphasis supplied)

In this case, Alfredo was the sole administrator of the property because Elvira, with whom Alfredo was separated in fact, was unable to participate in the administration of the conjugal property. However, as sole administrator of the property, Alfredo still cannot sell the property without the written consent of Elvira or the authority of the court. Without such consent or authority, the sale is void.[16] The absence of the consent of one of the spouse renders the entire sale void, including the portion of the conjugal property pertaining to the spouse who contracted the sale.[17] Even if the other spouse actively participated in negotiating for the sale of the property, that other spouse's written consent to the sale is still required by law for its validity.[18] The Agreement entered into by Alfredo and Mario was without the written consent of Elvira. Thus, the Agreement is entirely void. As regards Mario's contention that the Agreement is a continuing offer which may be perfected by Elvira's acceptance before the offer is withdrawn, the fact that the property was subsequently donated by Alfredo to Winifred and then sold to IDRI clearly indicates that the offer was already withdrawn.

However, we disagree with the finding of the Court of Appeals that the one-half undivided share of Alfredo in the property was already forfeited in favor of his daughter Winifred, based on the ruling of the Cavite RTC in the legal separation case. The Court of Appeals misconstrued the ruling of the Cavite RTC that Alfredo, being the

offending spouse, is deprived of his share in the net profits and the same is awarded to Winifred.

The Cavite RTC ruling finds support in the following provisions of the Family Code:

Art. 63. The decree of legal separation shall have the following effects:

(1) The spouses shall be entitled to live separately from each other, but the marriage bonds shall not be severed;

(2) The absolute community or the conjugal partnership shall be dissolved and liquidated but the offending spouse shall have no right to any share of the net profits earned by the absolute community or the conjugal partnership, which shall be forfeited in accordance with the provisions of Article 43(2);

(3) The custody of the minor children shall be awarded to the innocent spouse, subject to the provisions of Article 213 of this Code; and

The offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession. Moreover, provisions in favor of the offending spouse made in the will of the innocent spouse shall be revoked by operation of law.

Art. 43. The termination of the subsequent marriage referred to in the preceding Article shall produce the following effects:

x x x

(2) The absolute community of property or the conjugal partnership, as the case may be, shall be dissolved and liquidated, but if either spouse contracted said marriage in bad faith, his or her share of the net profits of the community property or conjugal partnership property shall be forfeited in favor of the common children or, if there are none, the children of the guilty spouse by a previous marriage or, in default of children, the innocent spouse; (Emphasis supplied)

Thus, among the effects of the decree of legal separation is that the conjugal partnership is dissolved and liquidated and the offending spouse would have no right to any share of the net profits earned by the conjugal partnership. It is only Alfredo's share in the net profits which is forfeited in favor of Winifred. Article 102(4) of the Family Code provides that "[f]or purposes of computing the net profits subject to forfeiture in accordance with Article 43, No. (2) and 63, No. (2), the said profits shall be the increase in value between the market value of the community property at the time of the celebration of the marriage and the market value at the time of its dissolution." Clearly, what is forfeited in favor of Winifred is not Alfredo's share in the conjugal partnership property but merely in the net profits of the conjugal partnership property.

With regard to IDRI, we agree with the Court of Appeals in holding that IDRI is not a buyer in good faith. As found by the RTC Malabon and the Court of Appeals, IDRI had actual knowledge of facts and circumstances which should impel a reasonably cautious person to make further inquiries about the vendor's title to the property. The representative of IDRI testified that he knew about the existence of the notice of lis pendens on TCT No. 5357 and the legal separation case filed before the Cavite RTC. Thus, IDRI could not feign ignorance of the Cavite RTC decision declaring the property as conjugal.

Furthermore, if IDRI made further inquiries, it would have known that the cancellation of the notice of lis pendens was highly irregular. Under Section 77 of Presidential Decree No. 1529,[19] the notice of lis pendens may be cancelled (a) upon order of the court, or (b) by the Register of Deeds upon verified petition of the party who caused the registration of the lis pendens. In this case, the lis pendens was cancelled by the Register of Deeds upon the request of Alfredo. There was no court order for the cancellation of the lis pendens. Neither did Elvira, the party who caused the registration of the lis pendens, file a verified petition for its cancellation.

Besides, had IDRI been more prudent before buying the property, it would have discovered that Alfredo's donation of the property to Winifred was without the consent of Elvira. Under Article 125[20] of the Family Code, a conjugal property cannot be donated by one spouse without the consent of the other spouse. Clearly, IDRI was not a buyer in good faith.

Nevertheless, we find it proper to reinstate the order of the Malabon RTC for the reimbursement of the P18 million paid by IDRI for the property, which was inadvertently omitted in the dispositive portion of the Court of Appeals' decision.

WHEREFORE, we DENY the petitions. We AFFIRM the 7 July 2005 Decision of the Court of Appeals in CA-G.R. CV No. 74447 with the following MODIFICATIONS:

(1) We DELETE the portions regarding the forfeiture of Alfredo Gozon's one-half undivided share in favor of Winifred Gozon and the grant of option to Winifred Gozon whether or not to dispose of her undivided share in the property; and

(2) We ORDER Alfredo Gozon and Winifred Gozon to pay Inter-Dimensional Realty, Inc. jointly and severally the Eighteen Million Pesos (P18,000,000) which was the amount paid by Inter-Dimensional Realty, Inc. for the property, with legal interest computed from the finality of this Decision.

SO ORDERED.

Brion, Del Castillo, Abad, and Perez, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo (G.R. No. 169900), pp. 65-128. Penned by Associate Justice Remedios A. Salazar-Fernando with Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa, concurring.

[3] Id. at 153-154.

[4] Rollo (G.R. No. 169977), pp. 166-168.

[5] Rollo (G.R. No. 169900), pp. 163-168.

[6] Id. at 169-176.

[7] Id. at 175-176.

[8] Rollo (G.R. No. 169977), pp. 169-170.

[9] Id. at 171-173.

[10] See Deed of Absolute Sale dated 26 October 1994, rollo (G.R. No. 169977), pp. 174-177.

[11] See Memorandum for Inter-Dimensional Realty, Inc., rollo (G.R. No. 169900), p. 588. In their joint memorandum, Alfredo and Winifred did not deny receipt of full payment from IDRI and in fact prays that IDRI be considered a buyer in good faith and for value, rollo, (G.R. No. 169900), pp. 421-440.

[12] Rollo (G.R. No. 169977), pp. 178-179.

[13] Rollo (G.R. No. 169900), pp. 221-259.

[14] Id. at 257-259.

[15] Id. at 126-127.

[16] *Spouses Guiang v. CA*, 353 Phil. 578 (1998).

[17] *Alinas v. Alinas*, G.R. No. 158040, 14 April 2008, 551 SCRA 154, citing *Homeowners Savings and Loan Bank v. Dailo*, 493 Phil. 436, 442 (2005).

[18] *Jader-Manalo v. Camaisa*, 425 Phil. 346 (2002).

[19] SEC. 77. Cancellation of lis pendens. - Before final judgment, a notice of lis pendens may be cancelled upon order of the court after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be registered. It may also be cancelled by the Register of Deeds upon verified petition of the party who caused the registration thereof.

[20] Art. 125. Neither spouse may donate any conjugal partnership property without the consent of the other. However, either spouse may, without the consent of the other, make moderate donations from the conjugal partnership property for charity or on occasions of family rejoicing or family distress.

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