

BENJAMIN BAUTISTA, PETITIONER, VS. SHIRLEY G. UNANGST AND OTHER UNKNOWN PERSONS, RESPONDENTS.

G.R. No. 173002. July 04, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THE presumption of equitable mortgage imposes a burden on the buyer to present clear evidence to rebut it. He must overthrow it, lest it persist.[1] To overturn that prima facie presumption, the buyer needs to adduce substantial and credible evidence to prove that the contract was a bona fide deed of sale with right to repurchase.

This petition for review on certiorari impugns the Decision[2] of the Court of Appeals (CA) in CA-G.R. CV No. 85942[3] which reversed and set aside that[4] of the Regional Trial Court (RTC) in an action for specific performance or recovery of possession, for sum of money, for consolidation of ownerships and damages.

The Facts

On November 15, 1996, Hamilton Salak rented a car from GAB Rent-A-Car, a car rental shop owned by petitioner Benjamin Bautista. The lease was for three (3) consecutive days at a rental fee of P1,000.00 per day.[5] However, Salak failed to return the car after three (3) days prompting petitioner to file a complaint against him for estafa, violation of Batas Pambansa Blg. 22 and carnapping.[6]

On February 2, 1997, Salak and his common-law wife, respondent Shirley G. Unangst, were arrested by officers of the Criminal Investigation Service Group (CISG) of the Philippine National Police while riding the rented car along Quezon City. The next day, petitioner demanded from Salak at the CISG Office the sum of P232,372.00 as payment for car rental fees, fees incurred in locating the car, attorney's fees, capital gains tax, transfer tax, and other incidental expenses.[7]

Salak and respondent expressed willingness to pay but since they were then short on cash, Salak proposed to sell to petitioner a house and lot titled in the name of respondent. Petitioner welcomed the proposal after consulting his wife, Cynthia. Cynthia, on the other hand, further agreed to pay the mortgage loan of respondent over the subject property to a certain Jojo Lee in the amount of P295,000.00 as the property was then set to be publicly auctioned on February 17, 1997.[8]

To formalize their amicable settlement, Cynthia, Salak and respondent executed a written agreement.[9] They stipulated that respondent would sell, subject to repurchase, her residential property in favor of Cynthia for the total amount of P527,372.00 broken down, as follows: (1) P295,000.00 for the amount paid by Cynthia to Lee to release the mortgage on the property; and (2) P232,372.00, which is the amount due to GAB Rent-A-Car. Cynthia also agreed to desist from pursuing the complaint against Salak and respondent.[10]

Respondent and petitioner also executed a separate deed of sale with right to repurchase,[11] specifying, among others, that: (1) respondent, as vendor, shall pay capital gains tax, current real estate taxes and utility bills pertaining to the property; (2) if respondent fails to repurchase the property within 30 days from the date of the

deed, she and her assigns shall immediately vacate the premises and deliver its possession to petitioner without need of a judicial order; and (3) respondent's refusal to do so will entitle petitioner to take immediate possession of the property.[12]

Respondent failed to repurchase the property within the stipulated period. As a result, petitioner filed, on June 5, 1998, a complaint for specific performance or recovery of possession, for sum of money, for consolidation of ownership and damages against respondent and other unnamed persons before the RTC of Olongapo City.

In his complaint,[13] petitioner alleged, among others, that after respondent failed to repurchase the subject realty, he caused the registration of the deed of sale with the Register of Deeds and the transfer of the tax declarations in his name; that respondent failed to pay the capital gains taxes and update the real estate taxes forcing him to pay said amounts in the sum of P71,129.05 and P11,993.72, respectively; and that respondent violated the terms of the deed when she, as well as the other unnamed persons, refused to vacate the subject property despite repeated demands.[14]

Petitioner prayed before the RTC that an order be issued in his favor directing respondents to: (1) surrender the possession of the property; (2) pay P150,000.00 for the reasonable compensation for its use from March 7, 1997 to June 7, 1998, plus P10,000.00 per month afterward; (3) pay the amount advanced by petitioner, to wit: P71,129.05 and P11,993.72 for the payment of capital gains tax and real estate taxes, respectively; and P70,000.00 for attorney's fees.[15]

On June 16, 1998, petitioner filed an amended complaint,[16] reiterating his previous allegations but with the added prayer for consolidation of ownership pursuant to Article 1607 of the Civil Code.[17]

On the other hand, respondents controverted the allegations in the complaint and averred in their Answer,[18] among others, that plaintiff had no cause of action inasmuch as respondent Unangst signed the subject deed of sale under duress and intimidation employed by petitioner and his cohorts; that, assuming that her consent was freely given, the contract of sale was simulated and fictitious since the vendor never received the stipulated consideration; that the sale should be construed as an equitable mortgage pursuant to Articles 1602 and 1604 of the Civil Code because of its onerous conditions and shockingly low consideration; that their indebtedness in the form of arrears in car rentals merely amounts to P90,000.00; and that the instant action was premature as plaintiff had not yet consolidated ownership over the property. Defendants counterclaimed for moral damages in the amount of P500,000.00 and attorney's fees in the amount of P50,000.00, plus P500.00 per appearance.[19]

On July 29, 2004, after due proceedings, the RTC rendered a decision in favor of petitioner, disposing as follows:

WHEREFORE, judgment is rendered finding the Deed of Sale with Right to Repurchase (Exh. "C") as, indeed, a document of sale executed by the defendant in favor of the plaintiff covering the parcel of land house (sic) situated at Lot 3-B, Blk. 10, Waterdam Road, Gordon Heights, Olongapo City, declared under Tax Declaration Nos. 004-7756R and 7757R (Exhs. "I" and "I-1"). The defendant and any person taking rights from her is (sic) ordered to immediately vacate from the place and turn over its possession to the plaintiff. They are likewise directed not to remove any part of the building on the lot.

The ownership of the said property is properly consolidated in the name of the plaintiff.

The defendant is further ordered to pay to the plaintiff the amount of P10,000.00 a month from March 7, 1997 up to the time possession of the lot and house is restored to the plaintiff representing the reasonable value for the use of the property; the amount of P71,129.05 representing the payment made by the plaintiff on the capital gain taxes and the further amount of P70,000.00 for attorney's fees and the costs of suit.

SO ORDERED.[20]

Respondents failed to interpose a timely appeal. However, on September 10, 2004, respondent Unangst filed a petition for relief pursuant to Section 38 of the 1997 Rules on Civil Procedure. She argued that she learned of the decision of the RTC only on September 6, 2004 when she received a copy of the motion for execution filed by petitioner.[21]

Petitioner, on the other hand, moved for the dismissal of respondent's petition on the ground that the latter paid an insufficient sum of P200.00 as docket fees.[22]

It appears that respondent Unangst initially paid P200.00 as docket fees as this was the amount assessed by the Clerk of Court of the RTC.[23] Said amount was insufficient as the proper filing fees amount to P1,715.00. Nevertheless, the correct amount was subsequently paid by said respondent on February 22, 2005.[24]

In their comment,[25] respondents countered that they should not be faulted for paying deficient docket fees as it was due to an erroneous assessment of the Clerk of Court.[26]

The RTC granted the petition for relief. Subsequently, it directed respondents to file a notice of appeal within twenty-four (24) hours from receipt of the order.[27] Accordingly, on February 23, 2005, respondents filed their notice of appeal.[28]

Respondents contended before the CA that the RTC erred in: (1) not annulling the deed of sale with right to repurchase; (2) declaring that the deed of sale with right to repurchase is a real contract of sale; (3) ordering the consolidation of ownership of the subject property in the name of petitioner.[29] They argued that respondent Unangst's consent to the deed of sale with right to repurchase was procured under duress and that even assuming that her consent was freely given, the contract partakes of the nature of an equitable mortgage.[30]

On the other hand, petitioner insisted, among others, that although the petition for relief of respondents was filed on time, the proper filing fees for said petition were paid beyond the 60-day reglementary period. He posited that jurisdiction is acquired by the court over the action only upon full payment of prescribed docket fees.[31]

CA Disposition

In a Decision[32] dated April 7, 2006, the CA reversed and set aside the RTC judgment.[33] The dispositive part of the appellate court's decision reads, thus:

IN VIEW OF ALL THE FOREGOING, the instant appeal is hereby GRANTED, the challenged Decision dated July 29, 2004 hereby (sic) REVERSED and SET ASIDE, and a new one entered declaring the Deed of Sale With Right Of Repurchase dated February 4, 1997 as an equitable mortgage. No cost.

SO ORDERED.[34]

The CA declared that the Deed of Sale with Right of Repurchase executed by the parties was an equitable mortgage. On the procedural aspect pertaining to the petition for relief filed by respondent Unangst, the CA ruled that "the trial court, in opting to apply the rules liberally, cannot be faulted for giving due course to the questioned petition for relief which enabled appellants to interpose the instant appeal." [35] It ratiocinated:

Appellee recognizes the timely filing of appellants' petition for relief to be able to appeal judgment but nonetheless points out that the proper filing fees were paid beyond the 60-day reglementary period. Arguing that the court acquires jurisdiction over the action only upon full payment of the prescribed docket fees, he submits that the trial court erred in granting appellants' petition for relief despite the late payment of the filing fees.

While this Court is fully aware of the mandatory nature of the requirement of payment of appellate docket fee, the High Court has recognized that its strict application is qualified by the following: first, failure to pay those

fees within the reglementary period allows only discretionary, not automatic, dismissal; second, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances (*Meatmasters International Corporation v. Lelis Integrated Development Corporation*, 452 SCRA 626 [2005], citing *La Salette College v. Pilotin*, 418 SCRA 380 [2003]).

Applied in the instant case, the docket fees were admittedly paid only on February 22, 2005, or a little less than two (2) months after the period for filing the petition lapsed. Yet, this matter was sufficiently explained by appellants. The records bear out that appellants initially paid P200.00 as docket fees because this was the amount assessed by the Clerk of Court of the RTC of Olongapo City (p. 273, Records). As it turned out, the fees paid was insufficient, the proper filing fees being P1,715.00, which was eventually paid by appellants on February 1, 2005 (p. 296, Records). As such, appellants cannot be faulted for their failure to pay the proper docket fees for, given the prevailing circumstances, such failure was clearly not a dilatory tactic nor intended to circumvent the Rules of Court. On the contrary, appellants demonstrated their willingness to pay the docket fees when they subsequently paid on the same day they were assessed the correct fees (p. 299, Records). Notably, in *Yambao v. Court of Appeals* (346 SCRA 141 [2000]), the High Court declared therein that "the appellate court may extend the time for the payment of the docket fees if appellants is able to show that there is a justifiable reason for his failure to pay the correct amount of docket fees within the prescribed period, like fraud, accident, mistake, excusable negligence, or a similar supervening casualty, without fault on the part of appellant." Verily, the trial court, in opting to apply the rules liberally, cannot be faulted for giving due course to the questioned petition for relief which enabled appellants to interpose the instant appeal.[36]

On the substantial issues, the CA concluded that "While the records is bereft of any proof or evidence that appellee employed unlawful or improper pressure against appellant Unangst to give her consent to the contract of sale, there is, nevertheless, sufficient basis to hold the subject contract as one of equitable mortgage." [37] It explained:

Jurisprudence has consistently held that the nomenclature used by the contracting parties to describe a contract does not determine its nature. The decisive factor in determining the true nature of the transaction between the parties is the intent of the parties, as shown not necessarily by the terminology used in the contract but by all the surrounding circumstances, such as the relative situations of the parties at that time; the attitudes, acts, conduct, and declarations of the parties; the negotiations between them leading to the deed; and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding (*Legaspi v. Ong*, 459 SCRA 122 [2005]).

It must be stressed, however, that there is no conclusive test to determine whether a deed absolute on its face is really a simple loan accommodation secured by a mortgage. In fact, it is often a question difficult to resolve and is frequently made to depend on the surrounding circumstances of each case. When in doubt, courts are generally inclined to construe a transaction purporting to be a sale as an equitable mortgage, which involves a lesser transmission of rights and interests over the property in controversy (*Legaspi*, *ibid.*).

Article 1602 of the Civil Code enumerates the instances where a contract shall be presumed to be an equitable mortgage when - (a) the price of a sale with right to repurchase is unusually inadequate; (b) the vendor remains in possession as lessee or otherwise; (c) upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed; (d) the purchaser retains for himself a part of the purchase price; (e) the vendor binds himself to pay taxes on the thing sold; and, (f) in any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation (*Legaspi*, *supra*; *Martinez v. Court of Appeals*, 358 SCRA 38 [2001]).

For the presumption of an equitable mortgage to arise under Article 1602, two (2) requisites must concur: (a) that the parties entered into a contract denominated as a contract of sale; and, (b) that their intention was to

secure an existing debt by way of a mortgage. Any of the circumstance laid out in Article 1602, not the concurrence nor an overwhelming number of the circumstances therein enumerated, suffices to construe a contract of sale to be one of equitable mortgage (*Lorbes v. Court of Appeals*, 351 SCRA 716 [2001]).

Applying the foregoing considerations in the instant case, there is hardly any doubt that the true intention of the parties is that the transaction shall secure the payment of a debt. It is not contested that before executing the subject deed, Unangst and Salak were under police custody and were sorely pressed for money. Such urgent prospect of prolonged detention helps explain why appellants would subscribe to an agreement like the deed in the instant case. This might very well explain appellants' insistence that Unangst was not truly free when she signed the questioned deed. Besides, there is no gainsaying that when appellee allowed appellants to retain possession of the realty sold for 30 days, as part of the agreement, that period of time surely signaled a time allotted to Salak and Unangst, as debtors, within which to pay their mortgage indebtedness.

The High Court, in several cases involving similar situations, has declared that "while it was true that plaintiffs were aware of the contents of the contracts, the preponderance of the evidence showed, however, that they signed knowing that said contracts did not express their real intention, and if they did so notwithstanding this, it was due to the urgent necessity of obtaining funds. Necessitous men are not, truly speaking, free men; but to answer a present emergency, will submit to any terms that the crafty may impose upon them" (*Lorbes, ibid.*; *Reyes v. Court of Appeals*, 339 SCRA 97 [2000]; *Lao v. Court of Appeals*, 275 SCRA 237 [1997]; *Zamora v. Court of Appeals*, 260 SCRA 10 [1996]; *Labasan v. Lacuesta*, 86 SCRA 16 [1978]).

After all, Article 1602(6) provides that a contract of sale with right to repurchase is presumed to be an equitable mortgage in any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any obligation. In fine, a careful review of the records convincingly shows that the obtaining facts in this case qualify the controversial agreement between the parties as an equitable mortgage under Article 1602 of the New Civil Code.[38]

Issues

Petitioner has resorted to the present recourse under Rule 45, assigning to the CA the following errors:

(a) The Honorable Court of Appeals committed grave error in finding that the respondent perfected an appeal via Petition for Relief To Be Able To Appeal Judgment even when the proper docket fees were paid beyond the period prescribed to bring such action under Section 3 of Rule 38 of the 1997 Rules of Civil Procedure in relation to the pronouncements by the Honorable Court in the cases of *Philippine Rabbit Bus Lines, Inc. v. Arciaga* [148 SCRA 433], *Philippine Pryce Assurance Corp. v. Court of Appeals* [148 SCRA 433] and *Sun Insurance Office, Ltd. v. Asuncion* [170 SCRA 274].

(b) The Honorable Court of Appeals erred on a question of law in reversing the Decision of the Court a quo finding the Deed of Sale with Right to Repurchase a document of sale executed by the respondent in favor of the petitioner and in further holding such contract as one of equitable mortgage.[39]

Our Ruling

On the first issue, petitioner contends that respondents' "Petition for Relief to Be Able to Appeal Judgment," which paved the way for the allowance of respondents' appeal of the RTC decision, was filed within the prescriptive period but the proper docket fees for it were belatedly paid.[40] He thus posits that the RTC did not acquire jurisdiction over said petition. Having no jurisdiction, the RTC could not have allowed respondents to appeal.

On this issue, respondent counters that the belated payment of proper docket fees was not due to their fault but to the improper assessment by the Clerk of Court. Respondent asserts the ruling of the CA that the court may extend the time for the payment of the docket fees if there is a justifiable reason for the failure to pay the correct amount.

Moreover, respondent argues that petitioner failed to contest the RTC Order dated February 21, 2004 that allowed the payment of supplementary docket fees. Petitioner failed to file a motion for reconsideration or a petition for certiorari to the higher court to question said order.

We agree with respondents. Their failure to pay the correct amount of docket fees was due to a justifiable reason.

The right to appeal is a purely statutory right. Not being a natural right or a part of due process, the right to appeal may be exercised only in the manner and in accordance with the rules provided therefor.[41] For this reason, payment of the full amount of the appellate court docket and other lawful fees within the reglementary period is mandatory and jurisdictional.[42] Nevertheless, as this Court ruled in *Aranas v. Endona*,[43] the strict application of the jurisdictional nature of the above rule on payment of appellate docket fees may be mitigated under exceptional circumstances to better serve the interest of justice. It is always within the power of this Court to suspend its own rules, or to except a particular case from their operation, whenever the purposes of justice require it.[44]

In not a few instances, the Court relaxed the rigid application of the rules of procedure to afford the parties the opportunity to fully ventilate their cases on the merits. This is in line with the time-honored principle that cases should be decided only after giving all parties the chance to argue their causes and defenses.[45] For, it is far better to dispose of a case on the merit which is a primordial end, rather than on a technicality, if it be the case, that may result in injustice.[46] The emerging trend in the rulings of this Court is to afford every party-litigant the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.[47]

As early as 1946, in *Segovia v. Barrios*,[48] the Court ruled that where an appellant in good faith paid less than the correct amount for the docket fee because that was the amount he was required to pay by the clerk of court, and he promptly paid the balance, it is error to dismiss his appeal because "(e)very citizen has the right to assume and trust that a public officer charged by law with certain duties knows his duties and performs them in accordance with law. To penalize such citizen for relying upon said officer in all good faith is repugnant to justice." [49]

Technicality and procedural imperfections should thus not serve as bases of decisions.[50] In that way, the ends of justice would be better served. For, indeed, the general objective of procedure is to facilitate the application of justice to the rival claims of contending parties, bearing always in mind that procedure is not to hinder but to promote the administration of justice.[51]

We go now to the crux of the petition. Should the deed of sale with right to repurchase executed by the parties be construed as an equitable mortgage? This is the pivotal question here.

According to petitioner, the deed should not be construed as an equitable mortgage as it does not fall under any of the instances mentioned in Article 1602 of the Civil Code where the agreement can be construed as an equitable mortgage. He added that the "language and terms of the Deed of Sale with Right to Repurchase executed by respondent in favor of the petition are clear and unequivocal. Said contract must be construed with its literal sense." [52]

We cannot agree.

Respondent is correct in alleging that the deed of sale with right to repurchase qualifies as an equitable mortgage under Article 1602. She merely secured the payment of the unpaid car rentals and the amount advanced by petitioner to Jojo Lee.

The transaction between the parties is one of equitable mortgage and not a sale with right to purchase as maintained by petitioners. Article 1602 of the New Civil Code provides that the contract is presumed to be an equitable mortgage in any of the following cases:

- (1) When the price of a sale with right to repurchase is unusually inadequate;
- (2) When the vendor remains in possession as lessee or otherwise;
- (3) When upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed;
- (4) When the purchaser retains for himself a part of the purchase price;
- (5) When the vendor binds himself to pay the taxes on the thing sold;
- (6) In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation.

In any of the foregoing cases, any money, fruits, or other benefit to be received by the vendee as rent or otherwise shall be considered as interest which shall be subject to the usury laws.[53] (Emphasis ours)

The conclusion that the deed of sale with right to repurchase is an equitable mortgage is buttressed by the following:

First, before executing the deed, respondent and Salak were under police custody due to the complaint lodged against them by petitioner. They were sorely pressed for money, as they would not be released from custody unless they paid petitioner. It was at this point that respondent was constrained to execute a deed of sale with right to repurchase. Respondent was in no position whatsoever to bargain with their creditor, petitioner. *Nel consensui tam contrarium est quam vis atqui metus*. There can be no consent when under force or duress. *Bale wala ang pagsang-ayon kung ito'y nakuha sa pamimilit o paraang di malaya*.

It is established that respondent signed the deed only because of the urgent necessity of obtaining funds. When the vendor is in urgent need of money when he executes the sale, the alleged sale with pacto de retro will be construed as an equitable mortgage.[54] "Necessitous men are not, truly speaking, free men; but to answer a present emergency will submit to any terms that the crafty may impose upon them." [55]

Second, petitioner allowed respondent and Salak to retain the possession of the property despite the execution of the deed. In fact, respondent and Salak were not bound to deliver the possession of the property to petitioner if they would pay him the amount he demanded.[56]

Where in a contract of sale with pacto de retro, the vendor remains in possession, as a lessee or otherwise, the contract shall be presumed to be an equitable mortgage.[57] The reason for the presumption lies in the fact that in a contract of sale with pacto de retro, the legal title to the property is immediately transferred to the vendee, subject to the vendor's right to redeem. Retention, therefore, by the vendor of the possession of the property is inconsistent with the vendee's acquisition of the right of ownership under a true sale.[58] It discloses, in the alleged vendee, a lack of interest in the property that belies the truthfulness of the sale a retro.[59]

Third, it is likewise undisputed that the deed was executed by reason of: (1) the alleged indebtedness of Salak to petitioner, that is, car rental payments; and (2) respondent's own obligation to petitioner, that is, reimbursement of what petitioner paid to the mortgagee, Jojo Lee. Fact is, the purchase price stated in the deed was the amount of the indebtedness of both respondent and Salak to petitioner.[60]

Apparently, the deed purports to be a sale with right to purchase. However, since it was executed in consideration

of the aforesaid loans and/or indebtedness, said contract is indubitably an equitable mortgage. The rule is firmly settled that whenever it is clearly shown that a deed of sale with pacto de retro, regular on its face, is given as security for a loan, it must be regarded as an equitable mortgage.[61]

The above-mentioned circumstances preclude the Court from declaring that the parties intended the transfer of the property from one to the other by way of sale. They are more than sufficient to show that the true intention of the parties is to secure the payment of said debts. Verily, an equitable mortgage under paragraphs 2 and 6 of Article 1602 exists here. Settled is the rule that to create the presumption enunciated by Article 1602, the existence of one circumstance is enough.[62]

Moreover, under Article 1603 of the Civil Code it is provided that: "(i)n case of doubt, a contract purporting to be a sale with right to repurchase shall be construed as an equitable mortgage." In this case, We have no doubt that the transaction between the parties is that of a loan secured by said property by way of mortgage.

In *Lorbes v. Court of Appeals*,[63] the Court held that:

The decisive factor in evaluating such agreement is the intention of the parties, as shown not necessarily by the terminology used in the contract but by all the surrounding circumstances, such as the relative situation of the parties at that time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the deed, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding. As such, documentary and parol evidence may be submitted and admitted to prove the intention of the parties.

Sales with rights to repurchase, as defined by the Civil Code, are not favored. We will not construe instruments to be sales with a right to repurchase, with the stringent and onerous effects which follow, unless the terms of the document and the surrounding circumstances require it. Whenever, under the terms of the writing, any other construction can fairly and reasonably be made, such construction will be adopted and the contract will be construed as a mere loan unless the court can see that, if enforced according to its terms, it is not an unconscionable one.[64]

Article 1602 of the Civil Code is designed primarily to curtail the evils brought about by contracts of sale with right of repurchase, such as the circumvention of the laws against usury and pactum commissorium.[65]

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] *Ramos v. Sarao*, G.R. No. 149756, February 11, 2005, 451 SCRA 103, 116; *Tison v. Court of Appeals*, G.R. No. 121027, July 31, 1997, 276 SCRA 582, 593.

[2] *Rollo*, pp. 35-47. Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Mariano C. Del Castillo and Magdangal M. De Leon, concurring.

[3] Entitled "*Benjamin Bautista v. Shirley G. Unangst and Other Unknown Persons*."

[4] *Rollo*, pp. 48-56. Penned by Judge Eliodoro G. Ubadias.

[5] *Id.* at 35-36.

[6] *Id.* at 36.

[7] *Id.*

- [8] Id.
- [9] Id. at 62-63; records, p. 82.
- [10] Id. at 36-37.
- [11] Id. at 57-58; records, p. 84.
- [12] Id. at 37.
- [13] Records, p. 1.
- [14] Rollo, p. 37.
- [15] Id. at 37-38.
- [16] Records, p. 28.
- [17] Rollo, p. 38.
- [18] Records, p. 41.
- [19] Rollo, p. 38.
- [20] Records, pp. 264-265.
- [21] Rollo, pp. 39-40.
- [22] Records, p. 284.
- [23] Rollo, p. 42.
- [24] Id.
- [25] Records, p. 290.
- [26] Rollo, p. 40.
- [27] Records, p. 308.
- [28] Id. at 312.
- [29] Rollo, p. 41; CA rollo, p. 32.
- [30] Id. at 43.
- [31] Id. at 41.
- [32] Id. at 35-47.
- [33] Id. at 48-56.
- [34] Id. at 46.
- [35] Id. at 42-43.
- [36] Id. at 41-43.
- [37] Id. at 43.
- [38] Id. at 43-46.

[39] Id. at 18-19.

[40] Id. at 21-23.

[41] Republic v. Luriz, G.R. No. 158992, January 26, 2007, 513 SCRA 140, 143, 148; Ciudad Fernandina Food Corporation Employees Union-Associated Labor Unions v. Court of Appeals, G.R. No. 166594, July 20, 2006, 495 SCRA 807, 823, citing Ginete v. Court of Appeals, 357 Phil. 36 (1998); Corporate Inn Hotel v. Lizo, G.R. No. 148279, May 27, 2004, 429 SCRA 573, 577; Videogram Regulatory Board v. Court of Appeals, G.R. No. 106564, November 28, 1996, 265 SCRA 50.

[42] Ayala Land, Inc. v. Carpo, G.R. No. 140162, November 22, 2000, 345 SCRA 579, 584; Lazaro v. Court of Appeals, G.R. No. 137761, April 6, 2000, 330 SCRA 208, 213.

[43] G.R. No. L-32719, October 23, 1982, 117 SCRA 753, 758; see Bank of America, NT & SA v. Gerochi, G.R. No. 73210, February 10, 1994, 230 SCRA 9, 15.

[44] Chronicle Securities Corporation v. National Labor Relations Commission, G.R. No. 157907, November 25, 2004, 444 SCRA 342, 348-349; Equitable PCI Bank v. Ku, G.R. No. 142950, March 26, 2001, 355 SCRA 309, 316; Philippine National Bank v. Court of Appeals, G.R. No. 108870, July 14, 1995, 246 SCRA 304, 316-317.

[45] Eastland Construction & Development Corporation v. Mortel, G.R. No. 165648, March 23, 2006, 485 SCRA 203, 213; El Reyno Homes, Inc. v. Ong, G.R. No. 142440, February 17, 2003, 397 SCRA 563, 570; Republic v. Court of Appeals, G.R. No. 130118, July 9, 1998, 292 SCRA 243, 251-252.

[46] Gutierrez v. Secretary of the Department of Labor and Employment, G.R. No. 142248, December 16, 2004, 447 SCRA 107, 120; Serrano v. Galant Maritime Services, Inc., G.R. No. 151833, August 7, 2003, 408 SCRA 523, 528.

[47] Id.; Añonuevo, Jr. v. Court of Appeals, G.R. No. 152998, September 23, 2003, 411 SCRA 621, 626.

[48] 75 Phil. 764, 767 (1946).

[49] Id. at 767; Ayala Land, Inc. v. Carpo, *supra* note 42.

[50] Crystal Shipping, Inc. v. Natividad, G.R. No. 154798, October 20, 2005, 473 SCRA 559, 566.

[51] Asian Spirit Airlines v. Bautista, G.R. No. 164668, February 14, 2005, 451 SCRA 294, 301; El Reyno Homes, Inc. v. Ong, *supra*; Chronicle Securities Corporation v. National Labor Relations Commission, *supra* note 44.

[52] Rollo, p. 30.

[53] See Lopez v. Sarabia, G.R. No. 140357, September 24, 2004, 439 SCRA 35, 44-45.

[54] Tolentino, A.M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. V, 1992 ed., p. 160, citing Labasan v. Lacuesta, G.R. No. L-25931, October 30, 1978, 86 SCRA 16; Bundalian v. Court of Appeals, G.R. No. L-55739, June 22, 1984, 129 SCRA 645.

[55] Agas v. Sabico, G.R. No. 156447, April 26, 2005, 457 SCRA 263, 279; Serrano v. Court of Appeals, G.R. No. L-46307, October 9, 1985, 139 SCRA 179, 189; Cuyugan v. Santos, 34 Phil. 100, 111 (1916).

[56] Rollo, pp. 45, 57.

[57] See note 54, at 158-159.

[58] Id. at 159.

[59] Padilla, A., Civil Law, Civil Code Annotated, Vol. V, 1987 ed., p. 454.

[60] Rollo, pp. 35-37.

[61] Ramos v. Court of Appeals, G.R. No. 42108, December 29, 1989, 180 SCRA 635, 645.

[62] Id., citing Santos v. Duata, G.R. No. L-20901, August 31, 1965, 14 SCRA 1041, and Capulong v. Court of Appeals, G.R. No. L-61337, June 29, 1984, 130 SCRA 245.

[63] G.R. No. 139884, February 15, 2001, 351 SCRA 716, 726.

[64] Ramos v. Court of Appeals, supra note 61, at 646, citing Padilla v. Linsangan, 19 Phil. 65 (1911) and Aquino v. Deala, 63 Phil. 582 (1936).

[65] Id. at 649, citing Balatero v. Intermediate Appellate Court, G.R. No. L-73889, September 30, 1987, 154 SCRA 530.

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