

**CLEODIA U. FRANCISCO AND CEAMANTHA U. FRANCISCO,
REPRESENTED BY THEIR GRANDMOTHER DRA. MAIDA G. URIARTE
AS THEIR ATTORNEY-IN-FACT, PETITIONERS, VS. SPOUSES JORGE C.
GONZALES AND...**

G.R. No. 177667. September 17, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Assailed in the present petition for review on certiorari under Rule 45 of the Rules of Court is the Court of Appeals (CA) Decision dated April 30, 2007, which affirmed the Regional Trial Court (RTC) Orders dated June 4, 2003 and July 31, 2003, denying petitioners' motion to stop execution sale.

Petitioners Cleodia U. Francisco and Ceamantha U. Francisco are the minor children of Cleodualdo M. Francisco (Cleodualdo) and Michele Uriarte Francisco (Michele). In a Partial Decision dated November 29, 2000 rendered by the RTC of Makati, Branch 144, in Civil Case No. 93-2289 for Declaration of Nullity of Marriage, the Compromise Agreement entered into by the estranged couple was approved. The Compromise Agreement contained in part the following provisions:

- In their desire to manifest their genuine concern for their children, Cleodia and Ceamantha, Cleodualdo and Michelle have voluntarily agreed to herein set forth their obligations, rights and responsibilities on matters relating to their children's support, custody, visitation, as well as to the dissolution of their conjugal partnership of gains as follows:

(a) Title and ownership of the conjugal property consisting of a house and lot located in Ayala Alabang, Muntinlupa, Metro Manila shall be transferred by way of a deed of donation to Cleodia and Ceamantha, as co-owners, when they reach nineteen (19) and eighteen (18) years old, respectively, subject to the following conditions:

x x x[1]

The property subject of the Compromise Agreement is a house and lot covered by Transfer Certificate of Title No. 167907 in the name of Cleodualdo M. Francisco, married to Michele U. Francisco, with an area of 414 square meters, and located in 410 Taal St., Ayala Alabang Village, Muntinlupa City.[2]

Meanwhile, in a case for Unlawful Detainer with Preliminary Attachment filed by spouses Jorge C. Gonzales and Purificacion W. Gonzales (respondents) against George Zoltan Matrai (Matrai) and Michele, the Metropolitan Trial Court (MeTC) of Muntinlupa City, Branch 80, rendered a Decision dated May 10, 2001, ordering Matrai and Michele to vacate the premises leased to them located in 264 Lanka Drive, Ayala Alabang Village, Muntinlupa City, and to pay back rentals, unpaid telephone bills and attorney's fees.[3]

Pending appeal with the RTC of Muntinlupa, Branch 256, an order was issued granting respondents' prayer for the execution of the MeTC Decision.[4] A notice of sale by execution was then issued by the sheriff covering the real

property under Transfer Certificate of Title No. T-167907 in the name of Cleodualdo M. Francisco, married to Michele U. Francisco.[5]

When petitioners' grandmother learned of the scheduled auction, she, as guardian-in-fact of petitioners, filed with the RTC an Affidavit of Third Party Claim[6] and a Very Urgent Motion to Stop Sale by Execution[7] but this was denied in the Order dated June 4, 2003.[8] Petitioners' motion for reconsideration was denied per RTC Order dated July 31, 2003.[9]

Petitioners then filed a petition for certiorari with the CA.

Pending resolution by the CA, the RTC issued an Order dated July 8, 2005, granting respondents' petition for the issuance of a new certificate of title.[10] The RTC also issued an Order on February 13, 2006, granting respondents' motion for the issuance of a writ of possession.[11]

On April 30, 2007, the CA dismissed the petition, the dispositive portion of which reads:

WHEREFORE, premises considered, the Petition is hereby DISMISSED. The Order(s), dated June 4, 2003 and July 31, 2003, of the Regional Trial Court of Muntinlupa City, Br. 256, in Civil Case No. 01-201, STAND. Costs against the Petitioners.

SO ORDERED.[12]

Hence, herein petition. As prayed for, the Court issued a temporary restraining order on July 11, 2007, enjoining respondents, the RTC, the Register of Deeds, and the Sheriff from implementing or enforcing the RTC Order dated July 8, 2005, canceling TCT No. 167907 and Order dated February 13, 2006, issuing a writ of possession, until further orders from the Court.[13]

Petitioners argue that: (1) they are the rightful owners of the property as the Partial Decision issued by the RTC of Makati in Civil Case No. 93-2289 had already become final; (2) their parents already waived in their favor their rights over the property; (3) the adjudged obligation of Michele in the ejectment case did not redound to the benefit of the family; (4) Michele's obligation is a joint obligation between her and Matrai, not joint and solidary.[14]

The Court finds that it was grave error for the RTC to proceed with the execution, levy and sale of the subject property. The power of the court in executing judgments extends only to properties unquestionably belonging to the judgment debtor alone, [15] in the present case to those belonging to Michele and Matrai. One man's goods shall not be sold for another man's debts.[16]

To begin with, the RTC should not have ignored that TCT No. 167907 is in the name of "Cleodualdo M. Francisco, married to Michele U. Francisco." On its face, the title shows that the registered owner of the property is not Matrai and Michele but Cleodualdo, married to Michele. This describes the civil status of Cleodualdo at the time the property was acquired.[17]

Records show that Cleodualdo and Michele were married on June 12, 1986, prior to the effectivity of the Family Code on August 3, 1988. As such, their property relations are governed by the Civil Code on conjugal partnership of gains.

The CA acknowledged that ownership of the subject property is conjugal in nature;[18] however, it ruled that since Michele's obligation was not proven to be a personal debt, it must be inferred that it is conjugal and redounded to the benefit of the family, and hence, the property may be held answerable for it.[19]

The Court does not agree.

A wife may bind the conjugal partnership only when she purchases things necessary for the support of the family, or when she borrows money for that purpose upon her husband's failure to deliver the needed sum; when administration of the conjugal partnership is transferred to the wife by the courts or by the husband; or when the wife gives moderate donations for charity. Failure to establish any of these circumstances means that the conjugal asset may not be bound to answer for the wife's personal obligation.[20] Considering that the foregoing circumstances are evidently not present in this case as the liability incurred by Michele arose from a judgment rendered in an unlawful detainer case against her and her partner Matrai.

Furthermore, even prior to the issuance of the Notice of Levy on Execution on November 28, 2001,[21] there was already annotated on the title the following inscription:

Entry No. 23341-42/T-167907 - Nullification of Marriage

By order of the Court RTC, NCR, Branch 144, Makati City dated July 4, 2001, which become final and executory on October 18, 2001 declaring the Marriage Contract between Michelle Uriarte and Cleodualdo M. Francisco, Jr. is null & void ab initio and title of ownership of the conjugal property consisting of the above-described property shall be transferred by way of a Deed of Donation to Cleodia Michaela U. Francisco and Ceamantha Maica U. Francisco, as co-owners when they reach nineteen (19) and eighteen (18) yrs. old to the condition that Cleodualdo, shall retain usufructuary rights over the property until he reaches the age of 65 yrs. Old.

Date of instrument - Oct 18, 2001

Date of inscription - Oct 22, 2001.[22]

This annotation should have put the RTC and the sheriff on guard, and they should not have proceeded with the execution of the judgment debt of Michele and Matrai.

While the trial court has the competence to identify and to secure properties and interest therein held by the judgment debtor for the satisfaction of a money judgment rendered against him, such exercise of its authority is premised on one important fact: that the properties levied upon, or sought to be levied upon, are properties unquestionably owned by the judgment debtor and are not exempt by law from execution.[23] Also, a sheriff is not authorized to attach or levy on property not belonging to the judgment debtor, and even incurs liability if he wrongfully levies upon the property of a third person. A sheriff has no authority to attach the property of any person under execution except that of the judgment debtor.[24]

It should be noted that the judgment debt for which the subject property was being made to answer was incurred by Michele and her partner,[25] Matrai. Respondents allege that the lease of the property in Lanka Drive redounded to the benefit of the family.[26] By no stretch of one's imagination can it be concluded that said debt/obligation was incurred for the benefit of the conjugal partnership or that some advantage accrued to the welfare of the family. In *BA Finance Corporation v. Court of Appeals*,[27] the Court ruled that the petitioner cannot enforce the obligation contracted by Augusto Yulo against his conjugal properties with respondent Lily Yulo because it was not established that the obligation contracted by the husband redounded to the benefit of the conjugal partnership under Article 161 of the Civil Code. The Court stated:

In the present case, the obligation which the petitioner is seeking to enforce against the conjugal property managed by the private respondent Lily Yulo was undoubtedly contracted by Augusto Yulo for his own benefit because at the time he incurred the obligation he had already abandoned his family and had left their conjugal home. Worse, he made it appear that he was duly authorized by his wife in behalf of A & L Industries, to procure such loan from the petitioner. Clearly, to make A & L Industries liable now for the said loan would be unjust and contrary to the express provision of the Civil Code. (Emphasis supplied)

Similarly in this case, Michele, who was then already living separately from Cleodualdo,[28] rented the house in Lanka Drive for her and Matrai's own benefit. In fact, when they entered into the lease agreement, Michele and Matrai purported themselves to be husband and wife.[29] Respondents' bare allegation that petitioners lived with Michele on the leased property is not sufficient to support the conclusion that the judgment debt against Michele and Matrai in the ejectment suit redounded to the benefit of the family of Michele and Cleodualdo and petitioners. Thus, in *Homeowners Savings and Loan Bank v. Dailo*, the Court stated thus:

x x x Ei incumbit probatio qui dicit, non qui negat (he who asserts, not he who denies, must prove). Petitioner's sweeping conclusion that the loan obtained by the late Marcelino Dailo, Jr. to finance the construction of housing units without a doubt redounded to the benefit of his family, without adducing adequate proof, does not persuade this Court. Other than petitioner's bare allegation, there is nothing from the records of the case to compel a finding that, indeed, the loan obtained by the late Marcelino Dailo, Jr. redounded to the benefit of the family. Consequently, the conjugal partnership cannot be held liable for the payment of the principal obligation.[30]

To hold the property in Taal St. liable for the obligations of Michele and Matrai would be going against the spirit and avowed objective of the Civil Code to give the utmost concern for the solidarity and well-being of the family as a unit.[31]

In justifying the levy against the property, the RTC went over the Compromise Agreement as embodied in the Partial Decision dated November 29, 2000. Oddly, the RTC ruled that there was no effective transfer of ownership to the siblings Cleodia and Ceamantha Francisco. In the same breath, the RTC astonishingly ruled that Michele is now the owner of the property inasmuch as Cleodualdo already waived his rights over the property. The Compromise Agreement must not be read piece-meal but in its entirety. It is provided therein, thus:

- In their desire to manifest their genuine concern for their children, Cleodia and Ceamantha, Cleodualdo and Michelle have voluntarily agreed to herein set forth their obligations, rights and responsibilities on matters relating to their children's support, custody, visitation, as well as to the dissolution of their conjugal partnership of gains as follows:

(a) Title and ownership of the conjugal property consisting of a house and lot located in Ayala Alabang, Muntinlupa, Metro Manila shall be transferred by way of a deed of donation to Cleodia and Ceamantha, as co-owners, when they reach nineteen (19) and eighteen (18) years old, respectively, subject to the following conditions:

a.1. Cleodualdo shall retain usufructuary rights over the property until he reaches the age of 65 years old, with the following rights and responsibilities:

x x x x[32] (Emphasis supplied)

From the foregoing, it is clear that both Michele and Cleodualdo have waived their title to and ownership of the house and lot in Taal St. in favor of petitioners. The property should not have been levied and sold at execution sale, for lack of legal basis.

Verily, the CA committed an error in sustaining the RTC Orders dated June 4, 2003 and July 31, 2003.

WHEREFORE, the petition is GRANTED. The assailed Court of Appeals Decision dated April 30, 2007, affirming RTC Orders dated June 4, 2003 and July 31, 2003, are hereby NULLIFIED and SET ASIDE. The temporary restraining order issued by the Court per Resolution of July 11, 2007 is hereby made PERMANENT.

Costs against respondents.

SO ORDERED.

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

[1] Rollo, pp. 74-75.

[2] Id. at 64-65.

[3] Rollo, p. 60.

[4] Id. at 61.

[5] Id. at 62-65.

[6] Id. at 66-67.

[7] Id. at 69-71.

[8] Id. at 79-80.

[9] Id. at 81.

[10] Id. at 504-505.

[11] Id. at 513.

[12] Rollo, p. 44.

[13] Id. at 557.

[14] Id. at 16-24.

[15] Go v. Yamane, G.R. No. 160762, May 3, 2006, 489 SCRA 107, 124.

[16] Yao v. Perello, 460 Phil. 658, 662 (2003).

[17] Heirs of Nicolas Jugalbot v. Court of Appeals, G.R. No. 170346, March 12, 2007, 518 SCRA 202; Pisueña v. Heirs of Petra Unating, 372 Phil. 267 (1999); Estonina v. Court of Appeals, G.R. No. 111547, January 27, 1997, 266 SCRA 627.

[18] Rollo, p. 41.

[19] Id.

[20] Go v. Yamane, *supra* note 15.

[21] Rollo, page 208.

[22] Id., back of page 65.

[23] Abesamis v. Court of Appeals, 413 Phil. 646 (2001).

[24] Johnson & Johnson (Phils.), Inc. v. Court of Appeals, G.R. No. 102692, September 23, 1996, 262 SCRA 298.

[25] Rollo, p. 611.

[26] Id. at 122, 139-140.

[27] No. L-61464, May 28, 1988, 161 SCRA 608.

[28] Rollo, p. 74.

[29] See Complaint in Civil Case No. 4905, p. 147.

[30] G.R. No. 153802, March 11, 2005, 453 SCRA 283, 292.

[31] *Luzon Surety Co., Inc. v. Garcia*, 140 Phil. 509 (1969).

[32] Rollo, pp. 74-75.

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