LINA PEÑALBER, PETITIONER, VS. QUIRINO RAMOS, LETICIA PEÑALBER, AND BARTEX INC., RESPONDENTS.

G.R. No. 178645. January 30, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Assailed in this Petition for Review on Certiorari under Rule 45 of the Rules of Court is the Decision[1] dated 15 December 2006 of the Court of Appeals in CA-G.R. CV No. 69731. Said Decision reversed and set aside the Decision[2] dated 19 January 2000 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 2, in Civil Case No. 3672, which declared petitioner Lina Peñalber the owner of the Bonifacio property subject of this case and ordered respondent spouses Quirino Ramos and Leticia Peñalber to reconvey the same to petitioner.

The factual and procedural antecedents of the case are set forth hereunder.

Petitioner is the mother of respondent Leticia and the mother-in-law of respondent Quirino, husband of Leticia. Respondent Bartex, Inc., on the other hand, is a domestic corporation which bought from respondent spouses Ramos one of the two properties involved in this case.

On 18 February 1987, petitioner filed before the RTC a Complaint for Declaration of Nullity of Deeds and Titles, Reconveyance, Damages, [with] Application for a Writ of Preliminary Prohibitory Injunction against the respondents.[3] It was docketed as Civil Case No. 3672.

First Cause of Action

Firstly, petitioner alleged in her Complaint that she was the owner of a parcel of land situated in Ugac Norte, Tuguegarao, Cagayan, with an area of 1,457 sq.m. and covered by Transfer Certificate of Title (TCT) No. T-43373[4] of the Register of Deeds for the Province of Cagayan, registered in petitioner's name. A residential house and a warehouse were constructed on the said parcel of land which petitioner also claimed to own (the land and the improvements thereon shall be hereinafter referred to as the Ugac properties). Petitioner averred that in the middle part of 1986, she discovered that TCT No. T-43373 was cancelled on 13 May 1983 and TCT No. T-58043[5] was issued in its stead in the name of respondent spouses Ramos. Upon verification, petitioner learned that the basis for the cancellation of her title was a Deed of Donation of a Registered Land, Residential House and Camarin,[6] which petitioner purportedly executed in favor of respondent spouses Ramos on 27 April 1983. Petitioner insisted that her signature on the said Deed of Donation was a forgery as she did not donate any property to respondent spouses Ramos. When petitioner confronted the respondent spouses Ramos about the false donation, the latter pleaded that they would just pay for the Ugac properties in the amount of P1 Million. Petitioner agreed to the proposition of the respondent spouses Ramos.

Subsequently, around 10 January 1987,[7] petitioner found out that the respondent spouses Ramos were selling the Ugac properties to respondent Bartex, Inc. Petitioner then sent her son, Johnson Paredes (Johnson),[8] to caution respondent Bartex, Inc. that respondent spouses Ramos were not the lawful owners of the said properties.

Johnson was allegedly able to convey petitioner's caveat to a representative of respondent Bartex, Inc. Petitioner also warned respondent spouses Ramos not to sell the Ugac properties anymore, otherwise, she would file the necessary action against them. The respondent spouses Ramos then assured her that they would do no such thing. As a precaution, petitioner executed an Affidavit of Adverse Claim over the Ugac Properties on 19 January 1987 and caused the same to be annotated on TCT No. T-58043 on the same day. Despite petitioner's warnings, respondent spouses Ramos still executed in favor of respondent Bartex, Inc. a Deed of Absolute Sale[9] over the Ugac properties on 12 January 1987 for a total price of P150,000.00. As a result, TCT No. T-58043 in the name of respondent spouses Ramos was cancelled and TCT No. T-68825[10] in the name of respondent Bartex, Inc. was issued on 20 January 1987.

Petitioner contended that the Deed of Absolute Sale executed by respondent spouses Ramos in favor of respondent Bartex, Inc. did not convey any valid title, not only because respondent Bartex, Inc. was a buyer in bad faith, but also because respondent spouses Ramos did not own the Ugac properties. Thus, petitioner prayed for the declaration of nullity of (1) the Deed of Donation of a Registered Land, Residential House and Camarin purportedly executed by petitioner in favor respondent spouses Ramos; (2) TCT No. T-58043, issued in the name of respondent spouses Ramos; (3) the Deed of Absolute Sale executed by the respondent spouses Ramos in favor of respondent Bartex, Inc.; and (4) TCT No. T-68825, issued in the name of respondent Bartex, Inc. Should petitioner's prayer not be granted, petitioner sought in the alternative that respondent spouses Ramos be ordered to pay the assessed value of the Ugac properties, which was about P1.5 Million. Petitioner further prayed that TCT No. T-43373, in her name, be declared valid and active.

Second Cause of Action

Secondly, petitioner claimed that for many years prior to 1984, she operated a hardware store in a building she owned along Bonifacio St., Tuguegarao, Cagayan. However, the commercial lot (Bonifacio property) upon which the building stood is owned by and registered in the name of Maria Mendoza (Mendoza), from whom petitioner rented the same.

On 22 March 1982, petitioner allowed respondent spouses Ramos to manage the hardware store. Thereafter, in 1984, Mendoza put the Bonifacio property up for sale. As petitioner did not have available cash to buy the property, she allegedly entered into a verbal agreement with respondent spouses Ramos with the following terms:

> [1.]
>
> The lot would be bought [by herein respondent spouses Ramos] for and in behalf of [herein petitioner];
>
> [2.]
>
> The consideration of P80,000.00 for said lot would be paid by [respondent spouses Ramos] from the accumulated earnings of the store;
>
> [3.]
>
> Since [respondent spouses Ramos] have the better credit standing, they would be made to appear in the Deed of Sale as the vendees so that the title to be issued in their names could be used by [them] to secure a loan with which to build a bigger building and expand the business of [petitioner].

In accordance with the above agreement, respondent spouses Ramos allegedly entered into a contract of sale[11] with Mendoza over the Bonifacio property,[12] and on 24 October 1984, TCT No. T-62769[13] covering said property was issued in the names of respondent spouses Ramos.

On 20 September 1984, respondent spouses Ramos returned the management of the hardware store to petitioner.

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On the bases of receipts and disbursements, petitioner asserted that the Bonifacio property was fully paid out of the funds of the store and if respondent spouses Ramos had given any amount for the purchase price of the said property, they had already sufficiently reimbursed themselves from the funds of the store. Consequently, petitioner demanded from respondent spouses Ramos the reconveyance of the title to the Bonifacio property to her but the latter unjustifiably refused.

Petitioner insisted that respondent spouses Ramos were, in reality, mere trustees of the Bonifacio property, thus, they were under a moral and legal obligation to reconvey title over the said property to her. Petitioner, therefore, prayed that she be declared the owner of the Bonifacio property; TCT No. T-62769, in the name of respondent spouses, be declared null and void; and the Register of Deeds for the Province of Cagayan be directed to issue another title in her name.

On 2 March 1987, respondent spouses Ramos accordingly filed before the RTC their Answer[14] to petitioner's Complaint. As regards the first cause of action, respondent spouses Ramos alleged that petitioner, together with her son, Johnson, and the latter's wife, Maria Teresa Paredes, mortgaged the Ugac properties to the Development Bank of the Philippines (DBP) on 19 August 1990 for the amount of P150,000.00. When the mortgage was about to be foreclosed because of the failure of petitioner to pay the mortgage debt, petitioner asked respondent spouses Ramos to redeem the mortgaged property or pay her mortgage debt to DBP. In return, petitioner promised to cede, convey and transfer full ownership of the Ugac properties to them. Respondent spouses Ramos paid the mortgage debt and, in compliance with her promise, petitioner voluntarily transferred the Ugac properties to the former by way of a Deed of Donation dated 27 April 1983. After accepting the donation and having the Deed of Donation registered, TCT No. T- 58043 was issued to respondent spouses Ramos and they then took actual and physical possession of the Ugac properties. Respondent spouses Ramos asserted that petitioner had always been aware of their intention to sell the Ugac properties as they posted placards thereon stating that the said properties were for sale. Respondent spouses Ramos further averred that petitioner also knew that they finally sold the Ugac properties to respondent Bartex, Inc. for P150,000.00. Thus, respondent spouses Ramos maintained that petitioner was not entitled to any reimbursement for the Ugac properties.

With regard to petitioner's second cause of action involving the Bonifacio property, respondent spouses Ramos contended that they were given not only the management, but also the full ownership of the hardware store by the petitioner, on the condition that the stocks and merchandise of the store will be inventoried, and out of the proceeds of the sales thereof, respondent spouses Ramos shall pay petitioner's outstanding obligations and liabilities. After settling and paying the obligations and liabilities of petitioner, respondent spouses Ramos bought the Bonifacio property from Mendoza out of their own funds.

Lastly, even if petitioner and respondent spouses Ramos belonged to the same family, the spouses Ramos faulted petitioner for failing to exert efforts to arrive at an amicable settlement of their dispute. Hence, respondent spouses Ramos sought, by way of a counterclaim against petitioner, moral and exemplary damages and attorney's fees, for allegedly filing a false, flimsy and frivolous complaint.

On 27 April 1987, respondent Bartex, Inc. filed before the RTC its own Answer to petitioner's Complaint, alleging, inter alia, that when a representative of the corporation inquired about the Ugac properties for sale, respondent spouses Ramos presented their owner's duplicate copy of TCT No. T-58043, together with the tax declarations covering the parcel of land and the buildings thereon. Respondent Bartex, Inc. even verified the title and tax declarations covering the Ugac properties with the Register of Deeds and the Office of the Municipal Assessor as to any cloud, encumbrance or lien on the properties, but none were found. Respondent spouses Ramos were then actually occupying the Ugac properties and they only vacated the same after the consummation of the sale to respondent Bartex, Inc. Respondent Bartex, Inc. claimed that the sale of the Ugac properties by respondent

spouses Ramos to the corporation was already consummated on 12 January 1987, and the documents conveying the said properties were by then being processed for registration, when petitioner caused the annotation of an adverse claim at the back of TCT No. T-58043 on 19 January 1987. As respondent Bartex, Inc. was never aware of any imperfection in the title of respondent spouses Ramos over the Ugac properties, it claimed that it was an innocent purchaser in good faith.

Trial of the case thereafter ensued.

On 19 January 2000, the RTC promulgated its decision, ruling on petitioner's first cause of action in this wise:

> On the first cause of action, the Court finds the testimony of [herein petitioner] Lina Penalber (sic) denying her execution of the deed of donation over the Ugac property in favor of [herein respondent spouses] Quirino Ramos and Leticia Penalber-Ramos (sic) insufficient to support the said cause of action. A notarial document is, by law, entitled to full faith and credit upon its face (Arrieta v. Llosa, 282 SCRA 248) and a high degree of proof is needed to overthrow the presumption of truth in the recitals contained in a public document executed with all legal formalities (People vs. Fabro, 277 SCRA 19). Hence, in order to contradict the facts contained in a notarial document and the presumption of regularity in its favor, these (sic) must be evidence that is clear, convincing and more than merely preponderant (Calahat vs. Intermediate Appellate Court, 241 SCRA 356). In the case at bench, [petitioner] claims that she did not execute the deed of donation over the Ugac property in favor of [respondent spouses Ramos]. Such denial, by itself, is not sufficient to overcome the presumption of regularity of the notarial deed of donation and its entitlement to full faith and credit. While it is true that, generally, the party who asserts the affirmative side of a proposition has the burden of proof, which in this instance is (sic) the [respondent spouses Ramos] who are asserting the validity of the deed of donation, [respondent spouses Ramos] can merely rely on the above-stated presumption given to notarial documents and need not present any evidence to support their claim of validity and due execution of the notarized deed of donation. On the other hand, [petitioner], in addition to her allegation that she did not execute any such deed of donation in favor of [respondent spouses Ramos] should have had her allegedly falsified signature on the deed of donation examined by qualified handwriting experts to prove that, indeed, she did not execute the same. Her failure to do so results in the failure of her cause.[15] (Emphasis ours.)

With respect to petitioner's second cause of action, the RTC adjudged that:

> On the second cause of action, the Court finds the evidence preponderantly in favor of the [herein petitioner]. The evidence on record shows that when [petitioner] allowed [herein respondent spouses Ramos] full management of the hardware store located on the Bonifacio property in March, 1982 (sic) an inventory of the stocks in trade in the said store was made showing stocks worth P226,951.05* and when she got back the store from [respondent spouses Ramos] on September 1984, another inventory was made [on] the stocks in trade in the said store showing, stocks worth P110,005.88[*] or a difference of P116,946.17.[*] The only reason for an inventory having been made when the hardware store was turned over to [respondent spouses Ramos] was, to the mind of the Court, for the latter to account for the sales of such stocks. And to arrive at the net amount due to [petitioner], all that is needed to be done is to deduct the value of the stocks present at the store when management was returned to [petitioner] in September 1984 from the value of the stocks found in the hardware store when said management was given to [respondent spouses Ramos] in 1982. [Petitioner] claims that the purchase price for the Bonifacio property was to be taken from the proceeds of sales from the hardware store which, as the evidence on record stands[,] shows a balance in her favor of more than P116,000.00. [Respondent spouses Ramos] contend that said amount was expended to pay off [petitioner's] obligations to her suppliers. The record, however, is totally silent on how much and when [respondent spouses Ramos] paid said alleged obligations of [petitioner] or even who were the said suppliers thus paid. That [petitioner] and [respondent spouses Ramos] agreed that the amount due [petitioner] from the proceeds of the sales of her stocks in the hardware store would be applied to the purchase price of the Bonifacio property is supported by the fact that [petitioner] did not ever ask for an accounting of said proceeds, despite the fact that as early as

> September, 1984 (sic) she already knew that her stocks left by her in March, 1982 (sic) was already sold by [respondent spouses Ramos] and that there was a difference of P116,000.00 plus which was due to her.[16] (Emphasis ours.)

Thus, the RTC decreed:

> WHEREFORE, in view of all the foregoing, judgment is hereby rendered:
>
> 1. Finding the evidence on record insufficient to prove the [herein petitioner's] first cause of action, and, hence, dismissing the same;
>
> 2. On the second cause of action, in favor of the [petitioner] and against the [herein respondent spouses Ramos];
>
> 2.1 Declaring the [petitioner] the owner of Lot 2-B of subdivision plan PST-2-01-019316 (sic) with an area of 195 square meters situated along Bonifacio Street, Tuguegarao, Cagayan; and
>
> 2.2 Ordering the [respondent spouses Ramos] to reconvey to the [petitioner] the said property (Bonifacio property).
>
> With costs de oficio.[17] (Emphasis ours.)

On 22 February 2000, respondent spouses Ramos filed with the RTC a Motion for Reconsideration[18] of the afore-mentioned decision, assailing the ruling of the RTC on petitioner's second cause of action on the ground that the alleged express trust created between them and petitioner involving the Bonifacio property could not be proven by parol evidence. In an Order[19] dated 17 July 2000, the RTC denied respondent spouses Ramos' Motion for Reconsideration for lack of merit, ratiocinating that respondent spouses Ramos failed to interpose timely objections when petitioner testified on their alleged verbal agreement regarding the purchase of the Bonifacio property. As such, respondent spouses Ramos were deemed to have waived such objections, which cannot be raised anymore in their Motion for Reconsideration. The RTC then reiterated its finding that petitioner's evidence clearly established her second cause of action. Additionally, the RTC held that the requirement that the parties exert earnest efforts towards an amicable settlement of the dispute had likewise been waived by the respondents as they filed no motion regarding the same before the trial.

On 24 July 2000, respondent spouses Ramos elevated their case to the Court of Appeals, insofar as the ruling of the RTC on petitioner's second cause of action was concerned.[20] The appeal was docketed as CA-G.R. CV No. 69731.

On 15 December 2006, the Court of Appeals rendered the assailed Decision in favor of respondent spouses Ramos.

Finding merit in the appeal, the appellate court observed that the second cause of action involved not only the petitioner and her daughter, but also her son-in-law, who was not covered by the term "family relations" under Article 150[21] of the Family Code. Therefore, Article 151[22] of the Family Code, requiring the exertion of earnest efforts toward a compromise, did not apply as the impediment arising from the said provision was limited only to suits between members of the same family or those encompassed in the term "family relations" under Article 150.

The Court of Appeals also declared that petitioner failed to prove her claim with the required quantum of evidence. According to the Court of Appeals:

> It appears that before management of the store was transferred to [herein respondent spouses Ramos], a beginning inventory of the stocks of the hardware store was made by [herein petitioner's] other children

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> showing stocks amounting to Php226,951.05. After management of the hardware store was returned to [petitioner], a second inventory was made with stocks amounting to Php110,004.88 showing a difference of Php116,946.15. Contrary, however, to the finding of the trial court, We find that said inventory showing such difference is not conclusive proof to show that the said amount was used to pay the purchase price of the subject lot. In fact, as testified by Johnson Paredes, son of [petitioner] who made the computation on the alleged inventories, it is not known if the goods, representing the amount of Php116,946.17, were actually sold or not. It may have been taken without actually being sold.
>
> It is a basic rule of evidence that bare allegations, unsubstantiated by evidence, are not equivalent to proof. As between [petitioner's] bare allegation of a verbal trust agreement, and the deed of absolute sale between Maria Mendoza and [respondent spouses Ramos], the latter should prevail.
>
> Although oral testimony is allowed to prove that a trust exists, contrary to the contention of [respondent spouses Ramos], and the court may rely on parol evidence to arrive at a conclusion that an express trust exists, what is crucial is the intention to create a trust. While oftentimes the intention is manifested by the trustor in express or explicit language, such intention may be manifested by inference from what the trustor has said or done, from the nature of the transaction, or from the circumstances surrounding the creation of the purported trust.
>
> However, an inference of the intention to create a trust, made from language, conduct or circumstances, must be made with reasonable certainty. It cannot rest on vague, uncertain or indefinite declarations. An inference of intention to create a trust, predicated only on circumstances, can be made only where they admit of no other interpretation. Here, [petitioner] failed to establish with reasonable certainty her claim that the purchase of the subject lot was pursuant to a verbal trust agreement with [respondent spouses Ramos].[23] (Emphasis ours.)

Thus, the Court of Appeals disposed of the case as follows:

> WHEREFORE, in view of the foregoing, the instant appeal is hereby GRANTED and the Decision dated 19 January 2000 of the Regional Trial Court (RTC) of Tuguegarao City, Branch 2, with respect to the second cause of action or the Bonifacio Property in Civil Case No. 3672 is hereby REVERSED and SET ASIDE and a new one entered DISMISSING the second cause of action of [herein petitioner's] complaint.[24]

On 12 January 2007, petitioner sought reconsideration[25] of the foregoing Decision, but it was denied by the appellate court in a Resolution[26] dated 31 May 2007.

To have the ruling of the Court of Appeals overturned, petitioner brought her case before us through the instant Petition, raising the following issues: (1) whether the existence of a trust agreement between her and respondent spouses Ramos was clearly established, and (2) whether such trust agreement was valid and enforceable.

At the outset, it is apparent that petitioner is raising questions of fact in the instant Petition. Be it noted that in a petition for review under Rule 45 of the Rules of Court, only questions of law must be entertained. A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts.[27] When the doubt or difference arises as to the truth or falsehood of alleged facts or when the query necessarily solicits calibration of the whole evidence considering mostly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and probabilities of the situation, questions or errors of fact are raised.[28] The rule that only questions of law may be raised in a petition for review under Rule 45, however, admits of certain exceptions,[29] among which is when the findings of the trial court are grounded entirely on speculation, surmise and conjecture. As will be discussed further, we find the afore-mentioned exception to be applicable in the present Petition, thus, warranting a departure from the general rule.

In its technical legal sense, a trust is defined as the right, enforceable solely in equity, to the beneficial enjoyment

of property, the legal title to which is vested in another, but the word "trust" is frequently employed to indicate duties, relations, and responsibilities which are not strictly technical trusts.[30] A person who establishes a trust is called the trustor; one in whom confidence is reposed is known as the trustee; and the person for whose benefit the trust has been created is referred to as the beneficiary.[31] There is a fiduciary relation between the trustee and the beneficiary (cestui que trust) as regards certain property, real, personal, money or choses in action.[32]

Trusts are either express or implied. Express trusts are created by the intention of the trustor or of the parties. Implied trusts come into being by operation of law.[33] Express trusts are those which are created by the direct and positive acts of the parties, by some writing or deed, or will, or by words either expressly or impliedly evincing an intention to create a trust.[34] No particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended.[35] However, in accordance with Article 1443 of the Civil Code, when an express trust concerns an immovable property or any interest therein, the same may not be proved by parol or oral evidence.[36]

In the instant case, petitioner maintains that she was able to prove the existence of a trust agreement between her and respondent spouses Ramos. She calls attention to the fact that respondent spouses Ramos could not account for the P116,946.15 difference in the beginning inventory and the second inventory of the stocks of the hardware store, and they failed to present proof to support their allegation that the amount was used to pay the other obligations of petitioner. As respondent spouses Ramos never denied the existence of the P116,946.15 difference, petitioner contends that they have the burden of proving where this amount had gone, if indeed they did not use the same to buy the Bonifacio property. Petitioner asserts that given the respondent spouses Ramos' failure to discharge such burden, the only conclusion would be that they did use the amount to purchase the Bonifacio property.

Petitioner further alleges that based on the verbal agreement between her and respondent spouses Ramos, a trust agreement was created and that the same is valid and enforceable. Petitioner claims that she is the trustor for it was she who entrusted the Bonifacio property to respondent spouses Ramos as the trustees, with the condition that the same be used to secure a loan, the proceeds of which would be used to build a bigger building to expand petitioner's business. Petitioner maintains that a trust agreement was clearly intended by the parties when petitioner left the management of the hardware store to respondent spouses Ramos, with the agreement that the proceeds from the sales from said store be used to buy the lot upon which the store stands. The respondent spouses Ramos' assumption of the management of the hardware store and their eventual purchase of the Bonifacio property indubitably shows that respondent spouses Ramos honored their obligation under the verbal agreement. Such being the case, it behooved for the respondent spouses Ramos to hold the Bonifacio property for petitioner's benefit.

Petitioner's arguments fail to persuade.

It bears stressing that petitioner has the burden of proving her cause of action in the instant case and she may not rely on the weakness of the defense of respondent spouses Ramos. Burden of proof is the duty of any party to present evidence to establish his claim or defense by the amount of evidence required by law, which is preponderance of evidence in civil cases. Preponderance of evidence[37] is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[38] Therefore, the party, whether plaintiff or defendant, who asserts the affirmative of the issue has the burden of proof to obtain a favorable judgment. For the plaintiff, the burden of proof never parts.[39] For the defendant, an affirmative defense is one which is not a denial of an essential ingredient in the plaintiff's cause of action, but one which, if established, will be a good

defense i.e., an avoidance of the claim.[40]

From the allegations of the petitioner's Complaint in Civil Case No. 3672, the alleged verbal trust agreement between petitioner and respondent spouses Ramos is in the nature of an express trust as petitioner explicitly agreed therein to allow the respondent spouses Ramos to acquire title to the Bonifacio property in their names, but to hold the same property for petitioner's benefit. Given that the alleged trust concerns an immovable property, however, respondent spouses Ramos counter that the same is unenforceable since the agreement was made verbally and no parol evidence may be admitted to prove the existence of an express trust concerning an immovable property or any interest therein.

On this score, we subscribe to the ruling of the RTC in its Order dated 17 July 2000 that said spouses were deemed to have waived their objection to the parol evidence as they failed to timely object when petitioner testified on the said verbal agreement. The requirement in Article 1443 that the express trust concerning an immovable or an interest therein be in writing is merely for purposes of proof, not for the validity of the trust agreement. Therefore, the said article is in the nature of a statute of frauds. The term statute of frauds is descriptive of statutes which require certain classes of contracts to be in writing. The statute does not deprive the parties of the right to contract with respect to the matters therein involved, but merely regulates the formalities of the contract necessary to render it enforceable.[41] The effect of non-compliance is simply that no action can be proved unless the requirement is complied with. Oral evidence of the contract will be excluded upon timely objection. But if the parties to the action, during the trial, make no objection to the admissibility of the oral evidence to support the contract covered by the statute, and thereby permit such contract to be proved orally, it will be just as binding upon the parties as if it had been reduced to writing.[42]

Per petitioner's testimony,[43] the Bonifacio property was offered for sale by its owner Mendoza. Petitioner told respondent spouses Ramos that she was going to buy the lot, but the title to the same will be in the latter's names. The money from the hardware store managed by respondent spouses Ramos shall be used to buy the Bonifacio property, which shall then be mortgaged by the respondent spouses Ramos so that they could obtain a loan for building a bigger store. The purchase price of P80,000.00 was paid for the Bonifacio property. On 20 September 1984, the respondent spouses Ramos returned the management of the store to petitioner. Thereafter, petitioner allowed her son Johnson to inventory the stocks of the store. Johnson found out that the purchase price of P80,000.00 for the Bonifacio property was already fully paid. When petitioner told the respondent spouses Ramos to transfer the title to the Bonifacio property in her name, the respondent spouses Ramos refused, thus, prompting petitioner to file a complaint against them.

Similarly, Johnson testified[44] that on 22 March 1982, petitioner turned over the management of the hardware store to respondent spouses Ramos. During that time, an inventory[45] of the stocks of the store was made and the total value of the said stocks were determined to be P226,951.05. When respondent spouses Ramos returned the management of the store to petitioner on 20 September 1984, another inventory[46] of the stocks was made, with the total value of the stocks falling to P110,004.88. The difference of P116,946.16 was attributed to the purchase of the Bonifacio property by the respondent spouses Ramos using the profits from the sales of the store.

A careful perusal of the records of the case reveals that respondent spouses Ramos did indeed fail to interpose their objections regarding the admissibility of the afore-mentioned testimonies when the same were offered to prove the alleged verbal trust agreement between them and petitioner. Consequently, these testimonies were rendered admissible in evidence. Nevertheless, while admissibility of evidence is an affair of logic and law, determined as it is by its relevance and competence, the weight to be given to such evidence, once admitted, still depends on judicial evaluation.[47] Thus, despite the admissibility of the said testimonies, the Court holds that the same carried little weight in proving the alleged verbal trust agreement between petitioner and respondent

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spouses.

Petitioner's allegations as to the existence of an express trust agreement with respondent spouses Ramos, supported only by her own and her son Johnson's testimonies, do not hold water. As correctly ruled by the Court of Appeals, a resulting difference of P116,946.15 in the beginning inventory of the stocks of the hardware store (before management was transferred to respondent spouses Ramos) and the second inventory thereof (after management was returned to petitioner), by itself, is not conclusive proof that the said amount was used to pay the purchase price of the Bonifacio property, such as would make it the property of petitioner held merely in trust by respondent spouses Ramos. Such a conclusion adopted by the RTC is purely speculative and non sequitur. The resulting difference in the two inventories might have been caused by other factors and the same is capable of other interpretations (e. g., that the amount thereof may have been written off as business losses due to a bad economic condition, or that the stocks of the store might have been damaged or otherwise their purchase prices have increased dramatically, etc.), the exclusion of which rested upon the shoulders of petitioner alone who has the burden of proof in the instant case. This petitioner miserably failed to do. The fact that respondent spouses Ramos never denied the P116,946.15 difference, or that they failed to present proof that they indeed used the said amount to pay the other obligations and liabilities of petitioner is not sufficient to discharge petitioner's burden to prove the existence of the alleged express trust agreement.

WHEREFORE, premises considered, the instant Petition for Review on Certiorari under Rule 45 of the Rules of Court is hereby DENIED. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 69731 dated 15 December 2006 is hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Austria-Martinez, (Acting Chairperson), Tinga[*], Nachura, and Peralta, JJ., concur.

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[*] Associate Justice Dante O. Tinga was designated to sit as additional member replacing Associate Justice Consuelo Ynares-Santiago per Raffle dated 21 January 2009.

[1] Penned by Associate Justice Rosalinda Asuncion-Vicente with Associate Justices Jose L. Sabio, Jr. and Ramon M. Bato, Jr., concurring; rollo, pp. 76-86.

[2] Penned by Judge Orlando D. Beltran; rollo, pp. 45-49.

[3] Records, pp. 1-7.

[4] Id. at 8-10.

[5] Id. at 11-12.

[6] Id. at 13-14.

[7] In the original Complaint, the year stated was 1986. However, this was changed to 1987 in an Amended Complaint (Records, pp. 81-87) filed by petitioner on 7 July 1988 with leave of court.

[8] In her testimony before the RTC, petitioner stated that she was not legally married to her deceased husband so she and her children used her maiden surname Peñalber. (TSN, 8 July 1988, p. 27) As regards the surname of her son, Johnson Paredes, petitioner explained that his surname was derived from a sponsor to his baptism, a certain Col. Paredes, who requested that petitioner's son be named after the said sponsor. (TSN, 10 November 1988, p. 12).

[9] Records, pp. 15-16.

[10] Id. at 17-18.

[11] Id. at 171.

[12] The original and the amended Complaints were silent as to the date of the sale but a reading of the Deed of Sale reveals that the same was executed on 27 April 1984. (Records, p. 171.)

[13] Records, p. 19.

[14] Id. at 24-35.

[15] Id. at 330-331.

[*] In accordance with Exh. H-30, Exh. I-23, and Exh. I-23-A, Folder of Exhibits, it appears that the correct amount should read as P226,951.04 (Exh. H-30), P110,004.88 (Exh. I-23) and P116,946.16 (Exh. I-23-A).

[16] Id. at 331.

[17] Id.

[18] Id. at 332-338.

[19] Id. at 348-349.

[20] Although respondent Bartex, Inc. was named as one of the petitioners in CA-G.R. CV No. 69731, it appears that it has not actively participated in the proceedings, since its interest concerns only the first cause of action.

[21] ART. 150. Family relations include those:

(1) Between husband and wife;
(2) Between parents and children;
(3) Among other ascendants and descendants; and
(4) Among brothers and sisters, whether of the full or halfblood.

[22] ART. 151. No suit between members of the same family shall prosper unless it should appear from the verified complaint or petition that earnest efforts toward a compromise have been made, but that the same have failed. If it is shown that no such efforts were in fact made, the case must be dismissed.

This rule shall not apply to cases which may not be the subject of compromise under the Civil Code.

[23] Rollo, pp. 84-85.

[24] Id. at 85.

[25] Id. at 87-93.

[26] Id. at 95-96.

[27] Binay v. Odeña, G.R. No. 163683, 8 June 2007, 524 SCRA 248, 255.

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

[29] The exceptions are: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on

a misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record. (Rosario v. PCI Leasing and Finance, Inc., G.R. No. 139233, 11 November 2005, 474 SCRA 500, 506, citing Sarmiento v. Court of Appeals, 353 Phil. 834, 846 (1998].)

[30] Ramos v. Ramos, 158 Phil. 935, 949-950 (1974).

[31] Art. 1440, Civil Code.

[32] Pacheco v. Arro, 85 Phil. 505, 514-515 (1950).

[33] Art. 1441, Civil Code.

[34] Ramos v. Ramos, supra note 30 at 950.

[35] Art. 1444, Civil Code.

[36] Art. 1443. No express trusts concerning an immovable or any interest therein may be proved by parol evidence.

[37] Section 1, Rule 133 of the Rules of Court provides:

SECTION 1. Preponderance of evidence, how determined. -- In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

[38] Ong v. Yap, G.R. No. 146797, 18February 2005, 452 SCRA 41, 49-50.

[39] DBP Pool of Accredited Insurance Companies v. Radio Mindanao Network, Inc., G.R. No. 147039, 27 January 2006, 480 SCRA 314, 322.

[40] Id. at 322-323.

[41] The purpose of the statute is to prevent fraud and perjury in the enforcement of obligations, depending for their existence on the unassisted memory of witnesses, by requiring certain enumerated contracts and transactions to be evidenced by a writing signed by the party to be charged. The statute is satisfied or, as it is often stated, a contract or bargain is taken within the statute by making and executing a note or memorandum of the contract which is sufficient to state the requirements of the statute. (Litonjua v. Fernandez, G.R. No. 148116, 14 April 2004, 427 SCRA 478, 492.)

[42] Conlu v. Araneta, 15 Phil. 387, 391 (1910).

[43] See TSN, 8 July 1988, pp. 16-23.

[44] See TSN, 7 September 1989.

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[45] Exhibits "H," "H-1" to "H-37," Folder of Exhibits.

[46] Exhibits "I," "I-1" to "I-22," Folder of Exhibits.

[47] Regalado, Remedial Law Compendium (Vol. 2, 10th ed., 2004), p. 677.

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