

**ELENITA M. DEWARA, REPRESENTED BY HER ATTORNEY-IN-FACT,
FERDINAND MAGALLANES, PETITIONER, VS. SPOUSES RONNIE AND
GINA LAMELA AND STENILE ALVERO, RESPONDENTS.**

G.R. No. 179010. April 11, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

Before the Court is a petition for review on certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated November 6, 2006 and the Resolution[2] dated July 10, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 64936, which reversed and set aside the Decision[3] dated September 2, 1999 of the Regional Trial Court (RTC), Branch 54, Bacolod City, in Civil Case No. 93-7942.

The Facts

Eduardo Dewara (Eduardo) and petitioner Elenita Magallanes Dewara (Elenita) were married before the enactment of the Family Code. Thus, the Civil Code governed their marital relations. Husband and wife were separated-in-fact because Elenita went to work in California, United States of America, while Eduardo stayed in Bacolod City.

On January 20, 1985, Eduardo, while driving a private jeep registered in the name of Elenita,[4] hit respondent Ronnie Lamela (Ronnie). Ronnie filed a criminal case for serious physical injuries through reckless imprudence[5] against Eduardo before the Municipal Trial Court in Cities (MTCC), Branch IV, Bacolod City. The MTCC found Eduardo guilty of the charge and sentenced him to suffer the penalty of imprisonment of two (2) months and one (1) day to (3) months, and to pay civil indemnity of Sixty-Two Thousand Five Hundred Ninety-Eight Pesos and Seventy Centavos (P62,598.70) as actual damages and Ten Thousand Pesos (P10,000.00) as moral damages. On appeal, the RTC[6] affirmed the decision of the MTCC[7] and it became final and executory.[8]

The writ of execution on the civil liability was served on Eduardo, but it was returned unsatisfied because he had no property in his name. Ronnie requested the City Sheriff, respondent Stenile Alvero, to levy on Lot No. 234-C, Psd. 26667 of the Bacolod Cadastre, with an area of One Thousand Four Hundred Forty (1,440) square meters (sq m), under Transfer Certificate of Title (TCT) No. T-80054, in the name of “ELENITA M. DEWARA, of legal age, Filipino, married to Eduardo Dewara, and resident of Bacolod City,” to satisfy the judgment on the civil liability of Eduardo. The City Sheriff served a notice of embargo on the title of the lot and subsequently sold the lot in a public auction. In the execution sale, there were no interested buyers other than Ronnie. The City Sheriff issued a certificate of sale to spouses Ronnie and Gina Lamela to satisfy the civil liability in the decision against Eduardo.[9] Ronnie then caused the consolidation of title in a Cadastral Proceeding before the RTC, which ordered the cancellation of TCT No. T-80054 in the name of Elenita and the issuance of a new certificate of title in the name of respondent spouses.[10]

The levy on execution, public auction, issuance of certificate of sale, and cancellation of title of the lot in the

name of Elenita were done while Elenita was working in California.[11] Thus, Elenita, represented by her attorney-in-fact, Ferdinand Magallanes, filed a case for annulment of sale and for damages against respondent spouses and ex-officio sheriff Stenile Alvero before the RTC of Bacolod City. Petitioner claimed that the levy on execution of Lot No. 234-C was illegal because the said property was her paraphernal or exclusive property and could not be made to answer for the personal liability of her husband. Furthermore, as the registered owner of the property, she received no notice of the execution sale. She sought the annulment of the sale and the annulment of the issuance of the new TCT in the name of respondent spouses.[12]

On the other hand, respondent spouses averred that the subject lot was the conjugal property of petitioner Elenita and Eduardo. They asserted that the property was acquired by Elenita during her marriage to Eduardo; that the property was acquired with the money of Eduardo because, at the time of the acquisition of the property, Elenita was a plain housewife; that the jeep involved in the accident was registered in the name of petitioner; and that Elenita did not interpose any objection pending the levy on execution of the property.[13] On September 2, 1999, the RTC rendered a decision in favor of petitioner, the fallo of which reads:

WHEREFORE, judgment is hereby rendered in favor of the [petitioner] and against the [respondents]:

- The levy on execution on Lot No. 234-C of the Bacolod Cadastre covered by TCT No. 80054 in the name of [petitioner] Elenita M. Dewara, the public auction of the property, and the consolidation of the title and issuance of new TCT No. 167403 in the name of [respondent] Ronnie Lamela, are hereby declared null and void;
- The Register of Deeds of Bacolod City is ordered to cancel TCT No. 167403 in the name of [respondent] Ronnie Lamela and TCT No. 80054 be reinstated or a new one issued in the name of [petitioner] Elenita M. Dewara;
- There is no pronouncement on damages with cost de officio.

SO ORDERED.[14]

The RTC declared that said property was paraphernal in nature. It arrived at this conclusion by tracing how Elenita acquired the subject property. Based on the documentary evidence submitted, Elenita's grandfather, Exequiel Magallanes, originally owned Lot No. 234-C. Upon his demise, his children, Jesus (Elenita's father), Salud, and Concepcion, inherited the property, each entitled to a share equal to one-third (1/3) of the total area of the land. They were issued a new title (TCT No. T-17541) for the property. On July 6, 1966, petitioner's aunt, Salud, executed a waiver of rights duly registered with the Office of the Register of Deeds under Entry No. 76392, thereby waiving her rights and participation over her 1/3 share of the property in favor of her siblings, Jesus and Concepcion. The two siblings then became the owners of the property, each owning one-half (1/2) of the property. Jesus subsequently sold his share to his daughter, Elenita, for the sum of Five Thousand Pesos (P5,000.00), based on the deed of sale dated March 26, 1975. The deed of sale was duly registered with the Register of Deeds under Entry No. 76393. Concepcion also sold her share to her niece, Elenita, for the sum of Ten Thousand Pesos (P10,000.00), based on the deed of sale dated April 29, 1975, which was duly registered with the Register of Deeds under Entry No. 76394. By virtue of the sale transactions, TCT No. T-17541 was cancelled and a new title, TCT No. T-80054, was issued in the name of Elenita.[15]

The RTC gave credence to the testimony of Elenita on the circumstances surrounding the sale of the property. First, it was sold to her by her father and her aunt so that the family would remain on the lot. Second, the minimal and inadequate consideration for the 1,440 sq m property was for the purpose of helping her expand her capital in her business at the time. Thus, the sale was essentially a donation and was therefore gratuitous in character.[16]

Having declared that the property was the paraphernal property of Elenita, the RTC ruled that the civil liability of

Eduardo, which was personal to him, could not be charged to the exclusive property of his wife.[17]

On appeal, the CA reversed the decision of the RTC. The dispositive portion of the Decision reads:

WHEREFORE, in view of all the foregoing, the instant appeal is GRANTED. The assailed decision of the Regional Trial Court of Bacolod City, Branch 54, dated September 2, 1999, in Civil Case No. 93-7942 is hereby REVERSED and SET ASIDE, and a new Decision is entered DISMISSING the complaint for lack of merit. Let a copy of this Decision be furnished to the Office of the Register of Deeds of Bacolod City, Negros Occidental [which] is hereby ordered to cancel Transfer Certificate of Title No. T-80054 or any transfer certificate of title covering Lot No. 234-C issued in the name of Elenita M. Dewara, and reinstate Transfer Certificate of Title No. 167403 or issue a new transfer certificate of title covering Lot No. 234-C in the name of Ronnie Lamela. No pronouncement as to costs.

SO ORDERED.[18]

In reversing the decision of the RTC, the CA elucidated that the gross inadequacy of the price alone does not affect a contract of sale, except that it may indicate a defect in the consent, or that the parties really intended a donation or some other act or contract. Except for the assertions of Elenita, there was nothing in the records that would indicate a defect in Jesus and Concepcion Magallanes' consent to the sale.[19] The CA ruled that Elenita and Eduardo acquired the property by onerous title during their marriage through their common fund. Thus, it belonged to the conjugal partnership of gains and might be levied upon to answer for civil liabilities adjudged against Eduardo.[20]

Hence, this petition.

The Issue

The sole issue for resolution is whether the subject property is the paraphernal/exclusive property of Elenita or the conjugal property of spouses Elenita and Eduardo.

The answer to this question will define whether the property may be subject to levy and execution sale to answer for the civil liability adjudged against Eduardo in the criminal case for serious physical injuries, which judgment had already attained finality.

The Ruling of the Court

All property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife.[21] Registration in the name of the husband or the wife alone does not destroy this presumption.[22] The separation-in-fact between the husband and the wife without judicial approval shall not affect the conjugal partnership. The lot retains its conjugal nature.[23] Moreover, the presumption of conjugal ownership applies even when the manner in which the property was acquired does not appear. The use of the conjugal funds is not an essential requirement for the presumption to arise.[24]

There is no dispute that the subject property was acquired by spouses Elenita and Eduardo during their marriage. It is also undisputed that their marital relations are governed by the conjugal partnership of gains, since they were married before the enactment of the Family Code and they did not execute any prenuptial agreement as to their property relations. Thus, the legal presumption of the conjugal nature of the property applies to the lot in question. The presumption that the property is conjugal property may be rebutted only by strong, clear, categorical, and convincing evidence—there must be strict proof of the exclusive ownership of one of the spouses, and the burden of proof rests upon the party asserting it.[25]

Aside from the assertions of Elenita that the sale of the property by her father and her aunt was in the nature of a

donation because of the alleged gross disparity between the actual value of the property and the monetary consideration for the sale, there is no other evidence that would convince this Court of the paraphernal character of the property. Elenita proffered no evidence of the market value or assessed value of the subject property in 1975. Thus, we agree with the CA that Elenita has not sufficiently proven that the prices involved in the sales in question were so inadequate for the Court to reach a conclusion that the transfers were in the nature of a donation rather than a sale.

Furthermore, gross inadequacy of the price does not affect a contract of sale, except as it may indicate a defect in the consent, or that the parties really intended a donation or some other act or contract.[26] The records are bereft of proof that the consent of petitioner's father and her aunt were vitiated or that, in reality, they intended the sale to be a donation or some other contract. Inadequacy of the price per se will not rule out the transaction as one of sale; the price must be grossly inadequate or shocking to the conscience, such that the mind would revolt at it and such that a reasonable man would neither directly nor indirectly consent to it.[27]

However, even after having declared that Lot No. 234-C is the conjugal property of spouses Elenita and Eduardo, it does not necessarily follow that it may automatically be levied upon in an execution to answer for debts, obligations, fines, or indemnities of one of the spouses. Before debts and obligations may be charged against the conjugal partnership, it must be shown that the same were contracted for, or the debts and obligations should have redounded to, the benefit of the conjugal partnership. Fines and pecuniary indemnities imposed upon the husband or the wife, as a rule, may not be charged to the partnership. However, if the spouse who is bound should have no exclusive property or if the property should be insufficient, the fines and indemnities may be enforced upon the partnership assets only after the responsibilities enumerated in Article 161 of the Civil Code have been covered.

In this case, it is just and proper that Ronnie be compensated for the serious physical injuries he suffered. It should be remembered that even though the vehicle that hit Ronnie was registered in the name of Elenita, she was not made a party in the said criminal case. Thus, she may not be compelled to answer for Eduardo's liability. Nevertheless, their conjugal partnership property may be held accountable for it since Eduardo has no property in his name. The payment of indemnity adjudged by the RTC of Bacolod City in Criminal Case No. 7155 in favor of Ronnie may be enforced against the partnership assets of spouses Elenita and Eduardo after the responsibilities enumerated under Article 161 of the Civil Code have been covered. This remedy is provided for under Article 163 of the Civil Code, viz.:

Art. 163. The payment of debts contracted by the husband or the wife before the marriage shall not be charged to the conjugal partnership.

Neither shall the fines and pecuniary indemnities imposed upon them be charged to the partnership.

However, the payment of debts contracted by the husband or the wife before the marriage, and that of fines and indemnities imposed upon them, may be enforced against the partnership assets after the responsibilities enumerated in Article 161 have been covered, if the spouse who is bound should have no exclusive property or if it should be insufficient; but at the time of the liquidation of the partnership such spouse shall be charged for what has been paid for the purposes above-mentioned.[28]

Article 161 of the Civil Code enumerates the obligations which the conjugal partnership may be held answerable, viz.:

Art. 161. The conjugal partnership shall be liable for:

(1) All debts and obligations contracted by the husband for the benefit of the conjugal partnership, and those contracted by the wife, also for the same purpose, in the cases where she may legally bind the partnership;

- (2) Arrears or income due, during the marriage, from obligations which constitute a charge upon property of either spouse or of the partnership;
- (3) Minor repairs or for mere preservation made during the marriage upon the separate property of either the husband or the wife; major repairs shall not be charged to the partnership;
- (4) Major or minor repairs upon the conjugal partnership property;
- (5) The maintenance of the family and the education of the children of both the husband and wife, and of legitimate children of one of the spouses;
- (6) Expenses to permit the spouses to complete a professional, vocational or other course.

The enumeration above-listed should first be complied with before the conjugal partnership may be held to answer for the liability adjudged against Eduardo.

Finally, the indemnity imposed against Eduardo shall earn an interest at the rate of twelve percent per annum, in accordance with our ruling in *Eastern Shipping Lines, Inc. v. Court of Appeals*.^[29]

WHEREFORE, in view of the foregoing, the Decision dated November 6, 2006 and the Resolution dated July 10, 2007 of the Court of Appeals in CA-G.R. CV No. 64936 are hereby ANNULLED and SET ASIDE. The decision dated September 2, 1999 of the Regional Trial Court of Bacolod City in Civil Case No. 93-7942 is hereby REINSTATED WITH MODIFICATION that the conjugal properties of spouses Elenita Dewara and Eduardo Dewara shall be held to answer for the judgment of Seventy-Two Thousand Five Hundred Ninety-Eight Pesos and Seventy Centavos (P72,598.70), plus an interest rate of twelve (12) percent per annum from the date of finality of the decision of the Regional Trial Court of Bacolod City in Criminal Case No. 7155, after complying with the provisions of Article 161 of the Civil Code.

SO ORDERED.

Carpio (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Agustin S. Dizon, with Associate Justices Pampio A. Abarintos and Priscilla Baltazar-Padilla, concurring; rollo, pp. 27-35.

[2] *Id.* at 37-38.

[[3]] Penned by Judge Demosthenes L. Magallanes; CA rollo, pp. 15-20.

[4] RTC records, p. 254.

[5] The case was entitled “People of the Philippines v. Eduardo Dewara,” which was docketed as Criminal Case No. 43719 in the MTCC and Criminal Case No. 7155 in the RTC.

[6] RTC decision in Criminal Case No. 7155; RTC records, pp. 178-180.

[7] MTCC decision in Criminal Case No. 43719; *id.* at 254-262.

[8] *Supra* note 1, at 28.

[9] *Id.* at 28-29.

[10] *Id.* at 29.

[11] *Id.*

[12] CA rollo, p. 15.

[13] Id. at 16.

[14] Id. at 20.

[15] Rollo, pp. 30-31; id. at 17.

[16] CA rollo, p. 18.

[17] Id.

[18] Rollo, pp. 34-35.

[19] Id. at 32.

[20] Id. at 32-33.

[21] CIVIL CODE, Art. 160; Villanueva v. Chiong, G.R. No. 159889, June 5, 2008, 554 SCRA 197, 203.

[22] Bucoy v. Paulino, et al., 131 Phil. 790, 800 (1968).

[23] CIVIL CODE, Art. 178; Villanueva v. Chiong, supra, at 202.

[24] Metropolitan Bank and Trust Co. v. Pascual, G.R. No. 163744, February 29, 2008, 547 SCRA 246, 256-257.

[25] Coja v. Court of Appeals, G.R. No. 151153, December 10, 2007, 539 SCRA 517, 528.

[26] CIVIL CODE, Art. 1470.

[27] Acabal v. Acabal, 494 Phil. 528, 545 (2005).

[28] Emphasis supplied.

[29] G.R. No. 97412, July 12, 1994, 234 SCRA 78.

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