

DURAWOOD CONSTRUCTION AND LUMBER SUPPLY, INC., PETITIONER, VS. CANDICE S. BONA, RESPONDENT.

G.R. No. 179884. January 25, 2012

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is a Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals in CA-G.R. SP No. 94479 dated April 18, 2007 and its Resolution[2] dated September 18, 2007.

On June 3, 2004, petitioner Durawood Construction and Lumber Supply, Inc. (Durawood) filed an action for sum of money plus damages with a prayer for the issuance of a writ of preliminary attachment against LBB Construction and Development Corporation (LBB Construction) and its president Leticia Barber (Barber) before the Regional Trial Court (RTC) of Antipolo. In said suit, which was docketed as Civil Case No. 04-7240, Durawood prayed for the sum of P665,385.50 as payment for construction materials delivered to LBB Construction.

On June 14, 2004, the RTC issued an Order granting Durawood's prayer for the issuance of a writ of attachment. On June 16, 2004, the corresponding writ was issued.

On June 17, 2004, Sheriff Rolando C. Leyva (Sheriff Leyva) levied on a 344-square meter parcel of land in Richdale Subdivision, Antipolo City covered by Transfer Certificate of Title (TCT) No. R-17571 in the name of LBB Construction. A Notice of Levy on Attachment was annotated in TCT No. R-17571's Memorandum of Encumbrances on the same day, June 17, 2004.

On July 13, 2004, respondent Candice S. Bona (Candice) filed a Motion seeking leave to intervene in Civil Case No. 04-7240. Attached to said Motion was Candice's Answer in Intervention, her Third Party Claim addressed to Sheriff Leyva, and a copy of TCT No. R-17571. Candice claimed therein that she is a co-owner of the property covered by TCT No. R-17571. She alleged that LBB Construction had sold the property to her and her siblings, Michael Angelo S. Bona, Diane Sheila S. Bona, Glenda May S. Bona and Johann Louie Sebastian S. Bona, through a Deed of Absolute Sale dated June 2, 2004. Candice asserted that the sale is the subject of Entry No. 30549 dated June 16, 2004 in the books of the Registry of Deeds of Antipolo City, while the levy on attachment is only Entry No. 30590 dated June 17, 2004. What was attached to the Motion was a copy of TCT No. R-17571, and not a title in Candice and her co-owners' names.

On August 11, 2004, the RTC issued an Order granting Candice's Motion to Intervene.

LBB Construction and Barber filed their Answer in Civil Case No. 04-7240, but failed to attend the scheduled hearings, including the pre-trial. Consequently, Durawood was allowed to present its evidence *ex parte*.

On July 21, 2005, the RTC rendered its Decision[3] in Civil Case No. 04-7240 in favor of Durawood. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing consideration, judgment is rendered in favor of the plaintiff and against the defendants, viz:

- Ordering the defendants to pay plaintiff the sum of Six Hundred Sixty[-]Five Thousand Three Hundred Eighty[-]Five Pesos and Fifty Centavos (P665,385.50) plus two percent (2%) interest per month from May 11, 2004 up to the present;
- Ordering the defendants to pay plaintiff twenty-five percent (25%) of the amount due to the plaintiff by way of attorney's fees; and
- To pay the costs of suit.[4]

The Decision became final and executory. On September 12, 2005, Durawood filed a Motion for the Issuance of a Writ of Execution. On November 15, 2005, the RTC issued a Writ of Execution. It was when this Writ was about to be enforced that Durawood discovered the cancellation of TCT No. R-17571 and the issuance of TCT No. R-22522 in the name of Candice and her siblings.

It would appear from the records that on June 16, 2004, the supposed Register of Deeds of Antipolo City, Atty. Randy A. Rutaquio (Atty. Rutaquio), cancelled TCT No. R-17571 and issued TCT No. R-22522 in the name of Candice and her co-owners. The parties, however, do not dispute that said cancellation of the old TCT and issuance of the new one was antedated, since Atty. Rutaquio was still the Register of Deeds of Malabon on said date.[5] According to a certification of the Land Registration Authority,[6] it was a certain Atty. Edgar D. Santos (Atty. Santos) who was the Acting Register of Deeds of Antipolo City on June 16, 2004.

Durawood filed a Motion to Reinstate Notice of Levy on Attachment in TCT No. R-22522 and Cite Atty. Randy A. Rutaquio for Contempt[7] on the following grounds:

5. The cancellation of TCT No. R-17571 and the issuance of TCT No. R-22522 was made by Atty. Randy A. Rutaquio who, on June 2004, was not the Register of Deeds of Antipolo City. As evidence of such fact, plaintiff corporation was issued a certification by LRA Human Resource Management Officer IV Loreto I. Orense that Atty. Edgar D. Santos was the Acting Register of Deeds of Antipolo City from June 1-30, 2004.
6. While the Deed of Sale annotated in TCT No. R-17571 appears to have been made on June 16, 2004, the fact of its inscription was made after that of the levy on attachment as it obviously appears below and next to it.
7. The records of this case reveal that in the Third Party Claim filed by Candice Bona sometime in July 2004, there was never any mention of any recording about a Deed of Absolute Sale in the Memorandum of Encumbrances in TCT No. R-17571. It is difficult to comprehend that Atty. Hernando U. Salvador, Bona's lawyer, would miss mentioning that a Deed of Absolute Sale was inscribed ahead of the notice of levy on attachment if ever such sale was made on June 16, 2004.
8. Thus, under the circumstances, plaintiff corporation cannot help speculate that [the] Deed of Sale between LBB Construction and the Bonas was made to appear to have been recorded a day before the attachment.
9. While the Notice of Levy on Attachment was inscribed in TCT No. R-17571 ahead and before of the Deed of Sale between LBB Construction Co., Inc. and the Bonas, the said notice was not carried over in TCT No. R-22522 despite the fact that there was no order coming from this Honorable Court dissolving the Writ of Preliminary Attachment dated June 16, 2004.
10. Randy Rutaquio's unauthorized acts of cancelling TCT No. R-17571 and issuing TCT No. R-22522 without inscribing the Notice of Levy on Attachment despite the absence of a court order dissolving the writ of Preliminary Attachment constitute improper conduct tending to directly or indirectly to impede, obstruct or degrade the administration of justice.[8]

Atty. Rutaquio filed a Manifestation alleging that the sale was entered in the Primary Entry Book prior to the Levy on Attachment. The two transactions were assigned to different examiners and it just so happened that the examiner to whom the levy on attachment was assigned was able to inscribe the memorandum ahead of the sale, although the inscription of the sale was entered ahead of the levy. The levy on attachment was not inscribed on TCT No. R-22522 because allegedly the sale should have priority and preference. The cancellation of TCT No. R-17571 and the issuance of TCT No. R-22522 was already completed when he took over the position of Atty. Santos as Acting Register of Deeds and was therefore already clothed with the authority to issue and sign TCT No. R-22522.

Atty. Rutaquio also submitted a letter dated June 25, 2004 from Atty. Santos to Land Registration Authority (LRA) Administrator Benedicto B. Ulep (Administrator Ulep) consulting the latter as regards the registration of the Deed of Absolute Sale and the Notice of Levy on Attachment.[9] In said letter received by the LRA on July 1, 2004, Atty. Santos stated that he had not acted on the Deed of Absolute Sale since the required registration fees were not paid therefor.[10] Administrator Ulep was able to reply to said letter on October 6, 2004, when Atty. Rutaquio was already the Acting Register of Deeds. Administrator Ulep stated that since the Deed of Sale was considered registered on June 16, 2004, the same shall take precedence over the Notice of Levy on Attachment registered on June 17, 2004.[11]

Acting on the Motion to Reinstate Notice of Levy on Attachment in TCT No. R-22522 and Cite Atty. Randy A. Rutaquio for Contempt, the RTC issued an Order[12] dated March 2, 2006, ruling in favor of Durawood. The RTC gave great weight to the certification by LRA Human Resource Management Officer IV Loreto I. Orense that Atty. Santos was the Acting Register of Deeds from June 1-30, 2004, and held that this proves the fact that Atty. Santos was the only person authorized to sign and approve all the transactions with the Registry of Deeds of Antipolo City at the time. Moreover, according to the RTC, the alienation of LBB Construction in favor of the Bonas without leaving sufficient property to pay its obligation is considered by law in fraud of creditor under Articles 1381[13] and 1387[14] of the Civil Code.

The RTC did not rule on Durawood's prayer to cite Atty. Rutaquio for contempt. The dispositive portion of the March 2, 2006 Order reads:

WHEREFORE, premises considered, the instant motion to reinstate notice of levy on attachment in TCT No. R-22522 now in the name of the intervenors is hereby GRANTED its non-inscription therein having been made without order of this Court.

The Register of Deeds of Antipolo City is directed to reinstate the notice of levy on attachment in TCT No. R-22522 in the names of intervenors immediately upon receipt of this Order.[15]

Candice filed a Motion for Reconsideration of the above Order. In the meantime, on March 13, 2006, Sheriff Leyva issued a Notice of Sheriff's Sale setting the sale of the property covered by TCT No. R-22522 at public auction on April 11, 2006 at 10:00 a.m., pursuant to the November 15, 2005 Writ of Execution. Candice filed an Urgent Ex-Parte Motion to Order the Branch Sheriff to Desist from the Sale of Intervenor's Property for Being Premature, which was granted by the RTC in an Order dated March 29, 2006.

On March 8, 2006, the new Acting Register of Deeds Jose S. Loriga, Jr. complied with the March 6, 2006 Order of the RTC by reinstating in TCT No. R-22522 the Notice of Levy on Attachment in favor of Durawood.

On April 7, 2006, the RTC issued an Order denying Candice's Motion for Reconsideration. In said Order, the RTC highlighted its observation that in TCT No. R-17571, the inscription of the levy on attachment by Atty. Santos dated June 17, 2004 was in page A (the dorsal portion) of the title, while the supposedly earlier inscription of the Deed of Sale by Atty. Rutaquio dated June 16, 2004 was found in page B (a separate page) of the title. The

RTC found this fact, as well as the above-mentioned certification that Atty. Santos was the Acting Register of Deeds of Antipolo City from June 1 to 30, 2004, sufficient proof of the irregularity of the June 16, 2004 inscription of the Deed of Sale.

On April 11, 2006, Sheriff Leyva sold the subject property at public auction for P1,259,727.90 with Durawood being the lone bidder, and issued the corresponding Certificate of Sale. The sale was inscribed in TCT No. R-22522 on the same date.[16]

Candice filed with the Court of Appeals a Petition for Certiorari and Prohibition assailing the March 2, 2006 and April 7, 2006 Orders of the RTC.

On April 18, 2007, the Court of Appeals rendered the assailed Decision in favor of Candice. According to the Court of Appeals, the sequence of presentation of the entries in the TCT cannot control the determination of the rights of the claimants over a disputed property. It is the registration in the Primary Entry Book (also referred to in other cases as the day book) that establishes the order of reception of instruments affecting registered land. As explained by Atty. Rutaquio, the entry in the day book is only the preliminary step in the registration. The inscription of the levy on attachment on TCT No. R-17571 (which was made before the inscription of the Deed of Sale on said title) retroacts to the date of entry in the Primary Entry Book, which is June 17, 2004. However, the inscription of the Deed of Sale on TCT No. R-17571, although made after the inscription of the levy on attachment, retroacts to the earlier date of entry in the Primary Entry Book, which is June 16, 2004.

As regards the issuance by Atty. Rutaquio of TCT No. R-22522 on June 16, 2004 despite the fact that he was not yet the Register of Deeds of Antipolo City at that time, the Court of Appeals held that there was substantial compliance with the National Land Titles and Deeds Registration Administration (NALTDRA; now the Land Registration Authority [LRA]) Circular No. 94 on "Certificates of title and documents left unsigned by former Register of Deeds," which provides:

It has been brought to the attention of this Registration that, in some Registries, there are certificates of title with the full transcriptions and inscriptions, including the volume and page numbers, the title number, the date and the name of the former Register of Deeds, already typewritten thereon but which, for some reasons, cannot anymore be signed by the former official. In such cases and to resolve this problem, the present Register of Deeds may, without changing or altering the transcriptions and inscriptions, affix his signature below the name of the former Register of Deeds but placing the actual date and time of signing enclosed in parenthesis below his signature.[17]

The Court of Appeals accepted Atty. Rutaquio's manifestation that he signed TCT No. R-22522 subsequent to June 16, 2004, on a date when he was already the Acting Register of Deeds of Antipolo City. Since the entry in the Primary Entry Book was made at the time of the incumbency of Atty. Santos, the name of the latter still appears on the document. According to the Court of Appeals, Candice cannot be made to suffer for the failure of Atty. Rutaquio to affix the date when he signed the document. Furthermore, a certificate of title, once registered, cannot be impugned, altered, changed, modified, enlarged or diminished except in a direct proceeding permitted by law. Finally, an action for rescission of contracts entered into in fraud of creditors cannot be instituted except when the party suffering damage has no other legal means to obtain reparation for the same.[18]

The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, the assailed Orders of public respondent judge ordering the reinstatement of the subject notice of levy on attachment in TCT No. R-22522 are hereby ANNULLED and SET ASIDE. As a result thereof, the public auction sale carried out pursuant to said levy is also declared null and void.[19]

Durawood filed a Motion for Reconsideration, but the same was denied by the Court of Appeals in its Resolution dated September 18, 2007.

Durawood filed the instant Petition for Review, with the following Assignment of Errors:

I.

THE COURT OF APPEALS IGNORED THE FACT THAT NON-PAYMENT OF THE REQUIRED REGISTRATION FEES BY CANDICE S. BONA AND HER SIBLINGS DID NOT COMPLETE THE REGISTRATION OF THE DEED OF ABSOLUTE SALE ON JUNE 16, 2004.

II.

THE COURT OF APPEALS GRAVELY ERRED WHEN IT DISREGARDED THE FACT THAT NALTDRA CIRCULAR NO. 94 WAS NOT COMPLIED WITH BY ATTY. RANDY RUTAQUIO.

III.

THE COURT OF APPEALS GRAVELY ERRED WHEN IT FAILED TO CONSIDER THAT THE ENTRIES IN TCT NO. R-17571 (THE PREDECESSOR OF TCT NO. R-22522) ARE EVIDENCES OF THE FACTS STATED THEREIN.

IV.

THE COURT OF APPEALS OVERLOOKED THE FACT THAT THE REAL PROPERTY COVERED BY TCT NO. R-17571 AND SUBSEQUENTLY BY TCT NO. R-22522 HAS ALREADY BEEN ATTACHED BUT WAS UNILATERALLY RELEASED FROM THE COURT'S JURISDICTION BY A USURPER.[20]

All these allegations are specific matters to be resolved by this Court in determining the overriding issue of the case at bar: whether the Court of Appeals correctly granted Candice's Petition for Certiorari and Prohibition on its finding that the RTC committed grave abuse of discretion in issuing its March 2, 2006 and April 7, 2006 Orders. In other words, the main issue to be determined by this Court is whether or not there was grave abuse of discretion in the RTC's order to reinstate the notice of levy on attachment in TCT No. R-22522. "Grave abuse of discretion" signifies "such capricious and whimsical exercise of judgment that is equivalent to lack of jurisdiction. The abuse of discretion must be grave as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law." [21]

The Court of Appeals, in considering the date of entry in the day book of the Registry of Deeds as controlling over the presentation of the entries in TCT No. R-17571, relied on Section 56 of Presidential Decree No. 1529 which provides that:

SEC. 56. Primary Entry Book; fees; certified copies. - Each Register of Deeds shall keep a primary entry book in which, upon payment of the entry fee, he shall enter, in the order of their reception, all instruments including copies of writs and processes filed with him relating to registered land. He shall, as a preliminary process in registration, note in such book the date, hour and minute of reception of all instruments, in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each instrument, when made on the certificate of title to which it refers, shall bear the same date: Provided, that the national government as well as the provincial and city governments shall be exempt from the payment of such fees in advance in order to be entitled to entry and registration. (Emphasis supplied.)

The consequence of the highlighted portion of the above section is two-fold: (1) in determining the date in which an instrument is considered registered, the reckoning point is the time of the reception of such instrument as noted

in the Primary Entry Book; and (2) when the memorandum of the instrument is later made on the certificate of title to which it refers, such memorandum shall bear the same date as that of the reception of the instrument as noted in the Primary Entry Book. Pursuant to the second consequence stated above, the Court of Appeals held that Atty. Rutaquio correctly placed the date of entry in the Primary Entry Book as the date of the memorandum of the registration of the deed of sale in TCT No. R-17571.

As regards the first consequence, this Court has applied the same in several cases. Thus, in the old cases of *Levin v. Bass*,^[22] *Potenciano v. Dineros*,^[23] and *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*,^[24] as well as in the fairly recent cases of *Autocorp Group v. Court of Appeals*,^[25] *Armed Forces and Police Mutual Benefit Association, Inc. v. Santiago*,^[26] and *National Housing Authority v. Basa, Jr.*,^[27] we upheld the entry of instruments in the Primary Entry Book to be equivalent to registration despite even the failure to annotate said instruments in the corresponding certificates of title.

Based on this alone, it appears that the RTC was in error when it considered the registration of the Absolute Deed of Sale on June 16, 2004 inferior to the registration of the Notice of Levy on Attachment on June 17, 2004 on the ground that the Attachment was annotated on TCT No. R-17571 earlier than the Deed of Sale. As discussed in the above-mentioned cases, the annotation in the certificate of title is not determinative of the effectivity of the registration of the subject instrument.

However, a close reading of the above-mentioned cases reveals that for the entry of instruments in the Primary Entry Book to be equivalent to registration, certain requirements have to be met. Thus, we held in *Levin* that:

Do the entry in the day book of a deed of sale which was presented and filed together with the owner's duplicate certificate of title with the office of the Registrar of Deeds and full payment of registration fees constitute a complete act of registration which operates to convey and affect the land? In voluntary registration, such as a sale, mortgage, lease and the like, if the owner's duplicate certificate be not surrendered and presented or if no payment of registration fees be made within 15 days, entry in the day book of the deed of sale does not operate to convey and affect the land sold. x x x.^[28]

Levin, which was decided in 1952, applied Section 56 of the Land Registration Act^[29] which provides:

Sec. 56. Each register of deeds shall keep an entry book in which, upon payment of the filing fee, he shall enter in the order of their reception all deeds and other voluntary instruments, and all copies of writs or other process filed with him relating to registered land. He shall note in such book the year, month, day, hour, and minute of reception of all instruments in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each instrument when made on the certificate of title to which it refers shall bear the same date; Provided, however, That no registration, annotation, or memorandum on a certificate of title shall be made unless the fees prescribed therefor by this Act are paid within fifteen days' time after the date of the registration of the deed, instrument, order or document in the entry book or day book, and in case said fee is not paid within the time above mentioned, such entry shall be null and void: Provided further, That the Insular Government and the provincial and municipal governments need not pay such fees in advance in order to be entitled to entry or registration. (Emphasis supplied.)

This provision is the precursor of the aforequoted Section 56 of Presidential Decree No. 1529, which seems to have dispensed with the provision nullifying the registration if the required fees are not paid:

SEC. 56. Primary Entry Book; fees; certified copies. - Each Register of Deeds shall keep a primary entry book in which, upon payment of the entry fee, he shall enter, in the order of their reception, all instruments including copies of writs and processes filed with him relating to registered land. He shall, as a preliminary process in registration, note in such book the date, hour and minute of reception of all instruments, in the order in which they were received. They shall be regarded as registered from the time so noted, and the memorandum of each

instrument, when made on the certificate of title to which it refers, shall bear the same date: Provided, that the national government as well as the provincial and city governments shall be exempt from the payment of such fees in advance in order to be entitled to entry and registration.

In *Development Bank of the Philippines v. Acting Register of Deeds of Nueva Ecija*,^[30] this Court applied the provisions of Presidential Decree No. 1529 and modified the doctrine as follows:

Current doctrine thus seems to be that entry alone produces the effect of registration, whether the transaction entered is a voluntary or an involuntary one, so long as the registrant has complied with all that is required of him for purposes of entry and annotation, and nothing more remains to be done but a duty incumbent solely on the register of deeds.^[31]

This pronouncement, which was reiterated in *National Housing Authority v. Basa, Jr.*,^[32] shows that for the entry to be considered to have the effect of registration, there is still a need to comply with all that is required for entry and registration, including the payment of the prescribed fees. Thus, in *Autocorp Group v. Court of Appeals*,^[33] this Court compared the date when the required fees were paid with the therein assailed writ of preliminary injunction:

Petitioners contend that payment of the entry fee is a condition sine qua non before any valid entry can be made in the primary entry book. Allegedly, the Court of Appeals resorted to judicial legislation when it held that the subsequent payment of the entry fee was curative and a substantial compliance with the law. Petitioners claim that the ruling in *DBP vs. Acting Register of Deeds of Nueva Ecija* does not apply to this case. As there was no valid registration, petitioners conclude that the order of the trial court issuing a writ of preliminary injunction was proper, considering the irregularities present in the conduct of the extrajudicial foreclosure x x x.

We find the petition bereft of merit.

First. The objection as to the payment of the requisite fees is unavailing. There is no question that the fees were paid, albeit belatedly. Respondent bank presented the certificate of sale to the Office of the Register of Deeds of Cebu City for registration on January 21, 1999 at 4:30 p.m. As the cashier had already left, the Office could not receive the payment for entry and registration fees, but still, the certificate of sale was entered in the primary entry book. The following day, respondent bank paid the requisite entry and registration fees. Given the peculiar facts of the case, we agree with the Court of Appeals that the payment of respondent bank must be deemed to be substantial compliance with the law; and, the entry of the instrument the day before, should not be invalidated. In any case, even if we consider the entry to have been made on January 22, the important fact is that the entry in the primary entry book was done prior to the issuance of the writ of injunction [on February 15, 1999; TRO issued on January 25, 1999] by the trial court.^[34] (Emphases supplied.)

Records in the case at bar reveal that as of June 25, 2004, the date of the letter of Atty. Santos seeking the opinion of the LRA as regards the registration of the Deed of Sale and the Notice of Levy on Attachment, the required registration fees for the Deed of Sale has not yet been paid:

25 June 2004

[received by the LRA: July 01, 2004]

HON. BENEDICTO B. ULEP

Administrator

This Authority

Sir:

This has reference to the TCT No. R-17571/T-87 registered under the name of LBB Construction and

Development Corporation relative to the Deed of Absolute Sale with Entry No. 30549, which was sought to be registered on 16 June 2004 at 11:20 a.m. (a photocopy of which is hereto attached as Annex "A").

However, on 17 June 2004 at 11:45 a.m. a Notice of Levy on Attachment (a photocopy of which is hereto attached as Annex "B") with Entry No. 30590 was filed and annotated against TCT No. R-17571/T-87.

In view of the foregoing, we are now in a quandary as to what proper steps should be taken. It should be noted further that the required registration fees of the abovementioned sale was not paid the reason for which the same was not immediately acted upon by the undersigned.[35]

Since there was still no compliance of "all that is required x x x for purposes of entry and annotation"[36] of the Deed of Sale as of June 25, 2004, we are constrained to rule that the registration of the Notice of Levy on Attachment on June 17, 2004 should take precedence over the former. Considering that the Notice of Levy on Attachment was deemed registered earlier than the Deed of Sale, the TCT issued pursuant to the latter should contain the annotation of the Attachment.

In view of the foregoing, we find that the RTC was, in fact, acting properly when it ordered the reinstatement of the Notice of Levy on Attachment in TCT No. R-22522. Since the RTC cannot be considered as to have acted in grave abuse of its discretion in issuing such Order, the Petition for Certiorari assailing the same should have been dismissed.

WHEREFORE, premises considered, the instant Petition for Review on Certiorari is hereby GRANTED. The Decision of the Court of Appeals in CA-G.R. SP No. 94479 dated April 18, 2007 and its Resolution dated September 18, 2007 are REVERSED and SET ASIDE.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 17-27; penned by Associate Justice Rodrigo V. Cosico with Associate Justices Rosmari D. Carandang and Mariflor P. Punzalan Castillo, concurring.

[2] Id. at 28-29.

[3] CA rollo, pp. 75-78.

[4] Id. at 78.

[5] Rollo, p. 62.

[6] Id. at 252.

[7] CA rollo, pp. 82-85.

[8] Id. at 83-84.

[9] Id. at 101.

[10] Id.

[11] Id. at 102-103.

[12] Rollo, pp. 62-65.

[13] Art. 1381. The following contracts are rescissible:

(1) Those which are entered into by guardians whenever the wards whom they represent suffer lesion by more than one-fourth of the value of the things which are the object thereof;

(2) Those agreed upon in representation of absentees, if the latter suffer the lesion stated in the preceding number;

(3) Those undertaken in fraud of creditors when the latter cannot in any other manner collect the claim due them;

(4) Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority;

(5) All other contracts specially declared by law to be subject to rescission.

[14] Art. 1387. All contracts by virtue of which the debtor alienates property by gratuitous title are presumed to have been entered into in fraud of creditors, when the donor did not reserve sufficient property to pay all debts contracted before the donation.

[15] CA rollo, p. 35.

[16] Rollo, p. 247.

[17] Id. at 26.

[18] Id. at 25-26.

[19] Id. at 27.

[20] Id. at 8-9.

[21] Global Business Holdings, Inc. v. Surecomp Software, B.V., G.R. No. 173463, October 13, 2010, 630 SCRA 94, 102.

[22] 91 Phil. 419 (1952).

[23] 97 Phil. 196 (1955).

[24] 245 Phil. 492 (1988).

[25] G.R. No. 157553, September 8, 2004, 437 SCRA 678.

[26] G.R. No. 147559, June 27, 2008, 556 SCRA 46.

[27] G.R. No. 149121, April 20, 2010, 618 SCRA 461.

[28] Levin v. Bass, *supra* note 22 at 436-437.

[29] Act No. 496, as amended by Section 2, Act No. 3300.

[30] *Supra* note 24.

[31] Id. at 500.

[32] *Supra* note 27 at 480.

[33] *Supra* note 25.

[34] Id. at 685-686.

[35] CA rollo, p. 101.

[36] See *National Housing Authority v. Basa, Jr.*, supra note 27 at 480.

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