

LOLITA ESPIRITU SANTO MENDOZA AND SPS. ALEXANDER AND ELIZABETH GUTIERREZ, PETITIONERS, VS. SPS. RAMON, SR. AND NATIVIDAD PALUGOD, RESPONDENTS.*G.R. No. 220517. June 20, 2018*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-220517/>**CAGUIOA, J:**

Before the Court is a petition for review on certiorari (Petition) under Rule 45 of the Rules of Court assailing the Decision[1] dated April 29, 2015 (Decision) of the Court of Appeals[2] (CA) in CA-G.R. CV No. 102904, denying the appeal of petitioners for lack of merit, and the CA[3] Resolution[4] dated September 10, 2015, denying petitioners' motion for reconsideration. The CA Decision affirmed the Decision[5] dated March 14, 2013 in favor of respondents and Order[6] dated May 8, 2014, denying petitioners' motion for reconsideration, of the Regional Trial Court of Bacoor, Cavite, Branch 19 (RTC) in Civil Case No. BCV 2004-217.

The Facts and Antecedent Proceedings

The CA Decision's brief narration of facts and proceedings before the RTC follows:

[Petitioner] Lolita Espiritu Santo Mendoza (Lolita, for brevity) and Jasminia Palugod (Jasminia, for brevity) were close friends. Lolita was a businesswoman engaged in selling commodities and houses and lots, while Jasminia was then working as a Supervisor in the Philippine Long Distance Telephone Company (PLDT). In 1991, Lolita and Jasminia bought the subject lot [with an area of 120 sq. m.[7]] on installment for one (1) year until they decided to pay the balance in full. [The lot is located in Sagana Remville[8] Homes, Habay, Bacoor, Cavite.[9] In 1995, Jasminia became afflicted with breast cancer. Sometime in 1996, Lolita and Jasminia constructed a residential house on the subject lot. Although Lolita has no receipts, she shared in the cost of the construction of the house from her income in the catering business and selling of various products. [Jasminia, based on a certification[10], was separated from employment on December 30, 1998, and on January 18, 1999, she received her retirement pay[11] in the amount of P1,383,773.59.[12]] On May 11, 2004, Jasminia executed a Deed of [Absolute] Sale in favor of Lolita, who eventually mortgaged [on November 19, 2004[13]] the subject property to [petitioner] Elizabeth Gutierrez as a security for a loan in the amount of Php800,000.00.

On the other hand, [respondents spouses Ramon, Sr. and Natividad Palugod] alleged that their daughter, the late Jasminia, acquired the property located in Sagana Homes, Habay, Bacoor[,] Cavite. Prior to and after the said acquisition of the subject property, Jasminia was living with [petitioner] Lolita, a lesbian. Jasminia was an employee of PLDT who rose to the rank of Traffic Supervisor before her separation from service. [Petitioner] Lolita has no work or means of livelihood of her own and was fully dependent on Jasminia. Unfortunately, Jasminia was afflicted with Stage IV breast cancer with multiple bone metastasis. When she was nearing her death, she told her mother, [respondent] Natividad Palugod, that her house and lot shall go to her brother Ramonito Palugod, but [petitioner] shall be allowed to stay therein. [Jasminia died on September 26, 2004 at the Philippine General Hospital.[14]] Meanwhile, Lolita, taking advantage of her relationship with Jasminia, caused the latter to sign a Deed of Absolute Sale in her favor. Thereafter, Lolita, aided by her brother Wilfredo Mendoza as witness, entered it for registration with the Office of the Registry of Deeds. Thus, TCT (Torrens [sic] Certificate of Title) No. T-308560 in the name of Jasminia was cancelled and TCT No. T-1077041 was

issued in the name of Lolita.

[Respondents], upon learning from the Office of the Registry of Deeds that Jasminia's certificate of title has been cancelled, executed an Affidavit of Adverse Claim of their right and interest over the property as the only compulsory and legitimate heirs of Jasminia. However, [petitioner] Lolita, knowing fully well of the impending suit, made it appear that she mortgaged the property to [petitioners] Spouses Gutierrez as a security for a loan amounting to Php800,000.00.

Thus, [respondents] filed a complaint for Declaration of Nullity of the Deed of Absolute Sale and the Deed of Real Estate Mortgage with the RTC of Bacoor[,] Cavite.

On March 14, 2013, the RTC of Bacoor, Cavite, Branch 19, rendered the assailed Decision in favor of [respondents]. The RTC declared that there can be no contract unless the following concur: (a) consent; (2) object certain; and (3) cause of the obligation. [Respondents] were able to prove by preponderance of evidence that the Deed of Sale involved no actual monetary consideration. [Petitioner] Lolita, in her testimony, admitted that the sale was without monetary consideration. The RTC ruled that the Deed of Sale is void for being simulated, hence, the Deed of Real Estate Mortgage executed therein by [petitioner] Lolita in favor of [petitioners] Spouses Gutierrez is likewise void, since, in a real estate mortgage, it is essential that the mortgagor be the absolute owner of the property to be mortgaged.

[The dispositive portion of the RTC Decision states:

WHEREFORE, premises considered, the judgment is hereby rendered in favor of the [respondents] Sps. Ramon, Sr. and Natividad Palugod and against the [petitioners] Lolita Espiritu Santo Mendoza and Sps. Alexander and Elizabeth Gutierrez as follows:

- That the Deed of Absolute Sale dated May 11, 2004 purportedly executed by x x x Jasminia Palugod in favor of [petitioner] Lolita Espiritu Santo Mendoza as null and void;
- That the Deed of Real Estate Mortgage dated November 19, 2004 executed by [petitioner] Lolita Espiritu Santo Mendoza in favor of [petitioners] Spouses Alexander and Elizabeth Gutierrez as null and void;
- To cancel the Transfer Certificate of Title No. T-1077041 in the name of [petitioner] Lolita Espiritu Santo Mendoza and to reinstate Transfer Certificate of Title No. 308560 in the name of Jasminia P. Palugod;
- Declaring [respondents] as the lawful owner[s] of the subject property by succession as the only and compulsory heirs of the late Jasminia P. Palugod; and
- Ordering [petitioners], jointly and severally, to pay [respondents] the amount of Php200,000.00 in attorney's fees.

SO ORDERED.[15]

[Petitioners] filed [a] motion for reconsideration, but the RTC, in the assailed Order dated May 8, 2014, denied the same for lack of merit.

Aggrieved, [petitioners] interposed [an] appeal [before the CA].[16]

The CA Ruling

The CA denied petitioners' appeal for lack of merit. The CA ruled that respondents, being the only surviving heirs of Jasminia[17] Paloma Palugod (Jasminia), have the legal personality to question the validity of the deed of sale between Jasminia and petitioner Lolita Espiritu Santo Mendoza (petitioner Lolita).[18] The CA found no cogent reason to deviate from the finding of the RTC that the deed of sale is null and void for being absolutely simulated since it did not involve any actual monetary consideration.[19] The CA likewise agreed with the RTC's finding that the real estate mortgage between petitioner Lolita and petitioners spouses Alexander and Elizabeth Gutierrez

is null and void because the mortgagor was not the absolute owner of the mortgaged property.[20] The dispositive portion of the CA Decision reads as follows:

WHEREFORE, the appeal is DENIED for lack of merit. The assailed March 14, 2013 Decision and May 8, 2014 Order of the RTC of Bacoor, Cavite, Branch 19, in Civil Case No. BCV 2004-217, are AFFIRMED.

SO ORDERED.[21]

Petitioners filed a motion for reconsideration, which was denied by the CA in its Resolution[22] dated September 10, 2015.

Hence, the present Petition. The Court in its Resolution[23] dated January 13, 2016 denied the Petition for failure to sufficiently show any reversible error in the challenged CA Decision and Resolution as to warrant the exercise of the Court's appellate jurisdiction. Petitioners filed a Motion for Reconsideration[24] dated March 28, 2016. Respondents opposed the Motion for Reconsideration and filed an Opposition/Comment[25] dated April 20, 2016. In its Resolution[26] dated October 3, 2016, the Court granted petitioners' Motion for Reconsideration, reinstated the Petition and required respondents to comment on the Petition. Respondents filed their Comment[27] dated February 4, 2017. Petitioners filed a Reply[28] dated July 10, 2017.

Issues

The Petition raises the following issues:

- Whether the CA erred in not upholding as applicable to the case the legal principle that a written contract is for a valuable consideration despite the utter failure to prove beyond a selective appreciation of the transcript of stenographic notes that there was indeed no consideration;
- Whether the CA erred in not upholding as applicable to this case the legal principle that inadequacy of monetary consideration does not render a conveyance null and void; and
- Whether the CA erred when it affirmed the finding of the RTC that petitioners-mortgagees are jointly liable with petitioner-mortgagor despite the lack of evidence against their innocence contrary to the legal principle that innocent parties must not be held liable for damages.[29]

The Court's Ruling

The Petition is meritorious.

While petitioners couch the issues based on erroneous application of certain legal principles - presumption and adequacy of consideration of contracts, they inherently involve a determination of the correctness of the finding by both the CA and the RTC that respondents have established by preponderance of evidence the lack of consideration of the disputed deed of sale. Necessarily, questions of fact must be hurdled in the resolution of the issues raised by petitioners.

As a rule, the factual findings of the CA affirming those of the RTC are final and conclusive, and they cannot be reviewed by the Court which has jurisdiction to rule only on questions of law in Rule 45 petitions to review.[30]

The Court in *Pascual v. Burgos*[31] reiterated that:

A question of fact requires this [C]ourt to review the truthfulness or falsity of the allegations of the parties.[32] This review includes assessment of the "probative value of the evidence presented." [33] There is also a question of fact when the issue presented before this [C]ourt is the correctness of the lower courts' appreciation of the evidence presented by the parties.[34]

There are, however, recognized exceptions where the Court may review questions of fact. These are: (1) when the

factual conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) when the inference is manifestly mistaken, absurd or impossible; (3) when there is abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA went beyond the issues of the case in making its findings, which are further contrary to the admissions of both the appellant and the appellee; (7) when the CA's findings are contrary to those of the trial court; (8) when the conclusions do not cite the specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; (10) when the CA's findings of fact, supposedly premised on the absence of evidence, are contradicted by the evidence on record;[35] or (11) when the CA manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.[36]

As will be demonstrated below, the Court's review of the factual findings of the courts below is justified by the fourth, tenth and eleventh exceptions the assailed judgments of the CA and the RTC are based on a misapprehension of facts; the findings of fact of the CA and the RTC, supposedly premised on the absence of evidence, are contradicted by the evidence on record; and the CA as well as the RTC manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

At the heart of the present controversy between respondents spouses Ramon, Sr. (respondent Ramon) and Natividad Palugod (respondent Natividad), the parents of the late Jasminia and her "close friend"[37] petitioner Lolita is the (unilateral) Deed of Absolute Sale[38] (DAS) notarized on May 11, 2004 executed by Jasminia in favor of petitioner Lolita, the validity of which is the central issue in this case. The DAS partly states:

I, JASMINIA PALOMA PALUGOD x x x hereinafter referred to as the VENDOR, FOR AND IN CONSIDERATION of the sum of FOUR HUNDRED THOUSAND PESOS (P400,000.00) Philippine Currency, receipt of which is hereby acknowledged and confessed, have SOLD, TRANSFERRED, and CONVEYED, absolutely and perpetually to LOLITA ESPIRITU SANTO MENDOZA x x x hereinafter referred to as the VENDEE, her heirs, successors, and assigns, my ONE HUNDRED TWENTY (120) SQUARE METERS lot located at Habay, Bacoor, Cavite, including all improvements found therein x x x.[39]

Both the RTC and the CA declared the DAS void on the ground that it was fictitious or simulated on account of lack of consideration. According to the RTC, petitioner Lolita "admitted that she has no receipts showing the staggered payment of P400,000.00 or any agreement made between her and Jasminia as to the consideration of the subject property." [40] On the other hand, the CA stated that:

Although, on its face, the Deed of Sale appears to be supported by valuable consideration, since it states that Lolita paid the purchase price of Php400,000.00 for the subject property. However, based on the testimony of [petitioner] Lolita, it has been proven that she gave no consideration therefor. Having proven that the price, as reflected in the Deed of Sale is simulated, it is beyond doubt that the sale is null and void. Article 1471 of the New Civil Code provides that "If the price is simulated, the sale is void, x x x." Thus, [respondents] are the lawful owners of the subject property by intestate succession as the only and compulsory heirs of the late Jasminia.[41]

Both the RTC and the CA relied on the following testimony of petitioner Lolita:

ATTY. ARANDIA: Also, in the presence of Atty. Bongon [the notary public], did you pay Jasminia the consideration on the Deed of Absolute Sale?

WITNESS: No, sir.

ATTY. ARANDIA: There was none?

WITNESS: Yes, sir.[42]

To the lower courts, the above-quoted testimony of petitioner Lolita, plus the absence of receipts, is the un rebutted proof of the DAS' lack of consideration.

In their motion for reconsideration before the CA and in their Petition, petitioners argue, however, that petitioner Lolita's principal proof that she did purchase the subject property is the DAS itself while the evidence against her by respondents are all verbal averments, which are mere conjectures and even hearsay.[43]

While petitioner Lolita concedes that she did not pay the consideration for the purchase of the subject property before Notary Public Atty. Jesus Bongon[44], she asserts that the payment was made prior to the notarization of the DAS as shown in her testimony taken on February 23, 2010.[45] She likewise argued this point before the CA in petitioners' motion for reconsideration.[46]

The lower courts, as will be explained below, failed to properly consider the foregoing argument and evidence that petitioner Lolita raised and adduced. The outcome of the case would have been different had the lower courts given them the due consideration they deserved.

As correctly pointed out by petitioner Lolita, the DAS is itself the proof that the sale of the property is supported by sufficient consideration. This is anchored on the disputable presumption of consideration inherent in every contract. Thus, Article 1354 of the Civil Code provides: "Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary."

This disputable presumption is reiterated in the Rules of Court (Rules). Section 3, Rule 131 of the Rules provides:

SEC. 3. Disputable presumptions. - The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(r) That there was a sufficient consideration for a contract[.]

In *Mangahas v. Brobio*,[47] the Court explained how the presumption of sufficient consideration can be overcome, to wit:

A contract is presumed to be supported by cause or consideration.[48] The presumption that a contract has sufficient consideration cannot be overthrown by a mere assertion that it has no consideration. To overcome the presumption, the alleged lack of consideration must be shown by preponderance of evidence.[49] The burden to prove lack of consideration rests upon whoever alleges it, which, in the present case, is respondent.[50]

Guided by the above provisions of the Civil Code and the Rules as well as jurisprudence, petitioners stand to benefit from the disputable presumption of consideration with the presentation of the DAS. Indeed, they can rely on the DAS as proof that it has consideration - "FOR AND IN CONSIDERATION of the sum of FOUR HUNDRED THOUSAND PESOS (P400,000.00) Philippine Currency, receipt of which is hereby acknowledged and confessed."[51]

With the presumption in favor of petitioner Lolita who is the vendee, it became incumbent upon respondents to present preponderant evidence to prove lack of consideration. Respondents' mere assertion that the DAS has no consideration is inadequate.

Regarding the determination of preponderance of evidence, Section 1, Rule 133 of the Rules 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.

The basic rule in civil cases is:

x x x that "the party having the burden of proof must establish his case by a preponderance of evidence." [52] By "preponderance of evidence is meant simply evidence which is of greater weight, or more convincing than that which is offered in opposition to it." [53] x x x

x x x x

"Where the evidence on an issue of fact is in equipoise or there is doubt on which side the evidence preponderates[,] the party having the burden of proof fails upon that issue." [54] Therefore, as "neither party was able to make out a case, neither side could establish its cause of action and prevail with the evidence it had. They are thus no better off than before they proceeded to litigate, and, as a consequence thereof, the courts can only leave them as they are. In such cases, courts have no choice but to dismiss the complaints/petitions." [55]

While the RTC ruled that "[respondents] established by a preponderance of evidence that the Deed of Sale dated May 11, 2004 involved no actual monetary consideration, executed by Jasminia in favor of [petitioner] Lolita," [56] it relied not on the testimony of the lone witness for respondents, respondent Natividad, but on the testimony of petitioner Lolita admitting that "in the presence of the Notary Public, Atty. Bongon, the sale was in fact without consideration" [57] and "she has no receipts showing the staggered payment of P400,000.00 or any agreement made between her and Jasminia as to the consideration of the subject property." [58] Thus, the RTC Decision made no mention of the pertinent testimony of respondent Natividad wherein she controverted the presumption of consideration.

The CA echoed the finding of the RTC and stated: "A perusal of the records of the case reveals that [respondents] were able to establish by a preponderance of evidence that the Deed of Sale is absolutely simulated, since, it did not involved (sic) any actual monetary consideration." [59] The CA then quoted the testimony of petitioner Lolita where she admitted that the consideration of the DAS was not paid in the presence of Atty. Bongon. The CA, like the RTC, did not advert to the testimonial evidence adduced by respondents through respondent Natividad.

Since preponderance of evidence is the required quantum of proof in this case, the evidence of respondents, who are the plaintiffs before the RTC, must be weighed against the petitioners' evidence, and a determination of which one has superior weight must be made.

As mentioned earlier, respondents relied solely on the testimony of respondent Natividad. A careful reading of the testimony of respondent Natividad, the mother of Jasminia, reveals that respondents' evidence on the lack of consideration of the DAS can be inferred from the following:

[Atty. Edgardo Arandia, respondents' counsel, to witness respondent Natividad]

ATTY. ARANDIA

Q

Why did you say that they were living as if they were husband and wife?

WITNESS

A

They were living in that house and Lolita Mendoza is a lesbian "tomboy", sir.

ATTY. ARANDIA

Q

And who was spending for their everyday living?

WITNESS

A

Jasminia, sir.

ATTY. ARANDIA

Q

Why? Was (sic) Lolita has no income of her own?

WITNESS

A

No, sir. She has none.

ATTY. ARANDIA

Q

What was the occupation or job of Jasminia at that time?

WITNESS

A

My daughter is a Supervisor at the PLDT, sir.

ATTY. ARANDIA

Q

You are telling us that Lolita was purely dependent from Jasminia?

WITNESS

A

Yes, sir.

x x x x

ATTY. ARANDIA

Q

What did you talk about?

WITNESS

A

She [Jasminia] told me that the house and lot is for Ramonito and she requested not to evict Lolita from the house and I said "yes" we will not asked (sic) Lolita to leave the house, sir.[60]

Respondent Natividad further testified as follows:

ATTY. ARANDIA:

Mrs. Palugod, what can you say on this Deed of Absolute Sale marked as Exhibit "F"?

WITNESS:

That's not true because in fact my daughter when she's still alive had been telling me that the said house and lot will be given to her brother Ronnie and we will not ask Lolita Mendoza to vacate or to leave the place, sir.

x x x x

ATTY. ARANDIA:

Mrs. Palugod, what else did you discover with the Office of the Register of Deeds for the Province of Cavite in connection with this property of Jasmina in addition to its transfer from the name of your daughter to the name of Lolita?

WITNESS:

We also discovered that the Deed of Sale is not true and that is a fake "gawa-gawa lang po", sir.[61]

In fine, respondent Natividad simply reiterated the allegations in the "Sinumpaang Salaysay ng Paghahabol (Affidavit of Adverse Claim)" dated November 24, 2004 that she and her husband, respondent Ramon, executed, to wit:

Nalagay sa pangalan ni Lolita Espiritu Santo Mendoza ang titulong lupa't-bahay sang-ayon sa isang Deed of Absolute Sale na lumalabas ay binili niya iyon sa aming namayapang anak na si Jasminia sa halagang P400,000.00 piso daw;

Wala pong katotohanan ang nasabing bilihan sapagkat iyon ay isang hindi tatoo at isang simulated or fictitious na bilihan lamang dahil imposibleng bayaran [ni] Lolita ang anak [namin] dahil sila ay nagsasama bilang mag-asawa (tomboy po si Lolita) at si Lolita ay walang hanap-buhay at umaasa lamang sa aming anak nasi Jasminia. Ang katotohanan pa nga, ay na[n]g magkasakit ang aming anak, lahat ng ginagastos sa pagpapagamot sa kanya ay galing sa kanyang mga kapatid na ibinibigay [namin] kay Lolita. Bukod pa doon, bago siya namatay ay ibinilin niya sa amin n[a] huwag paaalisin si Lolita sa bahay kung iyon ay manahin [namin] at hindi kailanman iyon ay ipinagbili sa kanya;

Kung kaya[']t bilang tanging tagapagmana at sa ilalim ng batas ay kami na ang may-ari ng nasabing lupa[']t bahay, ay aming isinasagawa ang sinumpaang salaysay na ito upang patunayang lahat ang nakasaad sa itaas x x x.[62]

On the other hand, petitioner Lolita disputed the assertion that she has no income and means of livelihood, and presented documents in support thereof, to wit:

[Atty. Lawrence[63] Rubio, petitioners' counsel, to petitioner Lolita]

ATTY. RUBIO:

Miss witness, can you tell us your occupation?

WITNESS:

I am a businesswoman, sir.

ATTY. RUBIO:

Can you tell us what kind of business are you engaged into?

WITNESS:

I am engaged in selling food, catering services. I am also engaged in selling house and lot, sir.

ATTY. RUBIO:

Your (sic) are telling us that you are engaged into selling as agent. Do you have any proof to show that you are engaged in such business?

WITNESS:

Yes sir, I have.

ATTY. RUBIO:

What are those documents, madame witness?

WITNESS:

I have documents coming from the offices wherein I was able to sell house and lot and also documents coming from other offices wherein I transacted business catering with them, sir.

ATTY. RUBIO:

Madame witness, I am showing to you Exhibit "3"[64] and "3-A",[65] is this the one that I am (sic) referring to?

WITNESS:

Yes sir.

x x x x

ATTY. RUBIO:

When we say occupation, we are talking of income. Can you tell us if you receive any income from this occupation?

WITNESS:

Yes sir.

ATTY. RUBIO:

Can you show us any proof that you had received any income from this business or occupation that you mentioned?

WITNESS:

I have a statement of account, I invested the money with the bank. I also bought a house and lot and I invested

money with MMG, sir.

ATTY. RUBIO:

I am showing to you a document previously marked as Exhibit "4"[66]. Can you tell us if you are referring to this document that you mentioned?

WITNESS:

Yes sir.

ATTY. RUBIO:

How about Exhibits "5"[67] & "6"[68]?

WITNESS:

Yes sir.

x x x x

COURT:

By the way, what are those properties owned by the defendants?

ATTY. RUBIO:

Your honor, these are savings accounts from banks.

COURT:

How many savings accounts does she have?

ATTY. RUBIO:

She has one from China Bank and the Memorandum of Agreement which the witness identified were investments from holdings company which she has invested, your honor.

COURT:

How much was her investments in those companies and what are those companies? She mentioned that she invested with the MMG, is it not? So, how much was she invested (sic) with MMG?

WITNESS:

Four Hundred Thousand Pesos (PhP400,000.00) and another Two Hundred Thousand pesos (PhP200,00.00) (sic), your honor.

COURT:

What else? Aside from MMG, do you invest your money to other investing company?

WITNESS:

At China Bank, your honor.

COURT:

Was it investment or deposit?

WITNESS:

Deposit, your honor.[69]

The foregoing testimony of petitioner Lolita and the documentary evidence in support thereof show that she had income and the means to pay- the consideration stated in the DAS. These documentary evidence - (1) Certification from E.B. Loreda Realty Corporation dated January 6, 2005 that petitioner Lolita had been a sales agent of the said realty corporation from January 2001 up to December 2002 (Exh. "3"); (2) Certification from Cesar C. Cruz & Partners Law Offices dated December 22, 2004 that petitioner Lolita was supplying food consisting of lunch and snacks to the employees of the said law office from 1982 to 1988 (Exh. "3-A"); (3) Certification from Chinabank, SM City Bacoar Branch dated December 16, 2004 that since 1998 petitioner Lolita maintained accounts with the said bank under TD#168020017540, TD#168020018239, SA#2680029315 and SA#2680873817 (Exh. "4"); (4) Notarized Memorandum of Agreement between MMG International Holdings Co., Ltd. (MMG) and Jasminia Palugod &/or Lolita Mendoza (Capitalist) dated June 26, 2002 wherein the Capitalist turned over P800,000.00 for MMG to use as capital for six months at 2.5% monthly compensation, expiring on December 26, 2002 (Exh. "5"); and (6) Notarized Memorandum of Agreement between MMG and Lolita Mendoza (Capitalist) dated June 26, 2002 wherein the Capitalist turned over P200,000.00 for MMG to use as capital for six months at 2.5% monthly compensation, expiring on December 26, 2002 (Exh. "6") - were all un rebutted by respondents. For their part, both the CA and the RTC totally ignored them.

As to the consideration of the DAS, both the RTC and the CA concluded that since Lolita admitted in her testimony, as quoted earlier, that she did not pay the consideration of the DAS before the notary public, the DAS lacks consideration. However, petitioner Lolita offered the following explanation:

RE-DIRECT-EXAMINATION:

[Atty. Rubio to petitioner Lolita]

ATTY. RUBIO:

During the hearing last June 30, 2009 you were asked by the counsel or (sic) the plaintiff "Did you pay Jasminia for the consideration of the Deed of Absolute Sale? You answered, No, sir." As appearing on the Transcript of Stenographic Notes of the same date. My question madame witness is, can you clarify why you were not able to pay the consideration?

x x x x

ATTY. RUBIO:

My question madame witness is, since you were not able to pay her at that time, when did you pay her?

x x x x

WITNESS:

I paid in 2002, sir.

x x x x

ATTY. RUBIO:

Madame witness, you answered 2002, can you tell us when the Deed of Absolute Sale was executed?

WITNESS:

May 11, 2004, sir.

ATTY. RUBIO:

You paid Jasminia the consideration of the property before the execution of the Deed of Absolute Sale?

WITNESS:

Yes sir.

ATTY. RUBIO:

Can you tell us the circumstances how you paid Jasminia the consideration of the property subject of this case?

x x x x

ATTY. RUBIO:

Can you tell us the manner of payment, madame witness?

x x x x

WITNESS:

Whenever Jasminia needs money since she's having her treatment so I gave her the amount of TWENTY THOUSAND PESOS (Php20,000.00) sometimes FORTY THOUSAND PESOS (Php40,000.00) until it reached the amount of TWO HUNDRED THOUSAND PESOS (Php200,000.00), sir.

x x x x

ATTY. RUBIO:

You only paid Php200,000.00 that time[.]

WITNESS:

Because that's the only money left with me and the other Php200,000.00 was borrowed by Jasminia from my sister in Australia, sir.

x x x x

COURT:

What transpired during the meeting between your sister and Jasminia when you said you were present?

WITNESS:

That my sister will lend money to Jasminia, you honor.

COURT:

Do you know how much money is she going to lend to Jasminia?

WITNESS:

Two Hundred Thousand Pesos (Php200,000.00), your honor.

x x x x

ATTY. RUBIO:

After agreeing to let Jasminia borrow money from your sister, what happened next?

WITNESS:

She was given first Fifty thousand Pesos (Php50,000.00), sir.

COURT:

When was that?

WITNESS:

That was also in the year 2002, you honor.

COURT:

Was it during the meeting wherein Jasminia and your sister talked about this loan?

WITNESS:

Yes your honor.

COURT:

So, immediately your sister lend her Php50,000.00?

WITNESS:

Yes your honor.

ATTY. RUBIO:

What about the balance of Php150,000.00?

WITNESS:

When she returned to Australia she's sending money to my mother including the money that Jasmin[ia] is (sic) asking, sir.

x x x x

COURT:

By the way, when your sister gave Jasminia the amount of Php50,000.00, was there any receipt prepared to show that your sister indeed lend (sic) money in the amount of Php50,000.00?

WITNESS:

There's none, your honor.

COURT:

How about the other money that your sister sent to your mother in order to give to Jasminia, were there any receipts?

WITNESS:

None also you honor.

x x x x

RE-CROSS EXAMINATION:

[Atty. Arandia to petitioner Lolita]

ATTY. ARANDIA:

Miss. (sic) Mendoza, you mentioned that you paid Jasminia Palugod Php200,000.00 in partial payment of the property the subject matter in this case and according to you the payment was on a staggered basis way back in 2002. Now, my question is, do you have receipts showing that you paid Jasminia Php200,000.00 on staggered basis?

WITNESS:

None, sir.[70]

From the foregoing, it is evident to the Court that petitioner Lolita's proof of payment of the DAS' consideration was her sworn testimony. Testimony, given under oath, and subjected to cross-examination is proof.[71] Unfortunately, both the CA and the RTC brushed this aside only because the RTC zeroed in on the lack of receipts.

Since the evidence of the parties are mainly testimonial, it behooved the RTC, as well as the CA, to weigh the version of respondents against that of petitioners. The Court is called upon to do the same in order to determine which evidence preponderates.

Before the narrations of respondent Natividad and petitioner Lolita are pitted against each other to determine which one preponderates over the other, the Court notes the glaring inconsistencies in respondent Natividad's testimony:

1. According to respondent Natividad, Jasminia used her retirement pay to buy the lot and constructed the house in Sagana Remville, Habay, Bacoar, Cavite, to wit:

[Atty. Arandia to respondent Natividad]

ATTY. ARANDIA

Q

Was Jasminia able to retire from PLDT before her death?

WITNESS

A

Yes, sir.

x x x x

ATTY. ARANDIA

x x x x

Q

Do you know if Jasminia able (sic) to get her retirement benefit from PLDT?

x x x x

WITNESS

A

Yes, sir. She was able to receive it.

ATTY. ARANDIA

Q

Do you know what Jasminia did on her retirement benefit?

WITNESS

A

Yes, sir.

ATTY. ARANDIA

Q

What?

WITNESS

A

She bought a lot and constructed a house, sir.

ATTY. ARANDIA

Q

And that property or lot you are saying now is the same property located in Sagana Remville, Habay, Bacoar, Cavite?

WITNESS

A

Yes, sir.[72]

Respondent Natividad's account could not have happened because Jasminia received her retirement pay equivalent to P1,383,773.59 on January 18, 1999 based on the Receipt, Release and Quitclaim (Exh. "8"[73]) that Jasminia executed on even date, which was after the purchase of the subject lot and the construction of the subject house.

Indeed, petitioner Lolita disputed respondent Natividad's version, to wit:

[Atty. Rubio to petitioner Lolita]

ATTY. RUBIO:

x x x Madame witness, during the hearing dated November 27, 2007, when the plaintiff testified you were present in Court?

WITNESS:

Yes sir.

ATTY. RUBIO:

So, when the witness was asked: "Do you know what Jasminia did on her retirement benefit?["] And the

witness answered: "Yes, sir.". "What?["], asked by counsel and the witness answered: "She bought a lot and constructed a house, sir." Can you tell us, what can you say about this testimony?

WITNESS:

That's not true, sir.

ATTY. RUBIO:

Why?

WITNESS:

Because we bought that lot in 1991 and the house was constructed in February of 1996, sir.[74]

2. According to respondent Natividad, Jasminia's retirement pay was used by Jasminia and petitioner Lolita for their trips to Hong Kong, Norway and Australia, to wit:

[Atty. Arandia to respondent Natividad]

ATTY. ARANDIA

Q

Do you know if Jasminia and Lolita went abroad from that retirement benefit?

x x x x

WITNESS

A

They went to Hong Kong, Australia and Norway, sir.

COURT

Q

Why do you know that they went to those places?

WITNESS

A

Because we were living in the same house and I was with them when they went to Hong Kong, Your Honor.

COURT

Q

So, do you mean to say that you were living with Lolita and Jasminia in their house at Sagana Remville, Habay, Bacoar, Cavite?

WITNESS

A

Not me, only the two of them, Your Honor.[75]

On the other hand, petitioner Lolita's version is as follows:

ATTY. ARANDIA:

And from this separation benefit which Jasminia received from PLDT you even went wither (sic) in Europe, in Hong Kong and in Australia?

WITNESS:

That's not true, sir. At the time we went to Europe and Hong Kong, Jasminia had not yet separated from PLDT and in fact we went together with her mother at the time we went in those places, sir.

COURT:

Do you still recall what year was that when you, Jasminia and together with her mother went to Europe?

WITNESS:

In Europe, that was May, 1997, your honor.

COURT:

How about in Hong Kong?

WITNESS:

In Hong Kong, that was September, 1995, your honor.

COURT:

How about in Australia?

WITNESS:

In Australia, that was in March, 1999, your honor.

COURT:

So, that was after her separation?

WITNESS:

Yes your honor.

ATTY. ARANDIA:

With all these tours and trips with these countries which you mentioned, it was Jasminia who spent for the travel?

WITNESS:

In Hong Kong, it was her mother who paid. In Norway, the three (3) tickets were sent by her brother because we had an invitation to go to Norway so that we will (sic) be able to get a Visa.

COURT:

In other words, the expenses came from the brother of Jasminia?

WITNESS:

Yes your honor, but I paid my ticket when we reached Norway.

ATTY. ARANDIA:

And what is the name of the brother of Jasminia in Norway?

WITNESS:

Ramonito Palugod, sir.

ATTY. ARANDIA:

And according to you, you reimbursed the ticket given to you upon arrival in Norway?

WITNESS:

Yes sir, I paid it in dollar.

ATTY. ARANDIA:

To whom did you pay?

WITNESS:

To Ramonito, sir.

ATTY. ARANDIA:

How much did you pay Ramonito?

WITNESS:

One Thousand Dollars (\$1,000.00), sir.

ATTY. ARANDIA:

Do you have receipt that you have actually reimbursed Ramonito for that ticket?

WITNESS:

None, sir.[76]

3. According to respondent Natividad, her daughter Jasminia could not possibly travel from Bacoar to Pasay City where the DAS was notarized because she had a brace and her bone is "napupulbos na." [77] Her testimony in this aspect is reproduced below:

ATTY. ARANDIA:

On the second page of this Exhibit "F" is the acknowledgment portion wherein it is stated here that it was allegedly acknowledged before the Notary Public in Pasay City and this Deed of Absolute Sale appears to have been executed on May 11, 2004. My question is, during the time, May 11, 2004 can Jasmina travel from Bacoar to Pasay City to acknowledge this Deed of Sale before a Notary Public?

x x x x

WITNESS:

On the said date and time my daughter cannot possibly travel from Bacoar in going to Pasay City because during that time she already had a bone cancer and she had a brace and her bone is "napupulbos na", sir.[78]

To dispute respondent Natividad's account, petitioner Lolita presented Dr. Teresa Sy Ortin (Dr. Ortin), a Radiation Oncologist at Makati Medical Center, who issued a Medical Certificate [79] dated December 20, 2004. Dr. Ortin's testimony follows:

[Atty. Lawrence Rubio to Dr. Ortin]

ATTY. RUBIO:

Madam witness, can you recall your employment in the year May 11, 2004? Where were you employed at that time?

WITNESS:

I'm a Radiation Oncologist at Makati Medical Center. I'm a cancer specialist, sir.

x x x x

ATTY. RUBIO:

x x x Can you remember a patient by the name of Jasminia Palugod?

WITNESS:

Yes, sir. I have her records with me.

ATTY. RUBIO:

Can you tell us what is the nature of her illness?

WITNESS:

She had breast cancer. I treated her for several times and the last treatment was on April 16, 2004 for which she received treatment for the period April 16 to May 13, 2004, sir.

ATTY. RUBIO:

I have here a Medical Certificate dated December 20, 2004. I am showing to you this document. Can you tell us what is the relation of this document to the one you have mentioned?

WITNESS:

Actually, I have a copy of that on my record and this certifies that she came to us for treatment, in my clinic.

x x x x

ATTY. RUBIO:

x x x During that time, madam witness, April 16, 2004 to May 13, 2004, how often does (sic) your patient Jasminia Palugod came (sic) to Makati Medical Center?

WITNESS:

She was treated daily, because our schedule of radiation therapy is everyday, from 8:00 to 5:00. So, it's a total of eighteen (18) treatments. So, that is over four (4) weeks.

ATTY. RUBIO:

During that time, do you know who was with her?

WITNESS:

I remember as her companion... I don't know her name but I recognize her face.

ATTY. RUBIO:

For the record, your Honor, may I state that the witness is pointing to the defendant Lolita Mendoza as the companion of patient Jasminia Palugod at the time the patient is being assisted at the Makati Medical Center.

COURT:

Noted.[80]

On cross-examination, Dr. Ortin further testified:

[Atty. Arandia to Dr. Ortin]

ATTY. ARANDIA:

How long is the radiation treatment being conducted for each exposure?

WITNESS:

About fifteen (15) minutes, sir.

ATTY. ARANDIA:

After exposing the patient on radiation therapy, what is the effect thereof on her physical condition?

WITNESS:

Radiation therapy is a local treatment, so the side effect should end on where the radiation is directed. For example, there were exposure on the arms, other parts of the body would not have any significant side effect.

ATTY. ARANDIA:

In the case of Ms. Palugod, who was according to you, afflicted with cancer which has metastasized. So what part of her body was subjected to radiation exposure therapy?

WITNESS:

According to the records, it was in the thoracic spine.

ATTY. ARANDIA:

What would be the effect of that radiation on the patient after exposure?

WITNESS:

The side effect is very minimal. You may feel a little weak but as you can see most of our patients are treated in my clinic as out patient. They don't need to be confined. Most of our patients can walk around and able to do their other duties after treatment.

ATTY. ARANDIA:

Will they feel weakness after the therapy?

WITNESS:

Yes, but not very significant for us to require them to stay in the hospital.

ATTY. ARANDIA:

In the case of Ms. Palugod considering that her cancer has already metastasized. I will assume that during those times, Ms. Palugod was weak already?

x x x x

WITNESS:

I remember she was coming on a wheelchair and her main problem at that time, the reason for the radiation, is that because she was in pain.

ATTY. ARANDIA:

On wheelchair. Meaning to say that she was weak to walk by herself?

WITNESS:

Yes, sir.

ATTY. ARANDIA:

And that her weakness will be aggravated after weeks of radiation therapy?

WITNESS:

Not significantly.

ATTY. ARANDIA:

What do you mean, "not significantly["]?

WITNESS:

It's not going to be extremely weak that you need to confine her because of the problem?

COURT:

What would be the end result of that radiation treatment to a person afflicted by cancer? Would she be cured or would she be strong after each treatment?

WITNESS:

The main problem why she was referred to us was because she was in extreme pain, and radiation is supposed to regress the pain and makes her to feel better.

COURT:

During this treatment, and you said that it was on a daily basis, after being treated for at least fifteen (15) minutes of radiation, what should be the effect to Ms. Palugod?

WITNESS:

After few days of treatment, we expect her to be relieved....

COURT:

From the pain that she is suffering.

WITNESS:

Yes. Her treatment started on April 16 and on April 30, she claimed that she felt some relief from her back pain.

x x x x

ATTY. ARANDIA:

x x x Ordinarily, if the patient like Ms. Palugod, who has been suffering from cancer which has metastasized and who was undergoing radiation therapy, would it be natural for that patient like Ms. Palugod to go to a notary public to acknowledge a document?

x x x x

WITNESS:

I don't think there's problem with that. For patients who are terminally ill, we advise them to take care of things, important decisions that they have to decide on. So, I don't think that should be a problem for patients who are suffering from illness with that concern.

ATTY. ARANDIA:

For all the treatments that you had been undertaken to Ms. Palugod, was she always accompanied by somebody?

WITNESS:

Yes, as far as I can remember.

ATTY. ARANDIA:

So in other words, she cannot come to your office without being assisted by another person?

WITNESS:

Probably, not.

ATTY. ARANDIA:

What do you mean, "probably, not"?

WITNESS:

Because she has a very advance disease, I don't think, anybody would want her to go for treatment by herself, especially because of her disease, it affected her bone, and she was in pain, probably, she would not be able to travel by herself.

ATTY. ARANDIA:

What about the mental capacity of the witness, in your assessment, how was Ms. Palugod during that time? Was her mental capacity affected by her illness?

x x x x

WITNESS:

In my clinical assessment, there is no reason to prove that her mental capacity has been affected. If we notice something, the usual is we talk to the patient and we would request additional test, and there is no such evaluation in our record, so I would think that at that time, in our clinical judgment, her disease does not affect her mental capacity or function.[81]

Based on Dr. Ortin's clear, categorical and compelling testimony, Jasminia was not physically incapable of traveling from Bacoar, Cavite to Makati Medical Center and to Pasay City for the acknowledgment of the DAS before the Notary Public and she was not mentally incapacitated to know the import thereof.

Given the significant inconsistencies in the testimony of respondent Natividad, the credibility of her testimony is, to the Court, doubtful. To be sure, a witness' credibility is determined by the probability or improbability of his testimony. As well, the witness' means and opportunity of knowing the facts that he is testifying to are relevant. The improbability of respondent Natividad's assertions is demonstrated by the evidence, both documentary and testimonial, that petitioner Lolita adduced to rebut the same. Put simply, respondent Natividad's observations are those of an outsider because she was not living with her daughter during the period at issue and cannot be relied upon.

The RTC and the CA also did not even mention the glaring inconsistencies noted above, which if properly considered, would have seriously affected the outcome of the case.

In addition, the lower courts misapprehended the admission by petitioner Lolita that she did not pay the consideration before the Notary Public. They excised from their judgments petitioner Lolita's sworn testimony as to how the consideration was paid by her. The portion of petitioner Lolita's testimony that the lower courts quoted in their respective Decisions does not even indubitably show that no consideration had been paid. What petitioner Lolita admitted was that the consideration was not paid "before the Notary Public," and, as correctly pointed out by her, there is no legal requirement that the consideration of a sale be paid in the very presence of the Notary Public before whom the deed of sale is acknowledged.

Given the foregoing, contrary to the findings of the CA and the RTC, which evidently arose from their misapprehension and non-consideration of relevant facts, respondents have not discharged their burden of proof to rebut either the presumption of sufficient consideration of the DAS or the evidence of petitioner Lolita. In fine, respondents failed to establish their cause of action by preponderance of evidence.

All told, petitioners' evidence has superior weight. While petitioner Lolita could not present receipts to show her payments to the late Jasminia, her sworn testimony which in certain portions were corroborated by pertinent documents, remains more credible than that of respondent Natividad. Indeed, the lack of receipts may be explained by the "close friendship" between petitioner Lolita and Jasminia. The non-admission by petitioner Lolita of the "husband and wife" relationship that she shared with Jasminia and her being a "lesbian or tomboy," as respondent Natividad claimed, is of no moment. Whatever transpired between her and Jasminia is a private matter, which the Court would not even speculate on. As to the gender identity and sexual preference of petitioner Lolita, that is likewise a private matter.

Even from a pure evaluation of only the parties' testimonial evidence, wherein doubts on the truthfulness of their respective narrations of the relevant facts are perceived and there may be difficulty in determining who between respondent Natividad and petitioner Lolita is the more credible witness and in which side the testimonial evidence preponderates, the evidence of the parties should, at the very least, be held to be in equipoise. That being the situation, respondents, who have the burden of proof in the present case, fail upon their cause of action. Following *Rivera v. CA*[82] quoted above, as neither party was able to make out a case, neither side having established his/her cause of action, the Court can only leave them where they are and it has no choice but to dismiss the complaint, as the lower courts should have done.

Consequently, the DAS executed by Jasminia in favor of petitioner Lolita over the subject property is valid, the presumption that it has sufficient consideration not having been rebutted. The same holds true regarding the Real Estate Mortgage between petitioner Lolita and petitioners spouses Alexander and Elizabeth Gutierrez.

WHEREFORE, the Petition is hereby GRANTED. The Decision of the Court of Appeals dated April 29, 2015 and its Resolution dated September 10, 2015 in CA-G.R. CV No. 102904 as well as the Decision dated March 14, 2013 and Order dated May 8, 2014 of the Regional Trial Court of Bacoor, Cavite, Branch 19 in Civil Case No.

BCV 2004-217 are REVERSED AND SET ASIDE. The complaint filed in Civil Case No. BCV 2004-217 is DISMISSED for lack of cause of action.

SO ORDERED.

Carpio, Senior Associate Justice, (Chairperson), Peralta, Perlas-Bernabe, and Reyes, Jr., JJ., concur.

[1] Rollo, pp. 86-93. Penned by Associate Justice Hakim S. Abdulwahid, with Associate Justices Eduardo B. Peralta, Jr. and Victoria Isabel A. Paredes concurring.

[2] Special Fourth Division.

[3] Special Former Special Fourth Division.

[4] Rollo, pp. 103-104. Penned by Associate Justice Eduardo B. Peralta, Jr., with Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes concurring.

[5] Records, pp. 217-225. Penned by Presiding Judge Matias M. Garcia II.

[6] Id. at 267.

[7] CA rollo, p. 131.

[8] Also referred to as "Renville" in some parts of the records.

[9] RTC Decision dated March 14, 2013, records, pp. 217-218.

[10] Exh. "9," id. at 192. The Certification dated April 8, 2008 from PLDT states that Jasminia Paloma Palugod, a Traffic Supervisor, was employed on March 2, 1976 and was separated from employment on December 30, 1998 with monthly salary of P24,290.00.

[11] Petition, rollo, p. 35.

[12] Exh. "8," records, p. 190.

[13] Exh. "2," Real Estate Mortgage, id. at 181-182.

[14] Exh. "J," Death Certificate of Jasminia Paloma Palugod, id. at 127; testimony of respondent Natividad Palugod, TSN, November 27, 2007, p. 6.

[15] Records, pp. 224-225.

[16] Rollo, pp. 87-88.

[17] Also spelled as Jasmiña in other parts of the records.

[18] See rollo, p. 90.

[19] Id.

[20] Id. at 91.

[21] Id. at 92.

[22] Id. at 103-104.

[23] Id. at 107.

- [24] Id. at 111-115.
- [25] Id. at 121-122.
- [26] Id. at 128-129.
- [27] Id. at 133-139.
- [28] Id. at 151-155.
- [29] Petition, id. at 36.
- [30] See RULES OF COURT, Rule 45, Sec. 1.
- [31] 776 Phil. 167 (2016).
- [32] Id. at 183, citing Republic v. Ortigas and Company Limited Partnership, 728 Phil. 277, 287-288 (2014) and Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc., 665 Phil. 784, 788 (2011).
- [33] Id., citing Republic v. Ortigas and Company Limited Partnership, id. at 287.
- [34] Id.
- [35] Republic v. Sps. Tan, 676 Phil. 337, 351 (2011), citing Philippine National Oil Company v. Maglasang, 591 Phil. 534, 544-545 (2008).
- [36] Co v. Vargas, 676 Phil. 463, 471 (2011), citing Development Bank of the Philippines v. Traders Royal Bank, 642 Phil. 547, 556-557 (2010).
- [37] Petitioner Lolita came to know Jasminia in 1988 and, starting May 26, 1996, they stayed together in Block 3, Lot 10, Narra Street, Sagana Remville Homes, Habay, Bacoar, Cavite. TSN, June 30, 2009, pp. 42 and 46.
- [38] Exh. "F" and Exh. "1," records, pp. 10-11 and 179-180. The Deed of Absolute Sale bears the signatures of both the vendor and the vendee.
- [39] Id. at 10 and 179.
- [40] RTC Decision dated March 14, 2013, records, p. 222.
- [41] CA Decision dated April 29, 2015, rollo, p. 91.
- [42] Id.; see also RTC Decision dated March 14, 2013, records, p. 221.
- [43] Motion for Reconsideration dated May 29, 2015, rollo, p. 18; Petition, id. at 37.
- [44] See Exh. "F" and Exh. "1," records, pp. 10-11 and 179-180.
- [45] Petition, rollo, p. 37.
- [46] Motion for Reconsideration dated May 29, 2015, rollo, p. 18.
- [47] 648 Phil. 560 (2010).
- [48] Id. at 570, citing CIVIL CODE OF THE PHILIPPINES, Art. 1354.
- [49] Id., citing Spouses Saguid v. Security Finance, Inc., 513 Phil. 369, 384 (2005).
- [50] Id.

- [51] Records, pp. 10 and 179.
- [52] *Rivera v. CA*, 348 Phil. 734, 742 (1998), citing RULES OF COURT, Rule 133, Sec. 1.
- [53] *Id.*, citing *The New Testament Church of God v. Court of Appeals*, 316 Phil. 330, 333 (1995), further citing *Republic v. Court of Appeals*, 281 Phil. 177, 186 (1991).
- [54] *Id.* at 743, citing *Francisco*, EVIDENCE (1994 2[nd] ed.), p. 555.
- [55] *Id.*, citing *Municipality of Candijay, Bohol v. Court of Appeals*, 321 Phil. 922, 926 (1995).
- [56] RTC Decision dated March 14, 2013, records, p. 221.
- [57] *Id.*
- [58] *Id.* at 222.
- [59] CA Decision dated April 29, 2015, rollo, p. 90.
- [60] TSN, November 27, 2007, pp. 10-11, 20.
- [61] TSN, April 1, 2008, pp. 20-21, 28-29.
- [62] Exh. "E," Affidavit of Adverse Claim of Natividad Paloma Palugod and Ramon Palugod, records, p. 124.
- [63] Also spelled as Laurence and Luarence in some parts of the TSNs.
- [64] Certification from E.B. Lored Realty Corporation dated January 6, 2005 that Lolita Mendoza had been a sales agent of the said realty corporation from January 2001 up to December 2002, records, p. 183.
- [65] Certification from Cesar C. Cruz & Partners Law Offices dated December 22, 2004 that Lolita Mendoza was supplying food consisting of lunch and snacks to the employees of the said law office from 1982 to 1988, *id.* at 184.
- [66] Certification from Chinabank, SM City Baco Branch dated December 16, 2004 that since 1998 Lolita E. Mendoza maintained accounts with the said bank under TD#168020017540, TD#168020018239, SA#2680029315 & SA#2680873817, *id.* at 185.
- [67] Notarized Memorandum of Agreement between MMG International Holdings Co., Ltd. ("Holdings") and Jasminia Palugod &/or Lolita Mendoza (the "Capitalist") dated June 26, 2002 wherein the Capitalist turned over P800,000.00 for the Holdings to use as capital for six months at 2.5% monthly compensation, expiring on December 26, 2002, *id.* at 186.
- [68] Notarized Memorandum of Agreement between MMG International Holdings Co., Ltd. ("Holdings") and Lolita Mendoza (the "Capitalist") dated June 26, 2002 wherein the Capitalist turned over P200,000.00 for the Holdings to use as capital for six months at 2.5% monthly compensation, expiring on December 26, 2002, *id.* at 187.
- [69] TSN, June 30, 2009, pp. 5-7, 10-11 and 14-16.
- [70] TSN, February 23, 2010, pp. 4-9, 13, 23-28 and 33.
- [71] On the strength of sworn testimony subjected to cross-examination, see generally *A. L. Ammen Transportation Company, Inc. v. Japa*, 124 Phil. 72 (1966).
- [72] TSN, November 27, 2007, pp. 12-14.

[73] Records, pp. 190-191.

[74] TSN, June 30, 2009, pp. 28-30.

[75] TSN, November 27, 2007, pp. 15-16.

[76] TSN, June 30, 2009, pp. 69-74.

[77] TSN, April 1, 2008, p. 25.

[78] Id. at 23, 25.

[79] Exh. "7-A," records, p. 189.

[80] TSN, March 5, 2009, pp. 5-10.

[81] TSN, March 5, 2009, pp. 15-21, 26-31.

[82] Supra note 52, at 743.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.