

CU BIE, MARY SYDECO TAYENGCO, CONCHITA SYDECO, ASSISTED BY HER HUSBAND, JOSE HAUTEA, AND RAMON MILITANTE, IN HIS OWN BEHALF AND AS GUARDIAN AD LITEM OF THE MINORS NENITA ELENITO...*G.R. No. 63855. October 09, 1987*

Ponente: NARVASA, J.

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What at bottom petitioners seek in the appellate proceedings at bar is that, by way of exception to the firmly established rule that the conclusions of fact of the Court of Appeals are final and conclusive even on this Court, the factual findings of that Court set out in the judgment rendered against them[1] be reviewed and revised by this Court, on the ground that said findings are tainted by grave abuse of discretion, being contrary to the evidence on record as well as in conflict with the findings of the Trial Court.

Conflicting claims over the ownership of valuable real properties[2] are asserted by the relatives of Juan Sydeco, who have been locked in legal combat for almost three and a half decades now. Title to those properties stands solely in the names of the spouses Jose Tayengco and Salvacion Sydeco-Tayengco, Salvacion being one among Juan's four daughters. In 1953, she and her husband were made defendants in the action for recovery of the properties in question by her mother Cu Bie and her sisters Mary Sydeco-Tayengco and Conchita Sydeco-Hautea, with the heirs of Rosario Sydeco-Militante, who had died in 1945, being later impleaded as additional plaintiffs by an amendment of the complaint.[3] The suit was grounded on the plaintiffs' (herein petitioners') theory that defendant Jose Tayengco was a mere trustee of the properties, the equitable title thereto pertaining to Cu Bie and her children in co-ownership, because the capital used for their acquisition came from the so-called "Sydeco common fund" -- the wealth amassed, petitioners claim, by the Sydeco family over the years from their textile business (the "Sydeco Store") opened in 1933 with the sum of P10,000 allegedly left in trust by Juan Sydeco for his heirs shortly before his death in 1927.[4]

Traversing the material allegations of the complaint, the spouses answered that the properties in dispute were acquired with their exclusive funds, i.e., with the income earned by Jose Tayengco, as well as the profits the spouses realized from having invested their capital in constructing and operating a new textile store where the old one, which was gutted by fire during World War II, used to stand.[5]

Twenty-six years of trial ensued, the litigants engaging in a battle of evidence as to the origin and ownership of the funds with which the lands were acquired. On May 27, 1979, the Trial Court rendered judgment[6] declaring Mary, Conchita, the heirs of Rosario and the heirs of Salvacion (who, like Cu Bie, had died in the meantime) the co-owners of the properties and prescribing the corresponding relief such as partition of the properties and the rendering of an accounting by defendant Jose Tayengco, upon the finding that "the funds used ** are traceable to the profits or income derived from the starting sum of P10,000.00 ** left by the late Juan Sydeco." [7] According to the Trial Court, evidence was sufficient to show specifically that:

- (1) in 1927, observing a Chinese custom, Juan entrusted P10,000 to his eldest son, Cipriano, to be used for the benefit of his (Juan's) wife and children;
- (2) in 1933, with this "common fund" as capital, Cipriano opened the "C. Sydeco Store" at Aldeguer St., in Iloilo City;
- (3) the license of the store was placed in the name of Cipriano, then Conchita, Salvacion, Jose and Mary, in that order, but all the Sydeco family members participated in the operation of the store from its establishment in 1933;
- (4) business prospered, and although the store closed down at the outbreak of World War II, with the proceeds from the sale of the stocks which survived the war, the Sydeco store was re-opened after liberation; and
- (5) the properties subject of the litigation were bought at the time that the business was under the management of Jose Tayengco, who used the profits to make the purchases in behalf of the Sydeco family.[8]

The decision was appealed by the defendants to the Court of Appeals. The eight assigned errors, according to the Appellate Court, in substance raised the factual issues of (1) whether a common fund was constituted by Juan Sydeco for the benefit of his heirs; (2) whether the money used by the defendants-spouses in the acquisition of the subject properties came from the alleged common fund; and (3) whether there was a fiduciary or trust relationship between Jose and the plaintiffs insofar as those properties are concerned.[9]

These issues were resolved against the appellees, now petitioners. Though underscoring particularly the absence of convincing and reliable evidence to prove the establishment of the common fund,[10] the Appellate Court also noted that even if such fact be assumed as true, the palpable insufficiency of proofs precluded the Court from presuming that the store's starting capital in 1933 came from this fund, or that the same money was used to re-open the store when Cipriano migrated to Manila in 1936,[11] thereby disposing of the contention that the funds left by Juan and the capital expended by the spouses for the acquisition of the lands in the 1940's were linked in any way. Rather, the Court found that the evidence preponderated to establish that Juan Sydeco was insolvent in the few years preceding his death; that even if Juan had the means to entrust P10,000 to Cipriano in 1927, the latter only ventured into the retail business in 1933 after an "unexplained gap of six years" during which the fate of the sum given him was uncertain; that Cipriano left for Manila in 1936 and brought with him the stocks of the store he had opened; that Conchita and Salvacion then entered into a partnership and resumed business operations, but this association was dissolved in 1942 when Conchita married Jose Hautea against Salvacion's wishes, resulting in the complete severance thereafter of their personal ties; that the building housing the store burned down during World War II, but after liberation, the spouses Tayengco built on the same lot a new structure where they opened their own store; that the spouses acquired the real properties in controversy with their exclusive capital, since the common fund did not exist; and that assuming all the facts as alleged by the plaintiffs to be true, their claim against the Tayengcos was barred by prescription.[12]

The petitioners, as has been said, have come to this Court seeking the review of the factual findings upon which the Appellate Court's judgment dismissing the complaint was made to rest. It is charged that said court gravely abused its discretion "in not applying the applicable provisions of law and in not observing the settled jurisprudence (in resolving the appeal);" "in arriving at a conclusion which is contrary to the facts and circumstances of the case;" and "in not affirming the decision of the trial court".[13]

The denial of the petition is in order.

At the outset it must be stated that review of factual findings of the Intermediate Appellate Court (now the Court of Appeals) is not a function ordinarily undertaken by this Court, the rule admitting only of a few exceptions recognized in decisional law.[14] The principle is consistent with the Rules of Court which categorically provide

that a petition for review on certiorari must raise "only questions of law" to be "distinctly set forth" in the petition.[15] Even then, the review sought will be denied if the questions raised are "too unsubstantial to require consideration," or if the Court is not convinced of the existence of "special and important reasons" to warrant review.[16]

Submitted for the consideration of this Court in the case at bar are alleged questions of law, the court a quo having purportedly erred "in not applying the applicable provisions of law and ** jurisprudence," "in arriving at a conclusion ** contrary to the facts and circumstances of the case," and "in not affirming the decision of the trial court"[17] although the petitioners themselves admit at the close of their brief that the ultimate question they seek to have this Court resolved is "whether or not ** the findings ** of the respondent ** Court are supported by substantial evidence." [18] Indeed, to obtain a favorable judgment, the petitioners must inevitably challenge the findings of fact of the Appellate Court, which findings are generally binding on this Court. The respondents correctly point out the futility of denying that the case essentially involves issues of fact, answers to which will have to depend upon an examination of the record to test if the findings are borne out by the evidence.[19] It is in cases like the one at bar, having for their objective the review of a record consisting of several thick volumes of testimonial and documentary evidence, where the Court is justified in refusing outright to exercise its appellate jurisdiction, there being no cogent reason advanced to warrant such undertaking. Certainly, the vague and general submissions of the petitioners as to the errors ascribed to the Court a quo barely constitute persuasive arguments for the grant of review.

In any case, the petitioners' averments of the Appellate Court having gravely abused its discretion in arriving as it did at the assailed factual findings are patently unfounded. Cu Bie's testimony on the alleged establishment of the common fund cannot be described as other than vague, uncorroborated, and contradictory on several material points, as observed by the Appellate Court. Such quality of proof, on material points at that, renders it injudicious to take the facts alleged as true. It seems rather strange, for example, if indeed Cu Bie "was present and saw the money delivered and counted" that there are no other details contained in her testimony of the occasion -- or occasions, assuming the money was released "little by little" over a period of years, as Cu Bie had testified at one time -- when the fund was constituted with Cu Bie as the lone witness. Nothing has been said, for example, of words Juan and Cipriano may have uttered at that time, or the instructions specified by the father to the son as the money was handed over, or Cu Bie's own participation in the incident, if any. Cu Bie may have asserted that "it is Chinese custom and tradition usually that father entrust (his properties) to the elder son"[20] but her bare statement, refuted as it is by the respondents, cannot be relied upon as proof of that custom, or proof that the custom obliged the eldest son to share what was given with the ascendant's other heirs, or, most importantly, as proof that Juan intended to abide by or to carry out the custom, there being no other evidence from which such conclusion may be drawn. It is also almost impossible to ascertain whether (if at all) the fund was transferred to Cipriano's custody as Juan was lying in his deathbed, or some three or four years previously, or if certain amounts were delivered to Cipriano "from time to time" and not the entire sum of P10,000 at any particular instance, Cu Bie having proffered all these conflicting bits of information on the witness stand.[21] It is not even clear if she was actually present when the purported covenant between father and son was sealed, as she also testified at the trial that she learned of the establishment of the common fund from Juan,[22] then later declared that the information came from Cipriano, not her husband.[23] Her testimony is seriously flawed by these inconsistencies and by its ambiguity -- defects which cannot be overlooked, bearing as they do on the primary fact in dispute. Even the ownership by Juan of properties in the years before his death is also put in doubt by Cu Bie's very statements, she, also having, on one occasion declared or suggested that her husband was insolvent at that time.[24]

The Appellate Court cannot, therefore, be said to have gravely abused its discretion in finding a lack of

convincing and reliable evidence to establish the creation of the fund, a fact on which the petitioners' cause is rooted. The petitioners make much of the fact that no witness was presented to rebut Cu Bie's testimony, but such an omission does not necessarily compel belief in what she has said as true. The burden of evidence was on the petitioners to establish the facts upon which their action is premised; the petitioners simply have failed to discharge this burden, and must therefore bear the consequences. Moreover, contrary to the petitioners' posture, the Appellate Court did pass upon and weigh Cu Bie's testimony, although it inaccurately said that her statements, she having mentioned that she came to know of the common fund from Juan, or from Cipriano, constituted hearsay evidence and were therefore inadmissible in evidence. While her testimony, because it was not objected to, became admissible, the probative value to be accorded to it is an entirely different matter. The admissibility of evidence should not be confused with its weight; whether objected to or not, hearsay evidence has no probative value.[25] In any case, it cannot be doubted that her testimony was considered by the Appellate Court in its judgment but was found by it to be flawed in other respects.

As to the other facts in dispute, the Appellate Court correctly weighed the evidence and found it insufficient to support the petitioners' claim that the funds used by the Tayengco spouses to acquire the properties in dispute in 1942-49 are directly traceable to the common fund, and its accretions, allegedly set up in 1927 or before. Too many gaps exist in their chronicle of happenings during the intervening years. Too many events remain shrouded in obscurity due, largely, to the early deaths of those who could competently testify on these material matters. Cipriano, for example, could have clarified what precise task his father had charged him with in 1927, or with what funds he opened the store in 1933, or if he brought the stocks of the Sydeco store, as Cu Bie had testified, when he left Iloilo for Manila in 1936. But he died years before this case was filed in court. There thus appears to be ample reason to decry the absence of reliable evidence from competent witnesses on facts which needed to be established in order to promote petitioners' cause to a judgment in their favor. Inasmuch as no adequate proof exists of facts constituting the basic premises of the petitioners' theory that Jose Tayengco was a mere agent of the Sydeco heirs when the purchases of the disputed lands were effected, the issue of whether or not such a fiduciary relationship existed must be resolved against the petitioners.

It must be emphasized at this point that the claim that the lands are impressed with an implied trust is asserted to nullify Torrens Certificates of Title which are meant to evidence the absolute title to the property of the owners named therein, against the whole world. In the present case, pitted against such titles are mere assertions of the petitioners that they agreed to the purchases of the land with the common fund, although the properties were to be placed in the Tayengcos' names exclusively. As has been pointed out, evidence of the establishment of the common fund is very inadequate. As to the alleged agreement between the members of the Sydeco family, at the time the properties were purchased, Conchita and Salvacion were no longer on speaking terms,[26] Rosario was already dead while her husband Ramon Militante and Conchita's husband Jose Hautea were not informed of the purchases,[27] and Cu Bie admitted knowing of the acquisitions but could not even say whether Conchita agreed to them or not because she (Cu Bie) "(had) not talked to her (Conchita) about it".[28] On the other hand, the details of the sales were known to the spouses, and subsequent transactions involving the lands appear to have been decided upon and entered into by them only. Thus, buildings and other improvements were constructed on the lands, and to finance those undertakings, the Tayengcos executed real estate mortgages, without the other Sydeco family members appearing to have had any intervention in these matters. There is no evidence that the decision to sell other parcels of land was arrived at and carried out by persons other than the spouses. Only the Jose Tayengcos, therefore, have been shown to have exercised acts of ownership over the properties in question, which circumstance tends to strengthen their contention that the lands are owned by them exclusively.

Considering that no grave abuse of discretion was committed by the Court a quo in having found the evidence adduced to be insufficient to prove the facts on which the causes of action against the respondents are grounded,

the verdict must go against the petitioners. No need exists to delve into the issue of the prescriptive period within which an action to enforce an implied trust must be brought, the existence of such trust -- which is premised on the unproven claim that a common fund was constituted for the Sydeco family -- not having been shown.

WHEREFORE, the petition is hereby dismissed for lack of merit, and the decision of the Intermediate Appellate Court under review is affirmed, with costs against petitioners.

SO ORDERED.

Teehankee, C.J., Cruz, and Paras*, JJ., concur.
Gancayco, J., on leave.

[1] Decision dated April 29, 1983, penned by Justice C. Pascual, with Justices E. L. Paras and S. E. Camilon, concurring; Rollo, pp. 33-56.

[2] Lot Nos. 240-B-2 and 712-B-2 covered by TCT No. 1360; Lot No. 317-B-3-C covered by TCT No. 1731 (T-14786); Lot 236-B covered by TCT No. 2467; Lot No. 233 covered by TCT No. 2468; Lot Nos. 317-A and 326-A covered by TCT No. 2469; Lot Nos. 4321 and 4327 covered by TCT No. 3773; Lot Nos. 797-B, 540-A and 540-C covered by TCT No. 5239 and Lot No. 4326-A-1 covered by TCT No. 4923 as well as all buildings and improvements thereon, certified by the Register of Deeds of Iloilo as registered in the name of Jose Tayengco; Exhibit "QQQ".

[3] Cu Bie's death in 1965 led to the filing of a Fourth Amended Complaint; Appellants' Brief, pp. 348-381; Salvacion Sydeco-Tayengco and Jose Tayengco have also died, and substituting them are their heirs Gloria, Louise, Elizabeth, Roberto, Arthur, Thomas, Yvonne, Francis, Rosemarie, and Anna Marie, all surnamed Tayengco; Rollo, pp. 209-210.

[4] Rollo, p. 12.

[5] Respondents' Brief, p. 5.

[6] Appellants' Brief, pp. 703-790.

[7] Id., p. 768.

[8] Appellants' Brief, pp. 768-776.

[9] Rollo, p. 52.

[10] Id., pp. 52-53.

[11] Rollo, pp. 53-55.

[12] Rollo, pp. 53-56.

[13] Id., p. 317.

[14] Vallarta v. IAC, G.R. No. 74957, June 30, 1987; Chua Giok Ong v. CA, G.R. No. 41689-90, April 8, 1987, and cases cited therein.

[15] Sec. 2, Rule 45, Rules of Court.

[16] Secs. 3 and 4, Rule 45, Rules of Court; SEE Chua Giok Ong v. CA, G.R. No. 41689-90, April 8, 1987.

[17] SEE footnote 13.

[18] Rollo, p. 323.

[19] Rollo, p. 156.

[20] TSN, February 23, 1960, p. 953.

[21] Id., p. 952; TSN; March 8, 1961, p. 148 and 151.

[22] TSN, March 8, 1961, p. 151.

[23] TSN, March 8, 1961, p. 163.

[24] Id., pp. 143-146.

[25] People v. Valero, 112 SCRA 661, 675.

[26] Respondents' Brief, p. 52.

[27] Appellees' Brief, p. 16 and p. 24.

[28] TSN, June 13, 1962, pp. 304-309.

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