

**MARMONT RESORT HOTEL ENTERPRISES, PETITIONER, VS.
FEDERICO GUIANG, AURORA GUIANG, AND COURT OF APPEALS,
RESPONDENTS.***G.R. No. 79734. December 08, 1988*

Ponente: FELICIANO, J.

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The present Petition for Review seeks to set aside the Decision dated 9 December 1986 of the Court of Appeals in C.A. - G.R. CV 03299. The appellate court affirmed a Decision dated 31 May 1983 of Branch 83 of the Regional Trial Court of Olongapo City dismissing the complaint in Civil Case No. 2896-C filed by petitioner company against private respondent spouses.

On 2 May 1975, a Memorandum of Agreement was executed between Maris Trading and petitioner Marmont Resort Hotel Enterprises, Inc. ("Marmont"), a corporation engaged in the hotel and resort business with office and establishment at Olongapo City. Under the agreement, Maris Trading undertook to drill for water and to provide all equipment necessary to install and complete a water supply facility to service the Marmont Resort Hotel in Olongapo, for a stipulated fee of P40,000.00. In fulfillment of its contract, Maris Trading drilled a well and installed a water pump on a portion of a parcel of land situated in Olongapo City, then occupied by respondent spouses Federico and Aurora Guiang.

Five (5) months later, a second Memorandum of Agreement was executed between Maris Trading and Aurora Guiang, with Federico Guiang signing as witness. This second agreement in essential part read:[1]

"That the First Party [Maris Trading] has dug, drilled and tapped water source for Marmont Resort, located at Bo. Barretto, Olongapo City in accordance with their agreement executed on May 2, 1975 and notarized before Isagani M. Jungco, Notary Public and entered as Doc. No. 166; Page No. 135; Book No. XV; Series of 1975.

That the First Party has erected, built and drilled for the water source of Marmont Resort on the land owned by the Second Party [Aurora Guiang] at the corner of J. Montelibano Street and Maquinaya Drive (Provincial Road) with the latter's permission:

That for and in consideration of the sum of P1,500.00 the Second Party hereby Sell, Transfer and Cede all possessory rights, interest and claims over that portion of the lot wherein the water source of Marmont Resort is located unto and in favor of Maris Trading."

After some time, the water supply of the Marmont Resort Hotel became inadequate to meet the hotel's water requirements. Petitioner Marmont secured the services of another contractor (the name of which was not disclosed), which suggested that in addition to the existing water pump, a submersible pump be installed to increase the pressure and improve the flow of water to the hotel. Accordingly, Juan Montelibano, Jr., manager of the Marmont Resort Hotel, sought permission from the Guiang spouses to inspect the water pump which had been installed on the portion of the land previously occupied by the spouses and to make the necessary additional installations thereon. No such permission, however, was granted.

On 13 May 1980, petitioner Marmont filed a Complaint[2] against the Guiang spouses for damages resulting from their refusal to allow representatives of petitioner and the second contractor firm entry into the water facility site. The claimed damages were broken down as follows: (a) P10,000.00 representing the amount advanced in payment to the second contractor; (b) P40,000.00 representing the total project cost of the installation made by Maris Trading; (c) P50,000.00 representing additional expenses incurred and incidental losses resulting from failure of the original pump to cope with the water requirements of the Marmont Resort Hotel; and (d) P10,000.00 for attorney's fees.

In their Answer,[3] the Guiang spouses (defendants below) denied having had any previous knowledge of the first Memorandum of Agreement and asserted that the second Memorandum of Agreement was invalid for not having been executed in accordance with law. The spouses added a counterclaim for damages in the amount of P200,000.00.

On 2 October 1980, at the pre-trial conference, the parties agreed on the following stipulation of facts and issues embodied in a Pre-Trial Order:[4]

"III

In addition to the admission made elsewhere in their respective pleadings, the parties entered into the following stipulation of facts:

- Plaintiff is a corporation duly organized and existing under the laws of the Philippines with office at Montelibano Street, Barrio Barretto, Olongapo City;
- The contract referred to in paragraph 2 of the complaint between the plaintiff and Maris Trading is contained in a document captioned Memorandum Agreement executed on May 2, 1975, a xerox copy of which is Annex 'A' of plaintiff's complaint;
- On October 7, 1975, the Maris Trading represented by Ceferino Cabral and defendant Aurora Guiang entered into a memorandum agreement;
- The portion sold under Annex 'A' is still a part of the public domain.

IV

The plaintiff marked the following exhibits in evidence:

Exhibit 'A' – Memorandum Agreement dated May 2, 1975

Exhibit 'B' – Memorandum Agreement dated October 7, 1975

V

The issues left to be ventilated during the trial are the following:

- Whether defendants has actually prohibited the plaintiff [from] making repairs, [on] the pump constructed by Maris Trading for the plaintiff under the agreement Exhibit 'A', if so;
- Whether defendants [have] the right to prohibit the Maris Trading from performing the repairs; and if not
- Whether defendants are liable for damages under the human relations provision of the Civil Code."

On 1 January 1980, the Guiang spouses moved to dismiss the Complaint.[5] The spouses there assailed the validity of the second Memorandum of Agreement, alleging that the subject matter thereof involved conjugal property alienated by Aurora Guiang without the marital consent of her husband, Federico Guiang. Further, it was alleged that the land upon which the hotel's water supply facility was installed -- and which the Guiang spouses occupied -- formed part of the public domain and was then still the subject of a Miscellaneous Sales Application

submitted by Federico Guiang. The Motion to Dismiss, however, was denied by the trial court.

No evidence having been adduced by the Guiang spouses on their behalf, the case was submitted for decision. On 31 May 1983, the trial court rendered a decision,[6] dismissing the complaint. The trial court found that Aurora Guiang had validly alienated her rights over the disputed portion of land to Maris Trading, but held that the evidence failed to show that Maris Trading, in turn, had transferred such rights to petitioner Marmont.

Petitioner Marmont appealed to the Court of Appeals which affirmed the decision of the trial court and dismissed the appeal for lack of merit.[7] The appellate court, citing Section 55, Rule 132 of the Revised Rules of Court, held that the first and second Memoranda of Agreement could not legally be considered by the court as included in the body of evidence of the case, as neither document had been formally offered in evidence by either party. It also held that, in any event, neither document showed that Marmont had in fact acquired from Maris Trading whatever rights the latter had over the land in dispute.

In the instant Petition for Review, petitioner assigns the following errors:[8]

- "1. The Court of Appeals erred in not considering the Memorandum of Agreement of May 2, 1975 and 7 October 1975 as the same were already admitted in the pre-trial order; and
2. The Court of Appeals erred in deciding that ownership belongs to Maris Trading hence, private respondent Guiang can prohibit Marmont Resort from entering the land."

We find for the petitioner.

Both the trial and appellate courts held that the first and second Memoranda of Agreement are not properly considered as forming part of the record of this case, because neither had been formally presented and offered in evidence at the trial of Civil Case No. 2896-C. The record shows, however, as noted earlier, that at the pre-trial conference held on 2 October 1980, both petitioner Marmont and respondent spouses had agreed upon a stipulation of facts and issues recognizing the existence of those same two (2) agreements. Such stipulation of facts constitutes a judicial admission, the veracity of which requires no further proof and which may be controverted only upon a clear showing that such stipulation had been entered into through "palpable mistake." On this point, Section 2, Rule 129 of the Revised Rules of Court provides:

"Section 2. Judicial Admissions. -? Admission made by the parties in the pleadings, or in the course of the trial or other proceedings do not require proof and cannot be contradicted unless previously shown to have been made through palpable mistake." (Italics supplied)

There has been no showing and respondent spouses do not claim that "palpable mistake" had intervened here, in respect of the formulation of the facts stipulated by the parties at the pre-trial conference. Absent any such showing, that stipulation of facts is incontrovertible,[9] and may be relied upon by the courts.[10] Respondent spouses are estopped from raising as an issue in this case the existence and admissibility in evidence of both the first and second Memoranda of Agreement which, having been marked as exhibits during pre-trial, properly form part of the record of this case, even though not formally offered in evidence after trial.[11]

We consider briefly respondent spouses' argument that the second Memorandum of Agreement was invalid for having been executed by Aurora Guiang without the marital consent of Federico, contrary to Articles 165 and 172 of the Civil Code.

Article 165 and 172 state the general principle under our civil law, that the wife may not validly bind the conjugal partnership without the consent of the husband, who is legally the administrator of the conjugal partnership. In this particular case, however, as noted earlier, the second Memorandum of Agreement, although ostensibly

contracted solely by Aurora Guiang with Maris Trading, was also signed by her husband Federico, as one of the witnesses thereto. This circumstance indicates not only that Federico was present during the execution of the agreement but also that he had, in fact, given his consent to the execution thereof by his wife Aurora. Otherwise, he should not have appended his signature to the document as witness. Respondent spouses cannot now disown the second Memorandum of Agreement as their effective consent thereto is sufficiently manifested in the document itself.

That the land in dispute was, at the time of execution of the second Memorandum of Agreement, public land, is of no consequence here. Pending approval of Federico's Miscellaneous Sales Application over said land, respondent spouses enjoyed possessory and other rights over the same which could validly be assigned or transferred in favor of third persons. In this case, respondent spouses chose to transfer such rights (over the portion upon which the water pump was installed) to Maris Trading, as evidenced by the fourth paragraph of the second Memorandum of Agreement, quoted earlier. Furthermore, assuming (though only for the sake of argument) that the alienation to Maris Trading was legally objectionable, respondent spouses are not the proper parties to raise the issue of invalidity, they and Maris Trading being in *pari delicto*. Only the government may raise that issue.

Finally, respondent spouses allege that dismissal of the complaint by the trial court was not improper as petitioner Marmont was not privy to the second Memorandum of Agreement, and that accordingly, petitioner had no valid cause of action against respondents.

A closer scrutiny of the second and third paragraphs of the second Memorandum of Agreement discloses that the first Memorandum of Agreement, including the obligations imposed thereunder upon Maris Trading, had been acknowledged therein:

"That the First Party (i.e., Maris Trading) has dug, drilled and tapped water source for Marmont Resort, located at Bo. Barretto, Olongapo City in accordance with their agreement executed on May 2, 1975 and notarized before Isagani M. Jungco, Notary Public and entered as Doc. No. 166; Page No. 135; Book No. XV; Series of 1975.

That the First Party has erected, built and drilled for the water source of Marmont Resort on the land owned by the Second Party [respondent spouses] at the corner of J. Montelibano Street and Maquinaya Drive (Provincial Road) with the latter's permission; x x x"(Italics supplied)

The above paragraphs establish, among other things, that construction work had been performed by Maris Trading on the land occupied by respondent spouses; that such construction work had been performed in accordance with terms and conditions stipulated in the first Memorandum of Agreement and that the purpose of the work was to build a water supply facility for petitioner Marmont. The same excerpts also show that the work so performed was with the knowledge and consent of the Guiang spouses, who were then occupying the land.

It is clear from the foregoing stipulations that petitioner Marmont was to benefit from the second Memorandum of Agreement. In fact, said stipulations appear to have been designed precisely to benefit petitioner and, thus, partake of the nature of stipulations *pour autrui*, contemplated in Article 1311 of the Civil Code.

A stipulation *pour autrui* is a stipulation in favor of a third person conferring a clear and deliberate favor upon him, which stipulation is found in a contract entered into by parties neither of whom acted as agent of the beneficiary.[12] We believe and so hold that the purpose and intent of the stipulating parties (Maris Trading and respondent spouses) to benefit the third person (petitioner Marmont) is sufficiently clear in the second Memorandum of Agreement. Marmont was not of course a party to that second Agreement but, as correctly pointed out by the trial court and the appellate court, the respondent spouses could not have prevented Maris Trading from entering the property possessory rights over which had thus been acquired by Maris Trading. That

respondent spouses remained in physical possession of that particular bit of land, is of no moment; they did so simply upon the sufferance of Maris Trading. Had Maris Trading, and not the respondent spouses, been in physical possession, we believe that Marmont would have been similarly entitled to compel Maris Trading to give it (Marmont) access to the site involved. The two (2) courts below failed to take adequate account of the fact that the sole purpose of Maris Trading in acquiring possessory rights over that specific portion of the land where well and pump and piping had been installed, was to supply the water requirements of petitioner's hotel. That said purpose was known by respondent spouses, is made explicit by the second Memorandum of Agreement. Maris Trading itself had no need for a water supply facility; neither did the respondent spouses. The water facility was intended solely for Marmont Resort Hotel. The interest of Marmont cannot therefore be regarded as merely "incidental." [13] Finally, even if it be assumed (for purposes of argument merely) that the second Memorandum of Agreement did not constitute a stipulation pour autrui, still respondent spouses, in the circumstances of this case, must be regarded as having acted contrary to the principles of honesty, good faith and fair dealing embodied in Articles 19 and 21 of the Civil Code when they refused petitioner Marmont access to the water facility to inspect and repair the same and to increase its capacity and thereby to benefit from it. In so doing, respondent spouses forced petitioner Marmont to locate an alternative source of water for its hotel which of course involved expenditure of money and perhaps loss of hotel revenues. We believe they should respond in damages.

The evidence on record, however, appears insufficient for determination of the amount of damages for which respondent spouses should be liable. For this reason, the Court is compelled to remand this case to the trial court for determination of such damages in appropriate further proceedings.

WHEREFORE, the Petition for Review on Certiorari is hereby GRANTED. The Decision dated 9 December 1986 of the Court of Appeals in C.A. - G.R. CV No. 03299, as well as the Decision dated 31 May 1983 of the Regional Trial Court of Olongapo City in Civil Case No. 2896-C, are REVERSED. This case is REMANDED to the trial court for determination, in further proceedings consistent with this decision, of the amount of damages petitioner is entitled to receive from respondent spouses. No pronouncement as to costs.

SO ORDERED.

Fernan, C.J., (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Record on Appeal, pp. 3-4.

[2] Id., pp. 1-4.

[3] Id., p. 10.

[4] Id., pp. 31-33, Order.

[5] Id., p. 4.

[6] Rollo, pp. 15-18.

[7] Rollo, pp. 19-24.

[8] Rollo, pp. 9-14.

[9] Sta. Ana v. Maliwat, et al., 133 Phil. 1006 (1968).

[10] Filipinas Investment and Finance Corporation v. Ridad, 30 SCRA 564 (1969).

[11] Lim Tanhu v. Ramolete, 66 SCRA 425 (1975).

[12] *Florentino v. Encarnacion, Sr.*, 79 SCRA 195 (1977).

[13] Cf. *Uy Tam and Uy Yet v. Leonard*, 30 Phil. 471 (1915).

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