

## SEVENTEENTH DIVISION

[ CA-G.R. SP NO. 128002, May 21, 2014 ]

**MYRNA ALICIA SICO, PETITIONER, VS. ROSEMARIE G. ADIARTE,  
RESPONDENT.**

### D E C I S I O N

**BATO, JR., J.:**

This Petition for Review<sup>[1]</sup> under Rule 42 of the Rules of Court seeks to reverse the 05 September 2012 Decision<sup>[2]</sup> and 26 November 2012 Order<sup>[3]</sup> both issued by the Regional Trial Court (RTC) of Muntinlupa City, Branch 206, in Civil Case No. 12-002. The assailed Decision affirmed the 13 June 2011 Decision<sup>[4]</sup> of the Metropolitan Trial Court of Muntinlupa City (MTC), Branch 80, which gave due course to herein respondent's complaint for sum of money.

The antecedent facts are as follows:

By a Complaint<sup>[5]</sup> filed with the MTC on 22 February 2006, respondent Rosemarie G. Adiarde alleged that sometime in October of 2003, she had a talk with Antonio Fernando about her plans of purchasing an educational plan for her son. In turn, Fernando contacted Rosalina Borja, who was then working at Pacific Plans, Incorporated. Borja in turn referred Fernando to Lucille Velez, her fellow agent at Pacific Plans. Lucille, for her part, referred Fernando to petitioner Myrna Alicia Sico.

Petitioner Sico was then looking for a person interested to buy the Pacific Educational Plan that she had bought for her niece. Upon being informed by Fernando that petitioner Sico was selling her educational plan, respondent Adiarde agreed to buy it. She gave Fernando Php285,000.00 for the payment thereof. Unbeknown to respondent Adiarde, Php85,000.00 of what she gave to Fernando, went to Fernando, Velez, and Borja as their commissions. Through Fernando, petitioner Sico delivered to respondent Adiarde the original copies of the Pacific Educational Plan, Certificate of Payment, Request for Amendment form and two copies of her valid identification cards.

Pacific Plans, however, disapproved the transfer of the subject educational plan to respondent Adiarde's son. Thus, respondent Adiarde demanded from petitioner Sico the return of her Php285,000.00, but her demands to that effect went unheeded.

In her Answer<sup>[6]</sup> with compulsory counterclaim dated 25 May 2006, petitioner Sico averred that she has not met respondent Adiarde personally. Neither did she agree with the Php285,000.00 being claimed by respondent Adiarde as payment for the educational plan. She explained that the transaction to sell the subject educational plan was only between respondent Adiarde and Fernando. She was not a privy to their personal dealings. This being so, the claim from which the action is founded is unenforceable under the provisions of the Statute of Frauds. She further averred that assuming *arguendo* that there was a valid sale of the subject educational plan

in favor of respondent Adiarte, the latter cannot simply demand the return of the payment inasmuch as there was already a consummated contract of sale. Also, there is no ground to rescind or cancel the contract of sale that could be attributed to her.

On 13 June 2011, the MTC rendered a Decision<sup>[7]</sup> in favor of respondent Adiarte. It ruled that the parties have entered into a contract to sell Pacific Educational Plan No. 1090765-7, with certain reciprocal obligations. However, the supposed transfer of the educational plan to respondent Adiarte's son did not materialize because of Pacific Plans' disapproval. Thus, the dispositive portion of the MTC's Decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Rosemarie Adiarte and against defendant Myrna Alicia Sico, ordering the said defendant:

1. TO RETURN to the plaintiff the amount of Two Hundred Thousand (Php200,000.00);
2. TO PAY the plaintiff the amount of Php20,000.00 by way of attorney's fee; and
3. TO PAY the costs of suit.

SO ORDERED."<sup>[8]</sup>

From the MTC Decision, petitioner Sico appealed to the RTC.

As stated at the outset, the RTC affirmed the MTC's Decision that petitioner SICO should reimburse respondent Adiarte the amount of Php200,000.00. It however ruled that the contract entered into by the parties was a conditional sale or more aptly, a contract of sale that is subject to a suspensive condition. The RTC further ruled as follows:

"X x x In this case, Sico's obligation to deliver is conditioned upon Pacific Plans' approval of her request of the designation of Adiarte's son as the plan's beneficiary. When Pacific Plans denied Sico's request for whatever reason, it had now become impossible for Sico to perform her obligation to deliver the thing sold. Without an object, which is an essential element of the contract, the contract of sale was thus not perfected. There being no contract to speak of, it is but just for Sico to return to Adiarte what she has given supposedly as payment for the educational plan. Otherwise, she is unjustly enriching herself at Adiarte's expense.

Sico could not have been unaware about the true nature of the subject transaction. The fact that she had to sign a Trust Declaration first before she can execute any deed of conveyance transferring the ownership of the subject educational plan obviously means that something has to happen first. x x x

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WHEREFORE, the appeal of defendant Myrna Alicia Sico is dismissed for lack of merit and the appealed decision of the lower court in favor of plaintiff Rosemarie G. Adiarte is hereby affirmed.

SO ORDERED.”<sup>[9]</sup>

Petitioner Sico’s motion for reconsideration was likewise denied by the RTC in the assailed 26 November 2012 Resolution.<sup>[10]</sup>

Hence, this Petition for Review with the following assignment of errors for this Court’s resolution:

- “A. THE LOWER COURT ERRED IN RULING THAT THE SUBJECT PURCHASE/ACQUISITION OF THE EDUCATIONAL PLAN OF PETITIONER BY RESPONDENT IS A CONDITIONAL SALE AND SUBJECT TO A SUSPENSIVE CONDITION;
- B. THE LOWER COURT ERRED IN RELYING ON THE TRUST DECLARATION DOCUMENT AS BASIS FOR THE CONCLUSION THAT THE TRANSACTION IS A CONDITIONAL SALE;
- C. THE LOWER COURT ERRED IN HOLDING THAT INDEED THERE WAS A DENIAL BY THE PACIFIC PLAN OF THE INTENDED TRANSFER OF THE EDUCATIONAL PLAN IN FAVOR OF RESPONDENT ADIARTE;
- D. THE LOWER COURT ERRED IN NOT ORDERING THE RESTITUTION OR RETURN OF THE SUBJECT EDUCATIONAL PLAN IN FAVOR OF PETITIONER AS AN ALTERNATIVE;
- E. THE LOWER COURT ERRED IN ORDERING THE RETURN OR (sic) PAYMENT OF P200,000.00 AS WELL IN AWARDED ATTORNEY’S FEES IN FAVOR OF RESPONDENT.”<sup>[11]</sup>

The above-quoted assignment of errors, being interrelated, will be discussed jointly. The main issue to be resolved is whether the transaction entered into by the parties was a conditional sale or absolute sale.

Petitioner Sico insists that the sale of educational plan that she entered into with respondent Adiarde was an absolute sale, not a conditional sale as ruled by the RTC. The trust declaration relied by the RTC expressly states that said plan was sold, transferred and conveyed completely, absolutely, and unconditionally.

By way of Comment,<sup>[12]</sup> respondent Adiarde contends that the RTC correctly ruled that based on the duly signed trust declaration, she and petitioner Sico entered into a conditional sale subject to a suspensive condition.

The WHEREAS clause of the Trust Declaration<sup>[13]</sup> relied upon by both parties is hereunder quoted:

“WHEREAS, the Trustee was the full legal and beneficial owner of a freely assignable, valid, effective, binding, and unencumbered Educational Plan Agreement Number 1090765-9 issued by Pacific Plans, Inc. (the 'Plan')