

## THIRD DIVISION

[ G.R. No. 172919, January 13, 2016 ]

**TIMOTEO BACALSO AND DIOSDADA BACALSO, PETITIONERS,  
VS. GREGORIA B. ACA-AC, EUTIQUIA B. AGUILA, JULIAN BACUS  
AND EVELYN SYCHANGCO, RESPONDENTS.**

### D E C I S I O N

**REYES, J.:**

Before this Court is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>[2]</sup> dated December 14, 2005 and the Resolution<sup>[3]</sup> dated May 30, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67516. The CA affirmed the Decision dated April 19, 2000 of the Regional Trial Court (RTC) of Cebu City, Branch 11, in Civil Case No. CEB-17994. The RTC ruled that the Deed of Absolute Sale dated October 15, 1987 between herein respondents Gregoria B. Aca-Ac, Eutiquia B. Aguila and Julian Bacus (Julian) (Bacus siblings) and herein petitioner Timoteo Bacalso (Timoteo) was void, for want of consideration.

#### The Facts

The Bacus siblings were the registered owners of a parcel of land described as Lot No. I 809-G-2 located in San Roque, Talisay, Cebu with an area of 1,200 square meters and covered by Transfer Certificate of Title (TCT) No. 59260. The Bacus siblings inherited the said property from their mother Matea Bacalso (Matea).<sup>[4]</sup>

On October 15, 1987, the Bacus siblings executed a Deed of Absolute Sale conveying a portion of Lot No. 1809-G-2 with an area of 271 sq m, described as Lot No. 1809-G-2-C, in favor of their cousin, Timoteo for and in consideration of the amount of P8,000.00.<sup>[5]</sup>

On March 4, 1988, however, Timoteo, together with his sisters Lucena and Victoria and some of his cousins filed a complaint for declaration of nullity of documents, certificates of title, reconveyance of real property and damages against the Bacus siblings and four other persons before the RTC of Cebu City, Branch 12, and was docketed as Civil Case No. CEB-6693. They claimed that they are co-owners of the three-fourths portion of Lot No. 1809-G (which Lot No. 1809-G-2-C was originally part of) as Matea had paid for the said property for and in behalf of her brother Alejandro (father of petitioner Timoteo) and sisters Perpetua and Liberata, all surnamed Bacalso.<sup>[6]</sup>

On November 29, 1989, the RTC found that Matea was the sole owner of Lot No. 1809-G and affirmed the validity of the conveyances of portions of Lot No. 1809-G made by her children. The same was affirmed by the CA in a Decision dated March

23, 1992 and became final and executory on April 15, 1992.<sup>[7]</sup>

Undaunted, Timoteo and Diosdada Bacalso (petitioners) filed on October 26, 1995, a complaint for declaration of nullity of contract and certificates of title, reconveyance and damages against the Bacus siblings, this time claiming ownership over Lot No. 1809-G-2-C by virtue of the Deed of Absolute Sale dated October 15, 1987. They claimed, however, that the Bacus siblings reneged on their promise to cause the issuance of a new TCT in the name of the petitioners.<sup>[8]</sup>

Moreover, the petitioners alleged that the Bacus siblings have caused the subdivision of Lot No. 1 809-G-2 into four lots and one of which is Lot No. 1809-G-2-C which is now covered by TCT No. 70783. After subdividing the property, the Bacus siblings, on February 11, 1992, without knowledge of the petitioners, sold Lot No. 1809-G-2-C again to respondent Evelyn Sychangco (Sychangco) and that TCT No. 74687 covering the same property was issued in her name.<sup>[9]</sup>

In their answer, the Bacus siblings denied the allegations of the petitioners and claimed that the alleged sale of Lot No. 1809-G-2-C in favor of the petitioners did not push through because the petitioners failed to pay the purchase price thereof.<sup>[10]</sup>

For her part, Sychangco averred that she is a buyer in good faith and for value as she relied on what appeared in the certificate of title of the property which appeared to be a clean title as no lien or encumbrance was annotated therein.<sup>[11]</sup>

On April 19, 2000, the RTC issued a Decision declaring the Deed of Absolute Sale dated October 15, 1987 void for want of consideration after finding that the petitioners failed to pay the price of the subject property. Moreover, the RTC held that even granting that the sale between the Bacus siblings and the petitioners was valid, the petitioners still cannot ask for the rescission of the sale of the disputed portion to Sychangco as the latter was a buyer in good faith, thus has a better right to the property.<sup>[12]</sup>

Aggrieved by the foregoing disquisition of the RTC, the petitioners interposed an appeal with the CA. On December 14, 2005, however, the CA affirmed the ruling of the RTC. The petitioners sought a reconsideration<sup>[13]</sup> of the CA decision but it was denied in a Resolution dated May 30, 2006.

### **The Issues**

The petitioners assign the following errors of the CA:

#### **I.**

THE [CA] SERIOUSLY ERRED WHEN IT RELIED TOO MUCH ON THE RESPECTIVE ORAL TESTIMONIES OF RESPONDENTS JULIAN BACUS AND EVELYN SYCHANGCO UTTERLY DISREGARDING THE ORAL TESTIMONIES OF PETITIONER TIMOTEO BAG ALSO AND THE LATTER'S WITNESS ROBERTO YBAS AND THE DOCUMENTARY EVIDENCE OF THE PETITIONERS, THE DULY EXECUTED AND NOTARIZED DEED OF

ABSOLUTE SALE COVERING THE SUBJECT LOT NO. 1809-G-2-C.

II

THE [CA] SERIOUSLY ERRED WHEN IT RULED THAT THE DEED OF ABSOLUTE SALE DATED 15 OCTOBER 1987 IS NULL AND VOID *AB INITIO* FOR FAILURE OR WANT OF CONSIDERATION.

III

THE [CA] SERIOUSLY ERRED WHEN IT DID NOT CONSIDER THE FACT THAT THE DEED OF ABSOLUTE SALE DATED 15 OCTOBER 1987 WAS NOTARIZED, HENCE, A PUBLIC DOCUMENT WHICH ENJOYS THE PRESUMPTION OF REGULARITY.

IV

THE [CA] SERIOUSLY ERRED WHEN IT DID NOT RULE THAT ON 15 OCTOBER 1987, THE [BAGUS SIBLINGS] WERE NO LONGER OWNERS AND POSSESSORS OF THE SUBJECT LOT AS THE SAME WAS ALREADY TRANSFERRED TO THE PETITIONERS BY REASON OF THE MERE EXECUTION OF A DEED OF SALE IN A PUBLIC DOCUMENT, AS IN THIS CASE.<sup>[14]</sup>

Essentially, the issues presented to the Court for resolution could be reduced into whether the CA erred in holding that the Deed of Absolute Sale dated October 15, 1987 is void for want of consideration.

### **Ruling of the Court**

The petition is bereft of merit.

The central issue to be resolved in the present controversy is the validity of the Deed of Absolute Sale between the petitioners and the Bacus siblings. "Such issue involves a question of fact, and settled jurisprudence dictates that, subject to a few exceptions, only questions of law may be brought before the Court *via* a petition for review on *certiorari*."<sup>[15]</sup>

The Court has repeatedly held that it is not necessitated to examine, evaluate or weigh the evidence considered in the lower courts all over again. "This is especially true where the trial court's factual findings are adopted and affirmed by the CA as in the present case. Factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal."<sup>[16]</sup>

Although the Court recognized several exceptions to the limitation of an appeal by *certiorari* to only questions of law, including: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the interference made is manifestly mistaken, absurd, or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when

the findings of fact are conflicting; (6) when in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of 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 respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record,<sup>[17]</sup> the present appeal does not come under any of the exceptions.

In any event!, the Court has carefully reviewed the records of the instant case and found no reason to disturb the findings of the RTC as affirmed by the CA.

Under the Civil Code, a contract is a meeting of minds, with respect to the other, to give something or to render some service. Article 1318 provides:

Art. 1318. There is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;
- (2) Object certain which is the subject matter of the contract;
- (3) Cause of the obligation which is established.

In the case at bar, the petitioners argue that the Deed of Absolute Sale has all the requisites of a valid contract. The petitioners contend that there is no lack of consideration that would prevent the existence of a valid contract. They assert that the testimonies of Timoteo and witness Roberto Ybas sufficiently established that the purchase price of P8,000.00 for Lot No. 1809-G-2-C was paid to Julian at Sto. Nino Church in Cebu City before the execution of the Deed of Absolute Sale. They also claim that even assuming that they failed to pay the purchase price, such failure does not render the sale void for being fictitious or simulated, rather, there is only non-payment of the consideration within the period agreed upon for payment.

[18]

The Court does not agree.

Contrary to the petitioners' claim, this is not merely a case of failure to pay the purchase price which can only amount to a breach of obligation with rescission as the proper remedy. As correctly observed by the RTC, the disputed sale produces no effect and is considered void *ab initio* for failure to or want of consideration since the petitioner failed to pay the consideration stipulated in the Deed of Absolute Sale. The trial court's discussion on the said issue, as affirmed by the CA, is hereby quoted:

To begin with, the Court hereby states that, from the totality of the evidence adduced in this case which it scrutinized and evaluated, it has come up with a finding that there was failure or want of consideration of the Deed of Sale of Lot 1809-G-2-C executed in favor of the [petitioners] on October 15, 1987. The Court is morally and sufficiently convinced that [Timoteo] had not paid to the [Bacus siblings] the price for the said land. This fact has been competently and preponderantly established by the