

THIRD DIVISION

[G.R. No. 156125, August 25, 2010]

**FRANCISCO MUÑOZ, JR., PETITIONER, VS. ERLINDA RAMIREZ
AND ELISEO CARLOS, RESPONDENTS.**

DECISION

BRION, J.:

We resolve the present petition for review on *certiorari* [1] filed by petitioner Francisco Muñoz, Jr. (*petitioner*) to challenge the decision [2] and the resolution [3] of the Court of Appeals (CA) in CA-G.R. CV No. 57126. [4] The CA decision set aside the decision [5] of the Regional Trial Court (RTC), Branch 166, Pasig City, in Civil Case No. 63665. The CA resolution denied the petitioner's subsequent motion for reconsideration.

FACTUAL BACKGROUND

The facts of the case, gathered from the records, are briefly summarized below.

Subject of the present case is a seventy-seven (77)-square meter residential house and lot located at 170 A. Bonifacio Street, Mandaluyong City (*subject property*), covered by Transfer Certificate of Title (TCT) No. 7650 of the Registry of Deeds of Mandaluyong City in the name of the petitioner. [6]

The residential lot in the subject property was previously covered by TCT No. 1427, in the name of Erlinda Ramirez, married to Eliseo Carlos (*respondents*). [7]

On April 6, 1989, Eliseo, a Bureau of Internal Revenue employee, mortgaged TCT No. 1427, with Erlinda's consent, to the Government Service Insurance System (GSIS) to secure a P136,500.00 housing loan, payable within twenty (20) years, through monthly salary deductions of P1,687.66. [8] The respondents then constructed a thirty-six (36)-square meter, two-story residential house on the lot.

On July 14, 1993, the title to the subject property was transferred to the petitioner by virtue of a Deed of Absolute Sale, dated April 30, 1992, executed by Erlinda, for herself and as attorney-in-fact of Eliseo, for a stated consideration of P602,000.00. [9]

On September 24, 1993, the respondents filed a complaint with the RTC for the nullification of the deed of absolute sale, claiming that there was no sale but only a mortgage transaction, and the documents transferring the title to the petitioner's name were falsified.

The respondents alleged that in April 1992, the petitioner granted them a

P600,000.00 loan, to be secured by a first mortgage on TCT No. 1427; the petitioner gave Erlinda a P200,000.00 [10] advance to cancel the GSIS mortgage, and made her sign a document purporting to be the mortgage contract; the petitioner promised to give the P402,000.00 balance when Erlinda surrenders TCT No. 1427 with the GSIS mortgage cancelled, and submits an affidavit signed by Eliseo stating that he waives all his rights to the subject property; with the P200,000.00 advance, Erlinda paid GSIS P176,445.27 [11] to cancel the GSIS mortgage on TCT No. 1427; [12] in May 1992, Erlinda surrendered to the petitioner the clean TCT No. 1427, but returned Eliseo's affidavit, unsigned; since Eliseo's affidavit was unsigned, the petitioner refused to give the P402,000.00 balance and to cancel the mortgage, and demanded that Erlinda return the P200,000.00 advance; since Erlinda could not return the P200,000.00 advance because it had been used to pay the GSIS loan, the petitioner kept the title; and in 1993, they discovered that TCT No. 7650 had been issued in the petitioner's name, cancelling TCT No.1427 in their name.

The petitioner countered that there was a valid contract of sale. He alleged that the respondents sold the subject property to him after he refused their offer to mortgage the subject property because they lacked paying capacity and were unwilling to pay the incidental charges; the sale was with the implied promise to repurchase within one year, [13] during which period (from May 1, 1992 to April 30, 1993), the respondents would lease the subject property for a monthly rental of P500.00; [14] when the respondents failed to repurchase the subject property within the one-year period despite notice, he caused the transfer of title in his name on July 14, 1993; [15] when the respondents failed to pay the monthly rentals despite demand, he filed an ejectment case [16] against them with the Metropolitan Trial Court (*MeTC*), Branch 60, Mandaluyong City, on September 8, 1993, or sixteen days before the filing of the RTC case for annulment of the deed of absolute sale.

During the pendency of the RTC case, or on March 29, 1995, the MeTC decided the ejectment case. It ordered Erlinda and her family to vacate the subject property, to surrender its possession to the petitioner, and to pay the overdue rentals. [17]

In the RTC, the respondents presented the results of the scientific examination [18] conducted by the National Bureau of Investigation of Eliseo's purported signatures in the Special Power of Attorney [19] dated April 29, 1992 and the Affidavit of waiver of rights dated April 29, 1992, [20] showing that they were forgeries.

The petitioner, on the other hand, introduced evidence on the paraphernal nature of the subject property since it was registered in Erlinda's name; the residential lot was part of a large parcel of land owned by Pedro Ramirez and Fructuosa Urcla, Erlinda's parents; it was the subject of Civil Case No. 50141, a complaint for annulment of sale, before the RTC, Branch 158, Pasig City, filed by the surviving heirs of Pedro against another heir, Amado Ramirez, Erlinda's brother; and, as a result of a compromise agreement, Amado agreed to transfer to the other compulsory heirs of Pedro, including Erlinda, their rightful shares of the land. [21]

THE RTC RULING

In a Decision dated January 23, 1997, the RTC dismissed the complaint. It found that the subject property was Erlinda's exclusive paraphernal property that was inherited from her father. It also upheld the sale to the petitioner, even without Eliseo's consent as the deed of absolute sale bore the genuine signatures of Erlinda and the petitioner as vendor and vendee, respectively. It concluded that the NBI finding that Eliseo's signatures in the special power of attorney and in the affidavit were forgeries was immaterial because Eliseo's consent to the sale was not necessary. [22]

The respondents elevated the case to the CA via an ordinary appeal under Rule 41 of the Revised Rules of Court.

THE CA RULING

The CA decided the appeal on June 25, 2002. Applying the second paragraph of Article 158 [23] of the Civil Code and *Calimlim-Canullas v. Hon. Fortun*, [24] the CA held that the subject property, originally Erlinda's exclusive paraphernal property, became conjugal property when it was used as collateral for a housing loan that was paid through conjugal funds - Eliseo's monthly salary deductions; the subject property, therefore, cannot be validly sold or mortgaged without Eliseo's consent, pursuant to Article 124 [25] of the Family Code. Thus, the CA declared void the deed of absolute sale, and set aside the RTC decision.

When the CA denied [26] the subsequent motion for reconsideration, [27] the petitioner filed the present petition for review on *certiorari* under Rule 45 of the Revised Rules of Court.

THE PETITION

The petitioner argues that the CA misapplied the second paragraph of Article 158 of the Civil Code and *Calimlim-Canullas* [28] because the respondents admitted in the complaint that it was the petitioner who gave the money used to cancel the GSIS mortgage on TCT No. 1427; Article 120 [29] of the Family Code is the applicable rule, and since the value of the house is less than the value of the lot, then Erlinda retained ownership of the subject property. He also argues that the contract between the parties was a sale, not a mortgage, because (a) Erlinda did not deny her signature in the document; [30] (b) Erlinda agreed to sign a contract of lease over the subject property; [31] and, (c) Erlinda executed a letter, dated April 30, 1992, confirming the conversion of the loan application to a deed of sale. [32]

THE CASE FOR THE RESPONDENTS

The respondents submit that it is unnecessary to compare the respective values of the house and of the lot to determine ownership of the subject property; it was acquired during their marriage and, therefore, considered conjugal property. They also submit that the transaction between the parties was not a sale, but an equitable mortgage because (a) they remained in possession of the subject property even after the execution of the deed of absolute sale, (b) they paid the 1993 real property taxes due on the subject property, and (c) they received P200,000.00 only

of the total stated price of P602,000.00.

THE ISSUE

The issues in the present case boil down to (1) whether the subject property is paraphernal or conjugal; and, (2) whether the contract between the parties was a sale or an equitable mortgage.

OUR RULING

We deny the present Petition but for reasons other than those advanced by the CA.

This Court is not a trier of facts. However, if the inference, drawn by the CA, from the facts is manifestly mistaken, as in the present case, we can review the evidence to allow us to arrive at the correct factual conclusions based on the record. [33]

First Issue:

Paraphernal or Conjugal?

As a general rule, all property acquired during the marriage, whether the acquisition appears to have been made, contracted or registered in the name of one or both spouses, is presumed to be conjugal unless the contrary is proved. [34]

In the present case, clear evidence that Erlinda inherited the residential lot from her father has sufficiently rebutted this presumption of conjugal ownership. [35] Pursuant to Articles 92 [36] and 109 [37] of the Family Code, properties acquired by gratuitous title by either spouse, during the marriage, shall be excluded from the community property and be the exclusive property of each spouse. [38] The residential lot, therefore, is Erlinda's exclusive paraphernal property.

The CA, however, held that the residential lot became conjugal when the house was built thereon through conjugal funds, applying the second paragraph of Article 158 of the Civil Code and *Calimlim-Canullas*. [39] Under the second paragraph of Article 158 of the Civil Code, a land that originally belonged to one spouse becomes conjugal upon the construction of improvements thereon at the expense of the partnership. We applied this provision in *Calimlim-Canullas*, [40] where we held that when the conjugal house is constructed on land belonging exclusively to the husband, the land *ipso facto* becomes conjugal, but the husband is entitled to reimbursement of the value of the land at the liquidation of the conjugal partnership.

The CA misapplied Article 158 of the Civil Code and Calimlim-Canullas

We cannot subscribe to the CA's misplaced reliance on Article 158 of the Civil Code and *Calimlim-Canullas*.

As the respondents were married during the effectivity of the Civil Code, its

provisions on conjugal partnership of gains (Articles 142 to 189) should have governed their property relations. However, with the enactment of the Family Code on August 3, 1989, the Civil Code provisions on conjugal partnership of gains, including Article 158, have been superseded by those found in the Family Code (Articles 105 to 133). Article 105 of the Family Code states:

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The provisions of this Chapter [on the Conjugal Partnership of Gains] shall also apply to conjugal partnerships of gains already established between spouses before the effectivity of this Code, without prejudice to vested rights already acquired in accordance with the Civil Code or other laws, as provided in Article 256.

Thus, in determining the nature of the subject property, we refer to the provisions of the Family Code, and not the Civil Code, except with respect to rights then already vested.

Article 120 of the Family Code, which supersedes Article 158 of the Civil Code, provides the solution in determining the ownership of the improvements that are made on the separate property of the spouses, at the expense of the partnership or through the acts or efforts of either or both spouses. Under this provision, when the cost of the improvement and any resulting increase in value are more than the value of the property at the time of the improvement, the entire property of one of the spouses shall belong to the conjugal partnership, subject to reimbursement of the value of the property of the owner-spouse at the time of the improvement; otherwise, said property shall be retained in ownership by the owner-spouse, likewise subject to reimbursement of the cost of the improvement. [41]

In the present case, we find that Eliseo paid a portion only of the GSIS loan through monthly salary deductions. From April 6, 1989 [42] to April 30, 1992, [43] Eliseo paid about P60,755.76, [44] not the entire amount of the GSIS housing loan plus interest, since the petitioner advanced the P176,445.27 [45] paid by Erlinda to cancel the mortgage in 1992. Considering the P136,500.00 amount of the GSIS housing loan, it is fairly reasonable to assume that the value of the residential lot is considerably more than the P60,755.76 amount paid by Eliseo through monthly salary deductions.

Thus, the subject property remained the exclusive paraphernal property of Erlinda at the time she contracted with the petitioner; the written consent of Eliseo to the transaction was not necessary. The NBI finding that Eliseo's signatures in the special power of attorney and affidavit were forgeries was immaterial.

Nonetheless, the RTC and the CA apparently failed to consider the real nature of the contract between the parties.

Second Issue:

Sale or Equitable Mortgage?