

## THIRD DIVISION

[ G.R. No. 159665, August 03, 2010 ]

**ANSELMO TAGHOY AND THE LATE VICENTA T. APA,  
SUBSTITUTED BY HER HEIRS, NAMELY, MANUEL T. APA,  
NICASIO T. APA, DELFIN T. APA, ALMA A. JACALAN, ARLENE A.  
SUMALINOG, AIDA A. ARONG, ELENA A. COSEP, ALFREDO T. APA,  
ISABELO T. APA, JR., ISABELO T. APA III, SHERWIN T. APA, AND  
FLORITO T. APA, PETITIONERS, VS. SPS. FELIXBERTO TIGOL, JR.  
AND ROSITA TIGOL, RESPONDENTS.**

### D E C I S I O N

**BRION, J.:**

We resolve the present petition for review on *certiorari*<sup>[1]</sup> filed by petitioners Anselmo Taghoy and the heirs of Vicenta T. Apa (*petitioners*) to challenge the decision<sup>[2]</sup> and the resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 54385.<sup>[4]</sup> The CA decision set aside the decision<sup>[5]</sup> of the Regional Trial Court (RTC), Branch 27, Lapu-lapu City in Civil Case No. 2247. The CA resolution denied the petitioners' subsequent motion for reconsideration.

### FACTUAL BACKGROUND

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

Spouses Filomeno Taghoy and Margarita Amit<sup>[6]</sup> owned an 11,067 square meter parcel of land, known as Lot 3635-B of subdivision plan (LRC) Psd-212881 (*subject property*), located in *Barrio Agus*, Lapu-Lapu City, Cebu under Transfer Certificate of Title (TCT) No. 6466 of the Lapu-Lapu City Registry of Deeds.<sup>[7]</sup>

On August 6, 1975, Filomeno and Margarita<sup>[8]</sup> executed a special power of attorney, appointing Felixberto Tigol, Jr. as their attorney-in-fact.<sup>[9]</sup> On August 21, 1975, Felixberto, as attorney-in-fact, executed a real estate mortgage over the subject property to secure a loan of P22,000.00 with the Philippine National Bank (PNB).<sup>[10]</sup> Filomeno and Margarita obtained the loan to finance the shellcraft business of their children.<sup>[11]</sup>

Filomeno died intestate on February 12, 1976. On July 27, 1979, his widow, Margarita, and their seven children, namely, Vicenta, Felisa, Pantaleon, Gaudencio, Anselmo, Anastacia and Rosita, as heirs of the deceased, executed a Deed of Extradjudicial Settlement and Sale, adjudicating to themselves the subject property and selling the same to Rosita and her husband Felixberto (*respondents*) for P1,000.00.<sup>[12]</sup>

Subsequently, on September 7, 1981 and August 10, 1982, Filomeno's heirs executed two (2) Deeds of Confirmation of Sale, confirming the supposed sale of the subject property by Filomeno and Margarita in favor of the respondents for P1,000.00.<sup>[13]</sup> Simultaneous with the execution of the deeds, however, the respondents executed explanatory Joint Affidavits attesting that the sale was without any consideration, and was only executed to secure a loan.<sup>[14]</sup>

On March 9, 1983, TCT No. 13250 was issued in the respondents' names.<sup>[15]</sup> On July 1, 1983, the respondents obtained a P70,000.00 loan with the Philippine Banking Corporation, secured by a real estate mortgage on the subject property.<sup>[16]</sup>

Seven (7) years later, on April 17, 1990, Anselmo and Vicenta, together with Margarita, Felisa, Gaudencio, and Pantaleon's surviving heir, Annabel, filed a complaint against the respondents and Anastacia for declaration of nullity of the respondents' TCT and for judicial partition.<sup>[17]</sup> They alleged that the deeds of confirmation of sale became the bases for the transfer of the title in the respondents' names, but the sale was fictitious or simulated, as evidenced by the respondents' own explanatory joint affidavits attesting that the transfer was for the purpose only of convenience in securing a loan, not for absolute conveyance or sale.

The respondents admitted that they executed the joint affidavits but countered that they acquired a valid title to the subject property through the Extrajudicial Settlement of Heirs and Sale. They claimed that when Filomeno died without the PNB loan being paid, the heirs agreed that the respondents will advance payment of the loan, subject to reimbursement, to save the foreclosure of the subject property; the heirs then executed the Extrajudicial Settlement and Sale in the respondents' favor as their way of reimbursing the amount the latter paid; the respondents executed the joint affidavits out of generosity, expressing their willingness to be reimbursed, but when the heirs failed to reimburse the amounts advanced by them, then they caused the registration of the title in their names.<sup>[18]</sup>

Margarita, Felisa, Gaudencio and Annabel failed to appear at the initial hearing, prompting the petitioners' counsel to manifest that, except for Anselmo and Vicenta, they were abandoning the complaint.<sup>[19]</sup> The petitioners subsequently amended the complaint to implead Margarita, Felisa, Gaudencio and Annabel as party defendants or unwilling plaintiffs.<sup>[20]</sup>

### **THE RTC RULING**

In its decision, the RTC found that the sale of the subject property was absolutely simulated since the deeds of confirmation of sale were executed only to accommodate the respondents' loan application using the subject property as collateral. The lower court thus ordered the nullification of the respondents' title. It likewise ordered the partition of the subject property after reimbursement of the amount the respondents paid for the loan.<sup>[21]</sup>

Subsequently, the respondents filed a motion for new trial, anchored on newly discovered evidence allegedly proving that the subject property is Margarita's paraphernal property.<sup>[22]</sup> When the RTC denied<sup>[23]</sup> the motion for new trial, the

respondents filed an appeal with the CA, under Rule 41 of the Rules of Court.

### **THE CA RULING**

The CA decided the appeal on August 26, 2002, reversing the RTC decision. Relying upon Margarita's testimony that the respondents paid the loan, the CA found that the contract between the parties was relatively simulated; the respondents' payment of the PNB loan was the real consideration for the transfer of title.

After the CA denied<sup>[24]</sup> the motion for reconsideration<sup>[25]</sup> that followed, the petitioners filed the present petition.

### **THE PETITION**

The petitioners argue that the heirs, in executing the extrajudicial settlement, did not intend to divest themselves of their respective rightful shares, interests and participation in the subject property because it lacked a consideration, as affirmed by the respondents' own joint affidavits; the payment of the PNB loan could not be a valid consideration for the transfer since the loan was still unpaid and outstanding at the time of the execution of the extrajudicial settlement.<sup>[26]</sup>

### **THE CASE FOR THE RESPONDENTS**

The respondents, on the other hand, maintain that the Extrajudicial Settlement and Sale was the basis of their registration of title, and their payment of the PNB loan was the real consideration for the transfer; the joint affidavits were executed only out of generosity and kindness, subject to the heirs' reimbursement of the amounts they paid for the loan, such that when the heirs did not reimburse the amounts paid, they then caused the registration of title in their names.<sup>[27]</sup>

### **THE ISSUE**

The core issue boils down to whether the sale of the subject property between the parties was absolutely or relatively simulated.

### **OUR RULING**

**We find the petition meritorious.**

This Court is not a trier of facts. However, if the inference drawn by the appellate court 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.<sup>[28]</sup>

In the interpretation of contracts, the intention of the parties is accorded primordial consideration;<sup>[29]</sup> such intention is determined from the express terms of their agreement,<sup>[30]</sup> as well as their contemporaneous and subsequent acts.<sup>[31]</sup> When the parties do not intend to be bound at all, the contract is absolutely simulated; if the parties conceal their true agreement, then the contract is relatively simulated.<sup>[32]</sup> An absolutely simulated contract is void, and the parties may recover from

each other what they may have given under the simulated contract, while a relatively simulated contract is valid and enforceable as the parties' real agreement binds them.<sup>[23]</sup> Characteristic of simulation is that the apparent contract is not really desired or intended to produce legal effects, or in any way, alter the juridical situation of the parties.<sup>[34]</sup>

In the present case, the parties never intended to be bound by their agreement as revealed by the two (2) joint affidavits executed by the respondents simultaneous with the execution of the deeds of confirmation of sale. The September 7, 1981 Joint Affidavit stated:

2. That the truth of the matter is that the deed of sale and the confirmation of said sale by the legal heirs are executed **for the purpose of securing a loan** in our name but which amount of said loan shall be divided equally among the legal heirs, and that every heir shall pay his corresponding share in the amortization payment of said loan;

3. That said **sale was without any consideration**, and that we executed this affidavit to establish the aforestated facts **for purposes of loan only** but not for conveyance and transfer in our name absolutely and forever but **during the duration of the terms of the loan**;

4. That we executed this affidavit voluntarily and freely in order to establish this facts (sic) above-mentioned and **to undertake to return the said land to the legal heirs** of the late spouse, Filomeno Taghoy, survived by his widow, Rita Amit-Taghoy, **upon full payment of our intended loan.**

The August 10, 1982 Joint Affidavit, on the other hand, averred:

3. That the truth of the matter is that said Lot No. 3635-B was **sold without any purchase price or consideration** paid to said Filomeno Taghoy, **but for the purpose of securing a loan** in our name but which amount of said loan shall be divided equally among us, the legal heirs of Filomeno Taghoy;

4. That in case the loan will be fully paid, we shall obligate ourselves to resell, **reconvey** the said Lot No. 3635-B in favor of the Heirs of Filomeno Taghoy and Rita Amit, and in case, the said loan will not be post (sic) through.

5. That we executed this affidavit voluntarily and freely in order to establish the aforestated facts and to attest the fact that said deed of confirmation of sale is only for purposes of convenience in securing the loan and not for absolute conveyance or sale.<sup>[36]</sup>

The joint affidavits are very solid pieces of evidence in the petitioners' favor. They constitute admissions against interest made by the respondents under oath. An