

THIRD DIVISION

[G.R. No. 178306, December 18, 2008]

**FRANCISCO R. NUNGA, JR. AND VICTOR D. NUNGA,
PETITIONERS, VS. FRANCISCO N. NUNGA III, RESPONDENT.**

D E C I S I O N

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated 31 January 2007 and Resolution^[2] dated 4 June 2007 of the Court of Appeals in CA-G.R. CV No. 78424. The appellate court, in its assailed decision, reversed the Decision^[3] dated 25 October 2002 of the Regional Trial Court (RTC) of the City of San Fernando, Pampanga, Branch 42, in Commercial Case No. 018, which ordered the registration of the transfer of ownership of the disputed shares of stock in the Rural Bank of Apalit, Inc. (RBA) in favor of petitioners; and in its resolution, denied the Motion for Reconsideration of the aforementioned decision.

Presented hereunder are the factual antecedents of the case.

On 30 January 1996, the RBA conducted its Annual Stockholders' Meeting at its principal office in San Vicente, Apalit, Pampanga. Attending the said meeting were stockholders representing 28,150 out of the 35,956 total outstanding shares of stock of RBA.^[4] Petitioner Francisco R. Nunga, Jr. (Francisco Jr.), his son petitioner Victor D. Nunga (Victor), and his nephew respondent Francisco N. Nunga III (Francisco III) were among the stockholders of RBA. However, petitioner Francisco Jr. was not present at the meeting, as he was then in the United States of America where he is a naturalized citizen.

Quorum having been established at the meeting, the stockholders proceeded with the election of the RBA Board of Directors to serve for the fiscal year 1996. Francisco III was voted the Chairman of the Board; with Ma. Elena Rueda, Ma. Rosario Elena Nacario, Cecilia Viray and Dwight Nunga, the Members. In the same meeting, stockholder Jesus Gonzalez (Gonzalez) made known his intention to sell his shareholdings.

Victor, thereafter, informed his father, Francisco Jr., of Gonzalez's intention to sell his shares. Francisco Jr. then instructed Victor to inquire from Gonzalez the terms of the sale. After a series of negotiations, Gonzalez ultimately agreed to sell his shares of stock to Francisco Jr.

On 19 February 1996, Gonzalez executed a **Contract to Sell**^[5] in favor of Francisco Jr., which pertinently provided:

CONTRACT TO SELL

KNOW ALL MEN BY THESE PRESENTS:

This CONTRACT TO SELL, executed this 19th day of February, 1996, at Quezon City, by:

JESUS J. GONZALE[Z], of legal age, Filipino citizen, married to Cristina D. Gonzale[z], residing at No. 10 2nd Ave., Crame, Quezon City, hereinafter referred to as the **VENDOR**;

in favor of

FRANCISCO D. (sic) NUNGA, JR., of legal age, single, residing at Poblacion, Masantol, Pampanga[,], hereinafter referred to as the **"PURCHASER"**;

WITNESSETH:

That the VENDOR is the absolute registered owner of several shares of stocks of the RURAL BANK OF APALIT, INC. located at Apalit, Pampanga, more particularly described as follows:

Stock Cert. No.	No. of Shares Represented	Date of Issue	Journal Folio No.
5	250	May, 1978	1
36	122	Jan., 1991	1
105	264	Feb., 1991	5
152	487	Nov., 1993	7
166	8	Feb, 1994	7
181	525	July, 1994	8
213	336		

That the VENDOR has offered to sell the abovestated (sic) shares of stocks and the PURCHASER has agreed to purchase the same for a total consideration of P200,000;

That it is hereby agreed that out of the total consideration or contract price, the purchaser will pay the amount of FIFTY THOUSAND PESOS (P50,000.00), receipt of which is herein acknowledged by the purchaser, at the date and place below stated and the remaining balance of P150,000 will be paid in full on February, (sic) 28, 1996;

That it is further agreed that the VENDOR will execute an authorization in favor of the herein purchaser or his representative, Victor D. Nunga[,], to retrieve all the corresponding Stocks (sic) Certificates as above indicated from the Apalit Rural Bank, Inc.

WHEREFORE, for and in consideration of the total amount of P200,000 (sic) receipt in part of which is herein acknowledged in the amount of P50,000.00, the vendor hereby agrees to sell, cede and transfer all the above stated shares of stocks to the PURCHASER, his heirs[,], successors, and assigns, absolutely free from any encumbrance and lien whatsoever.

IN WITNESS WHEREOF, I have hereunto set my signature this 19th day of FEBRUARY, (sic) 1996, at Quezon City, Philippines.

(signed)
**JESUS J.
GONZALES**
Vendor

On even date, Victor gave the initial payment of P50,000.00 to Gonzalez, who duly acknowledged the same.^[6] In exchange, Gonzalez handed Victor RBA Stock Certificates No. 105, No. 152 and No. 166. As to the four other certificates that were in the possession of the RBA, Gonzalez issued a letter^[7] addressed to Isabel Firme (Firme), the RBA Corporate Secretary, which instructed the latter to turn over to Victor the remaining stock certificates in Gonzalez's name. Upon being presented with Gonzalez's letter, Firme gave Victor Stock Certificate No. 181, but alleged that Stock Certificates No. 5 and No. 36 could no longer be located in the files of RBA. Firme advised Victor to merely reconstitute the missing stock certificates.^[8] A reading of the said Contract to Sell would reveal, however, that the same was only notarized on 28 February 1996.

Before Francisco Jr. and Victor could pay the balance of the contract price for Gonzalez's RBA shares of stock, Gonzalez entered into another contract involving the very same shares. It would appear that on 27 February 1996, Gonzalez executed a **Deed of Assignment**^[9] of his RBA shares of stock in favor of Francisco III, the relevant terms of which recite:

DEED OF ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS:

For value (sic) consideration received, the undersigned ASSIGNOR JESUS GONZALE[Z], of legal age, Filipino and resident of #10 2ND AVENUE, CUBAO, QUEZON CITY, METRO MANILA hereby sells, assigns and transfers unto FRANCISCO N. NUNGA III (AS ASSIGNEE), Filipino, of legal age and with postal address at 1122 Alhambra St., Ermita 1000 Metro Manila, his assigns and successors, all their rights, titles and interests to the following shares of stocks owned by the ASSIGNOR in Apalit Rural Bank, Inc., with par value of one hundred pesos only (P100.00) per share, free from all liens and encumbrances.

Date	SC. No.	No. of Shares	Amount
May 24, 1969	4 (sic)	250	P 25,000.00
January 02, 1975	36	122	12,200.00
February 19, 1991	105	264	26,400.00
November 10, 1993	152	487	48,700.00
February 22, 1994	166	8	800.00

July 25, 1994	181	525	52,500.00
February 2, 1996	213	336	33,600.00

IN WITNESS WHEREOF, the ASSIGNOR have (sic) cause (sic) these presents to be signed at Quezon City, this 27 day of February, 1996.

(signed)
JESUS J.
GONZALE[Z]
Vendor

At the same time the afore-quoted Deed was executed, Francisco III paid in full the agreed purchase price of P300,000.00 using a BPI (Bank of the Philippine Islands) Family Bank Check No. 0347505 issued in favor of Gonzalez. An acknowledgment receipt signed by Gonzalez and witnessed by his wife Cristina D. Gonzalez evidenced the payment.^[10] Since the stock certificates covering the shares were already in Victor's possession, Gonzalez immediately wrote Victor a letter,^[11] demanding that Victor hand over the said stock certificates to Francisco III, the supposed new owner of the shares.

The next day, on 28 February 1996, Francisco Jr. arrived from the United States of America. He and Victor then promptly proceeded to the residence of Gonzalez in order to pay the balance of P150,000.00 of the purchase price stated in their Contract to Sell with Gonzalez. Gonzalez, however, informed them that he already sold his shares of stock to Francisco III.^[12] After discussing the matter, Gonzalez was somehow convinced to accept the balance of the purchase price and sign his name at the dorsal portion of the stock certificates to endorse the same to Francisco Jr. Gonzalez also executed a **Deed of Absolute Sale**^[13] in favor of Francisco Jr., which states:

DEED OF ABSOLUTE SALE

KNOW ALL MEN BY THESE PRESENTS:

This DEED OF ABSOLUTE SALE, executed this 28th day of February, 1996, at SAN JUAN, M.M. by:

JESUS J. GONZALE[Z], of legal age, Filipino citizen, married to Cristina D. Gonzale[z], residing at No. 10 2nd Ave., Crame, Quezon City, hereinafter referred to as the **VENDOR**;

in favor of

FRANCISCO R. NUNGA, JR., of legal age, married, residing at Poblacion, Masantol, Pampanga[,], hereinafter referred to as the **"PURCHASER"**[;]

WITNESSETH:

That the VENDOR is the absolute registered owner of several shares of stocks of the RURAL BANK OF APALIT, INC. located at Apalit, Pampanga,

more particularly described as follows:

Stock Cert. No.	No. of Shares Represented	Date of Issue	Journal Folio No.
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105	264	Feb., 1991	5
152	487	Nov., 1993	7
166	8	Feb., 1994	7
181	525	July, 1994	8
213	336		

That Stock Certificate Nos. 5 and 36 respectively representing 250 and 122 shares of the Rural Bank of Apalit[,] Inc. were lost and is (sic) currently in the process of reconstitution;

That the VENDOR has offered to sell the abovestated (sic) shares of stocks and the PURCHASER has agreed to purchase the same.

WHEREFORE, for and in consideration of the total amount of TWO HUNDRED THOUSAND PESOS (P 200,000.00), receipt of which in full is herein acknowledged, the VENDOR hereby sells, cedes and transfers all the above stated shares of stocks to the PURCHASER, his heirs, successors, and assigns, absolutely free from any encumbrance and lien whatsoever.

IN WITNESS WHEREOF, I have hereunto set my signature this 28 day of FEB (sic), 1996, at SAN JUAN, MM, Philippines.

(signed)
JESUS J.
GONZALE[Z]
Vendor

Incidentally, on that same day, Francisco III delivered to Firme the Deed of Assignment which Gonzalez executed in his favor, and a copy of Gonzalez's letter to Victor dated 27 February 1996 demanding the latter to surrender the stock certificates in his possession to Francisco III. Accordingly, on 1 March 1996, Firme wrote Victor a letter^[14] requesting that the latter immediately comply with the enclosed 27 February 1996 letter of Gonzalez.

Victor refused to comply with Firme's request and instead demanded that the sale of shares of stock by Gonzalez in favor of Francisco Jr. on 28 February 1996 be entered into the Corporate Book of Transfer of RBA. Firme, in turn, rejected Victor's demand, alleging that Francisco III already bought Gonzalez's shares.^[15]

Consequently, on 14 March 1996, Victor filed a Petition^[16] with the Securities and Exchange Commission (SEC) against Francisco III and Firme, which was docketed as **SEC Case No. 03-96-5288**. Victor prayed that the SEC declare null and void the Stockholders' Meeting held on 30 January 1996 for lack of the required majority quorum; as well as the votes cast for the shares of the deceased stockholders, namely, Teodorico R. Nunga, Carmencita N. Nunga and Jesus Enrico N. Nunga.