

SECOND DIVISION

[G.R. NO. 146294, July 31, 2006]

JOHN ABING, PETITIONER, VS. JULIET WAEYAN, RESPONDENT.

D E C I S I O N

GARCIA, J.:

In this appeal by way of a petition for review under Rule 45 of the Rules of Court, petitioner John Abing (John, hereafter) seeks to set aside the Decision^[1] dated October 24, 2000 of the Court of Appeals (CA) in *CA-G.R. SP No. 48675*, reversing that of the Regional Trial Court (RTC) of Benguet, Branch 64, which affirmed an earlier decision of the Municipal Trial Court (MTC) of Mankayan, Benguet in an ejectment suit thereat commenced by the petitioner against the respondent.

In the main, the controversy is between a man and a woman who, during the good old days, lived together as husband and wife without the benefit of marriage. During their cohabitation, they acquired properties. Later, they parted ways, and with it this litigation between them involving one of their common properties.

The facts:

Sometime in 1986, John and respondent Juliet Waeyan (Juliet, for short) met and fell in love with each other. In time, the duo cohabited as husband and wife without the benefit of marriage. Together, the couple bought a 2-storey residential house from one Benjamin Macua which was erected on a lot owned by a certain Alejandro Diño on Aurora Street, Mankayan, Benguet. Consequent to the purchase, the tax declaration of the 2-storey house was transferred in the name of Juliet.

On December 2, 1991, Juliet left for overseas employment in Korea. She would send money to John who deposited the same in their joint bank account.

In 1992, the original 2-storey residential house underwent renovation. To it was annexed a new structure which housed a *sari-sari* store. This new structure and the *sari-sari* store thereat are the properties involved in this case.

In 1994, Juliet returned from Korea and continued to live with John. She managed the *sari-sari* store while John worked as a mine employee of the Lepanto Consolidated Mining, Inc.

In 1995, the relationship between the two turned from bad to worse. Hence, they decided to partition their properties. For the purpose, they executed on October 7, 1995 a *Memorandum of Agreement*. Unfortunately, the document was left unsigned by the parties although signed by the witnesses thereto. Under their unsigned agreement, John shall leave the couples' dwelling with Juliet paying him the amount of P428,870.00 representing John's share in all their properties. On the same date -

October 7, 1995 - Juliet paid John the sum of P232,397.66 by way of partial payment of his share, with the balance of P196,472.34 to be paid by Juliet in twelve monthly installment beginning November 1995.

Juliet, however, failed to make good the balance. On account thereof, John demanded of her to vacate the annex structure housing the *sari-sari* store. Juliet refused, prompting John to file an ejectment suit against her before the MTC of Mankayan, Benguet.

In his complaint, John alleged that he alone spent for the construction of the annex structure with his own funds and thru money he borrowed from his relatives. In fact, he added that the tax declaration for the structure was under his name. On this premise, John claimed exclusive ownership of the subject structure, which thereby gave him the right to eject Juliet therefrom upon the latter's failure to pay the agreed balance due him under the aforementioned *Memorandum of Agreement*.

In her answer, Juliet countered that their original house was renovated thru their common funds and that the subject structure annexed thereto was merely an attachment or an extension of their original residential house, hence the same pertained to the two of them in common.

In a decision^[2] dated March 15, 1997, the MTC, on its finding that the money used in the construction of the structure in question solely came from John, ruled that the same exclusively pertained to the latter, and accordingly ordered Juliet's eviction therefrom, including the *sari-sari* store thereat, and required her to surrender possession thereof to John, thus:

WHEREFORE, judgment is rendered in favor of the plaintiff (John) and against the defendant (Juliet).

Defendant is hereby ordered to vacate the premises of the store in litigation covered by Tax Declaration No. 96-001-00445 in the name of the Plaintiff and turn over possession thereof to the latter.

Defendant is hereby further ordered to pay the Plaintiff the sum of P2,500.00 a month from the time she withheld possession of the store in litigation in June 1996 until she vacates the same and turn over possession thereof to the Plaintiff.

Defendant is finally ordered, to pay the sum of P5,000.00 to the Plaintiff by way of Attorney's fees; and to pay the costs.

SO ORDERED.

On Juliet's appeal to the RTC, the latter, in its decision of July 29, 1995, affirmed that of the MTC. Undaunted, Juliet then went to the CA in *CA-G.R. SP No. 48675*.

As stated at the threshold hereof, the CA, in its Decision of October 24, 2000,^[3] reversed that of the RTC, to wit:

WHEREFORE, the petition is GRANTED. The assailed decision of the Regional Trial Court is hereby reversed and set aside. Petitioner, Juliet

Waeyan is entitled to possess the property and maintain therein her business.

SO ORDERED.

Partly says the CA in its reversal disposition:

It is undisputed that the parties lived together as husband and wife without the benefit of marriage from 1986 to 1995 and that they acquired certain properties which must be divided between them upon the termination of their common law relationship.

xx xxx xxx

. . . their property relations cannot be governed by the provision of the Civil Code on conjugal partnership... but by the rule on co-ownership.

xxx xxx xxx

. . . the parties' share in respect of the properties they have accumulated during their cohabitation shall be equal unless there is proof to the contrary.

To the CA, John's evidence failed to establish that he alone spent for the construction of the annex structure. Hence, the same pertained to both, and being a co-owner herself, Juliet cannot be evicted therefrom, adding that if ever, John's cause of action should have been for a sum of money "because he claims that Juliet still owes him the payment for the extension." According to the CA, ejectment cannot lie against Juliet because Juliet's possession of the premises in dispute was not by virtue of a contract, express or implied, nor did she obtain such possession thru force, intimidation, threat, strategy or stealth.

Hence, John's present recourse, submitting that the CA erred in -

1. not giving effect to the parties' *Memorandum of Agreement* which should have been binding between them albeit unsigned by both;
2. in holding that the subject premises (annex structure housing the *sari-sari* store) is owned by the two of them in common;
3. in ruling that the parties should settle their common properties in a separate action for partition even as the community character of the subject premises has not been proven.

We **AFFIRM** with modification.

Essentially, the issues raised center on the core question of whether or not the property subject of the suit pertains to the exclusive ownership of petitioner, John. Departing from the factual findings of the two courts before it, the CA found that the premises in dispute is owned in common by Juliet and John, the latter having failed to establish by the required quantum of proof that the money spent for the construction thereof solely came from him. Being a co-owner of the same structure, Juliet may not be ejected therefrom.