

## THIRD DIVISION

[ G.R. No. 144735, October 18, 2001 ]

**YU BUN GUAN, PETITIONER, VS. ELVIRA ONG, RESPONDENT.**

### D E C I S I O N

**PANGANIBAN, J.:**

A simulated deed of sale has no legal effect, and the transfer certificate of title issued in consequence thereof should be cancelled. *Pari delicto* does not apply to simulated sales.

#### Statement of the Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the April 25, 2000 Decision<sup>[1]</sup> and the August 31, 2000 Resolution<sup>[2]</sup> of the Court of Appeals<sup>[3]</sup> (CA) in CA-GR CV No. 61364. The decretal portion of the Decision reads as follows:

"We cannot see any justification for the setting aside of the contested Decision.

"THE FOREGOING CONSIDERED, the appealed Decision is hereby AFFIRMED."<sup>[4]</sup>

The assailed Resolution denied petitioner's "Supplemental Motion for Reconsideration with Leave to Submit [Newly] Discovered Evidence."

The CA sustained the Decision of the Regional Trial Court (RTC) of Makati City (Branch 60), which had disposed as follows:<sup>[5]</sup>

"23. WHEREFORE, the Court hereby renders judgment as follows:

23.1. The Deed of Sale dated July 24, 1992 (Exh. EE or Exh. 3) is declared VOID.

23.2. The plaintiff ELVIRA ONG is declared the OWNER of the property covered by Transfer Certificate of Title No. 217614, Registry of Deeds, Makati (Exh. DD).

23.3. The Register of Deeds, City of Makati is ordered to:

23.2.1. Cancel Transfer Certificate of Title No. 181033 (Exh. HH); and

23.2.2. Issue in lieu thereof, a transfer certificate of title in the name of ELVIRA A. ONG, of legal age, single, Filipino';

23.<sup>[4]</sup>. The defendant YU BUN GUAN is ordered to pay to the said plaintiff, the following:

23.<sup>[4]</sup>.1. P48,631.00 - As reimbursement of the capital gains tax (Exh. FF);

23.<sup>[4]</sup>.2. Six (6) percent of P48,631.00 - per annum from November 23, 1993, until the said P48,631.00 is paid - as damages

23.<sup>[4]</sup>.3. P100,000.00 - as moral damages;

23.<sup>[4]</sup>.4. P 50,000.00 - as exemplary damages;

23.<sup>[4]</sup>.5. P 100,000.00 - as attorney's fees.

23.<sup>[5]</sup>. The COUNTERCLAIM is DISMISSED.

23.<sup>[6]</sup>. Cost is taxed against the defendant.

"24. In Chambers, City of Makati, June 23, 1998."

### **The Facts**

The antecedents of the case are succinctly summarized by the Court of Appeals in this wise:

"[Herein respondent] said that she and [petitioner] are husband and wife, having been married according to Chinese rites on April 30, 1961. They lived together until she and her children were abandoned by [petitioner] on August 26, 1992, because of the latter's 'incurable promiscuity, volcanic temper and other vicious vices'; out of the reunion were born three (3) children, now living with her [respondent].

"She purchased on March 20, 1968, out of her personal funds, a parcel of land, then referred to as the Rizal property, from Aurora Seneris, and supported by Title No. 26795, then subsequently registered on April 17, 1968, in her name.

"Also during their marriage, they purchased, out of their conjugal funds, a house and lot, in 1983, thereafter, registered in their names, under Title No. 118884.

"Before their separation in 1992, she 'reluctantly agreed' to the [petitioner's] 'importunings' that she execute a Deed of Sale of the J.P. Rizal property in his favor, but on the promise that he would construct a

commercial building for the benefit of the children. He suggested that the J.P. Rizal property should be in his name alone so that she would not be involved in any obligation. The consideration for the 'simulated sale' was that, after its execution in which he would represent himself as single, a Deed of Absolute Sale would be executed in favor of the three (3) children and that he would pay the Allied Bank, Inc. the loan he obtained.

"Because of the 'glib assurances' of [petitioner], [respondent] executed a Deed of Absolute Sale in 1992, but then he did not pay the consideration of P200,000.00, supposedly the 'ostensible' valuable consideration. On the contrary, she paid for the capital gains tax and all the other assessments even amounting to not less than P60,000.00, out of her personal funds.

"Because of the sale, a new title (TCT No. 181033) was issued in his name, but to 'insure' that he would comply with his commitment, she did not deliver the owner's copy of the title to him.

"Because of the refusal of [petitioner] to perform his promise, and also because he insisted on delivering to him the owner's copy of the title [to] the JP Rizal property, in addition to threats and physical violence, she decided executing an Affidavit of Adverse Claim.

"Also to avoid burdening the JP Rizal property with an additional loan amount, she wrote the Allied Bank, Inc. on August 25, 1992, withdrawing her authority for [petitioner] to apply for additional loans.

"To save their marriage, she even sought the help of relatives in an earnest effort [at] reconciliation, not to mention a letter to [petitioner] on November 3, 1992.

"[Petitioner], on the other hand, filed with the RTC, Makati, in 1993 (Case No. M-2905), a 'Petition for Replacement' of an owner's duplicate title.

"Attached to the Petition was the Affidavit of Loss dated March 26, 1993, in which he falsely made it appear that the owner's copy of the title was lost or misplaced, and that was granted by the court in an Order dated September 17, 1993, following which a new owner's copy of the title was issued to [petitioner].

"Upon discovery of the 'fraudulent steps' taken by the [petitioner], [respondent] immediately executed an Affidavit of Adverse Claim on November 29, 1993.

"She precisely asked the court that the sale of the JP Rizal property be declared as null and void; for the title to be cancelled; payment of actual, moral and exemplary damages; and attorney's fees.

"It was, on the other hand, the version of [petitioner] that sometime in 1968 or before he became a Filipino, 'through naturalization,' the JP Rizal property was being offered to him for sale. Because he was not a Filipino, he utilized [respondent] as his 'dummy' and agreed to have the

sale executed in the name of [respondent], although the consideration was his own and from his personal funds.

"When he finally acquired a Filipino citizenship in 1972, he purchased another property being referred to as the 'Juno lot' out of his own funds. If only to reflect the true ownership of the JP Rizal property, a Deed of Sale was then executed in 1972. Believing in good faith that his owner's copy of the title was lost and not knowing that the same was surreptitiously 'concealed' by [respondent], he filed in 1993 a petition for replacement of the owner's copy of the title, in court.

"[Petitioner] added that [respondent] could not have purchased the property because she had no financial capacity to do so; on the other hand, he was financially capable although he was disqualified to acquire the property by reason of his nationality. [Respondent] was in *pari delicto* being privy to the simulated sale.

"Before the court *a quo*, the issues were: who purchased the JP Rizal property? [W]as the Deed of Sale void? and damages.<sup>[6]</sup>

#### Ruling of the Trial Court

After examining the evidence adduced by both parties, the RTC found that the JP Rizal property was the paraphernal property of respondent, because (1) the title had been issued in her name; (2) petitioner had categorically admitted that the property was in her name; (3) petitioner was estopped from claiming otherwise, since he had signed the Deed of Absolute Sale that stated that she was the "absolute and registered owner"; and (4) she had paid the real property taxes thereon.<sup>[7]</sup>

The trial court further held that the *in pari delicto* rule found in Articles 1411 and 1412 of the Civil Code was not applicable to the present case, because it would apply only to existing contracts with an illegal cause or object, not to simulated or fictitious contracts or to those that were inexistent due to lack of an essential requisite such as cause or consideration.<sup>[8]</sup> It likewise voided the Deed of Absolute Sale of the JP Rizal property for having been simulated and executed during the marriage of the parties.<sup>[9]</sup>

#### **Ruling of the Court of Appeals**

The Court of Appeals upheld the trial court's findings that the JP Rizal property had been acquired by respondent alone, out of her own personal funds. It ruled thus:

"x x x [T]he JP Rizal property was purchased by the [respondent] alone; therefore it is a paraphernal property. As a matter of fact, the title was issued in her name, Exh. 'DD'. This was even admitted by [petitioner] in the Answer that the sale was executed in her name alone. He also signed the sale mentioning [respondent] to be an absolute owner; therefore, he should be estopped from claiming otherwise. She alone likewise did the payment of the taxes."<sup>[10]</sup>