

## SECOND DIVISION

[ G.R. No. 121438, October 23, 2000 ]

**FELIX UY CHUA, ROBERT IPING CHUA, RICHARD UY CHUA AND  
ATTY. FEDERICO C. CABILAO, JR., PETITIONERS, VS., COURT OF  
APPEALS, SOFIA O. SANCHEZ, ASSISTED BY HUSBAND  
FORTUNATO SANCHEZ, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This petition for *certiorari* under Rule 45 of the Rules of Court seeks the reversal of the Decision dated December 15, 1994 and the Resolution dated July 21, 1995 of the Court of Appeals in CA-G.R. SP No. 28171 which reversed the decision of the Regional Trial Court of Cebu, Branch 12, in Sp. Proc. No. 417-CEB.

In its decision, the appellate court decreed as follows:

"WHEREFORE, the petition for certiorari is GRANTED. The orders dated November 15, 1991, January 13, 1992 and February 25, 1992 are declared null and void. The Deed of Absolute Sale in favor of private respondents Felix Uy Chua, Robert Iping Chua and Richard Uy Chua are declared null and void. The Deed of Absolute Sale dated April 15, 1991 executed by the Administratrix in favor of petitioner Sofia O. Sanchez is declared valid and binding upon the parties. The order dated May 3, 1991 approving the Deed of Absolute Sale dated April 15, 1991 is AFFIRMED AND REINSTATED.

SO ORDERED."<sup>[1]</sup>

The facts of the case, based on the records, are as follows: Fernando B. Morada owned Lot 832-B-1-C-2 located in Cebu City. His only heirs were his wife, Aida N. Morada, and two minor children. After his death, the probate court presided by Judge Leoncio P. Abarquez appointed Aida as administratrix of her husband's estate. On July 20, 1984, the probate court allowed the sale of the lot for P200,000.00 to the spouses Precioso and Consolacion Enriquez. Later, the spouses and Aida agreed to rescind the said sale. On January 20, 1988, the probate court again issued an order allowing the re-sale of said lot, the proceeds of which shall be used to pay the P200,000.00 already paid by the Enriquez spouses. On April 15, 1991, a Deed of Absolute Sale thereof was executed in favor of Sofia Sanchez, herein private respondent, for one million pesos (P1,000,000.00) payable with a down payment of P500,000.00 and the balance to be paid after the lot was cleared of squatters.<sup>[2]</sup> On May 7, 1991, the court, after approving the sale to Sanchez,<sup>[3]</sup> directed Aida to submit an accounting within thirty days, deposit the proceeds of the sale in a reputable bank in Cebu, and then inform the court of the name of the bank where the money was deposited.

On July 16, 1991, after more than two months from the date of approval of the sale, Intervenor Sagrario Morelos, filed a motion for reconsideration opposing the sale alleging that the sale was prejudicial to the minor heirs of Fernando. He claimed that the lot could be sold for P1.5 million pesos. Judge Abarquez held a conference in chambers attended by Aida and her counsel Atty. Recto de Dios, Atty. Rodolfo M. Morelos, counsel of Sagrario Morelos, and Atty. Federico Cabilao, another intervenor who represented undisclosed clients interested to purchase the land. During the conference, Atty. Cabilao revealed that he offered P2 million pesos for the lot with the seller undertaking the eviction of the present occupants, or P1.5 million with the buyer shouldering the expenses to clear the lot of its present occupants. Aida objected to Atty. Cabilao's statement. She explained that the latter's offer was made only after the sale to Sanchez was already approved by the court.

On August 6, 1991 Atty. Cabilao, on instructions of Judge Abarquez, filed his Proposal to Purchase the Property. In her comment and opposition to the proposal of Atty. Cabilao, Aida Morada said that the court's order approving the sale to Sofia Sanchez had already become final and executory, and that she had bought the land from the administratrix in good faith and for value. She added that she should not suffer whatever missteps were committed by the administratrix. On November 15, 1991, Judge Abarquez issued an order revoking his approval of the sale and declared void and without effect the deed of absolute sale he had earlier approved. In his Order, he stated:

"From the aforementioned facts, the Court finds that the Administratrix and Sanchez are both guilty of misrepresentation. On her part, the Administratrix deliberately concealed from the Court the fact that Sanchez had extended to her a loan of P300,000.00 before the execution of the Deed of Sale and that the said amount was already deducted by Sanchez from the down payment of P500,000.00. Likewise, she deliberately withheld from the Court the fact that she previously committed the lot in question as a guaranty for the payment of such loan of P300,000.00. As admitted by Sanchez in Court, she understood and was aware that in accordance with the terms of the Deed of Sale, she was supposed to deliver the P500,000.00 to the Estate thru the Administratrix on the date of the execution of the Deed of Sale. Under such knowledge of her corresponding obligation as vendee, she should have told the Court that she was to deliver only P200,000.00 for down payment and not P500,000.00, or she would have caused the insertion of a proviso to this effect in the Deed of Sale in order that the Court could have been properly apprised of the true circumstances of the sale. But she instead kept her silence obviously to eliminate any hindrance to the Court's approval of the Deed of Sale. Hence, Sanchez could not claim that she is a buyer in good faith.

From the foregoing circumstances, the conclusion is incapable that the Administratrix and Sanchez had a community of interest in misleading the Court, as a result of which, they were able to achieve the true purposes of sale which were, a) to surrender the lot as an indirect payment of previous loan; and b) so that the Administratrix could receive an additional amount of P150,000.00 which she planned to keep for herself. Ostensibly their consortium amounted to fraud.

Fraud has been defined, among others, as an inducement through insidious machination. Insidious machination refers to a deceitful scheme or plot with an evil or devious purpose. Deceit exists where the party, who obtains consent, does so by concealing or omitting to state MATERIAL FACTS which, with intent to deceive, by reason of such omission or concealment, the other party was induced to give his consent which he would otherwise have not given. (Strong v. Gutierrez Repido, 213 U.S. 419; 41 Phil 947).

True it is that Sanchez had a valid credit in her favor. That such loan was legitimate would even be considered. But such loan, as a valid credit, should first be presented to the Court as an obligation of the Estate, either as an administration expense or as an expense for the preservation of the property. Only thereafter would it be paid by the Estate, according to any of the modes provided for by Rule 88 of the Rules of Court. The sale in question is apparently a contrivance availed of by the Administratrix and Sanchez as a surreptitious liquidation of the loan of the Administratrix, in the guise of an account of the Estate, taking a shortcut of the legal requirements provided for by the Rules of Court. It is a general rule that notwithstanding the presence of a valid consideration, a contract is considered to be stained with fraud if there is no bona fide intent. Both valid consideration and bona fide intent must exist. If lacking in any of these particulars the contract is voidable.

Moreover, the procedure jointly resorted to by the Administratrix and by Sanchez was tantamount to a foreclosure of their loose mortgage agreement, a procedure that is not allowed to take place in a probate court.

While it may be correct that the Intervenor, who is either an heir, devisee or legatee to the will, has no personality to intervene in probate proceedings, once the Court's attention is called upon to remedy a situation where the interest of justice is affected, the Court must institute just remedial measures, on its own accord. Its corresponding action thereto is well within its inherent power to amend its order so as to make it conformable to law and justice.

The Court finds no merit in the contention of Sanchez that the annulment of the sale would create an instability of probate proceedings. Since the Court's action in annulling the sale in question is impelled by its own duty to right a wrong, such action, on the contrary, would give more strength to the probate mechanism."<sup>[4]</sup> .

Almost immediately after his order, Judge Abarquez also approved the proposal of Atty. Cabilao to purchase the property for P1.5 million. However, on December 5, 1991, before Judge Abarquez inhibited himself and before the case was re-raffled to Branch 12, the Branch Clerk of Court, Branch 19, issued a certification that the Order dated November 15, 1991 of Judge Abarquez declaring the Deed of Sale dated April 15, 1991 executed by Aida Morada in favor of Sofia Sanchez was void and without effect; and that the Order dated November 15, 1991 approving the sale to Atty. Cabilao issued by Judge Abarquez had become final and executory since there was no motion for reconsideration filed by the parties and no appeal was taken therefrom.<sup>[5]</sup> Atty. Cabilao then filed a motion for execution.

On January 13, 1992, Judge Portia Aliño-Hormachuelos, presiding over Branch 12 where the case was re-raffled, issued an Omnibus Order granting the motion for execution and dismissing the urgent motion of Sanchez. The Order stated:

"WHEREFORE, considering that the order sought to be executed has become final and executory, the offeror's urgent motion for execution dated December 18, 1991 (p. 109, Ibid) is hereby granted. Atty. Federico Cabilao is hereby ordered to prepare, for the approval [of] the court, the corresponding Deed of Sale to be signed for and in behalf of the Estate by the Clerk of Court, Atty. Nicolas Jomud, pursuant to sec. 10. Rule 39, Rules of Court, it appearing to be unlikely that the administratrix will appear before the court to execute the Deed of Sale having failed to comply with her promise to do so as contained in the Order dated December 12, 1991 (p. 115, Record).

The Manifestation and the Urgent Motion filed by Mrs. Sofia Sanchez is hereby dismissed.

SO ORDERED."<sup>[6]</sup>

On January 29, 1992, Sanchez filed a motion for reconsideration and made a counter-offer of P1.6 million, a hundred thousand pesos more than the amount offered by Atty. Cabilao. The motion was denied in an order dated February 25, 1992. The court said that the Order approving the sale to Atty. Cabilao had become final and executory and that the counter offer was not a compelling reason for the court to vacate its order. As it turned out, the property was bought by Felix Uy Chua, Roberto Iping Chua and Richard Uy Chua, the clients of Atty. Cabilao who are now petitioners before this Court.

Sanchez filed a petition for *certiorari* before the Court of Appeals alleging that respondent Judges Abarquez and Aliño-Hormachuelos abused their discretion amounting to lack of jurisdiction when they issued the questioned orders dated November 15, 1991, January 13, 1992 and February 25, 1992.

As earlier stated, the appellate court granted the petition in favor of private respondent Sanchez and the Deed of Absolute Sale in her favor was affirmed and reinstated. Reconsideration was denied. Hence, the instant petition, alleging that the appellate court committed the following errors:

"1. THE COURT OF APPEALS GRAVELY ERRED WHEN IT DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT GRANTED PRIVATE RESPONDENT'S PETITION FOR CERTIORARI FILED UNDER RULE 65 AFTER MORE THAN 6 MONTHS HAD ELAPSED SINCE HER RECEIPT OF THE ORDER COMPLAINED OF AND AFTER MORE THAN 5 MONTHS AFTER SAID ORDER WAS CERTIFIED AS FINAL AND EXECUTORY.

2. THE COURT OF APPEALS GRAVELY ERRED IN NULLIFYING A FINAL AND EXECUTED ORDER OF A PROBATE COURT ISSUED AFTER SUMMARY HEARING AND EVIDENCE OF FRAUD WAS UNEARTHED AND AFTER PRIVATE RESPONDENT THRU NEGLIGENCE OR INDIFFERENCE LOST THE PRIVILEGE TO APPEAL WHERE SUCH AN APPEAL WAS THE ADEQUATE AND APPROPRIATE REMEDY IN THE ORDINARY COURSE OF LAW.