

## FIRST DIVISION

[ G.R. No. 112796, March 05, 1998 ]

**TITO R. LAGAZO, PETITIONER, VS. COURT OF APPEALS AND  
ALFREDO CABANLIT, RESPONDENTS.**

### D E C I S I O N

#### **PANGANIBAN, J.:**

Where the acceptance of a donation was made in a separate instrument but not formally communicated to the donor, may the donation be nonetheless considered complete, valid and subsisting? Where the deed of donation did not expressly impose any burden -- the expressed consideration being purely one of liberality and generosity -- but the recipient actually paid charges imposed on the property like land taxes and installment arrearages, may the donation be deemed onerous and thus governed by the law on ordinary contracts?

#### The Case

The Court answers these questions in the negative as it resolves this petition for review under Rule 45 of the Rules of Court seeking to set aside the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> in CA-GR CV No. 38050 promulgated on November 29, 1993. The assailed Decision reversed the Regional Trial Court, Branch 30, Manila, in Civil Case No. 87-39133 which had disposed<sup>[3]</sup> of the controversy in favor of herein petitioner in the following manner:<sup>[4]</sup>

“WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant as follows:

1. Ordering the defendant, or any person claiming rights under him, to surrender to plaintiff possession of the premises known as Lot 8w, Block 6, Psd-135534 of the Monserrat Estate, and the improvement standing thereon, located at 3320 2nd St., V. Mapa, Old Sta. Mesa, Manila;
2. Ordering the defendant to pay plaintiff the sum of Five Thousand (P5,000.00) Pesos, as and for attorney’s fees; and
3. Costs against the defendant.

The defendant’s counterclaims are hereby dismissed.”

#### The Facts

Although the legal conclusions and dispositions of the trial and the appellate courts are conflicting, the factual antecedents of the case are not substantially disputed.<sup>[5]</sup> We reproduce their narration from the assailed Decision:

“Civil Case No. 83-39133 involves an action filed by plaintiff-appellee [herein petitioner] on January 22, 1987 seeking to recover from defendant-appellant [a]

parcel of land which the former claims to have acquired from his grandmother by donation. Defendant-appellant [herein private respondent], on the other hand, put up the defense that when the alleged donation was executed, he had already acquired the property by a Deed of Assignment from a transferee of plaintiff-appellee's grandmother.

The evidence for plaintiff-appellee [herein petitioner] is summarized as follows:

Catalina Jacob Vda. de Reyes, a widow and grandmother of plaintiff-appellee, was awarded in July 1975 a 60.10-square meter lot which is a portion of the Monserrat Estate, more particularly described as Lot 8W, Block 6 of Psd-135834, located at 3320 2nd St., V. Mapa, Old Sta. Mesa, Manila. The Monserrat Estate is a public land owned by the City of Manila and distributed for sale to bona fide tenants under its land-for-the-landless program. Catalina Jacob constructed a house on the lot.

On October 3, 1977, or shortly before she left for Canada where she is now a permanent resident, Catalina Jacob executed a special power of attorney (Exh. 'A') in favor of her son-in-law Eduardo B. Español authorizing him to execute all documents necessary for the final adjudication of her claim as awardee of the lot.

Due to the failure of Eduardo B. Español to accomplish the purpose of the power of attorney granted to him, Catalina Jacob revoked said authority in an instrument executed in Canada on April 16, 1984 (Exh. 'D'). Simultaneous with the revocation, Catalina Jacob executed another power of attorney of the same tenor in favor plaintiff-appellee.

On January 30, 1985, Catalina Jacob executed in Canada a Deed of Donation over a Lot 8W in favor of plaintiff-appellee (Exh. 'E'). Following the donation, plaintiff-appellee checked with the Register of Deeds and found out that the property was in the delinquent list, so that he paid the installments in arrears and the remaining balance on the lot (Exhs. 'F', 'F-1' and 'F-2') and declared the said property in the name of Catalina Jacob (Exhs. 'G', 'G-1', 'G-2' and 'G-3').

On January 29, 1986, plaintiff-appellee sent a demand letter to defendant-appellant asking him to vacate the premises (Exh. 'H'). A similar letter was sent by plaintiff-appellee's counsel to defendant on September 11, 1986 (Exh. 'I'). However, defendant-appellant refused to vacate the premises claiming ownership thereof. Hence, plaintiff-appellee instituted the complaint for recovery of possession and damages against defendant-appellant.

Opposing plaintiff-appellee's version, defendant-appellant claimed that the house and lot in controversy were his by virtue of the following documents:

1. Deed of Absolute Sale executed by Catalina Jacob dated October 7, 1977 in favor of Eduardo B. Español covering the residential house located at the premises (Exh. '4').
2. Deed of Assignment over Lot 8W executed by Catalina Jacob in favor of Eduardo Español dated September 30, 1980 (Exh. '5'); and
3. Deed of Assignment executed by Eduardo B. Español over Lot 8W and a residential house thereon in favor of defendant-appellant dated October 2, 1982 (Exh. '6').

After trial, the lower court decided in favor of plaintiff-appellee and against defendant-appellant, rationalizing that the version of the former is more credible than that of the latter. According to the lower court:

‘From the oral and documentary evidence adduced by the parties[,] it appears that the plaintiff- has a better right over the property, subject matter of the case. The version of the plaintiff is more credible than that of the defendant. The theory of the plaintiff is that the house and lot belong to him by virtue of the Deed of Donation in his favor executed by his grandmother Mrs. Jacob Vda. de Reyes, the real awardee of the lot in question. The defendant’s theory is that he is the owner thereof because he bought the house and lot from Eduardo Español, after the latter had shown and given to him Exhibits 1, 4 and 5. He admitted that he signed the Deed of Assignment in favor of Eduardo Español on September 30, 1980, but did not see awardee Catalina Jacob Vda. de Reyes signed [sic] it. In fact, the acknowledgement in Exhibit ‘5’ shows that the assignor/awardee did not appear before the notary public. It may be noted that on said date, the original awardee of the lot was no longer in the Philippines, as both parties admitted that she had not come back to the Philippines since 1977. (Exhs. K, K-1). Defendant, claiming to be the owner of the lot, unbelievably did not take any action to have the said house and lot be registered or had them declared in his own name. Even his Exhibit 7 was not mailed or served to the addressee. Such attitude and laxity is very unnatural for a buyer/owner of a property, in stark contrast of [sic] the interest shown by the plaintiff who saw to it that the lot was removed from the delinquent list for non-payment of installments and taxes due thereto [sic].’”<sup>[6]</sup>

#### Ruling of the Appellate Court

In reversing the trial court’s decision,<sup>[7]</sup> Respondent Court of Appeals anchored its ruling upon the absence of any showing that petitioner *accepted* his grandmother’s donation of the subject land. Citing jurisprudence that the donee’s failure to accept a donation whether in the same deed of donation or in a separate instrument renders the donation null and void, Respondent Court denied petitioner’s claim of ownership over the disputed land. The appellate court also struck down petitioner’s contention that the formalities for a donation of real property should not apply to his case since it was an onerous one -- he paid for the amortizations due on the land before and after the execution of the deed of donation -- reasoning that the deed showed no burden, charge or condition imposed upon the donee; thus, the payments made by petitioner were his voluntary acts.

Dissatisfied with the foregoing ruling, petitioner now seeks a favorable disposition from this Court.<sup>[8]</sup>

#### Issues

Petitioner anchors his petition on the following grounds:<sup>[9]</sup>

“[I.] In reversing the decision of the trial court, the Court of Appeals decided a question of substance in a way not in accord with the law and applicable decisions of this Honorable Court.

[II.] Even granting the correctness of the decision of the Court of Appeals, certain fact and circumstances transpired in the meantime which would render said decision manifestly unjust, unfair and inequitable to petitioner.”

We believe that the resolution of this case hinges on the issue of whether the donation was simple or onerous.

## The Court's Ruling

The petition lacks merit.

Main Issue:

Simple or Onerous Donation?

At the outset, let us differentiate between a simple donation and an onerous one. A simple or pure donation is one whose cause is pure liberality (no strings attached), while an onerous donation is one which is subject to burdens, charges or future services equal to or more in value than the thing donated.<sup>[10]</sup> Under Article 733 of the Civil Code, donations with an onerous cause shall be governed by the rules on contracts; hence, the formalities required for a valid simple donation are not applicable.

Petitioner contends that the burdens, charges or conditions imposed upon a donation need not be stated on the deed of donation itself. Thus, although the deed did not categorically impose any charge, burden or condition to be satisfied by him, the donation was onerous since he in fact and in reality paid for the installments in arrears and for the remaining balance of the lot in question. Being an onerous donation, his acceptance thereof may be express or implied, as provided under Art. 1320 of the Civil Code, and need not comply with the formalities required by Art. 749 of the same code. His payment of the arrearages and balance and his assertion of his right of possession against private respondent clearly indicate his acceptance of the donation.

We rule that the donation was simple, not onerous. Even conceding that petitioner's full payment of the purchase price of the lot might have been a burden to him, such payment was not however imposed by the donor as a condition for the donation. Rather, the deed explicitly stated:

"That for and in consideration of the love and affection which the DONEE inspires in the DONOR, and as an act of liberality and generosity and considering further that the DONEE is a grandson of the DONOR, the DONOR hereby voluntarily and freely gives, transfer[s] and conveys, by way of donation unto said DONEE, his heirs, executors, administrators and assigns, all the right, title and interest which the said DONOR has in the above described real property, together with all the buildings and improvements found therein, free from all lines [sic] and encumbrances and charges whatsoever;"<sup>[11]</sup> [underscoring supplied]

It is clear that the donor did not have any intention to burden or charge petitioner as the donee. The words in the deed are in fact typical of a pure donation. We agree with Respondent Court that the payments made by petitioner were merely his voluntary acts. This much can be gathered from his testimony in court, in which he never even claimed that a burden or charge had been imposed by his grandmother.

"ATTY FORONDA:

q After you have received this [sic] documents, the x x x revocation of power of attorney and the Special Power of Attorney in your favor, what did you do?

WITNESS:

a I went here in City Hall and verif[ied] the status of the award of my grandmother.

q When you say the award, are you referring to the award in particular [of the] lot in favor of your grandmother?

a Yes, Sir.

q What was the result of your verification?

a According to the person in the office, the papers of my grandmother is [sic] includ[ed] in the dilinquent [sic] list.

q What did you do then when you found out that the lot was includ[ed] in the dilinquent [sic] list?

a I talked to the person in charged [sic] in the office and I asked him what to do so that the lot should not [be] included in the dilinquent [sic] list.

ATTY. FORONDA:

q And what was the anwer [sic] given to you to the inquiry which you made?

WITNESS:

a According to the person in the office, that I would pay the at least [sic] one half of the installment in order to take [out] the document [from] the delinquent list.

q And [were] you able to pay?

a I was able to pay, sir.

q What were you able to pay, one half of the balance or the entire amounts [sic]?

a First, I paid the [sic] one half of the balance since the time the lot was awarded to us.

q What about the remaining balance, were you able to pay it?

a I was able to pay that, sir.

q So, as of now, the amount in the City of Manila of the lot has already been duly paid, is it not?

a Yes, sir."<sup>[12]</sup>

The payments even seem to have been made pursuant to the power of attorney<sup>[13]</sup>executed by Catalina Reyes in favor of petitioner, her grandson, authorizing him to execute acts necessary for the fulfillment of her obligations. Nothing in the records shows that such acts were meant to be a burden in the donation.

As a pure or simple donation, the following provisions of the Civil Code are applicable:

"Art. 734. The donation is perfected from the moment the donor knows of the acceptance by the donee."

"Art. 746. Acceptance must be made during the lifetime of the donor and the donee."

"Art. 749. In order that the donation of an immovable may be valid, it must be made in a public instrument, specifying therein the property donated and the value of the