Supreme Court E-Library

> discretion, or (which is) more dangerous in a doubtful case than the issuing of an injunction; it is the strong arm of equity that never ought to be extended unless to cases of great injury, where courts of law cannot afford an adequate or commensurate remedy in damages. The right must be clear, the injury impending or threatened, so as to be averted only by the protecting preventive process of injunction (28 Am. Jur. 201; Francisco, *supra*., p. 179).'"

In the instant case, the judge of the lower court knew, or ought to have known, that private respondents, who were plaintiffs in another case before his own court — Civil Case No. T-329 — were placed in possession and control of the property in question by virtue of a final decision in the latter case. In a manner of speaking, the judge arbitrarily allowed the left hand of the court to take, by way of preliminary injunction, what its right hand had given by virtue of a final judgment. He made a mockery of the judicial process which this Court cannot countenance.

WHEREFORE, for lack of merit, the petition is hereby *DISMISSED*, with costs against petitioner.

IT IS SO ORDERED.

Gutierrez, Jr. (Chairman), Feliciano, Bidin, and Romero, JJ., concur.

THIRD DIVISION

[G.R. No. L-45027. January 27, 1992]

BERNARDO DE LOS SANTOS, *petitioner, vs.* **FAUSTINO B. REYES, THE HON. COURT OF APPEALS, and SPOUSES BENJAMIN DIESTRO and AIDA LAGAREJOS,** *respondents.*

Supreme Court E-Library

SYLLABUS

1. **REMEDIAL LAW; APPEALS; FINDINGS OF FACT OF THE COURT OF APPEALS ARE CONCLUSIVE; EXCEPTIONS. —** Well settled is the general rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals is limited to reviewing or revising errors of law; findings of fact of the latter are conclusive. It is not the function of this Court to analyze or weigh such evidence all over again. It is only in exceptional cases where this Court may review findings of fact of the Court of Appeals. In *Medina vs. Asistio, Jr.*, this Court took occasion to enumerate such exceptional circumstances, to wit: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) When there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record."

2. **ID.; APPEALS; ISSUE NOT RAISED IN BRIEF SUBMITTED TO COURT OF APPEALS CANNOT BE RAISED FOR THE FIRST TIME IN THE PETITION FOR REVIEW.—** Where the issue of estoppel was not raised by petitioner in the Brief he submitted to the respondent Court, he cannot raise it for the first time in this petition for review on *certiorari*.

3. **CIVIL LAW; TRUST; NO TRUST IS IMPLIED BY LAW WHERE TITLE IS CONVEYED TO A CHILD, LEGITIMATE OR ILLEGITIMATE, OF ONE PAYING THE PRICE.—** There is no express trust over an immovable, when it was made to appear that the land in question was sold to and registered in the name of Faustino Reyes' daughter,

Supreme Court E-Library

Virginia — wife of petitioner — to conform with the limitation imposed by the vendor that no vendee could purchase from the former more than two lots. The applicable provision of the Civil Code, as correctly pointed out by respondent Court, is Article 1448 which provides as follows: "There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child."

APPEARANCES OF COUNSEL

Pedro N. Belmi for petitioner.

Mariano H.G. Cervo for private respondents.

D E C I S I O N

DAVIDE, JR., *J.*:

In this petition for review on *certiorari* under Rule 45 of the Rules of Court, petitioner urges this Court to review and set aside the decision of the respondent Court of Appeals in C.A.-G.R. No. 41943-R[1] promulgated on 23 July 1975, which affirmed *in toto* the decision of the then Court of First Instance (now Regional Trial Court) of Rizal in Civil Case No. 8640, dated 12 February 1968,[2] dismissing herein petitioner's complaint for reconveyance of a parcel of land located in Biga-a, San Roque, Angono, Rizal, the dispositive portion of which reads as follows:

"FOR ALL THE FOREGOING CONSIDERATIONS, the Court hereby dismisses this case and declares the defendant Faustino B.

---

[1] Per Associate Justice Pacifico P. de Castro, concurred in by Associate Justices Emilio A. Gancayco and Mariano V. Agcaoli; *Rollo*, 43-52.

[2] Record on Appeal, 17-24.

Supreme Court E-Library

Reyes the owner of the parcel of land subject of this action.

Plaintiff is hereby ordered to pay the amount of ONE THOUSAND FIVE HUNDRED (₱1,500.00) PESOS as moral damages and for attorney's fees plus the costs of suit.

SO ORDERED."[3]

In a bid to obtain a reversal of the trial court's decision, petitioner attempted to persuade the Court of Appeals to agree with his proposition that the trial court:

"I

xxx committed grave abuse of discretion in not considering the relevant documentary evidence submitted by the plaintiff in support of his cause of action alleged in the complaint;

II

xxx erred in finding and concluding that plaintiff failed to substantiate his complaint and did not even bother to contradict defendant Faustino Reyes' testimonies,

III

xxx erred in admitting and considering the oral testimony of defendant Faustino B. Reyes in establishing express trust over the parcel of land in question over and above the objection of the plaintiff; and

IV

xxx erred in finding and holding that the present action of plaintiff is clearly unfounded and without merit."[4]

Respondent Court was not persuaded. Its rejection of the assigned errors deserves to be quoted:

"As to the first assignment of error, appellant has no reason to complain that the trial court did not consider the documents that he presented as his only evidence (Exhs. A, A-1 to K). In ruling in favor of the appellees and against appellant, it cannot be seriously

---

[3] Record on Appeal, 23-24.

[4] *Rollo*, 19-20.

Supreme Court E-Library

asserted that the trial court did not give due regard to the *prima-facie* effect or value of appellant's documentary evidence, particularly the deed of sale (Exhibit A), the certificate of title, TCT No. 59373 in the name of his wife Virginia T. Reyes (Exh. B), the tax declaration also in her name (Exh. K), and the extrajudicial settlement affidavit of appellant Reyes (Exh. C). Otherwise, the court should not have found it necessary to enter, as it did, into a thorough, extensive analysis of the evidence of the appellee, both testimonial and documentary (Exh. 1).

It cannot, likewise, be denied that appellant failed to contradict the testimony of appellee Reyes to the effect that he placed the land in question in the name of his daughter, Virginia, only to conform with the requirement of the hacienda-owner, Justa G. Vda de Guido, that no one person can buy more than two lots at a time, and that since the sale, the property had been taken into his possession up to the time it was sold, the products thereof having been received by appellee Reyes even after her daughter's marriage to appellant. This unrebutted testimony of appellee Reyes could not have been evaluated except by weighing it against the documentary evidence of appellant. But with appellant giving no testimony to rebut that of appellee Reyes, the lower court cannot be said to be in error, as claimed by appellant (2nd assignment of error), in finding that 'plaintiff failed to substantiate his complaint and did not even bother to contradict defendant Faustino Reyes' testimony.'

> The observation of the lower court that appellant failed to substantiate his complaint is glaringly true with respect to the allegation that the baby of Virginia T. Reyes died after the mother died of coronary embolism on the same date she gave delivery (sic) to the baby girl. This allegation was specifically denied in the answer of appellee Reyes, who repeated his averment therein in his testimony in court that the baby was born dead because its head was crushed when extracted from the mother's womb with forceps. Yet, appellant did not take the witness stand to deny this fact. None of his documentary evidence on the sole reliance of which he rested his case relates to how the baby was born — alive or dead. This point is precisely the most decisive factor in determining the merit of his claim to have inherited the property in question from the child, because the latter inherited it from its mother. It was incumbent upon him to prove that the child was born alive and died after the

Supreme Court E-Library

mother has (*sic*) died earlier, as required by Art. 43 of the Civil Code which provides:

'ARTICLE 43. If there is a doubt, as between two or more persons who are called to succeed each other, as to which of them died first, whoever alleges the death of one prior to the other, shall prove the same in the absence of proof, it is presumed that they died at the same time and there shall be no transmission of rights from one to the other.'

Not only did appellant failed (*sic*) to discharge the duty imposed upon him for having alleged the death of his wife prior to that of his child, but also failed to contradict the positive and categorical testimony of appellee Reyes that the child was born dead. The alleged admission in the answer of the appellees spouses to substantiate the allegation of the appellant in his complaint is ineffective against the specific denial in appellee Reyes' answer, repeated in his testimony. With this particular matter in issue, it is Reyes who is directly concerned, and the supposed admission of the appellee-spouses who are complete strangers to the family of appellant and Reyes, can have no binding force and effect upon the latter. Hence, on the opposing claims as to who would inherit the property in question, that of appellee must be sustained as the lower court ruled correctly. With this finding alone, the dismissal of the complaint would be in order and fully justified.

Moreover, as allegedly intimated, the lower court's finding that the land was actually owned by Faustino B. Reyes, notwithstanding that the title was in the name of Virginia T. Reyes, pursuant to the deed of sale where the latter was made to appear as the buyer, finds convincing support from the evidence of record. It was clearly explained why both the deed of sale and the certificate of title mentioned Virginia T. Reyes as the owner. The explanation was fully supported by the agreement (*kasunduan*) duly notarized on June 15, 1955 (Exh. 1) which shows that Faustino Reyes was the buyer of three lots with a total consideration of ₱14,000.00. At the time of the execution of this agreement, he paid ₱11,000.00, leaving only a balance of ₱3,000.00 which he paid later. Virginia, then only 18 years of age, could not paid (sic) the price of the lot in question. By no stretch of the imagination can it be asserted that she bought the land herself as the deed of sale purports to show. The extrajudicial adjudication affidavit of appellee Reyes (Exh. C) can not, under the circumstances just noted, be read as an admission

Supreme Court E-Library

of Reyes that her daughter, Virginia, was the owner of the land, as appellant contends. It is evident that the execution of this document was resorted to only as the most practical and expeditious way to transfer the land from the name of Virginia T. Reyes to that of appellee Reyes. It cannot have a greater probative value than the deed of sale (Exh. A) and the certificate of title (Exh. B) relied upon by appellant, which have already been shown to be of no avail against the clear and convincing evidence of appellee.

There is no question of trust involved under the proven facts of the case, as appellant raises in his third assignment of error. The court *a quo* made no finding as to the existence or non-existence of one. As cited by appellant himself, Article 1448, New Civil Code, provides:

'There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. However, *if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale; no trust is implied by law, it being disputably presumed that there is a gift in favor of the child*. (Italics supplied).'

The disputable presumption of a gift as created in the aforequoted provision has been amply overcome by the evidence of appellee Reyes, as already demonstrated. If it was a gift, the land should have been taken possession of by appellant at least after he married his wife as the supposed beneficiary. They then should have enjoyed also the fruits, and also paid for the tax. No evidence, however, of such payment was presented. To all appearances, appellant knew as a fact that his wife never was the owner of the land, not even as a gift under the legal provision he cited. Otherwise, it should not have taken him almost seven long years to assert ownership with the filing of the present action. That this action is a mere afterthought, stirred by a legal mind with a gambling instinct is not just a mild surmise, considering how long it took the appellant to file it in court and its contingent nature. It may be well to remember, however, that lawsuits are not won by chance, as by the turn of the dice, or how the cards fall on the gambling table — not while the courts sit, anyway."[5]

[5] *Rollo,* 46-52.

Supreme Court E-Library

Petitioner could not accept the second defeat. Invoking this Court's authority under Rule 45 of the Rules of Court, he filed the instant petition on 27 December 1976.[6] Private respondents filed their Comment[7] in compliance with the resolution of 26 January 1977.[8] Petitioner was directed to file a Reply thereto, which he complied with on 11 July 1977.[9]

The Court gave due course to the petition.[10]

In his Brief filed on 26 September 1977,[11] petitioner imputes upon the respondent court the commission of the following "grave errors of law and/or abuse of discretion" by:

"I

xxx misinterpreting and/or disregarding the probative value of the purely public documentary evidence adduced by herein petitioners as against the oral testimony of private respondent Faustino B. Reyes, which, aside from being self-serving, was impeached by his own solemn declaration contained in the affidavit of extrajudicial declaration, Exhibit "C", executed prior to the instant controversy, contrary to the well established and long settled rule of jurisprudence that public documents should be accorded the highest probative value and they can only be invalidated by beyond preponderance (sic), clear, conclusive, convincing and strong evidence.

II

xxx declaring private respondent Faustino B. Reyes as the owner of the parcel of land in question notwithstanding the undisputed facts that said parcel of land was registered under Act No. 496, as amended, under Transfer Certificate of Title No. 59573, Registry of Rizal, in the name of the late Virginia T. Reyes, and declared for taxation purposes in the name of the latter under Tax declaration No. 2323, Exhibits "B" and "K", respectively.

---

[6] *Id*., 16.

[7] *Id*., 74.

[8] *Id*., 59.

[9] *Id*., 91.

[10] *Id*., 97.

[11] *Id*., 103.

Supreme Court E-Library

III

xxx admitting the oral testimony of respondent Faustino B. Reyes tending to establish an alleged trust, either express or implied, which oral testimony was vehemently objected to by the herein petitioners, in utter violations (*sic*) of Articles 1431, 1443 and 1448, New Civil Code.

IV

xxx holding and concluding that the late Virginia T. Reyes and the baby girl died at the same time, overlooking the clear admission in the pleading of disinterested respondents spouses Benjamin Diestro and Aida Legarejos, represented by same (*sic*) counsel for respondent Faustino B. Reyes, that the baby girl was born alive; and, in misinterpreting as well as in misapplying Article 43, New Civil Code, in the case at bar."[12]

In their Brief filed on 23 December 1977,[13] respondents met squarely the issues raised by the petitioners.

The petition is not impressed with merit as nothing in the pleadings points to any reversible error which respondent court committed.

However disguised, the assigned errors are a repetition of what petitioner raised before the respondent court, which, with the exception of the third assigned error, involve questions of fact.

Well-settled is the general rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals is limited to reviewing or revising errors of law; findings of fact of the latter are conclusive.[14] It is not the function of this Court to analyze or weigh such evidence all over again. It is only in exceptional cases where this Court may review findings of fact of the Court of Appeals. In *Medina vs. Asistio, Jr.*,[15] this Court took occasion to enumerate such exceptional circumstances, to wit:

---

[12] *Rollo*, 103-104.

[13] *Rollo*, 159.

[14] *Chan vs. Court of Appeals*, 33 SCRA 737, citing numerous cases.

[15] 191 SCRA 218.

Supreme Court E-Library

"It is a well-settled rule in this jurisdiction that only questions of law may be raised in a petition for *certiorari* under Rule 45 of the Rules of Court, this Court being bound by the findings of fact made by the Court of Appeals. The rule, however, is not without exception. Thus, findings of fact by the Court of Appeals may be passed upon and reviewed by this Court in the following instances, none of which obtain in the instant petition:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures (*Joaquin v. Navarro*, 93 Phil. 257 [1953]); (2) When the inference made is manifestly mistaken, absurd or impossible (*Luna v. Linatok*, 74 Phil. 15 [1942]); (3) When there is a grave abuse of discretion (*Buyco v. People*, 95 Phil. 453 [1955]); (4) When the judgment is based on a misapprehension of facts (*Cruz v. Sosing*, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (*Casica v. Villaseca*, L-9590 Ap. 30, 1957; unrep.); (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (*Evangelista v. Alto Surety and Insurance Co.*, 103 Phil. 401 [1958]); (7) The findings of the Court of Appeals are contrary to those of the trial court (*Garcia v. Court of Appeals*, 33 SCRA 622 [1970]; *Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]); (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (*Ibid*.,); (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Ibid*.,) and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, 33 SCRA 242 [1970])."

The third assigned error raises a question of law. Unfortunately, however, petitioner miserably failed to demonstrate that respondent court committed any error which warrants reversal. In the first place, *estoppel* was not raised by him in the Brief he submitted to the respondent Court. He cannot raise it for the first time in this petition. In the second place, petitioner assumes that an express trust over an immovable was created when it was made to appear that the land in question was sold to and registered in the name of Faustino Reyes' daughter, Virginia

Supreme Court E-Library

— wife of petitioner — to conform with the limitation imposed by the vendor that no vendee could purchase from the former more than two lots. Consequently, pursuant to Article 1444 of the Civil Code, such a trust cannot be proved by parol evidence. If his assumption is correct, Article 1444 is applicable and both the trial court and the respondent Court then erred in admitting the oral testimony of Faustino Reyes concerning the facts surrounding the "sale" of the lot in favor of Virginia. Unfortunately, the assumption is wrong. There is neither an express nor implied trust in this case. The applicable provision of the Civil Code, as correctly pointed out by respondent Court, is Article 1448 which provides as follows:

"There is an implied trust when property is sold, and the legal estate is granted to one party but the price is paid by another for the purpose of having the beneficial interest of the property. The former is the trustee, while the latter is the beneficiary. *However, if the person to whom the title is conveyed is a child, legitimate or illegitimate, of the one paying the price of the sale, no trust is implied by law, it being disputably presumed that there is a gift in favor of the child*." (Italics supplied for emphasis).

Accordingly, testimonial evidence, such as that offered by Faustino Reyes, that the land was not given as a gift to Virginia, was properly allowed to rebut the disputable presumption established in the foregoing article.

WHEREFORE, for lack of merit, the instant petition is hereby *DISMISSED* with costs against petitioner.

IT IS SO ORDERED.

Gutierrez, Jr. (Chairman), Feliciano, Bidin, and *Romero, JJ.,* concur.