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SECOND DIVISION

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

JOHN ABING, *petitioner, vs.* **JULIET WAEYAN,** *respondent.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; REVIEW OF FACTUAL ISSUE MADE PROPER GIVEN THE CONFLICTING FINDINGS OF COURTS BELOW.** — While the question raised is essentially one of fact, of which the Court normally eschews from, yet, given the conflicting factual findings of the three courts below, the Court shall go by the exception to the general rule and proceed to make its own assessment of the evidence.

2. **CIVIL LAW; PROPERTY; OWNERSHIP; TAX DECLARATIONS DO NOT PROVE OWNERSHIP.** — We have ruled time and again that tax declarations do not prove ownership but at best an indicia of claims of ownership. Payment of taxes is not proof of ownership, any more than indicating possession in the concept of an owner. Neither tax receipt nor declaration of ownership for taxation purposes are evidence of ownership or of the right to possess realty when not supported by other effective proofs. In this connection, Article 147 of the Family Code is instructive.

3. **CIVIL LAW; FAMILY CODE; PROPERTY RELATIONS BETWEEN HUSBAND AND WIFE; PROPERTY REGIME OF UNIONS WITHOUT MARRIAGE; GOVERNED BY RULES ON CO-OWNERSHIP; CASE AT BAR.** — Art. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership. In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal

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shares. For purposes of this Article, a party who did not participate in the acquisition by other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former' s efforts consisted in the care and maintenance of the family and of the household. The law is clear. In the absence, as here, of proofs to the contrary, any property acquired by common-law spouses during their period of cohabitation is presumed to have been obtained thru their joint efforts and is owned by them in equal shares. Their property relationship is governed by the rules on co-ownership. And under this regime, they owned their properties in common "in equal shares." Being herself a co-owner of the structure in question, Juliet, as correctly ruled by the CA, may not be ejected therefrom. True it is that under Article 487 of the Civil Code, a co-owner may bring an action for ejectment against a co-owner who takes exclusive possession and asserts exclusive ownership of a common property. It bears stressing, however, that in this case, evidence is totally wanting to establish John's or Juliet's exclusive ownership of the property in question. Neither did Juliet obtain possession thereof by virtue of a contract, express or implied, or thru intimidation, threat, strategy or stealth. As borne by the record. Juliet was in possession of the subject structure and the *sari-sari* store thereat by virtue of her being a co-owner thereof. As such, she is as much entitled to enjoy its possession and ownership as John.

4. **ID.; CONTRACTS; MEMORANDUM OF AGREEMENT; VALIDITY THEREOF AND REMEDY WHERE THE SAME NOT SIGNED BY THE PARTIES BUT PARTIAL COMPLIANCE ALREADY MADE.** — We disagree with the ruling of the CA that subject *Memorandum of Agreement,* being unsigned by Juliet and John, has no binding effect between them. It is a matter of record that pursuant to said Agreement, Juliet did pay John the amount of ₱232,397.66, as initial payment for John's share in their common properties, with the balance of ₱196,472.34 payable in twelve monthly installment beginning November 1995. It is also a matter of record that the Agreement was signed by the witnesses thereto. Hence, the irrelevant circumstances that the Agreement was left unsigned by Juliet and John cannot adversely affect its binding force or effect between them, as evidently, Juliet's initial payment of ₱232,397.66

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to John was in fulfillment of what the parties had agreed upon thereunder. However, and as correctly held by the CA, Juliet's failure to pay John the balance of the latter's share in their common properties could at best give rise to an action for a sum of money against Juliet, or for rescission of the said agreement and not for ejectment.

APPEARANCES OF COUNSEL

Ma. Inglay Capuyan-Fokno for petitioner.
Mathew P. Kollin for 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.

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[1] Penned by Associate Justice Eliezer R. Delos Santos with Associate Justices Eugenio S. Labitoria (ret.) and Eloy R. Bello (ret.), concurring; *Rollo*, pp. 16-23.

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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 ₱428,870.00 representing John's share in all their properties. On the same date – October 7, 1995 – Juliet paid John the sum of ₱232,397.66 by way of partial payment of his share, with the balance of ₱196,472.34 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

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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 ₱2,500.00 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 ₱5,000.00 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.*

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[2] As reproduced in the Petition, p.1, *Rollo*, pp. 9-12, at p. 9.

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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.
>
> xxx 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;

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[3] *Supra* note 1.

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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.

While the question raised is essentially one of fact, of which the Court normally eschews from, yet, given the conflicting factual findings of the three courts below, the Court shall go by the exception[4] to the general rule and proceed to make its own assessment of the evidence.

First and foremost, it is undisputed that the parties hereto lived together as husband and wife from 1986 to 1995 without the benefit of marriage. Neither is it disputed that sometime in December 1991, Juliet left for Korea and worked thereat, sending money to John which the latter deposited in their joint account. In fact, Juliet was still in Korea when the annex structure was constructed in 1992.

Other than John's bare allegation that he alone, thru his own funds and money he borrowed from his relatives, spent for the construction of the annex structure, evidence is wanting to support such naked claim. For sure, John even failed to reveal how much he spent therefor. Neither did he divulge the names of the alleged relatives from whom he made his borrowings, let

[4] *Francisco v. Court of Appeals*, G.R. No. 118749, April 25, 2003, 401 SCRA 594.

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alone the amount of money he borrowed from them. All that petitioner could offer by way of reinforcing his claim of spending his own funds and borrowed money in putting up the subject structure was the affidavit executed by a certain Manuel Macaraeg to the effect that petitioner borrowed ₱30,000.00 from him. Even then, Macaraeg stated in his affidavit that it was sometime in *1990* when John borrowed said amount from him. With the petitioner's own admission that the subject structure was constructed only in *1992*, or two years after he borrowed ₱30,000.00 from Macaraeg, it is even doubtful whether the amount he allegedly borrowed from the latter went into the construction of the structure in dispute. More, it is noted that while petitioner was able to present in evidence the Macaraeg affidavit, he failed to introduce similar affidavits, if any, of his close relatives from whom he claimed to have made similar borrowings. For sure, not a single relative came forward to confirm petitioner's tale. In short, there is a paucity of evidence, testimonial or documentary, to support petitioner's self-serving allegation that the annex structure which housed the *sari-sari* store was put up thru his own funds and/or money borrowed by him. Sure, petitioner has in his favor the tax declaration covering the subject structure. We have, however, ruled time and again that tax declarations do not prove ownership but at best an indicia of claims of ownership.[5] Payment of taxes is not proof of ownership, any more than indicating possession in the concept of an owner.[6] Neither tax receipts nor declaration of ownership for taxation purposes are evidence of ownership or of the right to possess realty when not supported by other effective proofs.[7]

In this connection, Article 147 of the Family Code is instructive. It reads:

Art. 147. When a man and a woman who are capacitated to marry each other, live exclusively with each other as husband and wife

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[5] *Municipality of Antipolo v. Zapata*, G.R. No. 65334, December 26, 1984, 133 SCRA 820.

[6] *Arambulo v. CA*, G.R. No. 120166, August 3, 1998, 293 SCRA 567.

[7] *Cruz v. Miguel*, G.R. No. 144103, August 31, 2005, 468 SCRA 506.

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without the benefit of marriage or under a void marriage, their wages and salaries shall be owned by them in equal shares and the property acquired by both of them through their work or industry shall be governed by the rules on co-ownership.

In the absence of proof to the contrary, properties acquired while they lived together shall be presumed to have been obtained by their joint efforts, work or industry, and shall be owned by them in equal shares. For purposes of this Article, a party who did not participate in the acquisition by other party of any property shall be deemed to have contributed jointly in the acquisition thereof if the former's efforts consisted in the care and maintenance of the family and of the household.

The law is clear. In the absence, as here, of proofs to the contrary, any property acquired by common-law spouses during their period of cohabitation is presumed to have been obtained thru their joint efforts and is owned by them in equal shares. Their property relationship is governed by the rules on co-ownership. And under this regime, they owned their properties in common "in equal shares." Being herself a co-owner of the structure in question, Juliet, as correctly ruled by the CA, may not be ejected therefrom.

True it is that under Article 487[8] of the Civil Code, a co-owner may bring an action for ejectment against a co-owner who takes exclusive possession and asserts exclusive ownership of a common property. It bears stressing, however, that in this case, evidence is totally wanting to establish John's or Juliet's exclusive ownership of the property in question. Neither did Juliet obtain possession thereof by virtue of a contract, express or implied, or thru intimidation, threat, strategy or stealth. As borne by the record, Juliet was in possession of the subject structure and the *sari-sari* store thereat by virtue of her being a co-owner thereof. As such, she is as much entitled to enjoy its possession and ownership as John.

We, however, disagree with the ruling of the CA that the subject *Memorandum of Agreement*, being unsigned by Juliet and John, has no binding effect between them.

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[8] Art. 487. Any one of the co-owners may bring an action in ejectment.

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It is a matter of record that pursuant to said Agreement, Juliet did pay John the amount of ₱232,397.66, as initial payment for John's share in their common properties, with the balance of ₱196,472.34 payable in twelve monthly installments beginning November 1995. It is also a matter of record that the Agreement was signed by the witnesses thereto. Hence, the irrelevant circumstances that the Agreement was left unsigned by Juliet and John cannot adversely affect its binding force or effect between them, as evidently, Juliet's initial payment of ₱232,397.66 to John was in fulfillment of what the parties had agreed upon thereunder. However, and as correctly held by the CA, Juliet's failure to pay John the balance of the latter's share in their common properties could at best give rise to an action for a sum of money against Juliet, or for rescission of the said agreement and not for ejectment.

WHEREFORE, the petition is *DENIED* and the assailed CA Decision is *AFFIRMED*, except that portion thereof denying effect to the parties' Memorandum of Agreement for being unsigned by both.

Costs against petitioner.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, Corona, and *Azcuna, JJ.*, concur.