Supreme Court E-Library

THIRD DIVISION

[G.R. No. 172919. January 13, 2016]

TIMOTEO BACALSO and DIOSDADA BACALSO, *petitioners, vs.* **GREGORIA B. ACA-AC, EUTIQUIA B. AGUILA, JULIAN BACUS and EVELYN SYCHANGCO,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; PETITION FOR REVIEW ON *CERTIORARI*; LIMITED TO REVIEW OF QUESTIONS OF LAW; EXCEPTIONS.— "[S]ubject to a few exceptions, only questions of law may be brought before the Court *via* a petition for review on *certiorari.*" The Court has repeatedly held that it is not necessitated to examine, evaluate or weigh the evidence considered in the lower courts all over again. "This is especially true where the trial court's factual findings are adopted and affirmed by the CA as in the present case. Factual findings of the trial court, affirmed by the CA, are final and conclusive and may not be reviewed on appeal." Although the Court recognized several exceptions to the limitation of an appeal by *certiorari* to only questions of law, including: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the interference made is manifestly mistaken, absurd, or impossible; (3) when there is 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 in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings 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 petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record, the present appeal does not come under any of the exceptions.

Supreme Court E-Library

2. CIVIL LAW; OBLIGATIONS AND CONTRACTS; SALES; CONSIDERATION; WHERE THERE IS NO CONSIDERATION, THE SALE IS NULL AND VOID *AB INITIO*.— Contrary to the petitioners' claim, this is not merely a case of failure to pay the purchase price which can only amount to a breach of obligation with rescission as the proper remedy. As correctly observed by the RTC, the disputed sale produces no effect and is considered void *ab initio* for failure to or want of consideration since the petitioner failed to pay the consideration stipulated in the Deed of Absolute Sale. x x x It is clear from the factual findings of the RTC that the Deed of Absolute Sale entirely lacked consideration and, consequently, void and without effect. No portion of the ₱8,000.00 consideration indicated in the Deed of Absolute Sale was ever paid by the petitioners. The Court also finds no compelling reason to depart from the court *a quo*'s finding that the Deed of Absolute Sale executed on October 15, 1987 is null and void *ab initio* for lack of consideration x x x. Well-settled is the rule that where there is no consideration, the sale is null and void *ab initio*.

APPEARANCES OF COUNSEL

Ricalde Law Offices for petitioners.

Mercado Cordero Bael Acuña & Sepulveda for respondent Evelyn Sychangco.

Salvador O. Solima for respondents Julian Bacus, *et al*.

D E C I S I O N

REYES, *J.*:

Before this Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated December 14, 2005 and the Resolution[3]

---

[1] *Rollo,* pp. 13-23.

[2] Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Arsenio J. Magpale and Apolinario D. Bruselas, Jr. concurring; *id*. at 27-39.

[3] *Id*. at 46.

Supreme Court E-Library

dated May 30, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 67516. The CA affirmed the Decision dated April 19, 2000 of the Regional Trial Court (RTC) of Cebu City, Branch 11, in Civil Case No. CEB-17994. The RTC ruled that the Deed of Absolute Sale dated October 15, 1987 between herein respondents Gregoria B. Aca-Ac, Eutiquia B. Aguila and Julian Bacus (Julian) (Bacus siblings) and herein petitioner Timoteo Bacalso (Timoteo) was void for want of consideration.

The Facts

The Bacus siblings were the registered owners of a parcel of land described as Lot No. 1809-G-2 located in San Roque, Talisay, Cebu with an area of 1,200 square meters and covered by Transfer Certificate of Title (TCT) No. 59260. The Bacus siblings inherited the said property from their mother Matea Bacalso (Matea).[4]

On October 15, 1987, the Bacus siblings executed a Deed of Absolute Sale conveying a portion of Lot No. 1809-G-2 with an area of 1 sq m, described as Lot No. 1809-G-2-C, in favor of their cousin, Timoteo for and in consideration of the amount of ₱8,000.00.[5]

On March 4, 1988, however, Timoteo, together with his sisters Lucena and Victoria and some of his cousins filed a complaint for declaration of nullity of documents, certificates of title, reconveyance of real property and damages against the Bacus siblings and four other persons before the RTC of Cebu City, Branch 12, and was docketed as Civil Case No. CEB-6693. They claimed that they are co-owners of the three-fourths portion of Lot No. 1809-G (which Lot No. 1809-G-2-C was originally part of) as Matea had paid for the said property for and in behalf of her brother Alejandro (father of petitioner Timoteo) and sisters Perpetua and Liberata, all surnamed Bacalso.[6]

---

[4] *Id*. at 27.

[5] *Id*. at 28.

[6] *Id*. at 28-29.

Supreme Court E-Library

On November 29, 1989, the RTC found that Matea was the sole owner of Lot No. 1809-G and affirmed the validity of the conveyances of portions of Lot No. 1809-G made by her children. The same was affirmed by the CA in a Decision dated March 23, 1992 and became final and executory on April 15, 1992.[7]

Undaunted, Timoteo and Diosdada Bacalso (petitioners) filed on October 26, 1995, a complaint for declaration of nullity of contract and certificates of title, reconveyance and damages against the Bacus siblings, this time claiming ownership over Lot No. 1809-G-2-C by virtue of the Deed of Absolute Sale dated October 15, 1987. They claimed, however, that the Bacus siblings reneged on their promise to cause the issuance of a new TCT in the name of the petitioners.[8]

Moreover, the petitioners alleged that the Bacus siblings have caused the subdivision of Lot No. 1809-G-2 into four lots and one of which is Lot No. 1809-G-2-C which is now covered by TCT No. 70783. After subdividing the property, the Bacus siblings, on February 11, 1992, without knowledge of the petitioners, sold Lot No. 1809-G-2-C again to respondent Evelyn Sychangco (Sychangco) and that TCT No. 74687 covering the same property was issued in her name. [9]

In their answer, the Bacus siblings denied the allegations of the petitioners and claimed that the alleged sale of Lot No. 1809-G-2-C in favor of the petitioners did not push through because the petitioners failed to pay the purchase price thereof.[10]

For her part, Sychangco averred that she is a buyer in good faith and for value as she relied on what appeared in the certificate of title of the property which appeared to be a clean title as no lien or encumbrance was annotated therein.[11]

---

[7] *Id*. at 29.

[8] *Id*.

[9] *Id*. at 29-30.

[10] *Id*. at 30.

[11] *Id*.

Supreme Court E-Library

On April 19, 2000, the RTC issued a Decision declaring the Deed of Absolute Sale dated October 15, 1987 void for want of consideration after finding that the petitioners failed to pay the price of the subject property. Moreover, the RTC held that even granting that the sale between the Bacus siblings and the petitioners was valid, the petitioners still cannot ask for the rescission of the sale of the disputed portion to Sychangco as the latter was a buyer in good faith, thus has a better right to the property.[12]

Aggrieved by the foregoing disquisition of the RTC, the petitioners interposed an appeal with the CA. On December 14, 2005, however, the CA affirmed the ruling of the RTC. The petitioners sought a reconsideration[13] of the CA decision but it was denied in a Resolution dated May 30, 2006.

The Issues

The petitioners assign the following errors of the CA:

I

THE [CA] SERIOUSLY ERRED WHEN IT RELIED TOO MUCH ON THE RESPECTIVE ORAL TESTIMONIES OF RESPONDENTS JULIAN BACUS AND EVELYN SYCHANGCO UTTERLY DISREGARDING THE ORAL TESTIMONIES OF PETITIONER TIMOTEO BACALSO AND THE LATTER'S WITNESS ROBERTO YBAS AND THE DOCUMENTARY EVIDENCE OF THE PETITIONERS, THE DULY EXECUTED AND NOTARIZED DEED OF ABSOLUTE SALE COVERING THE SUBJECT LOT NO. 1809-G-2-C.

II

THE [CA] SERIOUSLY ERRED WHEN IT RULED THAT THE DEED OF ABSOLUTE SALE DATED 15 OCTOBER 1987 IS NULL AND VOID *AB INITIO* FOR FAILURE OR WANT OF CONSIDERATION.

---

[12] *Id*.

[13] *Id*. at 41-44.

Supreme Court E-Library

III

THE [CA] SERIOUSLY ERRED WHEN IT DID NOT CONSIDER THE FACT THAT THE DEED OF ABSOLUTE SALE DATED 15 OCTOBER 1987 WAS NOTARIZED, HENCE, A PUBLIC DOCUMENT WHICH ENJOYS THE PRESUMPTION OF REGULARITY.

IV

THE [CA] SERIOUSLY ERRED WHEN IT DID NOT RULE THAT ON 15 OCTOBER 1987, THE [BACUS SIBLINGS] WERE NO LONGER OWNERS AND POSSESSORS OF THE SUBJECT LOT AS THE SAME WAS ALREADY TRANSFERRED TO THE PETITIONERS BY REASON OF THE MERE EXECUTION OF A DEED OF SALE IN A PUBLIC DOCUMENT, AS IN THIS CASE.[14]

Essentially, the issues presented to the Court for resolution could be reduced into whether the CA erred in holding that the Deed of Absolute Sale dated October 15, 1987 is void for want of consideration.

Ruling of the Court

The petition is bereft of merit.

The central issue to be resolved in the present controversy is the validity of the Deed of Absolute Sale between the petitioners and the Bacus siblings. "Such issue involves a question of fact and settled jurisprudence dictates that, subject to a few exceptions, only questions of law may be brought before the Court *via* a petition for review on *certiorari*."[15]

The Court has repeatedly held that it is not necessitated to examine, evaluate or weigh the evidence considered in the lower courts all over again. "This is especially true where the trial court's factual findings are adopted and affirmed by the CA as in the present case. Factual findings of the trial court, affirmed

---

[14] *Id*. at 17-18.

[15] *Sps. Carpio v. Sebastian, et al.,* 635 Phil. 1, 8 (2010).

Supreme Court E-Library

by the CA, are final and conclusive and may not be reviewed on appeal."[16]

Although the Court recognized several exceptions to the limitation of an appeal by *certiorari* to only questions of law, including: (1) when the findings are grounded entirely on speculation, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is 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 in making its findings, the CA went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings 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 petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record,[17] the present appeal does not come under any of the exceptions.

In any event, the Court has carefully reviewed the records of the instant case and found no reason to disturb the findings of the RTC as affirmed by the CA.

Under the Civil Code, a contract is a meeting of minds, with respect to the other, to give something or to render some service. Article 1318 provides:

> Art. 1318. There is no contract unless the following requisites concur:
>
> (1) Consent of the contracting parties;
> (2) Object certain which is the subject matter of the contract;
> (3) Cause of the obligation which is established.

In the case at bar, the petitioners argue that the Deed of Absolute Sale has all the requisites of a valid contract. The

---

[16] *Spouses Pascual v. Spouses Coronel,* 554 Phil. 351, 360 (2007).

[17] *Citibank, N.A. v. Sabeniano,* 535 Phil. 384, 410-411 (2006).

Supreme Court E-Library

petitioners contend that there is no lack of consideration that would prevent the existence of a valid contract. The petitioners contend that there is no lack of consideration that would prevent the existence of a valid contract. They assert that the testimonies of Timoteo and witness Roberto Ybas sufficiently established that the purchase price of ₱8,000.00. for Lot No. 1809-G-2-C was paid to Julian at Sto. Niño Church in Cebu City before the execution of the Deed of Absolute Sale. They also claim that even assuming that they failed to pay the purchase price, such failure does not render the sale void for being fictitious or simulated, rather, there is only non-payment of the consideration within the period agreed upon for payment.[18]

The Court does not agree.

Contrary to the petitioners' claim, this is not merely a case of failure to pay the purchase price which can only amount to a breach of obligation with rescission as the proper remedy. As correctly observed by the RTC, the disputed sale produces no effect and is considered void *ab initio* for failure to or want of consideration since the petitioner failed to pay the consideration stipulated in the Deed of Absolute Sale. The trial court's discussion on the said issue, as affirmed by the CA, is hereby quoted:

> To begin with, the Court hereby states that, from the totality of the evidence adduced in this case which it scrutinized and evaluated, it has come up with a finding that there was failure or want of consideration of the Deed of Sale of Lot 1809-G-2-C executed in favor of the [petitioners] on October 15, 1987. The Court is morally and sufficiently convinced that [Timoteo] had not paid to the [Bacus siblings] the price for the said land. This fact has been competently and preponderantly established by the testimony in court of [Julian]. [Julian] made the following narration in his testimony:
>
> Sometime in October 1987, he and his two sisters agreed to sell to the [petitioners] Lot No. 1809-G-2-C because they needed money for the issuance of the titles to the four lots into which Lot 1809-G-2 was subdivided. [Timoteo] lured him and his sisters into selling the said land by his promise and representation that money was

[18] *Rollo,* pp. 32-33.

Supreme Court E-Library

coming from his sister. Lucena Bacalso, from Jolo, Sulu. Timoteo Bacalso asked for two weeks within which to produce the said money. However, no such money came. To the shock and surprise of him and his sisters, a complaint was filed in Court against them in Civil Case No. CEB-6693 by [Timoteo], together with nine others, when Lucena Bacalso arrived from Jolo, Sulu, wherein they claimed as theirs Lot 1809-G. Instead of being paid, he and his sisters were sued in Court. From then on, [Timoteo] never cared anymore to pay for Lot 1809-G-2-C. He and his sisters just went through the titling of Lots 1809-G-A, 1809-G-2-B, Lot 1809-G-2-C and 1809-G-2-D on their own.

On his part, [Timoteo] himself acted in such a manner as to confirm that he did not anymore give significance or importance to the Deed of Sale of Lot 1809-G-2-C which, in turn, creates an impression or conclusion that he did not pay for the consideration or price thereof. Upon being cross-examined in Court on his testimony, he made the following significant admissions and statements:

1. That he did not let [Julian] sign a receipt for the sum of ₱8,000.00 purportedly given by him to the latter as payment for the land in question;

2. That the alleged payment of the said sum of ₱8,000.00 was made not in the presence of the notary public who notarized the document but in a place near Sto. Nino Church in Cebu City;

3. That it was only [Julian] who appeared before the notary public, but he had no special power of attorney from his two sisters;

4. That the Deed of Sale of Lot 1809-G-2-C was already in his possession before Civil Case No. CEB-6693 was filed in court;

5. That he did not however show the said Deed of Sale to his lawyer who filed for the plaintiffs the complaint in Civil Case No. CEB 6693, as in fact he suppressed the said document from others;

6. That he did not bother to cause the segregation of Lot 1809-G-2-C from the rest of the lots even after he had already bought it already;

7. That it was only after he lost in Civil Case No. CEB-6693 that he decided to file the present case;

8. That he did not apply for building permits for the three houses that he purportedly caused to be built on the land in question;

Supreme Court E-Library

9. That he did not also declare for taxation purposes the said alleged houses;

10. That he did not declare either for taxation purposes the land in question in his name or he had not paid taxes therefore; and

11. That he did not bother to register with the Registry of Deeds for the Province of Cebu the Deed of Sale of the lot.

To the mind of the Court, [Timoteo] desisted from paying to [the Bacus siblings] the price for Lot 1809-G-2-C when he, together with nine others, filed in Court the complaint in Civil Case No. CEB-6693. He found it convenient to just acquire the said land as supposed co-owners of Lot 1809-G of which the land in question is merely a part of. x x x.

x x x x x x x x x

Thus, it is evident from all the foregoing circumstances that there was a failure to or want of consideration of the supposed sale of the land in question to the [petitioners] on October 15, 1987. So, the said sale could not be given effect. Article 1352 of the New Civil Code of the Philippines is explicit in providing that 'contracts without cause produce no effect whatsoever.' lf there is no cause, the contract is void. x x x There being no price paid, there is no cause or consideration; hence, the contract is void as a sale. x x x Consequently, in the case at bench, the plaintiffs have not become absolute owners of Lot 1809-G-2-C of Psd-07-022093 by virtue of the Deed of Sale thereof which was executed on October l5, 1987 by the [Bacus siblings] in their favor.[19] (Citations omitted)

It is clear from the factual findings of the RTC that the Deed of Absolute Sale entirely lacked consideration and, consequently, void and without effect. No portion of the ₱8,000.00 consideration indicated in the Deed of Absolute Sale was ever paid by the petitioners.

The Court also finds no compelling reason to depart from the court *a quo*'s finding that the Deed of Absolute Sale executed on October 15, 1987 is null and void *ab initio* for lack of consideration, thus:

---

[19] *Id*. at 33-37.

Supreme Court E-Library

It must be stressed that the present case is not merely a case of failure to pay the purchase price, as [the petitioners] claim, which can only amount to a breach of obligation with rescission as the proper remedy. What we have here is a purported contract that lacks a cause — one of the three essential requisites of a valid contract. Failure to pay the consideration is different from lack of consideration. The former results in a right to demand the fulfillment or cancellation of the obligation under an existing valid contract while the latter prevents the existence or a valid contract. Consequently, we rule that the October 15, 1987 Deed of Sale is null and void *ab initio* for lack of consideration.[20] (Citation omitted)

Well-settled is the rule that where there is no consideration, the sale is null and void *ab initio*. In *Sps. Lequin v. Sps. Vizconde,*[21] the Court ruled that:

There can be no doubt that the contract of sale or *Kasulatan* lacked the essential element of consideration. It is a well-entrenched rule that where the deed of sale states that the purchase price has been paid but in fact has never been paid, the deed of sale is null and void *ab initio* for lack of consideration.[22] (Citation omitted)

WHEREFORE, petition is **DENIED** and the Decision dated December 14, 2005 of the Court of Appeals in CA-G.R. CV No. 67516 is **AFFIRMED.**

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Villarama, Jr., and *Jardeleza, JJ.,* concur.

---

[20] *Id*. at 38-39.

[21] 618 Phil. 409 (2009).

[22] *Id*. at 426.