



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

BOBBY TAN,

G.R. No. 171904

Petitioner,

- versus -

GRACE ANDRADE, PROCESO  
ANDRADE, JR., CHARITY A.  
SANTIAGO, HENRY ANDRADE,  
ANDREW ANDRADE, JASMIN  
BLAZA, GLORY ANDRADE,  
MIRIAM ROSE ANDRADE, AND  
JOSEPH ANDRADE,

Respondents.

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GRACE ANDRADE, CHARITY  
A. SANTIAGO, HENRY  
ANDRADE, ANDREW  
ANDRADE, JASMIN BLAZA,  
MIRIAM ROSE ANDRADE, AND  
JOSEPH ANDRADE,

Petitioners,

- versus -

G.R. No. 172017

Present:

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

BOBBY TAN,

Respondent.

Promulgated:

AUG 07 2013 *HLR Cabalag Perfecto*

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DECISION

PERLAS-BERNABE, J.:

Before the Court are consolidated petitions for review on *certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated July 26, 2005 and Resolution<sup>3</sup> dated March 3,

<sup>1</sup> *Rollo* (G.R. No. 171904), pp. 14-29; *rollo* (G.R. No. 172017), pp. 9-27.

<sup>2</sup> *Rollo* (G.R. No. 171904), pp. 68-78; *rollo* (G.R. No. 172017), pp. 31-41. Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Sesonando E. Villon and Enrico A. Lanzanas, concurring.

<sup>3</sup> *Rollo* (G.R. No. 171904), pp. 130-131; *rollo* (G.R. No. 172017), pp. 40-41. Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Enrico A. Lanzanas and Apolinario D. Bruselas, Jr., concurring.

2006 of the Court of Appeals (CA) in CA-G.R. CV No. 71987 which affirmed with modification the Judgment<sup>4</sup> dated April 6, 2001 of the Regional Trial Court of Cebu City, Branch 19 (RTC) in Civil Case No. CEB 20969.

### The Facts

Rosario Vda. De Andrade (Rosario) was the registered owner of four parcels of land known as Lots 17, 18, 19, and 20<sup>5</sup> situated in Cebu City (subject properties) which she mortgaged to and subsequently foreclosed by one Simon<sup>6</sup> Diu (Simon).<sup>7</sup> When the redemption period was about to expire, Rosario sought the assistance of Bobby Tan (Bobby) who agreed to redeem the subject properties.<sup>8</sup> Thereafter, Rosario sold the same to Bobby and her son, Proceso Andrade, Jr. (Proceso, Jr.), for ₱100,000.00 as evidenced by a Deed of Absolute Sale<sup>9</sup> dated April 29, 1983 (subject deed of sale). On July 26, 1983, Proceso, Jr. executed a Deed of Assignment,<sup>10</sup> ceding unto Bobby his rights and interests over the subject properties in consideration of ₱50,000.00. The Deed of Assignment was signed by, among others, Henry Andrade (Henry), one of Rosario's sons, as instrumental witness. Notwithstanding the aforementioned Deed of Assignment, Bobby extended an Option to Buy<sup>11</sup> the subject properties in favor of Proceso, Jr., giving the latter until 7:00 in the evening of July 31, 1984 to purchase the same for the sum of ₱310,000.00. When Proceso, Jr. failed to do so, Bobby consolidated his ownership over the subject properties, and the TCTs<sup>12</sup> therefor were issued in his name.

On October 7, 1997, Rosario's children, namely, Grace, Proceso, Jr., Henry, Andrew, Glory, Miriam Rose, Joseph (all surnamed Andrade), Jasmin Blaza, and Charity A. Santiago (Andrades), filed a complaint<sup>13</sup> for reconveyance and annulment of deeds of conveyance and damages against Bobby before the RTC, docketed as Civil Case No. CEB 20969. In their complaint, they alleged that the transaction between Rosario and Bobby (subject transaction) was not one of sale but was actually an equitable mortgage which was entered into to secure Rosario's indebtedness with Bobby. They also claimed that since the subject properties were inherited by them from their father, Proceso Andrade, Sr. (Proceso, Sr.), the subject properties were conjugal in nature, and thus, Rosario had no right to dispose

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<sup>4</sup> *Rollo* (G.R. No. 171904), pp. 59-63; *rollo* (G.R. No. 172017), pp. 59-63. Penned by Judge Ramon G. Codilla, Jr.

<sup>5</sup> Records, pp. 83-98. Covered by Transfer Certificate of Title (TCT) Nos. 75756, 75755, 75758, and 75757, respectively.

<sup>6</sup> "Simeon" in the CA Decision.

<sup>7</sup> *Rollo* (G.R. No. 171904), p. 60; *rollo* (G.R. No. 172017), p. 60.

<sup>8</sup> *Rollo* (G.R. No. 171904), pp. 69-70; *rollo* (G.R. No. 172017), pp. 32-33.

<sup>9</sup> *Rollo* (G.R. No. 172017), pp. 64-67.

<sup>10</sup> *Id.* at 68-71.

<sup>11</sup> *Id.* at 72-75. The Option to Buy was also signed by, among others, Henry, as instrumental witness.

<sup>12</sup> *Rollo* (G.R. No. 171904), pp. 41-48. TCT Nos. 88408, 88409, 88410, and 88411.

<sup>13</sup> *Rollo* (G.R. No. 171904), pp. 30-40; *rollo* (G.R. No. 172017) pp. 42-52.

of their respective shares therein. In this light, they argued that they remained as co-owners of the subject properties together with Bobby, despite the issuance of the TCTs in his name.

In his defense, Bobby contended that the subject properties were solely owned by Rosario per the TCTs issued in her name<sup>14</sup> and that he had validly acquired the same upon Proceso, Jr.'s failure to exercise his option to buy back the subject properties.<sup>15</sup> He also interposed the defenses of prescription and *laches* against the Andrades.<sup>16</sup>

### **The RTC Ruling**

On April 6, 2001, the RTC rendered a Judgment<sup>17</sup> dismissing the Andrades' complaint.

It ruled that the subject transaction was a *bona fide* sale and not an equitable mortgage as can be gleaned from its terms and conditions, noting further that the subject deed of sale was not even questioned by the Andrades at the time of its execution. As Proceso, Jr. failed to exercise his option to buy back the subject properties, the titles thereto were validly consolidated in Bobby's favor, resulting to the issuance of TCTs in his name which are deemed to be conclusive proof of his ownership thereto.<sup>18</sup> As regards the nature of the subject properties, the RTC found that they "appeared to be the exclusive properties of Rosario."<sup>19</sup> Finally, it found that the Andrades' claim over the subject properties had already prescribed and that *laches* had already set in.<sup>20</sup>

Dissatisfied, the Andrades elevated the matter on appeal.

### **The CA Ruling**

On July 26, 2005, the CA rendered the assailed Decision<sup>21</sup> upholding in part the RTC's ruling.

It found that the subject deed of sale was indeed what it purports to be, *i.e.*, a *bona fide* contract of sale. In this accord, it denied the Andrades' claim

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<sup>14</sup> *Rollo* (G.R. No. 171904), p. 52; *rollo* (G.R. No. 172017) p. 53.

<sup>15</sup> *Rollo* (G.R. No. 171904), pp. 54-55; *rollo* (G.R. No. 172017) pp. 55-56.

<sup>16</sup> *Rollo* (G.R. No. 171904), p. 55; *rollo* (G.R. No. 172017) p. 56.

<sup>17</sup> *Rollo* (G.R. No. 171904), pp. 59-63; *rollo* (G.R. No. 172017) pp. 59-63.

<sup>18</sup> *Rollo* (G.R. No. 171904), pp. 62-63; *rollo* (G.R. No. 172017) pp. 62-63.

<sup>19</sup> *Rollo* (G.R. No. 171904), p. 60; *rollo* (G.R. No. 172017) p. 60.

<sup>20</sup> *Rollo* (G.R. No. 171904), p. 63; *rollo* (G.R. No. 172017) p. 63.

<sup>21</sup> *Rollo* (G.R. No. 171904), pp. 68-78; *rollo* (G.R. No. 172017) pp. 31-41.

that the subject transaction was an equitable mortgage since their allegation that the purchase price was unusually low was left unsupported by any evidence. Also, their averment that they have been in continuous possession of the subject properties was belied by the testimony of Andrew Andrade (Andrew) who stated that Bobby was already in possession of the same.<sup>22</sup>

Nevertheless, the CA ruled that the subject properties belong to the conjugal partnership of Rosario and her late husband, Proceso, Sr., and thus, she co-owned the same together with her children, the Andrades.<sup>23</sup> In this respect, the sale was valid only with respect to Rosario's pro-indiviso share in the subject properties and it cannot prejudice the share of the Andrades since they did not consent to the sale.<sup>24</sup> In effect, a resulting trust was created between Bobby and the Andrades<sup>25</sup> and, as such, prescription and/or *laches* has yet to set in so as to bar them from instituting the instant case.<sup>26</sup> Accordingly, the CA ordered Bobby to reconvey to the Andrades their share in the subject properties.<sup>27</sup>

In view of the CA's pronouncement, the parties filed their respective motions for reconsideration. For the Andrades' part, they sought the reconsideration of the CA's finding as to its characterization of the subject transaction as one of sale, insisting that it is actually an equitable mortgage.<sup>28</sup> As for Bobby's part, he maintained that the sale should have covered the entirety of the subject properties and not only Rosario's pro-indiviso share.<sup>29</sup> Both motions for reconsideration were, however, denied by the CA in a Resolution<sup>30</sup> dated March 3, 2006.

Hence, the present consolidated petitions.

### Issues Before the Court

The present controversy revolves around the CA's characterization of the subject properties as well as of the subject transaction between Rosario and Bobby.

In G.R. No. 172017, the Andrades submit that the CA erred in ruling that the subject transaction is in the nature of a sale, while in G.R. No. 171904, Bobby contends that the CA erred in ruling that the subject properties are conjugal in nature.

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<sup>22</sup> *Rollo* (G.R. No. 171904), pp. 71-74; *rollo* (G.R. No. 172017) pp. 34-37.

<sup>23</sup> *Rollo* (G.R. No. 171904), p. 74; *rollo* (G.R. No. 172017) p. 37.

<sup>24</sup> *Rollo* (G.R. No. 171904), p. 75; *rollo* (G.R. No. 172017) p. 38.

<sup>25</sup> *Rollo* (G.R. No. 171904), p. 76; *rollo* (G.R. No. 172017) p. 39.

<sup>26</sup> *Rollo* (G.R. No. 171904), pp. 76-77; *rollo* (G.R. No. 172017) pp. 39-40.

<sup>27</sup> *Rollo* (G.R. No. 171904), p. 78; *rollo* (G.R. No. 172017) p. 41.

<sup>28</sup> *Rollo* (G.R. No. 171904), pp. 91-104.

<sup>29</sup> *Id.* at 79-90.

<sup>30</sup> *Rollo* (G.R. No. 171904), pp. 130-131; *rollo* (G.R. No. 172017) pp. 41a-41b.

## The Court's Ruling

### A. *Characterization of the subject transaction.*

Settled is the rule that when the trial court's factual findings have been affirmed by the CA, said findings are generally conclusive and binding upon the Court, and may no longer be reviewed on Rule 45 petitions.<sup>31</sup> While there exists exceptions to this rule – such as when the CA's and RTC's findings are in conflict with each other<sup>32</sup> – the Court observes that none applies with respect to the ruling that the subject transaction was one of sale and not an equitable mortgage. Records readily reveal that both the RTC and the CA observed that there is no clear and convincing evidence to show that the parties agreed upon a mortgage. Hence, absent any glaring error therein or any other compelling reason to hold otherwise, this finding should now be deemed as conclusive and perforce must stand. As echoed in the case of *Ampo v. CA*:<sup>33</sup>

x x x Factual findings of the Court of Appeals are conclusive on the parties and not reviewable by this Court – and they carry even more weight when the Court of Appeals affirms the factual findings of the trial court, and in the absence of any showing that the findings complained of are totally devoid of support in the evidence on record, or that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand.<sup>34</sup>

Consequently, the Andrades' petition in **G.R. No. 172017** must therefore be denied.

### B. *Characterization of the subject properties.*

With respect to the nature of the subject properties, the courts *a quo* were at variance such that the RTC, on the one hand, ruled that the said properties were exclusive properties of Rosario,<sup>35</sup> while the CA, on the other hand, pronounced that they are conjugal in nature.<sup>36</sup> In this regard, the consequent course of action would be for the Court to conduct a re-examination of the evidence if only to determine which among the two is correct,<sup>37</sup> as an exception to the proscription in Rule 45 petitions.

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<sup>31</sup> *Medalla v. Laxa*, G.R. No. 193362, January 18, 2012, 663 SCRA 461, 465.

<sup>32</sup> See *E.Y. Industrial Sales, Inc. v. Shen Dar Electricity and Machinery Co., Ltd.*, G.R. No. 184850, October 20, 2010, 634 SCRA 363, 374-375.

<sup>33</sup> G.R. No. 169091, February 16, 2006, 482 SCRA 563.

<sup>34</sup> *Id.* at 570.

<sup>35</sup> *Rollo* (G.R. No. 171904), p. 60; *rollo* (G.R. No. 172017), p. 60.

<sup>36</sup> *Rollo* (G.R. No. 171904), p. 74; *rollo* (G.R. No. 172017), p. 37.

<sup>37</sup> “It is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the

Pertinent to the resolution of this second issue is Article 160 of the Civil Code<sup>38</sup> which states that “[a]ll property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife.” For this presumption to apply, the party invoking the same must, however, preliminarily prove that the property was indeed acquired during the marriage. As held in *Go v. Yamane*:<sup>39</sup>

x x x As a *condition sine qua non* for the operation of [Article 160] in favor of the conjugal partnership, the party who invokes the presumption must first prove that the property was acquired during the marriage.

In other words, the presumption in favor of conjugality does not operate if there is no showing of *when* the property alleged to be conjugal was acquired. Moreover, the presumption may be rebutted only with strong, clear, categorical and convincing evidence. There must be strict proof of the exclusive ownership of one of the spouses, and the burden of proof rests upon the party asserting it.<sup>40</sup> (Citations omitted)

Corollarily, as decreed in *Valdez v. CA*,<sup>41</sup> the presumption under Article 160 cannot be made to apply where there is no showing as to when the property alleged to be conjugal was acquired:

x x x The issuance of the title in the name solely of one spouse is not determinative of the conjugal nature of the property, since there is no showing that it was acquired during the marriage of the Spouses Carlos Valdez, Sr. and Josefina L. Valdez. The presumption under Article 160 of the New Civil Code, that property acquired during marriage is conjugal, does not apply where there is no showing as to when the property alleged to be conjugal was acquired. The presumption cannot prevail when the title is in the name of only one spouse and the rights of innocent third parties are involved. Moreover, when the property is registered in the name of only one spouse and there is no showing as to when the property was acquired by same spouse, this is an indication that the property belongs exclusively to the said spouse.

In this case, there is no evidence to indicate when the property was acquired by petitioner Josefina. Thus, we agree with petitioner Josefina’s declaration in the deed of absolute sale she executed in favor of the respondent that she was the absolute and sole owner of the property. x x x.<sup>42</sup>

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contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: x x x (5) when the findings of facts are conflicting; x x x (7) when the findings are contrary to the trial court; x x x.” (*Insular Life Assurance Company, Ltd. v. CA*, G.R. No. 126850, April 28, 2004, 428 SCRA 79, 85-86.)

<sup>38</sup> This is the law which applies to the present case since the incidents in this case disclose that the marriage between Rosario and Proceso, Sr. was entered into before the effectivity of Executive Order No. 209, otherwise known as the “Family Code of the Philippines.”

<sup>39</sup> G.R. No. 160762, May 3, 2006, 489 SCRA 107.

<sup>40</sup> Id. at 116-117.

<sup>41</sup> G.R. No. 140715, September 24, 2004, 439 SCRA 55.

<sup>42</sup> Id. at 71.

In this case, records reveal that the conjugal partnership of Rosario and her husband was terminated upon the latter's death on August 7, 1978<sup>43</sup> while the transfer certificates of title over the subject properties were issued on September 28, 1979 and solely in the name of "Rosario Vda. de Andrade, of legal age, widow, Filipino."<sup>44</sup> Other than their bare allegation, no evidence was adduced by the Andrades to establish that the subject properties were procured during the coverture of their parents or that the same were bought with conjugal funds. Moreover, Rosario's declaration that she is the absolute owner of the disputed parcels of land in the subject deed of sale<sup>45</sup> was not disputed by her son Proceso, Jr., who was a party to the same. Hence, by virtue of these incidents, the Court upholds the RTC's finding<sup>46</sup> that the subject properties were exclusive or sole properties of Rosario.

Besides, the Court observes that *laches* had already set in, thereby precluding the Andrades from pursuing their claim. Case law defines *laches* as the "failure to assert a right for an unreasonable and unexplained length of time, warranting a presumption that the party entitled to assert it has either abandoned or declined to assert it."<sup>47</sup>

Records disclose that the Andrades took 14 years before filing their complaint for reconveyance in 1997. The argument that they did not know about the subject transaction is clearly belied by the facts on record. It is undisputed that Proceso, Jr. was a co-vendee in the subject deed of sale,<sup>48</sup> while Henry was an instrumental witness to the Deed of Assignment<sup>49</sup> and Option to Buy<sup>50</sup> both dated July 26, 1983. Likewise, Rosario's sons, Proceso, Jr. and Andrew, did not question the execution of the subject deed of sale made by their mother to Bobby.<sup>51</sup> These incidents can but only lead to the conclusion that they were well-aware of the subject transaction and yet only pursued their claim 14 years after the sale was executed.

Due to the above-stated reasons, Bobby's petition in **G.R. No. 171904** is hereby granted.

**WHEREFORE**, the Court hereby (a) **GRANTS** the petition of Bobby Tan in G.R. No. 171904; and (b) **DENIES** the petition of Grace Andrade, Charity A. Santiago, Henry Andrade, Andrew Andrade, Jasmin Blaza, Miriam Rose Andrade, and Joseph Andrade in G.R. No. 172017. Accordingly, the Decision dated July 26, 2005 and Resolution dated March 3, 2006 of the Court of Appeals in CA-G.R. CV No. 71987 are hereby

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<sup>43</sup> TSN, February 1, 2000, p. 7.

<sup>44</sup> Records, pp. 83, 87, 91 and 95.

<sup>45</sup> *Rollo* (G.R. No. 172017), pp. 64-67.

<sup>46</sup> *Rollo* (G.R. No. 171904), p. 60; *rollo* (G.R. No. 172017) p. 60.

<sup>47</sup> *Vda. de Rigonan v. Derecho*, G.R. No. 159571, July 15, 2005, 463 SCRA 627, 648.

<sup>48</sup> *Rollo* (G.R. No. 172017), p. 66.


<sup>49</sup> *Id.* at 70.

<sup>50</sup> *Id.* at 74.

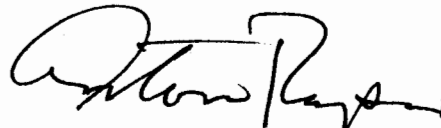
<sup>51</sup> *Rollo* (G.R. No. 171904), p. 62; *rollo* (G.R. No. 172017) p. 62.

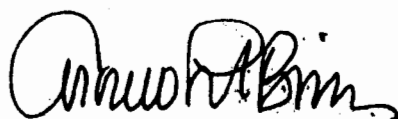
**REVERSED** and **SET ASIDE**, and the April 6, 2001 Decision of the Regional Trial Court of Cebu City, Branch 19 in Civil Case No. CEB 20969 is **REINSTATED**.


**SO ORDERED.**


  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson


  
**ARTURO D. BRION**  
Associate Justice

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice


### **ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

### **CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice