



Republic of the Philippines  
**Supreme Court**  
**Manila**

**SECOND DIVISION**

**TOMAS P. TAN, JR.,**

Petitioner,

**G.R. No. 190846**

Present:

CARPIO, *J.*, Chairperson,  
 BRION,  
 DEL CASTILLO,  
 MENDOZA, and  
 LEONEN, \* *JJ.*

- versus -

**JOSE G. HOSANA,**

Respondent.

Promulgated:

**03 FEB 2016**

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**DECISION**

**BRION, J.:**

Before us is a petition for review on *certiorari*<sup>1</sup> challenging the August 28, 2009 decision<sup>2</sup> and November 17, 2009 resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 88645.

**The Facts**

The respondent Jose G. Hosana (*Jose*) married Milagros C. Hosana (*Milagros*) on January 14, 1979.<sup>4</sup> During their marriage, Jose and Milagros bought a house and lot located at Tinago, Naga City, which lot was covered by Transfer Certificate of Title (*TCT*) No. 21229.<sup>5</sup>

\* On Leave.

<sup>1</sup> *Rollo*, pp. 4-20.

<sup>2</sup> *Id.* at 26-36. Penned by CA Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Bienvenido L. Reyes (now with the Supreme Court) and Antonio L. Villamor

<sup>3</sup> *Id.* at 46-47.

<sup>4</sup> *Id.* at 27.

<sup>5</sup> *Id.*

On January 13, 1998, Milagros sold to the petitioner Tomas P. Tan, Jr. (*Tomas*) the subject property, as evidenced by a deed of sale executed by Milagros herself and as attorney-in-fact of Jose, by virtue of a Special Power of Attorney (*SPA*) executed by Jose in her favor.<sup>6</sup> The Deed of Sale stated that the purchase price for the lot was ₱200,000.00.<sup>7</sup> After the sale, TCT No. 21229 was cancelled and TCT No. 32568 was issued in the name of Tomas.<sup>8</sup>

On October 19, 2001, Jose filed a *Complaint for Annulment of Sale/Cancellation of Title/Reconveyance and Damages* against Milagros, Tomas, and the Register of Deeds of Naga City.<sup>9</sup> The complaint was filed before the Regional Trial Court (*RTC*), Branch 62, Naga City. In the complaint, Jose averred that while he was working in Japan, Milagros, without his consent and knowledge, conspired with Tomas to execute the SPA by forging Jose's signature making it appear that Jose had authorized Milagros to sell the subject property to Tomas.<sup>10</sup>

In his *Answer*, Tomas maintained that he was a buyer in good faith and for value.<sup>11</sup> Before he paid the full consideration of the sale, Tomas claimed he sought advice from his lawyer-friend who told him that the title of the subject lot was authentic and in order.<sup>12</sup> Furthermore, he alleged that the SPA authorizing Milagros to sell the property was annotated at the back of the title.<sup>13</sup>

Tomas filed a cross-claim against Milagros and claimed compensatory and moral damages, attorney's fees, and expenses for litigation, in the event that judgment be rendered in favor of Jose.<sup>14</sup>

The RTC declared Milagros in default for her failure to file her answer to Jose's complaint and Tomas' cross-claim.<sup>15</sup> On the other hand, it dismissed Tomas' complaint against the Register of Deeds since it was only a nominal party.<sup>16</sup>

After the pre-trial conference, trial on the merits ensued.<sup>17</sup>

Jose presented his brother, Bonifacio Hosana (*Bonifacio*), as sole witness. Bonifacio testified that he learned of the sale of the subject property from Milagros' son.<sup>18</sup> When Bonifacio confronted Milagros that Jose would

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 29.

<sup>8</sup> *Id.* at 27.

<sup>9</sup> *Id.* at 27-28. Docketed as Civil Case No. 2001-0341.

<sup>10</sup> *Id.* at 28.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 21.

get angry because of the sale, Milagros retorted that she sold the property because she needed the money. Bonifacio immediately informed Jose, who was then in Japan, of the sale.<sup>19</sup>

Jose was furious when he learned of the sale and went back to the Philippines. Jose and Bonifacio verified with the Register of Deeds and discovered that the title covering the disputed property had been transferred to Tomas.<sup>20</sup>

Bonifacio further testified that Jose's signature in the SPA was forged.<sup>21</sup> Bonifacio presented documents containing the signature of Jose for comparison: Philippine passport, complaint-affidavit, duplicate original of SPA dated 16 February 2002, notice of *lis pendens*, community tax certificate, voter's affidavit, specimen signatures, and a handwritten letter.<sup>22</sup>

On the other hand, Tomas submitted his own account of events as corroborated by Rosana Robles (*Rosana*), his goddaughter. Sometime in December 1997, Tomas directed Rosana to go to the house of Milagros to confirm if Jose knew about the sale transaction. Through a phone call by Milagros to Jose, Rosana was able to talk to Jose who confirmed that he was aware of the sale and had given his wife authority to proceed with the sale. Rosana informed Tomas of Jose's confirmation.<sup>23</sup>

With the assurance that all the documents were in order, Tomas made a partial payment of ₱350,000.00 and another ₱350,000.00 upon the execution of the *Deed of Absolute Sale* (Deed of Sale). Tomas noticed that the consideration written by Milagros on the Deed of Sale was only ₱200,000.00; he inquired why the written consideration was lower than the actual consideration paid. Milagros explained that it was done to save on taxes. Tomas also learned from Milagros that she needed money badly and had to sell the house because Jose had stopped sending her money.<sup>24</sup>

### **The RTC Ruling**

In its decision dated December 27, 2006,<sup>25</sup> the RTC decided in favor of Jose and nullified the sale of the subject property to Tomas. The RTC held that the SPA dated June 10, 1996, wherein Jose supposedly appointed Milagros as his attorney-in-fact, was actually null and void.

Tomas and Milagros were ordered to jointly and severally indemnify Jose the amount of ₱20,000.00 as temperate damages.<sup>26</sup>

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<sup>19</sup> *Id.* at 28-29.

<sup>20</sup> *Id.* at 29.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 22.

<sup>23</sup> *Id.* at 29.

<sup>24</sup> *Id.* at 29-30.

<sup>25</sup> *Id.* at 21-24.

<sup>26</sup> *Id.* at 24.

### The CA Ruling

Tomas appealed the RTC's ruling to the CA.

In a decision dated August 28, 2009,<sup>27</sup> the CA affirmed the RTC ruling that the deed of sale and the SPA were void. However, the CA modified the judgment of the RTC: *first*, by deleting the award of temperate damages; and *second*, by directing Jose and Milagros to reimburse Tomas the purchase price of ₱200,000.00, with interest, under the principle of unjust enrichment. Despite Tomas' allegation that he paid ₱700,000.00 for the subject lot, the CA found that there was no convincing evidence that established this claim.<sup>28</sup>

Tomas filed a motion for the reconsideration of the CA decision on the ground that the amount of ₱200,000.00 as reimbursement for the purchase price of the house and lot was insufficient and not supported by the evidence formally offered before and admitted by the RTC. Tomas contended that the actual amount he paid as consideration for the sale was ₱700,000.00, as supported by his testimony before the RTC.<sup>29</sup>

The CA denied the motion for reconsideration for lack of merit" in a resolution dated November 17, 2009.<sup>30</sup>

### The Petition

Tomas filed the present petition for review on *certiorari* to challenge the CA ruling which ordered the reimbursement of ₱200,000.00 only, instead of the actual purchase price he paid in the amount of ₱700,000.00.<sup>31</sup>

Tomas argues that, *first*, all matters contained in the deed of sale, including the consideration stated, cannot be used as evidence since it was declared null and void; *second*, the deed of sale was not specifically offered to prove the actual consideration of the sale;<sup>32</sup> *third*, his testimony establishing the actual purchase price of ₱700,000.00 paid was uncontroverted;<sup>33</sup> and, *fourth*, Jose must return the full amount actually paid under the principle of *solutio indebiti*.<sup>34</sup>

Jose, on the other hand, argues that *first*, Jose is estopped from questioning the purchase price indicated in the deed of dale for failing to immediately raise this question; and *second*, the terms of an agreement

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<sup>27</sup> *Id.* at 26-36.

<sup>28</sup> *Id.* at 35.

<sup>29</sup> *Id.* at 37-44.

<sup>30</sup> *Id.* at 46-47.

<sup>31</sup> *Id.* at 9.

<sup>32</sup> *Id.* at 11.

<sup>33</sup> *Id.* at 13-15.

<sup>34</sup> *Id.* at 15-17.

reduced into writing are deemed to include all the terms agreed upon and no other evidence can be admitted other than the terms of the agreement itself.<sup>35</sup>

### The Issues

The core issues are (1) whether the deed of sale can be used as the basis for the amount of consideration paid; and (2) whether the testimony of Tomas is sufficient to establish the actual purchase price of the sale.

### OUR RULING

*We affirm the CA ruling and deny the petition.*

Whether Tomas paid the purchase price of ₱700,000.00 is a question of fact not proper in a petition for review on *certiorari*. Appreciation of evidence and inquiry on the correctness of the appellate court's factual findings are not the functions of this Court, as we are not a trier of facts.<sup>36</sup>

This Court does not address questions of fact which require us to rule on “the truth or falsehood of alleged facts,”<sup>37</sup> except in the following cases:

(1) when the findings are grounded entirely on speculations, 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 misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and 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.<sup>38</sup>

The present case does not fall under any of these exceptions.

Whether Tomas sufficiently proved that he paid ₱700,000.00 for the subject property is a factual question that the CA had already resolved in the negative.<sup>39</sup> The CA found Tomas’ claim of paying ₱700,000.00 for the subject property to be unsubstantiated as he failed to tender any convincing evidence to establish his claim.

We uphold the CA’s finding.

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<sup>35</sup> *Id.* at 105-109.

<sup>36</sup> *Bognot v. RRI Lending Corporation*, G.R. No. 180144, September 24, 2014, 736 SCRA 357, 366.

<sup>37</sup> *First Dominion Resources Corporation v. Peñaranda*, G.R. No. 166616, January 27, 2006, 480 SCRA 504.

<sup>38</sup> *New City Builders, Inc. v. National Labor Relations Commission*, G.R. No. 149281, June 15, 2005, 460 SCRA 220, 221, 227.

<sup>39</sup> *Rollo*, p. 35.

In civil cases, the basic rule is that the party making allegations has the burden of proving them by a preponderance of evidence.<sup>40</sup> Moreover, the parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent.<sup>41</sup>

Preponderance of evidence is the **weight, credit, and value** of the aggregate evidence on either side and is usually considered to be synonymous with the term “greater weight of the evidence” or “greater weight of the credible evidence.”<sup>42</sup> Preponderance of evidence is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as it is worthier of belief than that which is offered in opposition thereto.<sup>43</sup>

We agree with the CA that Tomas’ bare allegation that he paid Milagros the sum of ₱700,000.00 cannot be considered as proof of payment, without any other convincing evidence to establish this claim. Tomas’ bare allegation, while uncontroverted, does not automatically entitle it to be given weight and credence.

It is settled in jurisprudence that one who pleads payment has the burden of proving it;<sup>44</sup> the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment.<sup>45</sup> A mere allegation is not evidence,<sup>46</sup> and the person who alleges has the burden of proving his or her allegation with the requisite quantum of evidence, which in civil cases is preponderance of evidence.

***The force and effect of a void contract is distinguished from its admissibility as evidence.***

The next question to be resolved is whether the CA correctly ordered the reimbursement of ₱200,000.00, which is the consideration stated in the Deed of Sale, based on the principle of unjust enrichment.

The petitioner argues that the CA erred in relying on the consideration stated in the deed of sale as basis for the reimbursable amount because a null and void document cannot be used as evidence.

We find no merit in the petitioner’s argument.

A void or inexistent contract has no force and effect from the very beginning.<sup>47</sup> This rule applies to contracts that are declared void by positive

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<sup>40</sup> *Ramos v. Obispo*, G.R. No. 193804, February 27, 2013, 692 SCRA 240, 248.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.* at 249.

<sup>43</sup> *Id.*

<sup>44</sup> *Supra* note 36, at 367.

<sup>45</sup> *Id.*

<sup>46</sup> *Supra* note 40, at 249.

<sup>47</sup> *Fuentes v. Roca*, G.R. No. 178902, April 21, 2010, 618 SCRA 702, 711.

provision of law, as in the case of a sale of conjugal property without the other spouse's written consent.<sup>48</sup> A void contract is equivalent to nothing and is absolutely wanting in civil effects.<sup>49</sup> It cannot be validated either by ratification or prescription.<sup>50</sup> When, however, any of the terms of a void contract have been performed, an action to declare its inexistence is necessary to allow restitution of what has been given under it.<sup>51</sup>

It is basic that if a void contract has already "been performed, the restoration of what has been given is in order."<sup>52</sup> This principle springs from Article 22 of the New Civil Code which states that "every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same." Hence, the restitution of what each party has given is a consequence of a void and inexistent contract.

While the terms and provisions of a void contract cannot be enforced since it is deemed inexistent, it does not preclude the admissibility of the contract as evidence to prove matters that occurred in the course of executing the contract, *i.e.*, what each party has given in the execution of the contract.

Evidence is the *means* of ascertaining in a judicial proceeding *the truth respecting a matter of fact*, sanctioned by the Rules of Court.<sup>53</sup> The purpose of introducing documentary evidence is to ascertain the truthfulness of a matter at issue, which can be the entire content or a specific provision/term in the document.

The deed of sale as documentary evidence may be used as a means to ascertain the truthfulness of the consideration stated and its actual payment. The purpose of introducing the deed of sale as evidence is not to enforce the terms written in the contract, which is an obligatory force and effect of a valid contract. The deed of sale, rather, is used as a means to determine matters that occurred in the execution of such contract, *i.e.*, the determination of what each party has given under the void contract to allow restitution and prevent unjust enrichment.

Evidence is admissible when it is relevant to the issue and is **not excluded** by the law of these rules.<sup>54</sup> There is no provision in the Rules of Evidence which excludes the admissibility of a void document. The Rules only require that the evidence is relevant and not excluded by the Rules for its admissibility.<sup>55</sup>

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<sup>48</sup> *Id.*

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

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

<sup>51</sup> *Id.* at 712.

<sup>52</sup> *Nool v. Court of Appeals*, 342 Phil. 106, 110 (1997).

<sup>53</sup> Section 1, Rule 128 of the Rules of Court.

<sup>54</sup> Section 3 of Rule 128.

<sup>55</sup> *Id.*

Hence, a void document is admissible as evidence because the purpose of introducing it as evidence is to ascertain the truth respecting a matter of fact, not to enforce the terms of the document itself.

It is also settled in jurisprudence that with respect to evidence which appears to be of *doubtful* relevancy, incompetency, or admissibility, the safer policy is to be liberal and not reject them on doubtful or technical grounds, but admit them unless plainly irrelevant, immaterial, or incompetent; for the reason that their rejection places them beyond the consideration of the court, if they are thereafter found relevant or competent. On the other hand, their admission, if they turn out later to be irrelevant or incompetent, can easily be remedied by completely discarding them or ignoring them.<sup>56</sup>

In the present case, the deed of sale was declared null and void by positive provision of the law prohibiting the sale of conjugal property without the spouse's consent. It does not, however, preclude the possibility that Tomas paid the consideration stated therein. The admission of the deed of sale as evidence is consistent with the liberal policy of the court to admit the evidence which appears to be relevant in resolving an issue before the courts.

***An offer to prove the regular execution of the deed of sale is basis for the court to determine the presence of the essential elements of the sale, including the consideration paid.***

Tomas argues that the Deed of Sale was not specifically offered to prove the actual consideration of the sale and, hence, cannot be considered by the court. Tomas is incorrect.

The deed of sale in the present case was formally offered by both parties as evidence.<sup>57</sup> Tomas, in fact, formally offered it for the purpose of proving its execution and the regularity of the sale.<sup>58</sup>

The offer of the deed of sale to prove its regularity necessarily allowed the lower courts to consider the terms written therein to determine whether all the essential elements<sup>59</sup> for a valid contract of sale are present, including the consideration of the sale. The fact that the sale was declared null and void does not prevent the court from relying on consideration stated

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<sup>56</sup> *Geronimo v. Sps. Calderon*, G.R. No. 201781, December 10, 2014.

<sup>57</sup> *Rollo*, pp. 49, 52.

<sup>58</sup> *Id.* at 52.

<sup>59</sup> Article 1318 in relation to Article 1458 of the Civil Code.

The essential elements of a contract of sale are the following:

- a) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- b) Determinate subject matter; and
- c) Price certain in money or its equivalent.

in the deed of sale to determine the actual amount paid by the petitioner for the purpose of preventing unjust enrichment.

Hence, the specific offer of the Deed of Sale to prove the actual consideration of the sale is not necessary since it is necessarily included in determining the regular execution of the sale.

***The consideration stated in the notarized Deed of Sale is prima facie evidence of the amount paid by the petitioner.***

The notarized deed of sale is a public document and is *prima facie* evidence of the truth of the facts stated therein.<sup>60</sup>

*Prima facie* evidence is defined as evidence good and sufficient on its face. Such evidence as, in the judgment of the law, is sufficient to establish a given fact, or the group or chain of facts constituting the party's claim or defense and which if not rebutted or contradicted, will remain sufficient.<sup>61</sup>

In the present case, the consideration stated in the deed of sale constitutes *prima facie* evidence of the amount paid by Tomas for the transfer of the property to his name. Tomas failed to adduce satisfactory evidence to rebut or contradict the consideration stated as the actual consideration and amount paid to Milagros and Jose.

The deed of sale was declared null and void by a positive provision of law requiring the consent of both spouses for the sale of conjugal property. There is, however, no question on the presence of the consideration of the sale, except with respect to the actual amount paid. While the deed of sale has no force and effect as a contract, it remains *prima facie* evidence of the actual consideration paid.

As earlier discussed, Tomas failed to substantiate his claim that he paid to Milagros the amount of ₱700,000.00, instead of the amount of ₱200,000.00 stated in the deed of sale. No documentary or testimonial evidence to prove payment of the higher amount was presented, apart from Tomas' sole testimony. Tomas' sole testimony of payment is self-serving and insufficient to unequivocally prove that Milagros received ₱700,000.00 for the subject property.

Hence, the consideration stated in the deed of sale remains sufficient evidence of the actual amount the petitioner paid and the same amount which should be returned under the principle of unjust enrichment.

Unjust enrichment exists "when a person unjustly retains a benefit at the loss of another, or when a person retains money or property of another

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<sup>60</sup> *Sps. Santos v. Sps. Lumbao*, G.R. No. 169129, March 28, 2007, 519 SCRA 408, 426.

<sup>61</sup> *Wa-acon v. People*, G.R. No. 164575, December 6, 2006, 510 SCRA 429, 438.

against the fundamental principles of justice, equity, and good conscience.”<sup>62</sup> The prevention of unjust enrichment is a recognized public policy of the State and is based on Article 22 of the Civil Code.<sup>63</sup>

The principle of unjust enrichment requires Jose to return what he or Milagros received under the void contract which presumably benefitted their conjugal partnership.

Accordingly, the CA correctly ordered Jose to return the amount of ₱200,000.00 since this the consideration stated in the Deed of Sale and given credence by the lower court. Indeed, even Jose expressly stated in his comment that Tomas is entitled to recover the money paid by him in the amount of ₱200,000.00 as appearing in the contract.

**WHEREFORE**, we hereby **DENY** the petition for review on *certiorari*. The decision dated August 28, 2009 and the resolution dated November 17, 2009, of the Court of Appeals in CA-G.R. CV No. 88645 is **AFFIRMED**. Costs against the petitioner.

**SO ORDERED.**

  
ARTURO D. BRION  
Associate Justice

**WE CONCUR:**

  
ANTONIO T. CARPIO  
Associate Justice  
Chairperson

  
MARIANO C. DEL CASTILLO  
Associate Justice

  
JOSE CATRAL MENDOZA  
Associate Justice

(On Leave)  
MARVIC M.V.F. LEONEN  
Associate Justice

<sup>62</sup> *Gonzalo v. Tarnate, Jr.*, G.R. No. 160600, January 15, 2014, 713 SCRA 224.

<sup>63</sup> *Id.*

**ATTESTATION**

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



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

**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 case was assigned to the writer of the opinion of the Court's Division.



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