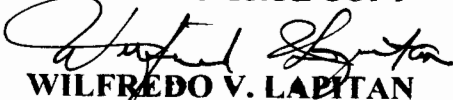




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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

Republic of the Philippines  
 Supreme Court  
 Manila

AUG 08 2017

THIRD DIVISION

**DOLORES ALEJO,**

**G.R. No. 206114**

Petitioner,

Present:

- versus -

VELASCO, JR., J.,  
*Chairperson,*  
 BERSAMIN,  
 REYES,

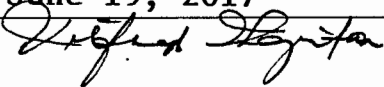
**SPOUSES ERNESTO CORTEZ  
 and PRISCILLA SAN PEDRO,  
 SPOUSES JORGE LEONARDO  
 and JACINTA LEONARDO and  
 THE REGISTER OF DEEDS OF  
 BULACAN,**

JARDELEZA, and  
 TIJAM, JJ.

Respondents.

Promulgated:

June 19, 2017



X-----X

DECISION

**TIJAM, J.:**

Assailed in this Petition for Review<sup>1</sup> under Rule 45 are the Decision<sup>2</sup> dated October 3, 2012 and Resolution<sup>3</sup> dated February 26, 2013 of the Court of Appeals<sup>4</sup> (CA) in CA-G.R. CV No. 95432, which reversed the Decision<sup>5</sup> of the Regional Trial Court (RTC),<sup>6</sup> Branch 19 in the City of Malolos, Bulacan. In its assailed Decision and Resolution, the CA declared void the

<sup>1</sup>Rollo, pp. 8-27, With Annexes.

<sup>2</sup>Id. at 29-40.

<sup>3</sup>Id. at 42.

<sup>4</sup>Penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Rebecca L. De Guia-Salvador and Apolinario D. Bruselas, Jr.

<sup>5</sup>Dated January 14, 2010, entitled "*Dolores Alejo, Plaintiff, versus Sps. Ernesto Cortez, et al.,*" and docketed as Civil Case No. 432-M-2003, penned by Judge Renato C. Francisco.

<sup>6</sup>Third Judicial Region, City of Malolos, Bulacan, Branch 19.



parties' agreement for the sale of a conjugal property for lack of written consent of the husband.

### The Facts and Antecedent Proceedings

At the heart of the instant controversy is a parcel of land measuring 255 square meters located at Cut-cot, Pulilan, Bulacan and covered by Transfer Certificate of Title No. T-118170. The property belonged to the conjugal property/absolute community of property<sup>7</sup> of the respondent Spouses Jorge and Jacinta Leonardo (Spouses Leonardo) and upon which their residential house was built.

It appears that sometime in March 1996, Jorge's father, Ricardo, approached his sister, herein petitioner Dolores Alejo (Dolores), to negotiate the sale of the subject property.<sup>8</sup> Accordingly, on March 29, 1996, Jacinta executed a *Kasunduan* with Dolores for the sale of the property for a purchase price of PhP500,000. Under the *Kasunduan*, Dolores was to pay PhP70,000 as down payment, while PhP230,000 is to be paid on April 30, 1996 and the remaining balance of PhP200,000 was to be paid before the end of the year 1996.<sup>9</sup> The *Kasunduan* was signed by Jacinta and Ricardo as witness. Jorge, however, did not sign the agreement.

It further appears that the down payment of PhP70,000 and the PhP230,000 were paid by Dolores<sup>10</sup> on the dates agreed upon and thereafter, Dolores was allowed to possess the property and introduce improvements thereon.<sup>11</sup>

However, on July 3, 1996, Jorge wrote a letter to Dolores denying knowledge and consent to the *Kasunduan*. Jorge further informed Dolores that Jacinta was retracting her consent to the *Kasunduan* due to Dolores' failure to comply with her obligations.

This was followed by another letter dated September 29, 1996 from Jorge to Dolores demanding that the latter pay the balance of PhP200,000 on or before October 5, 1996, otherwise the purchase price shall be increased to PhP700,000.<sup>12</sup> According to Dolores, she was being compelled by Jorge to sign the agreement but that she refused to do so. As a result, Jorge went to her house, destroyed its water pump and disconnected the electricity. Before the officials of the Barangay, Dolores tendered the balance of PhP200,000 but Jorge refused to accept the same. Instead, Jorge filed cases for

<sup>7</sup>Date of marriage of the Spouses Leonardo was not alleged in the pleadings filed.

<sup>8</sup>Supra note 5, at 45.

<sup>9</sup>Supra note 2, at 31.

<sup>10</sup>Supra note 5, at 46.

<sup>11</sup>Supra note 5, at 43.

<sup>12</sup>Supra note 5, at 46.

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ejectment<sup>13</sup> and annulment of sale, reconveyance and recovery of possession<sup>14</sup> against her.<sup>15</sup> These cases were later on dismissed by the trial court on technical grounds.

However, during the pendency of said cases, the subject property was sold by Jorge and Jacinta to respondents Spouses Ernesto Cortez and Priscilla San Pedro (Spouses Cortez) under a Deed of Absolute Sale dated September 4, 1998 for a purchase price of PhP700,000. A new transfer certificate of title was issued in the latter's names. At the time of said sale, Dolores was in possession of the subject property.<sup>16</sup>

Consequently, Dolores filed the case *a quo* for annulment of deed of sale and damages against the Spouses Cortez and the Spouses Leonardo.

### The Ruling of the RTC

In its Decision, the RTC noted that while the *Kasunduan* patently lacks the written consent of Jorge, the latter's acts reveal that he later on acquiesced and accepted the same. In particular, the RTC observed that Jorge did not seasonably and expressly repudiate the *Kasunduan* but instead demanded from Dolores compliance therewith and that he allowed Dolores to take possession of the property. Further, the RTC noted that the case for annulment of sale, reconveyance and recovery of possession filed by Jorge against Dolores had been dismissed and said dismissal attained finality. As such, *res judicata* set in preventing Jorge from further assailing the *Kasunduan*.<sup>17</sup>

Accordingly, the RTC declared the *Kasunduan* as a perfected contract and Dolores as the rightful owner of the property. It further ordered the cancellation of titles issued in the names of the Spouses Leonardo and the Spouses Cortez and the issuance of a new title in the name of Dolores. Finally, the RTC ordered Dolores to pay the balance of PhP200,000 and the Spouses Leonardo to pay moral damages, attorney's fees, litigation expenses and costs of suit.<sup>18</sup>

In disposal, the RTC pronounced:

**WHEREFORE**, judgment is hereby rendered in favor of plaintiff Dolores Alejo and against defendants [S]pouses Leonardo and Cortez, as follows:

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<sup>13</sup>Docketed as Civil Case No. 645.

<sup>14</sup>Docketed as Civil Case No. 663.

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

<sup>16</sup>*Supra* note 5, at 48.

<sup>17</sup>*Supra* note 5, at 56.

<sup>18</sup>*Supra* note 5, at 60-61.



- 1.) Declaring the “Kasunduan” dated March 29, 1996 a perfected contract, legal, binding and subsisting having been accepted by defendant Jorge Leonardo;
- 2.) Declaring the plaintiff the true, legal and rightful owner of the subject property;
- 3.) Declaring TCT No. 18170 in the names of Spouses Jorge Leonardo, Jacinta Leonardo cancelled and of no legal force and effect;
- 4.) Declaring TCT No. 121491 in the names of Spouses Ernesto Cortez and Priscilla San Pedro null and void and therefore should be ordered cancelled and of no legal force and effect;
- 5.) In lieu thereof, ordering the Register of Deeds of the Province of Bulacan to issue a new title in the name of plaintiff Dolores Alejo;
- 6.) Ordering plaintiff Dolores Alejo to pay defendants Spouses Leonardo the sum of Php200,000.00 to complete her obligation under the “Kasunduan”;
- 7.) Ordering defendants Spouses Leonardo to pay plaintiff the sum of Php100,000.00 as and by way of moral damages;
- 8.) Ordering defendants Spouses Leonardo to pay plaintiff the sum of Php50,000.00, as and by way of attorney’s fees and litigation expenses;
- 9.) Ordering defendants Spouses Leonardo to pay the cost of suit.

The claim of Php500,000.00 actual damages as well as Php100,000.00 as exemplary damages are denied for lack of legal as well as factual basis. All other claims and counterclaim are denied for lack of merit.

SO ORDERED.<sup>19</sup>

The Spouses Leonardo and the Spouses Cortez seasonably appealed.

### **The Ruling of the CA**

The CA granted the appeal.<sup>20</sup> Contrary to the findings of the RTC, the CA held that Jorge, by imposing a new period within which Dolores was to pay the remaining balance and by increasing the purchase price, only qualifiedly accepted the *Kasunduan*. Being a qualified acceptance, the same partakes of a counter-offer and is a rejection of the original offer. Consequently, the CA declared the *Kasunduan* as void absent Jorge’s consent and acceptance. Nevertheless, the CA found Dolores to be a possessor in good faith who is entitled to reimbursement for the useful improvements introduced on the land or to the increase in the value thereof, at the option of the Spouses Leonardo.

The CA accordingly disposed:

**WHEREFORE**, the appeal is hereby **GRANTED**. The assailed 14 January 2010 Decision of the Regional Trial Court, Branch 19 of Malolos City, Bulacan is hereby **REVERSED and SET ASIDE**. The *Kasunduan* dated 29 March 1996 is hereby declared **VOID**. TCT No. 121491 in the names of Spouses Cortez and San Pedro is hereby declared **VALID and**

<sup>19</sup>Id.

<sup>20</sup>Supra note 2.

**SUBSISTING.** Appellants Spouses Leonardo are **ORDERED** to reimburse Dolores Alejo the amount of Php300,000.00 that the latter paid to Jacinta Leonardo, with legal interest until fully paid. Appellants Spouses Leonardo are likewise **ORDERED**, at their option, to indemnify Dolores Alejo with her expenses for introducing useful improvements on the subject land or pay the increase in value which it may have acquired by reason of those improvements, with Alejo entitled to the right of retention of the land until the indemnity is made. Finally, the Regional Trial Court of Malolos City, Bulacan from which this case originated is **DIRECTED** to receive evidence and determine the amount of indemnity to which appellee Dolores Alejo is entitled.

**SO ORDERED.**<sup>21</sup>

Dolores' motion for reconsideration was denied, hence the instant petition.

### **The Issues**

Dolores argues that the Spouses Leonardo's and Spouses Cortez' appeals ought to have been outrightly dismissed for failure to comply with the requirements of Section 13, Rule 44. On the substantive issue, Dolores maintains that the *Kasunduan* is a perfected and binding contract as it was accepted by Jorge through his overt acts. She also argues that the dismissal of Jorge's complaint for annulment of sale constitutes *res judicata* thus preventing Jorge from further questioning the validity of the *Kasunduan*. Finally, she contends that the Spouses Cortez were not buyers in good faith as they knew that the property was being occupied by other persons.

### **The Ruling of this Court**

The petition is denied.

#### *Dismissal of Appeal Lies within the Sound Discretion of the Appellate Court*

Technically, the CA may dismiss the appeal for failure to comply with the requirements under Sec. 13, Rule 44. Thus, Section 1, Rule 50 provides that an appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee upon the ground, among others, of absence of specific assignment of errors in the appellant's brief, or of page references to the record.

Nevertheless, it has been consistently held that such provision confers a power, not a duty, on the appellate court.<sup>22</sup> The dismissal is directory, not

<sup>21</sup>Supra, note 2 at 39-40.

<sup>22</sup>*Philippine National Bank v. Philippine Milling Co., Inc.*, 136 Phil. 212 (1969).

mandatory, and as such, not a ministerial duty of the appellate court.<sup>23</sup> In other words, the CA enjoys ample discretion to dismiss or not to dismiss the appeal. What is more, the exercise of such discretion is presumed to have been sound and regular and it is thus incumbent upon Dolores to offset such presumption. Yet, the records before this Court do not satisfactorily show that the CA has gravely abused its discretion in not dismissing the Spouses Leonardo's and Spouses Cortez' appeals.

On the contrary, We are of the view that the ends of justice will be better served if the instant case is determined on the merits, after full opportunity to ventilate their respective claims and defenses is afforded to all parties. After all, it is far better to decide a case on the merits, as the ultimate end, rather on a technicality.

The key issue in this case is whether the *Kasunduan* for the sale of a conjugal real property between Jacinta and Dolores as a continuing offer has been converted to a perfected and binding contract. For, if Jorge has not accepted or consented to the said sale, the *Kasunduan* is considered void rendering the other issues raised herein merely academic.

*Sale by one Spouse of Conjugal Real Property is Void  
Without the Written Consent of the other Spouse*

Any alienation or encumbrance of conjugal property made during the effectivity of the Family Code is governed by Article 124 thereof which provides:

Article 124. The administration and enjoyment of the conjugal partnership property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

**In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void.** However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors. (Emphasis supplied.)

The law is therefore unequivocal when it states that the disposition of conjugal property of one spouse *sans* the written consent of the other is void. Here, it is an established fact that the *Kasunduan* was entered into solely by

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<sup>23</sup>*Natonton v. Magaway*, G.R. No. 147011, March 31, 2006, 486 SCRA 199.

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Jacinta and signed by her alone. By plain terms of the law therefore, the *Kasunduan* is void.

Nevertheless, We agree with the RTC and the CA when it held that the void *Kasunduan* constitutes a continuing offer from Jacinta and Dolores and that Jorge had the option of either accepting or rejecting the offer before it was withdrawn by either, or both, Jacinta and Dolores.

The point of contention is whether Jorge accepted such continuing offer. If so, then the *Kasunduan* is perfected as a binding contract; otherwise, the *Kasunduan* remains void.

The RTC opined that Jorge's failure to expressly repudiate the *Kasunduan* and his demand that Dolores comply with her undertakings therein show Jorge's acceptance of the sale of the conjugal property. On the other hand, the CA noted that in varying the terms of the *Kasunduan*, *i.e.*, in the time of payment and the purchase price, Jorge is deemed to have only qualifiedly accepted the same.

We agree with the CA.

It is undisputed that after the execution of the *Kasunduan*, Jorge sent two letters to Dolores: one, informing her that he did not consent to the sale; and the other, demanding that Dolores pay the balance of the purchase price on or before October 5, 1996 and failing which, the purchase price shall be increased to PhP700,000.

Clearly, Jorge's first letter was an outright and express repudiation of the *Kasunduan*. The second letter, while ostensibly a demand for compliance with Dolores' obligation under the *Kasunduan*, varied its terms on material points, *i.e.*, the date of payment of the balance and the purchase price. Consequently, such counter-offer cannot be construed as evidencing Jorge's consent to or acceptance of the *Kasunduan* for it is settled that where the other spouse's putative consent to the sale of the conjugal property appears in a separate document which does not contain the same terms and conditions as in the first document signed by the other spouse, a valid transaction could not have arisen.<sup>24</sup>

Neither can Jorge's subsequent letters to Dolores be treated as a ratification of the *Kasunduan* for the basic reason that a void contract is not susceptible to ratification. Nor can Jorge's alleged participation in the negotiation for the sale of the property or his acquiescence to Dolores' transfer to and possession of the subject property be treated as converting such continuing offer into a binding contract as the law distinctly requires

<sup>24</sup>*Abalos v. Macatagay, Jr.*, G.R. No. 155043, September 30, 2004.

nothing less than a written consent to the sale for its validity. Suffice to say that participation in or awareness of the negotiations is not consent.<sup>25</sup>

As above intimated, a determination that the *Kasunduan* is void renders the other issues raised by Dolores academic, *i.e.*, whether the doctrine of *res judicata* applies and whether the Spouses Cortez are buyers in bad faith; hence they merit no further discussion.

*The CA Correctly Ruled that Dolores  
is a Possessor in Good Faith*

While the *Kasunduan* was void from the beginning, Dolores is, in all fairness, entitled to recover from the Spouses Leonardo the amount of PhP300,000 with legal interest until fully paid.

Moreover, the CA correctly appreciated Dolores' standing as a possessor in good faith. It appears that Dolores acted in good faith in entering the subject property and building improvements on it. Ricardo represented that Jacinta and Jorge wanted to sell the subject property. Dolores had no reason to believe that Ricardo and Jacinta were lying. Indeed, upon her own brother's prodding, Dolores willingly parted with her money and paid the down payment on the selling price and later, a portion of the remaining balance. The signatures of Jacinta and of Ricardo (as witness) as well as her successful entry to the property appear to have comforted Dolores that everything was in order. Article 526 of the Civil Code provides that she is deemed a possessor in good faith, who is not aware that there exists in her title or mode of acquisition any flaw that invalidates it.

Likewise, as correctly held by the CA, Dolores, as possessor in good faith, is under no obligation to pay for her stay on the property prior to its legal interruption by a final judgment. She is further entitled under Article 448 to indemnity for the improvements introduced on the property with a right of retention until reimbursement is made. The Spouses Leonardo have the option under Article 546 of the Civil Code of indemnifying Dolores for the cost of the improvements or paying the increase in value which the property may have acquired by reason of such improvements.<sup>26</sup>

**WHEREFORE**, the petition is **DENIED**. The Decision dated October 3, 2012 and Resolution dated February 26, 2013 of the Court of Appeals in CA G.R. CV No. 95432 which (1) declared void the *Kasunduan* dated 29 March 1996; (2) declared valid the title issued in the names of Spouses Cortez and San Pedro; (3) ordered the reimbursement of PhP300,000 with legal interest to Dolores Alejo; (3) ordered the Spouses

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<sup>25</sup>*Jader-Manalo v. Camaisa, et al.*, G.R. No. 147978, January 23, 2002, citing *Tinitigan v. Tinitigan*, 100 SCRA 619 (1980).


<sup>26</sup>*Fuentes v. Roca, et al.*, G.R. No. 178902, April 21, 2010.






Leonardo, at their option, to indemnify Dolores Alejo of her expenses on the useful improvements or pay the increase in value on the subject property, with retention rights until indemnity is made; and (4) remanded the case to the RTC for purposes of receiving evidence and determining the amount of said indemnity are **AFFIRMED *in toto***.

**SO ORDERED.**

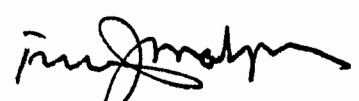
  
**NOEL GIMENEZ TIJAM**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson


  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

  
**FRANCIS H. JARDELEZA**  
Associate Justice

**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.



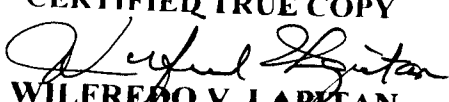
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

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



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

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division  
AUG 08 2017