



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BUYAYO ALIGUYON,
Petitioner,

G.R. No. 259469

-versus-

Present:

**JEFFREY A.K.A
'NAPADAWAN' DUMMANG,
JOHNNY A.K.A. 'BIDANG'
DUMMANG, MINDA
DUMMANG, AND DONATO
DUMMANG,**
Respondents.

LEONEN, J., *Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,*
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

AUG 30 2023

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DECISION

LOPEZ, J., J.:

This Court resolves a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² and the Resolution³ of the Court of Appeals (CA) denying the appeal filed by Buyayo Aliguyon (*Buyayo*).

* On official leave.

¹ *Rollo*, pp. 9–27.

² *Id.* at 29–49. The March 23, 2021 Decision in CA-G.R. CV No. 111533 was penned by Associate Justice Perpetua Susana T. Atal-Paño, and concurred in by Associate Justices Edwin D. Sorongon and Carlito B. Calpatura, Special Twelfth Division, Court of Appeals, Manila.

³ *Id.* at 51–53. The March 1, 2022 Resolution in CA-G.R. CV No. 111533 was penned by Associate Justice Perpetua Susana T. Atal-Paño, and concurred in by Associate Justices Edwin D. Sorongon and Carlito B. Calpatura, Former Special Twelfth Division, Court of Appeals, Manila.

The Antecedents

Buyayo is the registered owner of a parcel of land with an area of 31,850 square meters located in Didipio,** Kasibu, Nueva Vizcaya covered by Original Certificate of Title (OCT) No. P-10995⁴ (*subject land*). He averred that in 1968, he allowed Kiligge Dummang (*Kiligge*), the father of Jeffrey Dummang (*Jeffrey*), Donato Dummang (*Donato*), and Johnny Dummang (*Johnny*) (collectively, *Dummang et al.*), to occupy a portion of the land covered by OCT No. P-10995.⁵ After some time, Dummang et al. left the property. Later on, Dummang et al. returned and asked the son of Buyayo, Robert Aliguyon (*Robert*), for permission to occupy a one-hectare portion of the subject property. They were permitted by Robert to stay. Nonetheless, Buyayo was not around to give his permission. He claimed that he only learned about the purported agreement between Robert and Dummang et al. when the latter sued Robert for breach of contract to convey a one-hectare portion of the subject land as payment for Robert's alleged indebtedness.⁶ Hence, Buyayo instituted a Complaint for Recovery of Possession with Damages.⁷

In their Verified Answer,⁸ Dummang et al. narrated that in 1983, Robert received 72 grams of gold from Jeffrey with a promise to return the same quantity and quality of gold within a reasonable time. However, despite the passage of years and Jeffrey's repeated demands, Robert failed to return the gold.⁹ Thus, when Jeffrey went to collect from Robert, Buyayo offered to give the subject land as payment for his son's debt provided that Jeffrey would give an additional amount of PHP 8,000.00. Jeffrey agreed but asked for some time to produce the amount.¹⁰ In April or May 1986, the agreement was settled in the presence of elders of the Twali-Ifugao tribe. Likewise, the metes and bounds of the area were established and Dummang et al. have been in possession of the one-hectare portion of the subject land since then.¹¹ Jeffrey, who is illiterate and served as the father of his siblings, now occupies the subject land in the concept of an owner with his siblings Donato, Johnny, and Johnny's wife, Minda Dummang (*Minda*). A written agreement was prepared by a member of the council, Josephine Ansibey (*Ansibey*), and the money was handed to Buyayo.¹² Allegedly, the document evidencing the agreement was lost. Thereafter, Jeffrey filed a Complaint with the barangay to compel the segregation of the subject land from the rest of OCT No. P-10995, but the conciliation proceedings failed.¹³

** Also spelled as Didipyo in some parts of the *rollo*.

⁴ *Id.* at 31, 73, 77.

⁵ *Id.* at 73.

⁶ *Id.* at 30, 73-74.

⁷ *Id.* at 73-76.

⁸ *Id.* at 80-87.

⁹ *Id.* at 81.

¹⁰ *Id.* at 81-82.

¹¹ *Id.* at 80-82.

¹² *Id.* at 82-83.

¹³ *Id.* at 30-33, 82-83.

By way of Counterclaim, Dummang et al. pleaded that Buyayo be ordered to execute the Deed of Sale over the one-hectare portion of the subject land and to pay damages and cost of litigation.¹⁴

The Regional Trial Court (RTC) rendered its Decision,¹⁵ the dispositive portion of which states:

WHEREFORE, in view of all the foregoing, the court finds that plaintiff has failed to prove the allegations of his complaint, and accordingly, the instant case is dismissed. On the other hand, defendants have proven by preponderance of evidence their counterclaim for the reconveyance of the property. Accordingly, the spouses Buyay[o] Aliguyon and Maria Tultog Aliguyon are ordered to convey by proper deed the one[-]hectare portion of OCT No. P-10995 shown in the sketch plan prepared by Engr. Gerry A. Baatan.

SO ORDERED.¹⁶

The RTC held that while Robert was not the owner of the property and could not alienate it on his own, it was actually Buyayo who sold the property to Dummang et al.¹⁷ The RTC found that Buyayo bound himself to give the creditors of his son a one-hectare portion of his own property in exchange for the extinguishment of his son's debt and an additional PHP 8,000.00.¹⁸ The RTC likewise determined that Buyayo had no cause of action against Dummang et al. because he failed to act on his claim that he did not consent to give the one-hectare portion of the subject land as payment for the debt of Robert since the time Dummang et al. took possession of the subject property in 1986. For the RTC, Buyayo slept on his rights and allowed Dummang et al. to possess the property exclusively, peacefully, and publicly in the concept of an owner.¹⁹

The RTC also clarified that the alienation of any property without the wife's consent is not void pursuant to Article 166²⁰ of the New Civil Code, the property regime governing the marriage of Buyayo and his wife, Maria Aliguyon (*Maria*).²¹

¹⁴ *Id.* at 85.

¹⁵ *Id.* at 55–64. The July 30, 2018 Decision in Civil Case No. 1132 was penned by Judge Jose Godofredo M. Naui of Branch 37, Regional Trial Court, Bambang, Nueva Vizcaya.

¹⁶ *Id.* at 64.

¹⁷ *Id.* at 61.

¹⁸ *Id.* at 61–62.

¹⁹ *Id.* at 63.

²⁰ NEW CIVIL CODE, art. 166 states that:

Art. 166. Unless the wife has been declared a *non compos mentis* or a spendthrift, or is under civil interdiction or is confined in a leprosarium, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent. If she refuses unreasonably to give her consent, the court may compel to grant the same.

²¹ *Rollo*, p. 63.

Buyayo filed an appeal to the CA, which was denied in its Decision.²²

The CA held that Buyayo failed to prove his title over the one-hectare portion of the subject land. From the testimonies adduced during trial, the CA found that Robert failed to return the 72 grams of gold he borrowed from Jeffrey. Buyayo agreed to convey the subject land in favor of Dummang et al. to extinguish his son's debt.²³

The CA ruled that there was novation when the contract of loan between Robert and Jeffrey was modified into a contract of sale between Buyayo and Jeffrey due to the agreement of Buyayo, Robert, and Jeffrey in 1986 to substitute the debtor. The CA explained that Buyayo substituted the person of the debtor and changed the object of the obligation. Despite being a third party to Robert's loan, Buyayo took it upon himself to sell the subject land to Jeffrey to extinguish Robert's obligation to return the gold.²⁴ The CA also pointed out that the sale was already perfected in 1986 and that Buyayo merely reneged on his part of the contract when Dummang et al. demanded segregation of the subject land in 2009.²⁵

The CA also stressed that the Statute of Frauds does not apply to completed, executed, or partially executed contracts. The CA stated that Buyayo can neither take refuge in the fact that the parties have not yet executed a deed of absolute sale nor rely on the argument that their agreement is unenforceable under the Statute of Frauds because the agreement to sell was already partially executed. The CA explained that the subject land was already delivered to Jeffrey. It was also established that Jeffrey already performed his obligation in giving additional consideration for the subject land. For the CA, taking possession of the property and making improvements thereon may serve as indicators that an oral sale of a piece of land had been performed or executed. Thus, the CA concluded that ownership of the land already passed when Jeffrey paid the PHP 8,000.00.²⁶

Likewise, the CA declared that the sale of a conjugal property without the wife's consent is merely voidable, and thus binding upon the parties unless annulled.²⁷ Since no action for annulment was instituted by Maria within 10 years from the sale, the CA determined that the sale of the one-hectare portion of the subject property has not been annulled and remains binding between Buyayo and Jeffrey. The CA clarified that Article 173 of the New Civil Code applies to the present case and it provides for a period within which the wife may seek the annulment of the contract.²⁸

²² *Id.* at 29–49.

²³ *Id.* at 42.

²⁴ *Id.* at 43–44.

²⁵ *Id.* at 44.

²⁶ *Id.* at 44–47.

²⁷ *Id.* at 47.

²⁸ *Id.* at 47–48.

The CA also stressed that prescription cannot be raised for the first time on appeal.²⁹

In a Resolution,³⁰ the CA denied the Motion for Reconsideration³¹ filed by Buyayo.³²

Hence, the instant Petition.

Buyayo argues that: (1) his ownership over the one-hectare portion of the subject property was admitted by the parties, thereby shifting the burden on Dummang et al. to prove their claim;³³ and (2) there was no novation because the consent of Buyayo and Maria were not obtained.³⁴

Meanwhile, in their Comment,³⁵ Dummang et al. reiterated that: (1) there was a valid novation of the contract between the parties when Buyayo sold the one-hectare portion of the subject land in exchange for the extinguishment of Robert's debt and the amount of PHP 8,000.00;³⁶ (2) the Statute of Frauds does not apply to completed, executed, or partially executed contracts;³⁷ and (3) the sale of a conjugal property without the wife's consent is voidable pursuant to Articles 166 and 173 of the New Civil Code.³⁸

Issues

I.

Whether there was a valid novation;

II.

Whether the oral sale of the subject land is covered by the Statute of Frauds; and

III.

Whether the sale of the subject land, a conjugal property of Buyayo and Maria, is void due to the absence of the consent of Maria.

²⁹ *Id.* at 48.

³⁰ *Id.* at 51-53.

³¹ *Id.* at 65-72.

³² *Id.* at 53.

³³ *Id.* at 14-17.

³⁴ *Id.* at 21-22.

³⁵ *Id.* at 187-202.

³⁶ *Id.* at 195-197.

³⁷ *Id.* at 197-199.

³⁸ *Id.* at 199-200.

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This Court's Ruling

The Petition must be denied.

There was a valid novation when Buyayo assumed the debt of the original debtor, Robert

Novation is a mode of extinguishing an obligation through its modification and replacement by a subsequent one. An obligation may be modified by: (1) changing its object or principal conditions; (2) substituting the person of the debtor; or (3) subrogating a third person in the rights of the creditor.³⁹ In any of the enumerated instances, “the obligation ceases to exist as a new one—bearing the modifications agreed upon—takes its place.”⁴⁰

Novation of an obligation through the substitution of the person of the debtor releases the debtor from the original obligation. However, in order to validly effect the novation, the debtor cannot merely assign their debt to a third person, or the latter cannot simply assume the debt of the former. Article 1293 of the New Civil Code requires that the creditor must consent to the substitution, as stated below:

Article 1293. Novation which consists in substituting a new debtor in the place of the original one, may be made even without the knowledge or against the will of the latter, **but not without the consent of the creditor.** Payment by the new debtor gives him the rights mentioned in Articles 1236 and 1237. (Emphasis supplied)

Substitution of the debtor may take place with or without the knowledge of the debtor but consent of the creditor is always required. If done without the knowledge of the debtor, the novation effected is called *expromision*. On the other hand, if substitution takes place when the debtor offers and the creditor accepts a third party who assumes the obligation of the debt, this is called *delegacion*.⁴¹

It is settled that novation is never presumed and will not be allowed unless clearly shown by express agreement or by acts of equal import.⁴² In *Arco Pulp and Paper Co., Inc. v. Lim*,⁴³ this Court emphasized that:

³⁹ NEW CIVIL CODE, art. 1291.

⁴⁰ *Food Fest Land, Inc. v. Siapno*, 848 Phil. 55, 66 (2019) [Per J. Peralta, Third Division].

⁴¹ NEW CIVIL CODE, Art. 1295.

⁴² *Ajax Marketing Development Corporation v. Court of Appeals*, 318 Phil. 268, 274 (1995) [Per J. Francisco, Second Division].

⁴³ 737 Phil. 133 (2014) [Per J. Leonen, Third Division].

Novation must be stated in clear and unequivocal terms to extinguish an obligation. It cannot be presumed and may be implied only if the old and new contracts are incompatible on every point.⁴⁴

In the present case, while no written agreement was presented to prove the intention of the parties to substitute Buyayo as the new debtor in the obligation originally obtained by Robert, it is clear from the subsequent acts and conduct of the parties that novation of the original agreement to return the gold that Roberto took from Dummang et al. was the objective of the parties. To recall, Jeffrey gave the additional payment for the portion of the subject land and this was accepted by Buyayo. Dummang et al. were allowed to take possession of and introduce improvements on the subject land. The subsequent agreement, which involved Buyayo conveying a one-hectare portion of the land covered by OCT No. P-10995 in exchange for the extinguishment of Robert's obligation and PHP 8,000.00, is incompatible and inconsistent with Robert's original obligation. Thus, novation was established.

The oral sale of the subject land is not covered by the Statute of Frauds as it had already been partially executed

As a rule, contracts are obligatory in whatever form they may have been entered into provided that all the essential requisites for their validity are present. But when the law requires that a contract be in some form to be valid or enforceable, or that a contract be proved in a certain way, such requirement is absolute and indispensable.⁴⁵ Among the contracts that Article 1358 of the New Civil Code requires to appear in a public document include:

- (1) Acts and contracts which have for their object the creation, transmission, modification[,] or extinguishment of real rights over immovable property; **sales of real property or of an interest therein are governed by articles 1403, No. 2, and 1405;**
- (2) The cession, repudiation[,] or renunciation of hereditary rights or those of the conjugal partnership of gains;
- (3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or should prejudice a third person;
- (4) The cession of actions or rights proceeding from an act appearing in a public document. (Emphasis supplied)

⁴⁴ *Id.* at 137.

⁴⁵ NEW CIVIL CODE, art. 1356.

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The quoted provision must be read with Articles 1403(2) and 1405 of the New Civil Code, to wit:

Article 1403. The following contracts are unenforceable, unless they are ratified:

....

(2) Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or some note or memorandum, thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing, or a secondary evidence of its contents:

....

(e) An agreement of the leasing for a longer period than one year, or for the sale of real property or of an interest therein;

....

Article 1405. Contracts infringing the Statute of Frauds, referred to in No. 2 of [A]rticle 1403, are ratified by the failure to object to the presentation of oral evidence to prove the same, or by the acceptance of benefit under them. (Emphasis in the original)

The Statute of Frauds ordains that the agreements enumerated in Article 1403(2), including the sale of real property or of an interest therein, must be in writing. Otherwise, they would be unenforceable. However, "*the Statute of Frauds applies only to executory contracts and not to those which have been executed either fully or partially.*"⁴⁶

The CA aptly ruled that the agreement to transfer the one-hectare portion of the subject land in favor of Dummang et al. is no longer covered by the Statute of Frauds. As determined by the CA, the subject land was already delivered to Dummang et al. and Jeffrey had already performed his obligation by giving the additional consideration of PHP 8,000.00 for the subject land.⁴⁷ Taking possession of the property and making improvements thereon serve as indicators that an oral sale of a piece of land had already been executed.

The sale of the subject land is valid despite the purported absence of the consent of the seller's wife

⁴⁶ *Heirs of Alido v. Campano*, 858 Phil. 209, 220 (2019) [Per J. J. Reyes, Jr., Second Division], citing *Vda. de Guano v. Republic*, 657 Phil. 391,411 (2011) [Per J. Velasco, Jr., First Division].

⁴⁷ *Rollo*, pp. 44-47.

Prior to the enactment of the Family Code, the default property regime for marriages celebrated before August 3, 1988 was the conjugal partnership of gains. Unless another property regime had been adopted by the spouses in a marriage settlement, all marriages solemnized under the New Civil Code, then in force, were under this property regime.⁴⁸ Eminent civilist Arturo M. Tolentino explained the rationale for this as follows:

The legal regime of conjugal partnership of gains commenced at the moment of marriage, and cannot be changed by the adoption of a different system by a new law. The rights already vested in the parties would be impaired by giving retroactive effect to the absolute community of property in violation of Article 256 of the Family Code.⁴⁹

Noticeably, the purported sale by Buyayo of the subject land occurred in 1986. Accordingly, the property regime that governs the marriage of Buyayo and Maria, who were married prior to the effectivity of the Family Code on August 3, 1988,⁵⁰ is the conjugal partnership of gains under the New Civil Code.

Having settled that the property regime governing the marriage of Buyayo and Maria, this Court shall now determine the validity of the sale made by Buyayo in favor of Dummang et al. in 1986. Article 166 of the New Civil Code states:

Article 166. Unless the wife has been declared a [*non compos mentis*] or a spendthrift, or is under civil interdiction or is confined in a leprosarium, **the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent.** If she refuses unreasonably to give her consent, the court may compel her to grant the same.

This article shall not apply to property acquired by the conjugal partnership before the effective date of this Code. (Emphasis supplied)

The foregoing provision must be read with Article 173 of the New Civil Code which provides the period within which a wife may challenge a transaction that was entered into without her consent. The provision states:

Article 173. **The wife may, during the marriage, and within ten years from the transaction questioned, ask the courts for the annulment of any contract of the husband entered into without her consent,** when such consent is required, or any act or contract of the husband which tends to defraud her or impair her interest in the conjugal partnership property. Should the wife fail to exercise this right, she or her heirs, after the

⁴⁸ Volume I, ARTURO M. TOLENTINO, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, p. 382 (1990).

⁴⁹ *Id.*

⁵⁰ Memorandum Circular No. 85 (1988), Clarifying the Effectivity Date of the Family Code of the Philippines.

dissolution of the marriage, may demand the value of property fraudulently alienated by the husband. (Emphasis supplied)

Reconciling Articles 166 and 173 of the New Civil Code, it is settled that a sale of real property of the conjugal partnership made by the husband without the consent of his wife is voidable and the wife is given the right to have the sale annulled during the marriage within 10 years from the date of the sale.⁵¹ Voidable contracts are binding, unless they are annulled after a proper action in court. They are susceptible of ratification.⁵²

Here, it was established that Maria neither questioned nor sought the annulment of the transfer of the subject land. Since no action for annulment was instituted by Maria within 10 years from the transfer in 1986, the CA properly held that the sale of the subject land remains binding between the parties.⁵³

ACCORDINGLY, the Petition for Review on *Certiorari* is **DISMISSED**. The Decision and the Resolution of the Court of Appeals in CA-G.R. CV No. 111533 are **AFFIRMED**. The Complaint for Recovery of Possession and Damages instituted by Buyayo Aliguyon is **DISMISSED**. Spouses Buyayo and Maria Aliguyon are **ORDERED** to convey by proper deed the one-hectare portion of OCT No. P-10995, as shown in the sketch plan prepared by Engr. Gerry A. Baatan.

SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice


WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice

⁵¹ *Spouses Cueno v. Spouses Bautista*, G.R. No. 246445, March 2, 2021 [Per J. Caguioa, *En Banc*].

⁵² CIVIL CODE OF THE PHILIPPINES, art. 1390.

⁵³ *Rollo*, p. 48.



AMY C. LAZARO-JAVIER
Associate Justice

(on official leave)
MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

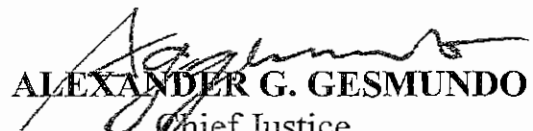
ATTESTATION

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.


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.


ALEXANDER G. GESMUNDO
Chief Justice

