

THIRD DIVISION

[G.R. No. 246255, February 03, 2021]

**TERESITA CORDOVA AND JEAN ONG CORDOVA, PETITIONERS,
VS. EDWARD TY, RESPONDENT.**

D E C I S I O N

DELOS SANTOS, J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court which assails the Decision^[1] dated November 15, 2018 and the Resolution^[2] dated April 2, 2019 rendered by the Court of Appeals (CA) in CA-G.R. SP No. 155547. The CA granted respondent Edward Ty's (Ty) appeal and reinstated the writ of execution issued by the Metropolitan Trial Court (MeTC) of Manila, Branch 27.

The Case

The instant controversy arose from a writ of execution issued to satisfy the civil aspect of the Decision^[3] dated July 27, 2007 of the MeTC for eleven (11) counts of violation of Batas Pambansa Blg. (B.P.) 22^[4] filed by Ty against Chi Tim Cordova (Chi Tim) and Robert Young (Young).^[5]

Chi Tim is the husband of petitioner Teresita O. Cordova (Teresita) and the father of petitioner Jean Ong Cordova (Jean; collectively, petitioners). Petitioners seek the exclusion of the following properties from execution: (1) parcel of land covered by Transfer Certificate of Title (TCT) No. 77973 (TCT No. 77973 property); and (2) condominium unit covered by Condominium Certificate of Title (CCT) No. 4441 (CCT No. 4441 property; collectively, subject properties) on the ground that the subject properties were part of the paraphernal property of Teresita and the family home, respectively.^[6]

The Facts

On July 27, 2007, the MeTC rendered a Decision^[7] on the civil aspect^[8] of the B.P. 22 case filed against Chi Tim and Young, finding them jointly and solidarily liable for the amounts of P6,200,000.00 representing the value of the bounced checks and P100,000.00 as attorney's fees and other litigation expenses. The MeTC ruled that Chi Tim and Young drew checks using the account of their company, Wood Technology Corporation (Wood Technology), in order to obtain cash from Ty. The MeTC did not give credence to their bare assertions that these checks were for the payment of suppliers, *i.e.*, corporate obligations, in view of their failure to present any evidence to that effect.

After the Decision became final and executory,^[9] Ty moved for the issuance of a

writ of execution which was granted by the MeTC. The subject properties levied to be sold in a public auction are particularly described as follows:^[10]

(1) TCT No. 77973 property pertains to a parcel of land containing an area of 125 square meters registered in accordance with the provisions of the Property Registration Decree in the name of Teresita O. Cordova, of legal age, married to Chi Tim Cordova, both Filipino citizens; and

(2) CCT No. 4441 property pertains to Unit 10-A located on the tenth floor, with an area of 133.48 square meters, more or less with three (3) rooms, three (3) comfort rooms, of the Blue Diamond Tower Condominium Project located in C. Masangkay, Tondo, Manila is registered in the name of Cordova Chi Tim of legal age, married to Teresita Cordova, both Filipino citizens.

Petitioners filed a Very Urgent Motion to Exclude their Properties from the Auction Sale before the MeTC. The MeTC merely noted this motion,^[11] which impelled petitioners to file a Petition for Prohibition and *Mandamus* with Prayer for Issuance of a Writ of Preliminary Injunction and/or Restraining Order^[12] before the Regional Trial Court (RTC) of Manila, Branch 32.

The petition before the RTC was anchored on the claim that the liability from the B.P. 22 case was a corporate obligation and for this reason, Chi Tim should not be held personally liable. As regards the claim for exemption, petitioners alleged that the TCT No. 77973 property was exclusively owned by Teresita, which she purchased using funds donated to her by her father; while the CCT No. 4441 property was the Cordova family home and presently, utilized by Jean as her own family home.^[13]

Ruling of the RTC

On July 21, 2017, the RTC issued an Order^[14] granting the application for the issuance of a temporary restraining order incorporated in the Petition for Prohibition and *Mandamus*. The RTC held that: (a) the checks subject of the complaint for B.P. 22 belonged to Wood Technology as shown on the upper right portion of the checks; (b) Chi Tim and Young, as Wood Technology's officers and authorized signatories, should not be held personally liable as any liability belongs to the corporation; (c) there was no indication in the Decision of the MeTC that the veil of corporation fiction had been pierced and for this reason, it was erroneous for the lower court and the sheriff to levy the subject properties; and (d) there was no reason to doubt Jean's assertion that the CCT No. 4441 property was their family home and thus, exempt from execution up to a certain amount.

On September 7, 2017, the RTC issued another Order^[15] granting the preliminary prohibitory injunction. Aside from ruling that the elements for the issuance of injunctive relief were satisfied by petitioners, the RTC held that as regards the CCT No. 4441 property: (a) it was registered in the Register of Deeds of Manila on February 14, 1984 in the name of Cordova Chi Tim, married to Teresita Cordova; (b) it became a family home by operation of law and thus, exempt from execution; (c) Ty neither disputed that Jean is the daughter of Chi Tim and Teresita, nor that Jean and her own family reside in the same condominium unit; and (d) the claim of exempt status was timely raised, that is, before sale at a public auction.^[16]

With regard to the TCT No. 77973 property, the RTC found that: (a) the sale was registered on January 20, 1993 at the Registry of Deeds of Quezon City; (b) the Deed of Absolute Sale signed on January 19, 1993 shows that the sole vendee was Teresita; and (c) while Teresita was described as "married to Chi Tim Cordova", this was added for no other purpose but to describe her civil status.^[17]

On November 16, 2017, the RTC rendered a Decision^[18] which permanently restrained the sale of the subject properties. The RTC adopted the discussion in its previous Orders as the *ratio decidendi* for its Judgment.

Ty sought reconsideration, but was denied.

Ruling of the CA

On November 15, 2018, the CA rendered the assailed Decision^[19] which granted Ty's appeal. The CA found no grave abuse of discretion on the part of the MeTC as to warrant the issuance of a writ of prohibition and *mandamus*, and struck down petitioners' unsubstantiated allegations of exemption over the subject properties.

With regard to the TCT No. 77973 property, the CA ruled that the fact that it was acquired during the subsistence of Teresita's marriage with Chi Tim was sufficient to hold it as conjugally-owned and could be executed to satisfy the latter's civil obligation. There was no definite proof that Teresita acquired the property using her own funds or that the conjugal partnership of gains, which governed her property relationship with her husband, had been severed at the time of the property's purchase. Similarly, the claim of exemption for the CCT No. 4441 property based solely on the unproven allegation of Jean that it was constituted as a family home, and for this reason, was not sustained.^[20]

Petitioners sought reconsideration which was denied in the assailed Resolution^[21] dated April 2, 2019.

Dissatisfied, petitioners filed this Petition for Review on *Certiorari*, raising the following issues:

(A)

THE PRESUMPTION, OR EVEN THE FACT THAT A PROPERTY IS CONJUGAL, DOES NOT MAKE IT AUTOMATICALLY LIABLE FOR THE PERSONAL OBLIGATION OF ANY OF THE SPOUSES ABSENT ANY SHOWING THAT SUCH PERSONAL DEBT REDOUNDED TO THE BENEFIT OF THE FAMILY.

(B)

THE FACT IS THAT THE PERSONAL OBLIGATION OF CHI TIM CORDOVA HERE, THE HUSBAND OF PETITIONER TERESITA, DID NOT REDOUND TO THE BENEFIT OF HIS FAMILY WHICH HE ALREADY ABANDONED EVEN BEFORE HE CONTRACTED OR WAS ADJUDGED LIABLE FOR SUCH PERSONAL DEBT.^[22]

Petitioners' Arguments

Petitioners alleged that the appellate court erred in holding the subject properties liable to the personal obligation of Chi Tim on the basis of conjugality alone. Citing Article 121 of the Family Code, they aver that before the conjugal partnership is made liable for the personal debt of one of the spouses, it must be shown to have redounded to the benefit of the family. Further, petitioners aver that under Article 160 of the Family Code, certain facts must be established before a family home is subjected to execution. Having failed to establish these aforementioned facts, the subject properties may not be levied upon and executed to satisfy Chi Tim's civil liability.^[23]

The Issue

Essentially, the main issue for resolution is whether or not the subject properties may be executed to satisfy the civil liability of Chi Tim arising from the B.P. 22 case.

The Court's Ruling

The Petition is meritorious.

The subject properties belong to the conjugal partnership.

It is basic that in Rule 45 petitions, only questions of law may be put into issue.^[24] However, in this case, the conflicting findings of the RTC and the CA impel the Court to make its own factual findings for the proper resolution of this controversy.^[25]

Preliminary to the proper evaluation on whether the subject properties may be executed upon is the determination of whether the subject properties, are part of the conjugal assets of Chi Tim and Teresita.

Records show that the spouses were married prior to the effectivity of the Family Code and did not execute any pre-nuptial agreement; thus, their property relations is governed by conjugal partnership of gains.^[26] Further, under Article 160 of the Civil Code, "all 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."^[27] In *Ching v. Court of Appeals*,^[28] the Court held that it is not even necessary to prove that the properties were acquired with funds of the partnership. Even when the manner in which the properties were acquired does not appear, the presumption will still apply, and the properties will still be considered conjugal. In order to rebut the presumptive conjugal nature of the property, a movant must present strong, clear and convincing evidence of exclusive ownership of one of the spouses. The burden of proving that the property belongs exclusively to the wife or to the husband rests upon the party asserting it.^[29]

Applying the foregoing principles, the appellate court correctly ruled that the TCT No. 77973 property was not the paraphernal property of Teresita. It is undisputed

that the TCT No. 77973 property was acquired during the marriage of Chi Tim and Teresita. The fact that Teresita was identified as the sole vendee and registered owner in the Deed of Absolute Sale^[30] dated January 19, 1993 and a copy of the title^[31] respectively, did not destroy its conjugal nature as the registration of the property is not conclusive evidence of the exclusive ownership of the husband or the wife.^[32] Even if the property appears to be registered solely in the name of either spouse, it has the inherent character of conjugal property if it was acquired for valuable consideration during marriage.^[33]

Bare allegation is not evidence and is not equivalent to proof.^[34] Save for petitioners' assertions that Teresita purchased the TCT No. 77973 property using her exclusive funds which were "donated" to her by her father,^[35] no other evidence was presented to substantiate this claim. Notably, only Jean testified before the RTC that it was her mother, Teresita, who purchased the property using her exclusive funds. As properly pointed out by Ty in his Comment/Opposition,^[36] there is no showing that Jean even had personal knowledge on the circumstances surrounding the sale as to be given full weight and credit. All told, the registration of the property in the name of Teresita and the unilateral declaration made by Jean do not meet the clear and convincing evidence contemplated by law to overthrow the presumption of conjugality.^[37]

Petitioners concede that the CCT No. 4441 property is part of the conjugal properties of Chi Tim and Teresita,^[38] because it is their family home.

The claim that a property is a family home is not a magic wand that will freeze the court's hand and forestall the execution of a final and executory ruling. The Court, in *Salazar v. Felias*,^[39] held that the claim for exemption must be set up and proved, whether the claim for exemption of the family home is premised under the Civil Code or the Family Code. Here, the Court finds that the appellate court's determination that the CCT No. 4441 property was not proven to be petitioners' family home is borne out by the records. The Court quotes with approval the findings of the appellate court as stated in the assailed Decision, to wit:

In this case, records reveal that apart from alleging that she was a beneficiary of Chi Tim, Jean fell short in establishing that (i) the condominium unit was indeed constituted as a family home; (ii) that it was constituted jointly by her parents, Chi Tim and Teresita; (3) that the property has an actual value of Php300,000.00, it being located in an urban area. In fact, in her testimony, Jean merely recounted that she lived with her parents under "one roof", but never identified it to be the subject condominium unit.^[40]

Moreover, the appellate court's findings and conclusions are consistent with law and jurisprudence with regard to the requisites before a family home may be considered as such and resultantly, be exempted from execution. As held in *FEB Mitsui Marine Insurance Co., Inc. v. Manalastas*:^[41]

In order for the property to be considered as a family home, the requisites must be established: (a) it must be the house where he and his family actually reside and the lot on which it is situated; (b) the