

SECOND DIVISION

[G.R. No. 167874, January 15, 2010]

**SPOUSES CARMEN S. TONGSON AND JOSE C. TONGSON
SUBSTITUTED BY HIS CHILDREN NAMELY: JOSE TONGSON, JR.,
RAUL TONGSON, TITA TONGSON, GLORIA TONGSON ALMA
TONGSON, PETITIONERS, VS. EMERGENCY PAWNSHOP BULA,
INC. AND DANILO R. NAPALA, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] of the 31 August 2004 Decision^[2] and 10 March 2005 Resolution^[3] of the Court of Appeals in CA-G.R. CV No. 58242. In the 31 August 2004 Decision, the Court of Appeals partially granted the appeal filed by Emergency Pawnshop Bula, Inc. (EPBI) and Danilo R. Napala (Napala) by modifying the decision of the trial court. In the 10 March 2005 Resolution, the Court of Appeals denied the motion for partial reconsideration filed by the Spouses Jose C. Tongson and Carmen S. Tongson (Spouses Tongson).

The Facts

In May 1992, Napala offered to purchase from the Spouses Tongson their 364-square meter parcel of land, situated in Davao City and covered by Transfer Certificate of Title (TCT) No. 143020, for P3,000,000. Finding the offer acceptable, the Spouses Tongson executed with Napala a Memorandum of Agreement^[4] dated 8 May 1992.

On 2 December 1992, respondents' lawyer Atty. Petronilo A. Raganas, Jr. prepared a Deed of Absolute Sale^[5] indicating the consideration as only P400,000. When Carmen Tongson "noticed that the consideration was very low, she [complained] and called the attention of Napala but the latter told her not to worry as he would be the one to pay for the taxes and she would receive the net amount of P3,000,000."^[6]

To conform with the consideration stated in the Deed of Absolute Sale, the parties executed another Memorandum of Agreement, which allegedly replaced the first Memorandum of Agreement,^[7] showing that the selling price of the land was only P400,000.^[8]

Upon signing the Deed of Absolute Sale, Napala paid P200,000 in cash to the Spouses Tongson and issued a postdated Philippine National Bank (PNB) check in the amount of P2,800,000,^[9] representing the remaining balance of the purchase price of the subject property. Thereafter, TCT No. 143020 was cancelled and TCT No.

T-186128 was issued in the name of EPBI.^[10]

When presented for payment, the PNB check was dishonored for the reason "Drawn Against Insufficient Funds." Despite the Spouses Tongson's repeated demands to either pay the full value of the check or to return the subject parcel of land, Napala failed to do either. Left with no other recourse, the Spouses Tongson filed with the Regional Trial Court, Branch 16, Davao City a Complaint for Annulment of Contract and Damages with a Prayer for the Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction.^[11]

In their Answer, respondents countered that Napala had already delivered to the Spouses Tongson the amount of P2,800,000 representing the face value of the PNB check, as evidenced by a receipt issued by the Spouses Tongson. Respondents pointed out that the Spouses Tongson never returned the PNB check claiming that it was misplaced. Respondents asserted that the payment they made rendered the filing of the complaint baseless.^[12]

At the pre-trial, Napala admitted, among others, issuing the postdated PNB check in the sum of P2,800,000.^[13] The Spouses Tongson, on the other hand, admitted issuing a receipt which showed that they received the PNB check from Napala. Thereafter, trial ensued.

The Ruling of the Trial Court

The trial court found that the purchase price of the subject property has not been fully paid and that Napala's assurance to the Spouses Tongson that the PNB check would not bounce constituted fraud that induced the Spouses Tongson to enter into the sale. Without such assurance, the Spouses Tongson would not have agreed to the contract of sale. Accordingly, there was fraud within the ambit of Article 1338 of the Civil Code,^[14] justifying the annulment of the contract of sale, the award of damages and attorney's fees, and payment of costs.

The dispositive portion of the 9 December 1996 Decision of the trial court reads:

WHEREFORE, judgment is hereby rendered -

I Annuling the contract entered into by the plaintiffs with the defendants;

II Declaring the writs of preliminary injunctions issued permanent;

III Ordering defendants to:

- 1) reconvey the property subject matter of the case to the plaintiffs;
- 2) pay plaintiffs:

- a) P100,000 as moral damages;
- b) P50,000 as exemplary damages;
- c) P20,000 as attorney's fees; and
- d) P35,602.50 cost of suit broken down as follows:

P70.00 bond fee
P60.00 lis pendens fee
P902.00 docket fee
P390.00 docket fee
P8.00 summons fee
P12.00 SDF
P178.50 Xerox
P9,000 Sidcor Insurance Bond fee
P25,000 Sidcor Insurance Bond fee

or the total sum of P205,602.50.

It is further ordered that the monetary award be offsetted [sic] to defendants' downpayment of P200,000 thereby leaving a balance of P5,602.50.^[15]

Respondents appealed to the Court of Appeals.

The Ruling of the Court of Appeals

The Court of Appeals agreed with the trial court's finding that Napala employed fraud when he misrepresented to the Spouses Tongson that the PNB check in the amount of P2,800,000 would be properly funded at its maturity. However, the Court of Appeals found that the issuance and delivery of the PNB check and fraudulent representation made by Napala could not be considered as the determining cause for the sale of the subject parcel of land. Hence, such fraud could not be made the basis for annulling the contract of sale. Nevertheless, the fraud employed by Napala is a proper and valid basis for the entitlement of the Spouses Tongson to the balance of the purchase price in the amount of P2,800,000 plus interest at the legal rate of 6% per annum computed from the date of filing of the complaint on 11 February 1993.

Finding the trial court's award of damages unconscionable, the Court of Appeals reduced the moral damages from P100,000 to P50,000 and the exemplary damages from P50,000 to P25,000.

The dispositive portion of the 31 August 2004 Decision of the Court of Appeals reads:

WHEREFORE, the instant appeal is PARTIALLY GRANTED. The assailed decision of the Regional Trial Court, 11th Judicial Region, Branch 16, Davao City, in Civil Case No. 21,858-93, is hereby MODIFIED, to read:

WHEREFORE, judgment is hereby rendered ordering defendants to pay plaintiffs:

a) the sum of P2,800,000.00 representing the balance of the purchase price of the subject parcel of land, plus interest at the legal rate of 6% per annum computed

from the date of filing of the complaint on 11 February 1993, until the finality of the assailed decision; thereafter, the interest due shall be at the legal rate of 12% per annum until fully paid;

- b) P50,000 as moral damages;
- c) P25,000 as exemplary damages;
- d) P20,000 as attorney's fees; and
- e) The costs of suit in the total amount of P35,602.50.

It is understood, however, that plaintiffs' entitlement to items a to d, is subject to the condition that they have not received the same or equivalent amounts in criminal case for Violation of Batas Pambansa Bilang 22, docketed as Criminal Case No. 30508-93, before the Regional Trial Court of Davao City, Branch 12, instituted against the defendant Danilo R. Napala by plaintiff Carmen S. Tongson.

SO ORDERED.^[16]

The Spouses Tongson filed a partial motion for reconsideration which was denied by the Court of Appeals in its Resolution dated 10 March 2005.

The Issues

The Spouses Tongson raise the following issues:

1. WHETHER THE CONTRACT OF SALE CAN BE ANNULLED BASED ON THE FRAUD EMPLOYED BY NAPALA; and
2. WHETHER THE COURT OF APPEALS ERRED IN REDUCING THE AMOUNT OF DAMAGES AWARDED BY THE TRIAL COURT.

The Ruling of the Court

The petition has merit.

On the existence of fraud

A contract is a meeting of the minds between two persons, whereby one is bound to give something or to render some service to the other.^[17] A valid contract requires the concurrence of the following essential elements: (1) consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price; (2) determinate subject matter; and (3) price certain in money or its equivalent.^[18]

In the present case, there is no question that the subject matter of the sale is the 364-square meter Davao lot owned by the Spouses Tongson and the selling price agreed upon by the parties is P3,000,000. Thus, there is no dispute as regards the presence of the two requisites for a valid sales contract, namely, (1) a determinate

subject matter and (2) a price certain in money.

The problem lies with the existence of the remaining element, which is consent of the contracting parties, specifically, the consent of the Spouses Tongson to sell the property to Napala. Claiming that their consent was vitiated, the Spouses Tongson point out that Napala's fraudulent representations of sufficient funds to pay for the property induced them into signing the contract of sale. Such fraud, according to the Spouses Tongson, renders the contract of sale void.

On the contrary, Napala insists that the Spouses Tongson willingly consented to the sale of the subject property making the contract of sale valid. Napala maintains that no fraud attended the execution of the sales contract.

The trial and appellate courts had conflicting findings on the question of whether the consent of the Spouses Tongson was vitiated by fraud. While the Court of Appeals agreed with the trial court's finding that Napala employed fraud when he assured the Spouses Tongson that the postdated PNB check was fully funded when in fact it was not, the Court of Appeals disagreed with the trial court's ruling that such fraud could be the basis for the annulment of the contract of sale between the parties.

Under Article 1338 of the Civil Code, there is fraud when, through insidious words or machinations of one of the contracting parties, the other is induced to enter into a contract which, without them, he would not have agreed to. In order that fraud may vitiate consent, it must be the causal (*dolo causante*), not merely the incidental (*dolo incidente*), inducement to the making of the contract.^[19] Additionally, the fraud must be serious.^[20]

We find no causal fraud in this case to justify the annulment of the contract of sale between the parties. It is clear from the records that the Spouses Tongson agreed to sell their 364-square meter Davao property to Napala who offered to pay P3,000,000 as purchase price therefor. Contrary to the Spouses Tongson's belief that the fraud employed by Napala was "already operational at the time of the perfection of the contract of sale," the misrepresentation by Napala that the postdated PNB check would not bounce on its maturity hardly equates to *dolo causante*. Napala's assurance that the check he issued was fully funded was not the principal inducement for the Spouses Tongson to sign the Deed of Absolute Sale. Even before Napala issued the check, the parties had already consented and agreed to the sale transaction. The Spouses Tongson were never tricked into selling their property to Napala. On the contrary, they willingly accepted Napala's offer to purchase the property at P3,000,000. In short, there was a meeting of the minds as to the object of the sale as well as the consideration therefor.

Some of the instances where this Court found the existence of causal fraud include: (1) when the seller, who had no intention to part with her property, was "tricked into believing" that what she signed were papers pertinent to her application for the reconstitution of her burned certificate of title, not a deed of sale;^[21] (2) when the signature of the authorized corporate officer was forged;^[22] or (3) when the seller was seriously ill, and died a week after signing the deed of sale raising doubts on whether the seller could have read, or fully understood, the contents of the documents he signed or of the consequences of his act.^[23] Suffice it to state that nothing analogous to these badges of causal fraud exists in this case.