

THIRD DIVISION

[G.R. No. 160855, April 16, 2008]

**CONCEPCION CHUA GAW, Petitioner, vs. SUY BEN CHUA and
FELISA CHUA, Respondents.**

D E C I S I O N

NACHURA, J.:

This is a Petition for Review on *Certiorari* from the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 66790 and Resolution^[2] denying the motion for reconsideration. The assailed decision affirmed the ruling of the Regional Trial Court (RTC) in a Complaint for Sum of Money in favor of the plaintiff.

The antecedents are as follows:

Spouses Chua Chin and Chan Chi were the founders of three business enterprises^[3] namely: Hagonoy Lumber, Capitol Sawmill Corporation, and Columbia Wood Industries. The couple had seven children, namely, Santos Chua; Concepcion Chua; Suy Ben Chua; Chua Suy Phen; Chua Sioc Huan; Chua Suy Lu; and Julita Chua. On June 19, 1986, Chua Chin died, leaving his wife Chan Chi and his seven children as his only surviving heirs. At the time of Chua Chin's death, the net worth of Hagonoy Lumber was P415,487.20.^[4]

On December 8, 1986, his surviving heirs executed a Deed of Extra-Judicial Partition and Renunciation of Hereditary Rights in Favor of a Co-Heir^[5] (Deed of Partition, for brevity), wherein the heirs settled their interest in Hagonoy Lumber as follows: one-half (1/2) thereof will pertain to the surviving spouse, Chan Chi, as her share in the conjugal partnership; and the other half, equivalent to P207,743.60, will be divided among Chan Chi and the seven children in equal *pro indiviso* shares equivalent to P25,967.00 each.^[6] In said document, Chan Chi and the six children likewise agreed to voluntarily renounce and waive their shares over Hagonoy Lumber in favor of their co-heir, Chua Sioc Huan.

In May 1988, petitioner Concepcion Chua Gaw and her husband, Antonio Gaw, asked respondent, Suy Ben Chua, to lend them P200,000.00 which they will use for the construction of their house in Marilao, Bulacan. The parties agreed that the loan will be payable within six (6) months without interest.^[7] On June 7, 1988, respondent issued in their favor China Banking Corporation Check No. 240810^[8] for P200,000.00 which he delivered to the couple's house in Marilao, Bulacan. Antonio later encashed the check.

On August 1, 1990, their sister, Chua Sioc Huan, executed a Deed of Sale over all her rights and interests in Hagonoy Lumber for a consideration of P255,000.00 in favor of respondent.^[9]

Meantime, the spouses Gaw failed to pay the amount they borrowed from respondent within the designated period. Respondent sent the couple a demand letter,^[10] dated March 25, 1991, requesting them to settle their obligation with the warning that he will be constrained to take the appropriate legal action if they fail to do so.

Failing to heed his demand, respondent filed a Complaint for Sum of Money against the spouses Gaw with the RTC. The complaint alleged that on June 7, 1988, he extended a loan to the spouses Gaw for P200,000.00, payable within six months without interest, but despite several demands, the couple failed to pay their obligation.^[11]

In their Answer (with Compulsory Counterclaim), the spouses Gaw contended that the P200,000.00 was not a loan but petitioner's share in the profits of Hagonoy Lumber, one of her family's businesses. According to the spouses, when they transferred residence to Marilao, Bulacan, petitioner asked respondent for an accounting, and payment of her share in the profits, of Capital Sawmills Corporation, Columbia Wood Industries Corporation, and Hagonoy Lumber. They claimed that respondent persuaded petitioner to temporarily forego her demand as it would offend their mother who still wanted to remain in control of the family businesses. To insure that she will defer her demand, respondent allegedly gave her P200,000.00 as her share in the profits of Hagonoy Lumber.^[12]

In his Reply, respondent averred that the spouses Gaw did not demand from him an accounting of Capitol Sawmills Corporation, Columbia Wood Industries, and Hagonoy Lumber. He asserted that the spouses Gaw, in fact, have no right whatsoever in these businesses that would entitle them to an accounting thereof. Respondent insisted that the P200,000.00 was given to and accepted by them as a loan and not as their share in Hagonoy Lumber.^[13]

With leave of court, the spouses Gaw filed an Answer (with Amended Compulsory Counterclaim) wherein they insisted that petitioner, as one of the compulsory heirs, is entitled to one-sixth (1/6) of Hagonoy Lumber, which the respondent has arrogated to himself. They claimed that, despite repeated demands, respondent has failed and refused to account for the operations of Hagonoy Lumber and to deliver her share therein. They then prayed that respondent make an accounting of the operations of Hagonoy Lumber and to deliver to petitioner her one-sixth (1/6) share thereof, which was estimated to be worth not less than P500,000.00.^[14]

In his Answer to Amended Counterclaim, respondent explained that his sister, Chua Sioc Huan, became the sole owner of Hagonoy Lumber when the heirs executed the Deed of Partition on December 8, 1986. In turn, he became the sole owner of Hagonoy Lumber when he bought it from Chua Sioc Huan, as evidenced by the Deed of Sale dated August 1, 1990.^[15]

Defendants, in their reply,^[16] countered that the documents on which plaintiff anchors his claim of ownership over Hagonoy Lumber were not true and valid agreements and do not express the real intention of the parties. They claimed that these documents are mere paper arrangements which were prepared only upon the

advice of a counsel until all the heirs could reach and sign a final and binding agreement, which, up to such time, has not been executed by the heirs.^[17]

During trial, the spouses Gaw called the respondent to testify as adverse witness under Section 10, Rule 132. On direct examination, respondent testified that Hagonoy Lumber was the conjugal property of his parents Chua Chin and Chan Chi, who were both Chinese citizens. He narrated that, initially, his father leased the lots where Hagonoy Lumber is presently located from his godfather, Lu Pieng, and that his father constructed the two-storey concrete building standing thereon. According to respondent, when he was in high school, it was his father who managed the business but he and his other siblings were helping him. Later, his sister, Chua Sioc Huan, managed Hagonoy Lumber together with their other brothers and sisters. He stated that he also managed Hagonoy Lumber when he was in high school, but he stopped when he got married and found another job. He said that he now owns the lots where Hagonoy Lumber is operating.^[18]

On cross-examination, respondent explained that he ceased to be a stockholder of Capitol Sawmill when he sold his shares of stock to the other stockholders on January 1, 1991. He further testified that Chua Sioc Huan acquired Hagonoy Lumber by virtue of a Deed of Partition, executed by the heirs of Chua Chin. He, in turn, became the owner of Hagonoy Lumber when he bought the same from Chua Sioc Huan through a Deed of Sale dated August 1, 1990. ^[19]

On re-direct examination, respondent stated that he sold his shares of stock in Capitol Sawmill for P254,000.00, which payment he received in cash. He also paid the purchase price of P255,000.00 for Hagonoy Lumber in cash, which payment was not covered by a separate receipt as he merely delivered the same to Chua Sioc Huan at her house in Paso de Blas, Valenzuela. Although he maintains several accounts at Planters Bank, Paluwagan ng Bayan, and China Bank, the amount he paid to Chua Sioc Huan was not taken from any of them. He kept the amount in the house because he was engaged in rediscounting checks of people from the public market. ^[20]

On December 10, 1998, Antonio Gaw died due to cardio vascular and respiratory failure.^[21]

On February 11, 2000, the RTC rendered a Decision in favor of the respondent, thus:

WHEREFORE, in the light of all the foregoing, the Court hereby renders judgement ordering defendant Concepcion Chua Gaw to pay the [respondent] the following:

1. P200,000.00 representing the principal obligation with legal interest from judicial demand or the institution of the complaint on November 19, 1991;
2. P50,000.00 as attorney's fees; and
3. Costs of suit.

The defendants' counterclaim is hereby dismissed for being devoid of merit.

SO ORDERED.^[22]

The RTC held that respondent is entitled to the payment of the amount of P200,000.00 with interest. It noted that respondent personally issued Check No. 240810 to petitioner and her husband upon their request to lend them the aforesaid amount. The trial court concluded that the P200,000.00 was a loan advanced by the respondent from his own funds and not remunerations for services rendered to Hagonoy Lumber nor petitioner's advance share in the profits of their parents' businesses.

The trial court further held that the validity and due execution of the Deed of Partition and the Deed of Sale, evidencing transfer of ownership of Hagonoy Lumber from Chua Sioc Huan to respondent, was never impugned. Although respondent failed to produce the originals of the documents, petitioner judicially admitted the due execution of the Deed of Partition, and even acknowledged her signature thereon, thus constitutes an exception to the best evidence rule. As for the Deed of Sale, since the contents thereof have not been put in issue, the non-presentation of the original document is not fatal so as to affect its authenticity as well as the truth of its contents. Also, the parties to the documents themselves do not contest their validity. Ultimately, petitioner failed to establish her right to demand an accounting of the operations of Hagonoy Lumber nor the delivery of her 1/6 share therein.

As for petitioner's claim that an accounting be done on Capitol Sawmill Corporation and Columbia Wood Industries, the trial court held that respondent is under no obligation to make such an accounting since he is not charged with operating these enterprises.^[23]

Aggrieved, petitioner appealed to the CA, alleging that the trial court erred (1) when it considered the amount of P200,000.00 as a loan obligation and not Concepcion's share in the profits of Hagonoy Lumber; (2) when it considered as evidence for the defendant, plaintiff's testimony when he was called to testify as an adverse party under Section 10 (e), Rule 132 of the Rules of Court; and (3) when it considered admissible mere copies of the Deed of Partition and Deed of Sale to prove that respondent is now the owner of Hagonoy Lumber.^[24]

On May 23, 2003, the CA affirmed the Decision of the RTC. ^[25] The appellate court found baseless the petitioner's argument that the RTC should not have included respondent's testimony as part of petitioner's evidence. The CA noted that the petitioner went on a fishing expedition, the taking of respondent's testimony having taken up a total of eleven hearings, and upon failing to obtain favorable information from the respondent, she now disclaims the same. Moreover, the CA held that the petitioner failed to show that the inclusion of respondent's testimony in the statement of facts in the assailed decision unduly prejudiced her defense and counterclaims. In fact, the CA noted that the facts testified to by respondent were deducible from the totality of the evidence presented.

The CA likewise found untenable petitioner's claim that Exhibits "H" (Deed of Sale) and Exhibit "I" (Deed of Partition) were merely temporary paper arrangements. The

CA agreed with the RTC that the testimony of petitioner regarding the matter was uncorroborated -- she should have presented the other heirs to attest to the truth of her allegation. Instead, petitioner admitted the due execution of the said documents. Since petitioner did not dispute the due execution and existence of Exhibits "H" and "I", there was no need to produce the originals of the documents in accordance with the best evidence rule.^[26]

On December 2, 2003, the CA denied the petitioner's motion for reconsideration for lack of merit.^[27]

Petitioner is before this Court in this petition for review on *certiorari*, raising the following errors:

- I. THAT ON THE PRELIMINARY IMPORTANT RELATED ISSUE, CLEAR AND PALPABLE LEGAL ERROR HAS BEEN COMMITTED IN THE APPLICATION AND LEGAL SIGNIFICANCE OF THE RULE ON EXAMINATION OF ADVERSE PARTY OR HOSTILE WITNESS UNDER SECTION 10 (d) AND (e) OF RULE 132, CAUSING SERIOUS DOUBT ON THE LOWER COURT'S APPEALED DECISION'S OBJECTIVITY, ANNEX "C".
- II. THAT ON THE IMPORTANT LEGAL ISSUE RELATIVE TO THE AFORESAID TWO OPPOSING CLAIMS OF RESPONDENT AND PETITIONER, CLEAR AND PALPABLE LEGAL ERROR HAS BEEN COMMITTED UNDER THE LOWER COURT'S DECISION ANNEX "C" AND THE QUESTIONED DECISION OF MAY 23, 2003 (ANNEX "A") AND THE RESOLUTION OF DECEMBER 2, 2003, (ANNEX "B") IN DEVIATING FROM AND DISREGARDING ESTABLISHED SUPREME COURT DECISIONS ENJOINING COURTS NOT TO OVERLOOK OR MISINTERPRET IMPORTANT FACTS AND CIRCUMSTANCES, SUPPORTED BY CLEAR AND CONVINCING EVIDENCE ON RECORD, AND WHICH ARE OF GREAT WEIGHT AND VALUE, WHICH WOULD CHANGE THE RESULT OF THE CASE AND ARRIVE AT A JUST, FAIR AND OBJECTIVE DECISION. (Citations omitted)
- III. THAT FINALLY, AS TO THE OTHER LEGAL IMPORTANT ISSUE RELATIVE TO CLAIM OR OWNERSHIP OF THE "Hagonoy Lumber" FAMILY BUSINESS, CLEAR AND PALPABLE LEGAL ERROR HAS BEEN COMMITTED ON THE REQUIREMENTS AND CORRECT APPLICATION OF THE "BEST EVIDENCE RULE" UNDER SECTION 3, RULE 130 OF THE REVISED RULES OF COURT.^[28]

The petition is without merit.

Petitioner contends that her case was unduly prejudiced by the RTC's treatment of the respondent's testimony as adverse witness during cross-examination by his own counsel as part of her evidence. Petitioner argues that the adverse witness' testimony elicited during cross-examination should not be considered as evidence of the calling party. She contends that the examination of respondent as adverse witness did not make him her witness and she is not bound by his testimony, particularly during cross-examination by his own counsel.^[29] In particular, the