

FIRST DIVISION

[G.R. NO. 160762, May 03, 2006]

**SPOUSES JOSEPHINE MENDOZA GO & HENRY GO, PETITIONERS,
VS. LEONARDO YAMANE, RESPONDENT.**

DECISION

PANGANIBAN, CJ:

Property purchased by spouses during the existence of their marriage is presumed to be conjugal in nature. This presumption stands, absent any clear, categorical, and convincing evidence that the property is paraphernal. Conjugal property cannot be held liable for the personal obligation contracted by one spouse, unless some advantage or benefit is shown to have accrued to the conjugal partnership.

The Case

Before the Court is a Petition for Review^[1] under Rule 45 of the Rules of Court, challenging the November 22, 2002 Decision^[2] and the September 17, 2003 Resolution^[3] of the Court of Appeals (CA) in CA-GR CV No. 60939. The assailed Decision disposed as follows:

"WHEREFORE, premises considered, the Decision appealed from is hereby **REVERSED and SET ASIDE**. The Sheriff's Certificate of Sale dated August 12, 1981 and the Final Sheriff's Certificate of Sale dated August 26, 1982 are declared **NULL and VOID**."^[4]

The CA denied reconsideration in its September 17, 2003 Resolution.

The Facts

The undisputed factual findings of the CA are as follows:

"Involved in the suit is a 750 square meters (sic) parcel of lot located at Res. Sec. "K", Baguio City, registered in the name of Muriel Pucay Yamane, wife of Leonardo Yamane, [respondent] herein, under Transfer Certificate of Title No. 12491.

"As a result of a motion for execution of a charging lien filed by Atty. Guillermo F. De Guzman in Civil Case No. 1841, entitled "*Florence Pucay De Gomez, Elsie Pucay Kiwas and Muriel Pucay Yamane v. Cypress Corporation*," which said counsel handled for the plaintiffs therein, hereinafter collectively referred to as the Pucay sisters, the subject property was levied to satisfy the lien for attorney's fees in the amount of P10,000. The said property was scheduled to be sold at public auction on August 11, 1981.

"Four days prior to the auction sale, [respondent] filed a *Third-Party Claim* with the Office of the Provincial Sheriff to stop the public auction on the ground that the subject property is conjugal property and, therefore, should not be held answerable for the personal obligation of the Pucay sisters. However, the Sheriff proceeded with the auction sale despite [respondent's] protest. The subject property was sold to spouses Josephine [and] Henry Go (or [petitioners]) as highest bidder. No redemption having been made during the one-year period, a *Final Sheriff's Certificate of Sale* was eventually issued on August 26, 1982 conveying and transferring the said property to [petitioners].

"On September 4, 1984, [respondent] filed a *Complaint* with the Regional Trial Court of Baguio City, docketed as Civil Case No. 417-R, against [petitioners] and Sheriff Melgar for annulment and cancellation of auction sale upon the same ground stated in the abovementioned third-party claim. Citing the Order of the Regional Trial Court of Baguio City, Branch V in LRC Case No. 2288, which ordered the cancellation of TCT No. 12491 and directed the Register of Deeds to issue new title in the name of Josephine Go x x x, [petitioners] moved to dismiss the complaint on the ground of res judicata. In the Order dated November 28, 1984, the motion was denied by the trial court.

"In their Answer filed on December 10, 1984, [petitioners] denied the material allegations of the complaint and interposed the following special affirmative defenses: that the cause of action was barred by prior judgment; that [respondent] has not pursued any lawful remedy to annul the execution proceeding; that there is no flaw or irregularity in the auction sale; and that since the execution sale was made in accordance with Section 21, Rule 39 of the Revised Rules of Court, it is deemed final and any irregularity committed in the course thereof will not vitiate its validity.

"On December 28, 1984, Muriel likewise lodged a *Complaint* for Damages, docketed as Civil Case No. 505-R, against [petitioners] and Atty. Guillermo De Guzman alleging, in gist, fraud, misrepresentation, manipulation and unlawful acts of the defendants in causing the levy of the subject property with an estimated commercial value of P200,000 as against a charging lien in the amount of P10,000.

"In its May 27, 1985 *Order*, the trial court ordered the joint hearing of Civil Cases Nos. 417-R and 505-R. On August 30, 1985, Muriel was declared non-suited for failure to appear in the hearing despite due notice. As a consequence, Civil Case No. 505-R was dismissed on October 15, 1985."^[5]

In its Decision^[6] dated March 25, 1998, the Regional Trial Court (RTC) of Baguio City, Branch 4, held that the subject parcel of land was the paraphernal property of the late Muriel Pucay Yamane -- spouse of respondent -- and was not their conjugal property. The appearance of his name on the Transfer Certificate of Title (TCT) was deemed to be merely descriptive of the civil status of the registered owner, his late wife. Hence, finding that he had no legal standing to question the auction sale or to

pray for its annulment or cancellation, the RTC dismissed the case for lack of merit.

Upon receipt of the RTC Decision on April 8, 1998, respondent filed a Motion,^[7] in which he prayed that he be allowed to file his Motion for Reconsideration of the Decision, on or before May 30, 1998. The trial court granted^[8] his Motion; received the Motion for Reconsideration,^[9] which was filed on May 28, 1998; and eventually denied it in its Order dated June 5, 1998.^[10] He then elevated the matter to the CA on June 15, 1998.

Ruling of the Court of Appeals

The CA reversed the RTC's Decision. The Sheriff's Certificate of Sale dated August 12, 1981, and the Final Sheriff's Certificate of Sale dated August 26, 1982, were declared null and void.

According to the appellate court, property acquired during marriage is presumed to be conjugal, unless the exclusive funds of one spouse are shown to have been used for the purpose. That the land was acquired during the spouses' coverture was sufficiently established by the TCT and the Deed of Absolute Sale, both indicating that Muriel Pucay Yamane was "*married to Leonardo Yamane*"; and by the undisputed testimony of the previous owner, Eugene Pucay. Because of petitioners' failure to establish that the land in question had been acquired by Muriel using her exclusive funds, the CA concluded that the contested land was conjugal property.

The appellate court further held thus:

"x x x [T]he disputed property being a conjugal property of [respondent] and his wife, and absent any showing of some advantage or benefit that accrued to their conjugal partnership from the transaction between the Pucay sisters and Atty. De Guzman, the public auction sale of the subject property in favor of [petitioners] is null and void."^[11]

Hence, this Petition.^[12]

Issues

Petitioners submit the following issues for our consideration:

"I. The Court of Appeals gravely erred in taking cognizance of the appeal and in not dismissing the same, despite the fact that the respondent failed to perfect his appeal within the 15-day reglementary period set by the Rules of Court.

"II. The Court of Appeals gravely erred in declaring the subject property as conjugal property, despite the existence of clear evidence showing that the subject property is the exclusive paraphernal property of Muriel who, even during her lifetime, always claimed the said property as her own exclusive paraphernal property and not as property co-owned with her husband, the respondent herein.

"III. The Court of Appeals, assuming, *ex grati argumenti*, that the subject

property is conjugal property between respondent and Muriel, gravely erred in ruling that the same cannot answer for the charging lien of Atty. Guillermo de Guzman in Civil Case No. 1841."^[13]

In the main, they posit two issues. They raise, *first*, the procedural question of whether the CA erred in giving due course to respondent's lapsed appeal; and, *second*, the substantive issue of whether the subject property is conjugal or paraphernal.

The Court's Ruling

The Petition has no merit.

Procedural Issue: **Whether Respondent's Appeal** **Should Be Given Due Course**

Petitioners contend that the CA erred in giving due course to the appeal filed by respondent beyond the 15-day reglementary period.

Concededly, he received a copy of the RTC Decision on April 8, 1998. He had, therefore, until April 23, 1998, within which to file an appeal. Prior to the latter date, however, he moved that his new counsel be allowed to file a motion for reconsideration on May 30, 1998. It was eventually filed on May 28, 1998, but was denied. Respondent subsequently filed a Notice of Appeal on June 15, 1998. By this time, the original period to appeal had expired. It should be clear that the Rules prohibit an extension to file a motion for reconsideration.^[14]

The perfection of an appeal in the manner and within the period prescribed by the Rules of Civil Procedure is not only mandatory, but also jurisdictional; and the lapse of the appeal period of fifteen days deprives a court of the jurisdiction to alter a final judgment.^[15]

There have been exceptions, however, in which the Court dispensed with technical infirmities and gave due course to tardy appeals. In some of those instances, the presence of any justifying circumstance recognized by law -- such as fraud, accident, mistake or excusable negligence -- properly vested the judge with discretion to approve or admit an appeal filed out of time.^[16] In other instances, lapsed appeals were allowed in order to serve substantial justice, upon consideration of a) matters of life, liberty, honor or property; b) the existence of special or compelling circumstances; c) the merits of the case; d) causes not entirely attributable to the fault or negligence of the party that would be favored by the suspension of the rules; e) the failure to show that the review being sought was merely frivolous and dilatory; and f) the fact that the other party would not be unjustly prejudiced.^[17]

Indeed, in some exceptional cases, the Court has allowed the relaxation of the rules regulating the reglementary periods of appeal. These exceptions were cited in *Manila Memorial Park Cemetery v. CA*,^[18] from which we quote:

"In *Ramos vs. Bagasao*, the Court excused the delay of four days in the filing of the notice of appeal because the questioned decision of the trial court had been served upon appellant Ramos at a time when her counsel of record was already dead. The new counsel could only file the appeal four days after the prescribed reglementary period was over. In *Republic vs. Court of Appeals*, the Court allowed the perfection of an appeal by the Republic despite the delay of six days to prevent a gross miscarriage of justice since the Republic stood to lose hundreds of hectares of land already titled in its name and had since then been devoted for public purposes. In *Olacao vs. National Labor Relations Commission*, a tardy appeal was accepted considering that the subject matter in issue had theretofore been judicially settled with finality in another case, and a dismissal of the appeal would have had the effect of the appellant being ordered twice to make the same reparation to the appellee."^[19]

We believe that a suspension of the Rules is similarly warranted in the present controversy. We have carefully studied the merits of the case and noted that the review being sought has not been shown to be merely frivolous and dilatory. The Court has come to the conclusion that the Decision of the RTC, Branch 4 (in Civil Case No. 417-R), must be set aside. It would be far better and more prudent to attain the ends of justice, rather than to dispose of the case on technicality and cause grave injustice in the process. Thus, we would rather excuse a technical lapse and afford respondent a review of the case on appeal.

Substantive Issue:
Paraphernal or Conjugal?

The purchase of the property had been concluded in 1967, before the Family Code took effect on August 3, 1988.^[20] Accordingly, the transaction was aptly covered by the then governing provisions of the New Civil Code. On the latter basis, therefore, we shall resolve the issue of the nature of the contested property.

Article 160 of the New Civil Code provides that "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."^[21] As a *conditio sine qua non* for the operation of this article in favor of the conjugal partnership,^[22] the party who invokes the presumption must first prove that the property was acquired during the marriage.^[23]

In other words, the presumption in favor of conjugality does not operate if there is no showing of *when* the property alleged to be conjugal was acquired.^[24] Moreover, the presumption may be rebutted only with strong, clear, categorical and convincing evidence.^[25] There must be strict proof of the exclusive ownership of one of the spouses,^[26] and the burden of proof rests upon the party asserting it.^[27]

The CA committed no error in declaring that the parcel of land belonged to the conjugal partnership of Spouses Muriel and Leonardo Yamane. They acquired it from Eugene Pucay on February 27, 1967,^[28] or specifically during the marriage.^[29] We then follow the rule that proof of the acquisition of the subject property during a marriage suffices to render the statutory presumption operative. It is clear enough