

## FIRST DIVISION

[ G.R. NO. 165420, June 30, 2005 ]

**CONCEPCION R. AINZA, SUBSTITUTED BY HER LEGAL HEIRS, DR. NATIVIDAD A. TULIAO, CORAZON A. JALECO AND LILIA A. OLAYON, PETITIONERS, VS. SPOUSES ANTONIO PADUA AND EUGENIA PADUA, RESPONDENTS.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

This petition for review on *certiorari* assails the February 24, 2004 decision of the Court of Appeals in CA-G.R. CV No. 70239,<sup>[1]</sup> and its September 28, 2004 resolution, denying reconsideration thereof.<sup>[2]</sup>

In her complaint for partition of real property, annulment of titles with damages,<sup>[3]</sup> Concepcion Ainza (Concepcion) alleged that respondent-spouses Eugenia (Eugenia) and Antonio Padua (Antonio) owned a 216.40 sq. m. lot with an unfinished residential house located at No. 85-A Durian corner Pajo Sts., Barangay Quirino 2-C, Project 2, Quezon City, covered by Transfer Certificate of Title No. 271935. Sometime in April 1987, she bought one-half of an undivided portion of the property from her daughter, Eugenia and the latter's husband, Antonio, for One Hundred Thousand Pesos (P100,000.00).

No Deed of Absolute Sale was executed to evidence the transaction, but cash payment was received by the respondents, and ownership was transferred to Concepcion through physical delivery to her attorney-in-fact and daughter, Natividad Tuliao (Natividad). Concepcion authorized Natividad and the latter's husband, Ceferino Tuliao (Ceferino) to occupy the premises, and make improvements on the unfinished building.

Thereafter, Concepcion alleged that without her consent, respondents caused the subdivision of the property into three portions and registered it in their names under TCT Nos. N-155122, N-155123 and N-155124 in violation of the restrictions annotated at the back of the title.

On the other hand, Antonio averred that he bought the property in 1980 and introduced improvements thereon. Between 1989 and 1990, he and his wife, Eugenia, allowed Natividad and Ceferino to occupy the premises temporarily. In 1994, they caused the subdivision of the property and three (3) separate titles were issued.

Thereafter, Antonio requested Natividad to vacate the premises but the latter refused and claimed that Concepcion owned the property. Antonio thus filed an ejectment suit on April 1, 1999. Concepcion, represented by Natividad, also filed on May 4, 1999 a civil case for partition of real property and annulment of titles with

damages.

Antonio claimed that his wife, Eugenia, admitted that Concepcion offered to buy one third (1/3) of the property who gave her small amounts over several years which totaled P100,000.00 by 1987 and for which she signed a receipt.

On January 9, 2001, the Regional Trial Court of Quezon City, Branch 85, rendered judgment<sup>[4]</sup> in favor of Concepcion, the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants and ordering:

1. the subdivision of the subject property between the said plaintiff and defendants in equal shares with one-half of the property, including the portion occupied by the spouses Severino and Natividad Tuliao to be awarded to the plaintiff;
2. the cancellation of Transfer Certificates of Title Nos. N-155122, N-155123, N-155124 of the Registry of Deeds of Quezon City;
3. the defendants to pay to the plaintiff P50,000.00 as attorney's fees.

SO ORDERED.<sup>[5]</sup>

The trial court upheld the sale between Eugenia and Concepcion. It ruled that the sale was consummated when both contracting parties complied with their respective obligations. Eugenia transferred possession by delivering the property to Concepcion who in turn paid the purchase price. It also declared that the transfer of the property did not violate the Statute of Frauds because a fully executed contract does not fall within its coverage.

On appeal by the respondents, the Court of Appeals reversed the decision of the trial court, and declared the sale null and void. Applying Article 124 of the Family Code, the Court of Appeals ruled that since the subject property is conjugal, the written consent of Antonio must be obtained for the sale to be valid. It also ordered the spouses Padua to return the amount of P100,000.00 to petitioners plus interest.

<sup>[6]</sup>

The sole issue for resolution in this petition for review is whether there was a valid contract of sale between Eugenia and Concepcion.

A contract of sale is perfected by mere consent, upon a meeting of the minds on the offer and the acceptance thereof based on subject matter, price and terms of payment.<sup>[7]</sup>

In this case, there was a perfected contract of sale between Eugenia and Concepcion. The records show that Eugenia offered to sell a portion of the property to Concepcion, who accepted the offer and agreed to pay P100,000.00 as consideration. The contract of sale was consummated when both parties fully complied with their respective obligations. Eugenia delivered the property to Concepcion, who in turn, paid Eugenia the price of One Hundred Thousand Pesos

(P100,000.00), as evidenced by the receipt which reads:

R E C E I P T

Received the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) as payment for the lot on 85-A Durian St., Project 2, Quezon City, from Mrs. Concepcion R. Ainza, on April, 1987.

\_\_\_\_\_(Sgd.)\_\_\_\_\_  
Mrs.. Eugenia A. Padua<sup>[8]</sup>

The verbal contract of sale between Eugenia and Concepcion did not violate the provisions of the Statute of Frauds that a contract for the sale of real property shall be unenforceable unless the contract or some note or memorandum of the sale is in writing and subscribed by the party charged or his agent.<sup>[9]</sup> When a verbal contract has been completed, executed or partially consummated, as in this case, its enforceability will not be barred by the Statute of Frauds, which applies only to an executory agreement.<sup>[10]</sup> Thus, where one party has performed his obligation, oral evidence will be admitted to prove the agreement.<sup>[11]</sup>

In the instant case, the oral contract of sale between Eugenia and Concepcion was evidenced by a receipt signed by Eugenia. Antonio also stated that his wife admitted to him that she sold the property to Concepcion.

It is undisputed that the subject property was conjugal and sold by Eugenia in April 1987 or prior to the effectivity of the Family Code on August 3, 1988, Article 254 of which repealed Title V, Book I of the Civil Code provisions on the property relations between husband and wife. However, Article 256 thereof limited its retroactive effect only to cases where it would not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws. In the case at bar, vested rights of Concepcion will be impaired or prejudiced by the application of the Family Code; hence, the provisions of the Civil Code should be applied.

In *Felipe v. Heirs of Aldon, et al.*,<sup>[12]</sup> the legal effect of a sale of conjugal properties by the wife without the consent of the husband was clarified, to wit:

The legal ground which deserves attention is the legal effect of a sale of lands belonging to the conjugal partnership made by the wife without the consent of the husband.

It is useful at this point to re-state some elementary rules: The husband is the administrator of the conjugal partnership. (Art. 165, Civil Code) Subject to certain exceptions, the husband cannot alienate or encumber any real property of the conjugal partnership without the wife's consent. (Art. 166, *Idem.*) And the wife cannot bind the conjugal partnership without the husband's consent, except in cases provided by law. (Art. 172, *Idem.*)

In the instant case, Gimena, the wife, sold lands belonging to the conjugal partnership without the consent of the husband and the sale is not covered by the phrase "except in cases provided by law." The Court of Appeals described the sale as "invalid" – a term which is imprecise