

FIRST DIVISION

[G.R. No. 159723, September 09, 2004]

ANTONIO S. LIM, JR., REPRESENTED BY HIS ATTORNEY-IN-FACT, PAZ S. LIM, PETITIONER VS. VICTOR K. SAN AND ELINDO LO, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

This is a petition for review on *certiorari* of the decision^[1] and the resolution^[2] of the Court of Appeals in CA-G.R. CV No. 61948 promulgated on May 7, 2003 and August 13, 2003, respectively, which affirmed the July 27, 2003 decision^[3] of the Regional Trial Court of Davao City, Branch 12 dismissing the complaint filed by petitioner.

Petitioner Antonio S. Lim, Jr., represented by his mother, Paz S. Lim, as attorney-in-fact, filed a complaint^[4] before the Regional Trial Court of Davao City seeking the annulment of a Deed of Absolute Sale^[5] involving a parcel of land purportedly executed by Paz S. Lim in favor of her brother, respondent Victor K. San.

In the second amended complaint dated May 27, 1993, petitioner alleged the following:

x x x

x x x

x x x

4. That plaintiff is an owner of a parcel of land situated at Bajada, Davao City, containing an area of 1,763 square meters, more or less, covered by Transfer Certificate of Title No. T-11072 of the Registry of Deeds of Davao City, x x x;

4.A. That constructed on the afore-cited parcel of land is a fourteen (14) doors commercial building, and that defendant is paying an annual lease of ONE HUNDRED THOUSAND (P100,000.00) PESOS to the herein plaintiff.

5. On May 29, 1991, the herein defendant taking undue advantage of the depressed mental state of plaintiff's Attorney-in-Fact, brought about by the demise of her late husband, Dr. Antonio A. Lim Sr., caused some papers for her to sign, which later turn (sic) out to be an Absolute Deed of Sale, x x x;

6. That the signature of the Attorney-in-Fact in the aforecited Deed of Absolute Sale was obtained through fraud and trickery employed by the herein defendant and that she never appeared before the Notary Public, who notarized the said deed;

7. That no consideration was ever paid, much less received by the plaintiff or by his Attorney-in-Fact. Simply put, the Deed of Absolute Sale was void ab initio for “**lack of consideration**” and for “**lack of a valid consent**”;

8. After the signing of the aforecited Deed of Sale with its attendant legal flaws and infirmities, plaintiff’s Title was transferred in the name of the defendant, Victor K. San, x x x;

9. Knowing that he is holding an infirmed Title, defendant, Victor K. San is now in the process of selling the aforecited property including the commercial building erected thereon to any third person; and that the defendant had already caused the cancellation of the Mother Title No. T-165010 by subdividing the same into eight (8) lots with eight (8) different titles, as follows:

TCT NO. T-191255, T-191256, T-191257, T-191258, T-191259, T-191260, T-191261, T-191262,

x x x x x x x x x.^[6]

Respondent Victor K. San denied all the allegations of the petitioner. He alleged that the parcel of land covered by TCT No. T-165010 of the Registry of Deeds of Davao City and registered in his name was validly and regularly issued. He further claimed that he does not have any lease contract with the petitioner with respect to the contested property and does not pay any monthly rental over the same. Moreover, respondent claimed that there was full payment of the consideration of ₱264,450.00 for the subject property.

Respondent Elindo Lo was impleaded as a co-defendant on account of his purchase of one lot covered by TCT No. T-191262,^[7] notwithstanding the Notice of Adverse Claim and *Lis Pendens* annotated on the title of the said parcel of land.

On July 27, 1998, after trial on the merits, the Regional Trial Court of Davao City rendered a decision dismissing the complaint.^[8]

Petitioner appealed to the Court of Appeals which affirmed the judgment of the trial court *in toto*. Petitioner’s motion for reconsideration^[9] was denied in a Resolution^[10] dated August 13, 2003.

Hence the present petition based on the following grounds:

- a) that the Court of Appeals erred in affirming the trial court’s judgment declaring that the petitioner failed to prove by clear and convincing evidence that the signature of his attorney-in-fact was obtained through fraud and trickery and that no consideration was ever paid.
- b) that the Court of Appeals erred in declaring that the medical certificates issued by foreign medical institutions to prove Paz S. Lim (*sic*) severe mental state of depression

cannot be given evidentiary weight considering that its due execution and authenticity were not properly established.
[11]

Petitioner contends that the deed of sale should be declared void because his consent to the same was vitiated by intimidation and that no consideration was paid for the subject property. Respondents, on the other hand, maintain that the parties to the deed of sale validly entered into the same; that Paz S. Lim freely and voluntarily gave her consent to the sale; and that she received the consideration agreed upon by the parties.

After a careful review of the records of this case, we find no cogent reason to deviate from the rulings of the court *a quo* and the Court of Appeals.

A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.^[12] It has three essential elements, or those without which there can be no contract – consent, subject matter and cause.^[13] A knowledge of these essential elements is material because the perfection stage or the birth of the contract only occurs when the parties to a contract agree upon the essential elements of the same.^[14]

A contract of sale is consensual,^[15] as such it is perfected by mere consent.^[16] Consent is essential for the existence of a contract, and where it is wanting, the contract is non-existent.^[17] Consent in contracts presupposes the following requisites: (1) it should be intelligent or with an exact notion of the matter to which it refers; (2) it should be free; and (3) it should be spontaneous. Intelligence in consent is vitiated by error; freedom by violence, intimidation or undue influence; and spontaneity by fraud.^[18] Thus, a contract where consent is given through mistake, violence, intimidation, undue influence or fraud is voidable.^[19]

Contrary to the allegations of the petitioner that the consent of his attorney-in-fact to the deed of sale was vitiated, a perusal of the records of this case showed that the petitioner failed to establish that violence, intimidation and undue influence vitiated the consent of Paz S. Lim to the deed of sale pertaining to the subject property. In determining whether consent is vitiated by the circumstances provided for in Article 1330 of the Civil Code of the Philippines, courts are given a wide latitude in weighing the facts or circumstances in a given case and in deciding in favor of what they believe to have actually occurred, considering the age, physical infirmity, intelligence, relationship and the conduct of the parties at the time of making the contract and subsequent thereto, irrespective of whether the contract is in a public or private writing.^[20]

While it is true that upon the death of her husband, Dr. Antonio T. Lim, Sr., on May 18, 1990,^[21] Paz S. Lim returned to the Philippines and subsequently stayed at the house of the respondent, such fact *per se* is not sufficient to establish that the latter employed intimidation, violence or undue influence upon the former. Defect or lack of valid consent, in order to make the contract voidable, must be established by full, clear and convincing evidence, and not merely by a preponderance thereof.^[22] Petitioner's mere allegations that respondent threatened his mother with harm if she will not sign the contract failed to measure up to the yardstick of evidence required,