

THIRD DIVISION

[G.R. No. 112212, March 02, 1998]

**GREGORIO FULE, PETITIONER, VS. COURT OF APPEALS,
NINEVETCH CRUZ AND JUAN BELARMINO, RESPONDENTS.**

DECISION

ROMERO, J.:

This petition for review on *certiorari* questions the affirmance by the Court of Appeals of the decision^[1] of the Regional Trial Court of San Pablo City, Branch 30, dismissing the complaint that prayed for the nullification of a contract of sale of a 10-hectare property in Tanay, Rizal in consideration of the amount of ₱40,000.00 and a 2.5 carat emerald-cut diamond (Civil Case No. SP-2455). The lower court's decision disposed of the case as follows:

“WHEREFORE, premises considered, the Court hereby renders judgment dismissing the complaint for lack of merit and ordering plaintiff to pay:

1. Defendant Dra. Ninevetch M. Cruz the sum of ₱300,000.00 as and for moral damages and the sum of ₱100,000.00 as and for exemplary damages;
2. Defendant Atty. Juan Belarmino the sum of ₱250,000.00 as and for moral damages and the sum of ₱150,000.00 as and for exemplary damages;
3. Defendant Dra. Cruz and Atty. Belarmino the sum of ₱25,000.00 each as and for attorney's fees and litigation expenses; and
4. The costs of suit.

SO ORDERED.”

As found by the Court of Appeals and the lower court, the antecedent facts of this case are as follows:

Petitioner Gregorio Fule, a banker by profession and a jeweler at the same time, acquired a 10-hectare property in Tanay, Rizal (hereinafter “Tanay property”), covered by Transfer Certificate of Title No. 320725 which used to be under the name of Fr. Antonio Jacobo. The latter had mortgaged it earlier to the Rural Bank of Alaminos (the Bank), Laguna, Inc. to secure a loan in the amount of ₱10,000.00, but the mortgage was later foreclosed and the property offered for public auction upon his default.

In July 1984, petitioner, as corporate secretary of the bank, asked Remelia Dichoso and Oliva Mendoza to look for a buyer who might be interested in the Tanay property. The two found one in the person of herein private respondent Dr. Ninevetch Cruz. It so happened that at the time, petitioner had shown interest in buying a pair of emerald-cut diamond earrings owned by Dr. Cruz which he had seen in January of the same year when his mother examined and appraised them as genuine. Dr. Cruz, however,

declined petitioner's offer to buy the jewelry for ₱100,000.00. Petitioner then made another bid to buy them for US\$6,000.00 at the exchange rate of \$1.00 to ₱25.00. At this point, petitioner inspected said jewelry at the lobby of the Prudential Bank branch in San Pablo City and then made a sketch thereof. Having sketched the jewelry for twenty to thirty minutes, petitioner gave them back to Dr. Cruz who again refused to sell them since the exchange rate of the peso at the time appreciated to ₱19.00 to a dollar.

Subsequently, however, negotiations for the barter of the jewelry and the Tanay property ensued. Dr. Cruz requested herein private respondent Atty. Juan Belarmino to check the property who, in turn, found out that no sale or barter was feasible because the one-year period for redemption of the said property had not yet expired at the time.

In an effort to cut through any legal impediment, petitioner executed on October 19, 1984, a deed of redemption on behalf of Fr. Jacobe purportedly in the amount of ₱15,987.78, and on even date, Fr. Jacobe sold the property to petitioner for ₱75,000.00. The haste with which the two deeds were executed is shown by the fact that the deed of sale was notarized ahead of the deed of redemption. As Dr. Cruz had already agreed to the proposed barter, petitioner went to Prudential Bank once again to take a look at the jewelry.

In the afternoon of October 23, 1984, petitioner met Atty. Belarmino at the latter's residence to prepare the documents of sale.^[2] Dr. Cruz herself was not around but Atty. Belarmino was aware that she and petitioner had previously agreed to exchange a pair of emerald-cut diamond earrings for the Tanay property. Atty. Belarmino accordingly caused the preparation of a deed of absolute sale while petitioner and Dr. Cruz attended to the safekeeping of the jewelry.

The following day, petitioner, together with Dichoso and Mendoza, arrived at the residence of Atty. Belarmino to finally execute a deed of absolute sale. Petitioner signed the deed and gave Atty. Belarmino the amount of ₱13,700.00 for necessary expenses in the transfer of title over the Tanay property. Petitioner also issued a certification to the effect that the actual consideration of the sale was ₱200,000.00 and not ₱80,000.00 as indicated in the deed of absolute sale. The disparity between the actual contract price and the one indicated on the deed of absolute sale was purportedly aimed at minimizing the amount of the capital gains tax that petitioner would have to shoulder. Since the jewelry was appraised only at ₱160,000.00, the parties agreed that the balance of ₱40,000.00 would just be paid later in cash.

As pre-arranged, petitioner left Atty. Belarmino's residence with Dichoso and Mendoza and headed for the bank, arriving there at past 5:00 p.m. Dr. Cruz also arrived shortly thereafter, but the cashier who kept the other key to the deposit box had already left the bank. Dr. Cruz and Dichoso, therefore, looked for said cashier and found him having a haircut. As soon as his haircut was finished, the cashier returned to the bank and arrived there at 5:48 p.m., ahead of Dr. Cruz and Dichoso who arrived at 5:55 p.m. Dr. Cruz and the cashier then opened the safety deposit box, the former retrieving a transparent plastic or cellophane bag with the jewelry inside and handing over the same to petitioner. The latter took the jewelry from the bag, went near the electric light at the bank's lobby, held the jewelry against the light and examined it for ten to fifteen minutes. After a while, Dr. Cruz asked, "*Okay na ba iyan?*" Petitioner expressed his satisfaction by nodding his head.

For services rendered, petitioner paid the agents, Dichoso and Mendoza, the amount of US\$300.00 and some pieces of jewelry. He did not, however, give them half of the pair of earrings in question which he had earlier promised.

Later, at about 8:00 o'clock in the evening of the same day, petitioner arrived at the residence of Atty. Belarmino complaining that the jewelry given to him was fake. He then used a tester to prove the alleged fakery. Meanwhile, at 8:30 p.m., Dichoso and Mendoza went to the residence of Dr. Cruz to borrow her car so that, with Atty. Belarmino, they could register the Tanay property. After Dr. Cruz had agreed to lend her car, Dichoso called up Atty. Belarmino. The latter, however, instructed Dichoso to proceed immediately to his residence because petitioner was there. Believing that petitioner had finally agreed to give them half of the pair of earrings, Dichoso went posthaste to the residence of Atty. Belarmino only to find petitioner already demonstrating with a tester that the earrings were fake. Petitioner then accused Dichoso and Mendoza of deceiving him which they, however, denied. They countered that petitioner could not have been fooled because he had vast experience regarding jewelry. Petitioner nonetheless took back the US\$300.00 and jewelry he had given them.

Thereafter, the group decided to go to the house of a certain Macario Dimayuga, a jeweler, to have the earrings tested. Dimayuga, after taking one look at the earrings, immediately declared them counterfeit. At around 9:30 p.m., petitioner went to one Atty. Reynaldo Alcantara residing at Lakeside Subdivision in San Pablo City, complaining about the fake jewelry. Upon being advised by the latter, petitioner reported the matter to the police station where Dichoso and Mendoza likewise executed sworn statements.

On October 26, 1984, petitioner filed a complaint before the Regional Trial Court of San Pablo City against private respondents praying, among other things, that the contract of sale over the Tanay property be declared null and void on the ground of fraud and deceit.

On October 30, 1984, the lower court issued a temporary restraining order directing the Register of Deeds of Rizal to refrain from acting on the pertinent documents involved in the transaction. On November 20, 1984, however, the same court lifted its previous order and denied the prayer for a writ of preliminary injunction.

After trial, the lower court rendered its decision on March 7, 1989. Confronting the issue of whether or not the genuine pair of earrings used as consideration for the sale was delivered by Dr. Cruz to petitioner, the lower court said:

"The Court finds that the answer is definitely in the affirmative. Indeed, Dra. Cruz delivered (the) subject jewelries (sic) into the hands of plaintiff who even raised the same nearer to the lights of the lobby of the bank near the door. When asked by Dra. Cruz if everything was in order, plaintiff even nodded his satisfaction (Hearing of Feb. 24, 1988). At that instance, plaintiff did not protest, complain or beg for additional time to examine further the jewelries (sic). Being a professional banker and engaged in the jewelry business plaintiff is conversant and competent to detect a fake diamond from the real thing. Plaintiff was accorded the reasonable time and opportunity to ascertain and inspect the jewelries (sic) in accordance with Article 1584 of the Civil Code. Plaintiff took delivery of the subject jewelries (sic) before 6:00 p.m. of October 24, 1984. When he went at 8:00 p.m. that same day to the residence of Atty. Belarmino already with a tester

complaining about some fake jewelries (sic), there was already undue delay because of the lapse of a considerable length of time since he got hold of subject jewelries (sic). The lapse of two (2) hours more or less before plaintiff complained is considered by the Court as unreasonable delay.”^[3]

The lower court further ruled that all the elements of a valid contract under Article 1458 of the Civil Code were present, namely: (a) consent or meeting of the minds; (b) determinate subject matter, and (c) price certain in money or its equivalent. The same elements, according to the lower court, were present despite the fact that the agreement between petitioner and Dr. Cruz was principally a barter contract. The lower court explained thus:

“x x x. Plaintiff’s ownership over the Tanay property passed unto Dra. Cruz upon the constructive delivery thereof by virtue of the Deed of Absolute Sale (Exh. D). On the other hand, the ownership of Dra. Cruz over the subject jewelries (sic) transferred to the plaintiff upon her actual personal delivery to him at the lobby of the Prudential Bank. It is expressly provided by law that the thing sold shall be understood as delivered, when it is placed in the control and possession of the vendee (Art. 1497, Civil Code; Kuenzle & Straff vs. Watson & Co. 13 Phil. 26). The ownership and/or title over the jewelries (sic) was transmitted immediately before 6:00 p.m. of October 24, 1984. Plaintiff signified his approval by nodding his head. Delivery or tradition, is one of the modes of acquiring ownership (Art. 712, Civil Code).

Similarly, when Exhibit D was executed, it was equivalent to the delivery of the Tanay property in favor of Dra. Cruz. The execution of the public instrument (Exh. D) operates as a formal or symbolic delivery of the Tanay property and authorizes the buyer, Dra. Cruz to use the document as proof of ownership (Florendo v. Foz, 20 Phil. 399). More so, since Exhibit D does not contain any proviso or stipulation to the effect that title to the property is reserved with the vendor until full payment of the purchase price, nor is there a stipulation giving the vendor the right to unilaterally rescind the contract the moment the vendee fails to pay within a fixed period (Taguba v. Vda. De Leon, 132 SCRA 722; Luzon Brokerage Co. Inc. vs. Maritime Building Co. Inc. 86 SCRA 305; Froilan v. Pan Oriental Shipping Co. et al. 12 SCRA 276).”^[4]

Aside from concluding that the contract of barter or sale had in fact been consummated when petitioner and Dr. Cruz parted ways at the bank, the trial court likewise dwelt on the unexplained delay with which petitioner complained about the alleged fakery. Thus:

“x x x. Verily, plaintiff is already estopped to come back after the lapse of considerable length of time to claim that what he got was fake. He is a Business Management graduate of La Salle University, Class 1978-79, a professional banker as well as a jeweler in his own right. Two hours is more than enough time to make a switch of a Russian diamond with the real diamond. It must be remembered that in July 1984 plaintiff made a sketch of the subject jewelries (sic) at the Prudential Bank. Plaintiff had a tester at 8:00 p.m. at the residence of Atty. Belarmino. Why then did he not bring it out when he was examining the subject jewelries (sic) at about 6:00 p.m. in the bank’s lobby? Obviously, he had no need for it after being satisfied of the genuineness of the subject jewelries (sic). When Dra. Cruz and plaintiff left the bank both of them had fully performed their respective prestations. Once a contract is shown to have been consummated or fully performed by the parties thereto, its existence and binding effect can no longer be disputed. It is irrelevant and immaterial to dispute the due execution of a contract if both of them have in fact performed their obligations thereunder and

their respective signatures and those of their witnesses appear upon the face of the document (Weldon Construction v. CA G.R. No. L-35721, Oct. 12, 1987).”^[5]

Finally, in awarding damages to the defendants, the lower court remarked:

“The Court finds that plaintiff acted in wanton bad faith. Exhibit 2-Belarmino purports to show that the Tanay property is worth P25,000.00. However, also on that same day it was executed, the property’s worth was magnified at P75,000.00 (Exh. 3-Belarmino). How could in less than a day (Oct. 19, 1984) the value would (sic) triple under normal circumstances? Plaintiff, with the assistance of his agents, was able to exchange the Tanay property which his bank valued only at P25,000.00 in exchange for a genuine pair of emerald cut diamond worth P200,000.00 belonging to Dra. Cruz. He also retrieved the US\$300.00 and jewelries (sic) from his agents. But he was not satisfied in being able to get subject jewelries for a song. He had to file a malicious and unfounded case against Dra. Cruz and Atty. Belarmino who are well known, respected and held in high esteem in San Pablo City where everybody practically knows everybody. Plaintiff came to Court with unclean hands dragging the defendants and soiling their clean and good name in the process. Both of them are near the twilight of their lives after maintaining and nurturing their good reputation in the community only to be stunned with a court case. Since the filing of this case on October 26, 1984 up to the present they were living under a pall of doubt. Surely, this affected not only their earning capacity in their practice of their respective professions, but also they suffered besmirched reputations. Dra. Cruz runs her own hospital and defendant Belarmino is a well respected legal practitioner.

The length of time this case dragged on during which period their reputation were (sic) tarnished and their names maligned by the pendency of the case, the Court is of the belief that some of the damages they prayed for in their answers to the complaint are reasonably proportionate to the sufferings they underwent (Art. 2219, New Civil Code). Moreover, because of the falsity, malice and baseless nature of the complaint defendants were compelled to litigate. Hence, the award of attorney’s fees is warranted under the circumstances (Art. 2208, New Civil Code).”^[6]

From the trial court’s adverse decision, petitioner elevated the matter to the Court of Appeals. On October 20, 1992, the Court of Appeals, however, rendered a decision^[7] affirming *in toto* the lower court’s decision. His motion for reconsideration having been denied on October 19, 1993, petitioner now files the instant petition alleging that:

“I. THE TRIAL COURT ERRED IN DISMISSING PLAINTIFF’S COMPLAINT AND IN HOLDING THAT THE PLAINTIFF ACTUALLY RECEIVED A GENUINE PAIR OF EMERALD CUT DIAMOND EARRING(S) FROM DEFENDANT CRUZ x x x;

II. THE TRIAL COURT ERRED IN AWARDING MORAL AND EXEMPLARY DAMAGES AND ATTORNEY’S FEES IN FAVOR OF DEFENDANTS AND AGAINST THE PLAINTIFF IN THIS CASE; and

III. THE TRIAL COURT ERRED IN NOT DECLARING THE DEED OF SALE OF THE TANAY PROPERTY (EXH. ‘D’) AS NULL AND VOID OR IN NOT ANNULING THE SAME, AND IN FAILING TO GRANT REASONABLE DAMAGES IN FAVOR OF THE PLAINTIFF.”^[8]