

## THIRD DIVISION

[ G.R. No. 119777, October 23, 1997 ]

**THE HEIRS OF PEDRO ESCANLAR, FRANCISCO HOLGADO AND THE SPOUSES DR. EDWIN A. JAYME AND ELISA TAN-JAYME, PETITIONERS, VS. THE HON. COURT OF APPEALS, GENEROSA MARTINEZ, CARMEN CARI-AN, RODOLFO CARI-AN, NELLY CHUA CARI-AN, FOR HERSELF AND AS GUARDIAN AD LITEM OF HER MINOR SON, LEONELL C. CARI-AN, FREDISMINDA CARI-AN, THE SPOUSES PAQUITO CHUA AND NEY SARROSA-CHUA AND THE REGISTER OF DEEDS OF NEGROS OCCIDENTAL, RESPONDENTS.**

[G.R. NO. 120690. OCTOBER 23, 1997]

**FRANCISCO HOLGADO AND HRS. OF PEDRO ESCANLAR, NAMELY BERNARDO, FELY, SONIA, LILY, DYESEBEL AND NOEMI ALL SURNAMED ESCANLAR, PETITIONERS, VS. HON. COURT OF APPEALS, GENEROSA MARTINEZ, CARMEN CARI-AN, RODOLFO CARI-AN, NELLY CHUA CARI-AN, FOR HERSELF AND AS GUARDIAN AD LITEM OF HER MINOR SON, LEONELL C. CARI-AN AND FREDISMINDA CARI-AN, AND SP. PAQUITO CHUA AND NEY SARROSA CHUA AND REGISTER OF DEEDS OF NEGROS OCCIDENTAL, RESPONDENTS.**

### D E C I S I O N

**ROMERO, J.:**

Before us are consolidated petitions for review of the decision of the Court of Appeals in CA-G.R. CV No. 39975 which affirmed the trial court's pronouncement that the deed of sale of rights, interests and participation in favor of petitioners is null and void.

The case arose from the following facts:

Spouses Guillermo Nombre and Victoriana Cari-an died without issue in 1924 and 1938, respectively. Nombre's heirs include his nephews and grandnephews. Victoriana Cari-an was succeeded by her late brother's son, Gregorio Cari-an. The latter was declared as Victoriana's heir in the estate proceedings for Nombre and his wife (Special Proceeding No 7-7279).<sup>[1]</sup> After Gregorio died in 1971, his wife, Generosa Martinez, and children, Rodolfo, Carmen, Leonardo and Fredisminda, all surnamed Cari-an, were also adjudged as heirs by representation to Victoriana's estate.<sup>[2]</sup> Leonardo Cari-an passed away, leaving his widow, Nelly Chua vda. de Cari-an and minor son Leonell, as his heirs.

Two parcels of land, denominated as Lot No. 1616 and 1617 of the

Kabankalan Cadastre with an area of 29,350 square meters and 460,948 square meters, respectively, formed part of the estate of Nombre and Cari-an.

On September 15, 1978, Gregorio Cari-an's heirs, herein collectively referred to as private respondents Cari-an, executed the Deed of Sale of Rights, Interests and Participation worded as follows:

"NOW, THEREFORE, for and in consideration of the sum of TWO HUNDRED SEVENTY-FIVE THOUSAND (P275,000.00) Pesos, Philippine Currency, to be paid by the VENDEES to the VENDORS, except the share of the minor child of Leonardo Cari-an, which should be deposited with the Municipal Treasurer of Himamaylan, Province of Negros Occidental, by the order of the Court of First Instance of Negros Occidental, Branch VI, Himamaylan, by those presents, do hereby SELL, CEDE, TRANSFER and CONVEY by way of ABSOLUTE SALE, all the RIGHTS, INTERESTS and PARTICIPATION of the Vendors as to the one-half (1/2) portion pro-indiviso of Lots Nos. 1616 and 1617 (Fishpond), of the Kabankalan Cadastre, pertaining to the one-half (1/2) portion pro-indiviso of the late Victoriana Cari-an unto and in favor of the Vendees, their heirs, successors and assigns;

x x x

x x x

x x x

That this Contract of Sale of rights, interests and participations shall become effective only upon the approval by the Honorable Court of First Instance of Negros Occidental, Branch VI- Himamaylan." (Underscoring supplied.)

Pedro Escanlar and Francisco Holgado, the vendees, were concurrently the lessees of the lots referred to above.<sup>[3]</sup> They stipulated that the balance of the purchase price (P225,000.00) shall be paid on or before May 1979 in a Deed of Agreement executed by the parties on the same day:

"WHEREAS, at the time of the signing of the Contract, VENDEES has (sic) only FIFTY THOUSAND (P50,000.00) Pesos available thereof, and was not able to secure the entire amount;

WHEREAS, the Vendors and one of the Vendees by the name of Pedro Escanlar are relatives, and absolute faith and trust exist between them, wherein during economic crisis, has not failed to give monetary succor to the Vendors;

WHEREAS, Vendors herein understood the present scarcity of securing available each (sic) in the amount stated in the contract;

NOW THEREFORE, for and in consideration of the sum of FIFTY

THOUSAND (P50,000.00) Pesos, Philippine Currency, the balance of TWO HUNDRED TWENTY FIVE THOUSAND (P225,000.00) Pesos to be paid by the Vendees on or before May, 1979, the Vendors herein, by these Presents, do hereby CONFIRM and AFFIRM the Deed of Sale of the Rights, Interests and Participation dated September 15, 1978, over Lots Nos. 1616 and 1617 (fishpond) of the Kabankalan Cadastre in favor of the VENDEES, their heirs and assigns.

That pending the complete payment thereof, Vendees shall not assign, sell, lease, nor mortgage the rights, interests and participation thereof;

That in the event the Vendees fail and/ or omit to pay the balance of said purchase price on May 31, 1979 and the cancellation of said Contract of Sale is made thereby, the sum of FIFTY THOUSAND (P50,000.00) Pesos shall be deemed as damages thereof to Vendors." (Underscoring supplied)<sup>[4]</sup>

Petitioners were unable to pay the Cari-an heirs' individual shares, amounting to P55,000.00 each, by the due date. However, said heirs received at least 12 installments from petitioners after May 1979.<sup>[5]</sup> Rodolfo Cari-an was fully paid by June 21, 1979. Generosa Martinez, Carmen Cari-an and Fredisminda Cari-an were likewise fully compensated for their individual shares, per receipts given in evidence.<sup>[6]</sup> The minor Leonell's share was deposited with the Regional Trial Court on September 7, 1982.<sup>[7]</sup>

Being former lessees, petitioners continued in possession of Lot Nos. 1616 and 1617. Interestingly, they continued to pay rent based on their lease contract. On September 10, 1981, petitioners moved to intervene in the probate proceedings of Nombre and Cari-an as the buyers of private respondent Cari-an's share in Lot Nos. 1616 and 1617. Petitioners' motion for approval of the September 15, 1978 sale before the same court, filed on November 10, 1981, was opposed by private respondents Cari-an on January 5, 1982.<sup>[8]</sup>

On September 16, 1982, the probate court approved a motion filed by the heirs of Cari-an and Nombre to sell their respective shares in the estate. On September 21, 1982, private respondents Cari-an, in addition to some heirs of Guillermo Nombre,<sup>[9]</sup> sold their shares in eight parcels of land including Lot Nos. 1616 and 1617 to the spouses Ney Sarrosa Chua and Paquito Chua for P1,850,000.00. One week later, the vendor-heirs, including private respondents Cari-an, filed a motion for approval of sale of hereditary rights, i.e. the sale made on September 21, 1982 to the Chuas.

Private respondents Cari-an instituted this case for cancellation of sale against petitioners (Escanlar and Holgado) on November 3, 1982.<sup>[10]</sup> They complained of petitioners' failure to pay the balance of the purchase price by May 31, 1979 and alleged that they only received a total of P132,551.00 in cash and goods. Petitioners replied that the Cari-ans, having been paid, had no right to resell the subject lots; that the Chuas were purchasers in bad faith; and that the court approval of the sale to the Chuas was subject to their existing claim over said properties.

On April 20, 1983, petitioners also sold their rights and interests in the subject parcels of land (Lot Nos. 1616 and 1617) to Edwin Jayme for P735,000.00<sup>[11]</sup> and turned over possession of both lots to the latter. The Jaymes in turn, were included in the civil case as fourth-party defendants.

On December 3, 1984, the probate court approved the September 21, 1982 sale "without prejudice to whatever rights, claims and interests over any of those properties of the estate which cannot be properly and legally ventilated and resolved by the court in the same intestate proceedings."<sup>[12]</sup> The certificates of title over the eight lots sold by the heirs of Nombre and Cari-an were later issued in the name of respondents Ney Sarrosa Chua and Paquito Chua.

The trial court allowed a third-party complaint against the third-party defendants Paquito and Ney Chua on January 7, 1986 where Escanlar and Holgado alleged that the Cari-ans conspired with the Chuas when they executed the second sale on September 21, 1982 and that the latter sale is illegal and of no effect. Respondents Chua countered that they did not know of the earlier sale of one-half portion of the subject lots to Escanlar and Holgado. Both parties claimed damages.<sup>[13]</sup>

On April 28, 1988, the trial court approved the Chuas' motion to file a fourth-party complaint against the spouses Jayme. Respondents Chua alleged that the Jaymes refused to vacate said lots despite repeated demands; and that by reason of the illegal occupation of Lot Nos. 1616 and 1617 by the Jaymes, they suffered materially from uncollected rentals.

Meanwhile, the Regional Trial Court of Hiramaylan which took cognizance of Special Proceeding No. 7-7279 (Intestate Estate of Guillermo Nombre and Victoriana Cari-an) had rendered its decision on October 30, 1987.<sup>[14]</sup> The probate court concluded that since all the properties of the estate were disposed of or sold by the declared heirs of both spouses, the case is considered terminated and the intestate estate of Guillermo Nombre and Victoriana Cari-an is closed. The court held:

"As regards the various incidents of this case, the Court finds no cogent reason to resolve them since the very object of the various incidents in this case is no longer in existence, that is to say, the properties of the estate of Guillermo Nombre and Victoriana Cari-an had long been disposed of by the rightful heirs of Guillermo Nombre and Victoriana Cari-an. In this respect, there is no need to resolve the Motion for Subrogation of Movants Pedro Escanlar and Francisco Holgado to be subrogated to the rights of the heirs of Victoriana Cari-an since all the properties of the estate had been transferred and titled to in the name of spouses Ney S. Chua and Dr. Paquito Chua. Since the nature of the proceedings in this case is summary, this Court, being a Probate Court, has no jurisdiction to pass upon the validity or invalidity of the sale of rights of the declared heirs of Guillermo Nombre and Victoriana Cari-an to third parties. This issue must be raised in another action where it can be properly ventilated and resolved. x x x Having determined, after exhausted (sic) and lengthy hearings, the rightful heirs of Guillermo Nombre and Victoriana Cari-an, the Court found out that the second issue has become moot and academic considering that there are no more properties left to be

partitioned among the declared heirs as that had long ago been disposed of by the declared heirs x x x." (Underscoring supplied)

The seminal case at bar was resolved by the trial court on December 18, 1991 in favor of cancellation of the September 15, 1978 sale. Said transaction was nullified because it was not approved by the probate court as required by the contested deed of sale of rights, interests and participation and because the Cari-ans were not fully paid. Consequently, the Deed of Sale executed by the heirs of Nombre and Cari-an in favor of Paquito and Ney Chua, which was approved by the probate court, was upheld. The dispositive portion of the lower court's decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

- 1) Declaring the following contracts null and void and of no effect:
  - a) The Deed of Sale, dated Sept. 15, 1978, executed by the plaintiffs in favor of the defendants Pedro Escanlar and Francisco Holgado (Exh. "A," Plaintiffs)
  - b) The Deed of Agreement, dated Sept. 15, 1978, executed by the plaintiffs in favor of the defendants, Pedro Escanlar and Francisco Holgado (Exh. "B," Plaintiffs)
  - c) The Deed of Sale, dated April 20, 1983, executed by the defendants in favor of the fourth-party defendants, Dr. Edwin Jayme and Elisa Tan Jayme
  - d) The sale of leasehold rights executed by the defendants in favor of the fourth-party defendants
- 2) Declaring the amount of Fifty Thousand Pesos (P50,000.00) paid by the defendants to the plaintiffs in connection with the Sept. 15, 1978 deed of sale, as forfeited in favor of the plaintiffs, but ordering the plaintiffs to return to the defendants whatever amounts they have received from the latter after May 31, 1979 and the amount of Thirty Five Thousand Two Hundred Eighteen & 75/100 (P35,218.75)<sup>[15]</sup> deposited with the Treasurer of Himamaylan, Negros Occidental, for the minor Leonell C. Cari-an -
- 3) Declaring the deed of sale, dated September 23, 1982, executed by Lasaro Nombre, Victorio Madalag, Domingo Campillanos, Sofronio Campillanos, Generosa Vda. de Martinez, Carmen Cari-an, Rodolfo Cari-an, Nelly Chua Vda. de Cari-an, for herself and as guardian ad litem of the minor Leonell C. Cari-an, and Fredisminda Cari-an in favor of the third-party defendants and fourth-party plaintiffs, spouses Dr. Paquito Chua and Ney Sarrosa Chua (Exh. "2"-Chua) as legal, valid and enforceable provided that the properties covered by the said deed of sale are subject of the burdens of the estate, if the same have not been paid yet.
- 4) Ordering the defendants Francisco Holgado and Pedro Escanlar and the fourth-party defendants, spouses Dr. Edwin Jayme and Elisa Tan Jayme, to pay jointly and severally the amount of One Hundred Thousand Pesos (P100,000.00 as moral damages and the further sum of Thirty Thousand Pesos (P30,000.00) as attorney's fees to the third-party defendant spouses, Dr. Paquito Chua and Ney Sarrosa-Chua.