



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated November 15, 2021, which reads as follows:*

“G.R. No. 212847 (*Spouses Ricardo and Carmelita Pangilinan v. Zenaida P. Gatmaitan, Francis P. Gatmaitan and Maria Regina Vina Joyce G. Francisco*). – This Court resolves a Petition for Review on *Certiorari*<sup>1</sup> assailing the Decision<sup>2</sup> dated February 4, 2014 and the Resolution<sup>3</sup> dated June 2, 2014 of the Court of Appeals in (CA) in CA-G.R. CV No. 95751, which reversed and set aside the Decision<sup>4</sup> dated April 26, 2010 of the Regional Trial Court (RTC) of Quezon City, Branch 223 in Civil Case No. Q-06-58330.

**Facts of the Case**

The record showed that on July 28, 1977, Zenaida Gatmaitan (Zenaida) purchased a parcel of land situated at No. 877 Quirino Highway, Novaliches, Quezon City, consisting of 694 square meters from Spouses Pacifico and Wilhelmina Garcia (Spouses Garcia) evidenced by a Deed of Absolute Sale with Mortgage. Subsequently, the said property was registered in the name of Zenaida married to Candido Gatmaitan (Candido) under Transfer Certificate of Title (TCT) No. RT-80689 (237346).<sup>5</sup> Sometime in 1982, a 4-storey commercial building was constructed on the said property.<sup>6</sup>

On July 4, 2006, Spouses Ricardo and Carmelita Pangilinan (petitioners) filed a complaint<sup>7</sup> for reconveyance of real property from an unreliable trustee plus damages against respondents Zenaida P. Gatmaitan, Francis P. Gatmaitan, and Maria Regina Vina Joyce G. Francisco (collectively, respondents).<sup>8</sup>

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<sup>1</sup> *Rollo*, pp. 7-19.

<sup>2</sup> Penned by Associate Justice Leoncia R. Dimagiba, with the concurrence of Associate Justices Amelita G. Tolentino and Ricardo R. Rosario (now a Member of this Court); *id.* at 25-33.

<sup>3</sup> *Id.* at 138-139.

<sup>4</sup> Penned by Pairing Judge Tita Marilyn Payoyo-Villordon; *id.* at 69-77.

<sup>5</sup> *Id.* at 34-35.

<sup>6</sup> *Id.* at 26.

<sup>7</sup> *Id.* at 51-58.

<sup>8</sup> *Id.*

In their complaint, petitioners alleged that sometime in 1971, Ricardo, who was then single, agreed to purchase the subject property from the Spouses Garcia, but since he was leaving for the United States, he arranged to send the payment through his brother-in-law, Candido. Ricardo said that he was able to remit the sum of US\$5,000.00 to Candido for the payment of the said property. However, in 1977, the title to the said property was transferred from Spouses Garcia to his sister Zenaida, with Candido acting as caretaker and administrator of all his real properties.<sup>9</sup>

Petitioners said that in 1982, Zenaida constructed a 4-storey commercial building for which petitioners executed a special power of attorney in favor of their agent and property administrator Candido authorizing the latter to secure a loan to help finance the construction of the said commercial building and to mortgage the title to secure payment of the loan.<sup>10</sup>

In 2001, Candido died without turning over to petitioners the land title. There was also no accounting of the income from the said commercial building. After the death of Candido, respondents took over the management of the said property. Despite repeated demands, respondents refused to talk with petitioners regarding the status of the subject property prompting the latter to file a complaint for reconveyance.<sup>11</sup>

To support their claim, petitioners adduced the following documentary evidence: (a) two letters allegedly written by Zenaida addressed to Ricardo;<sup>12</sup> (b) Affidavit dated December 5, 1980 allegedly executed by Zenaida;<sup>13</sup> (c) bank statements of the joint dollar and peso savings account of Zenaida and Ricardo;<sup>14</sup> and (d) checks dated in a monthly sequence from January to November 1979.<sup>15</sup>

For their part, respondents averred that: (a) Ricardo had nothing to do with the transaction executed between Zenaida and Spouses Garcia; (b) Ricardo only had one real property registered in his name which was already sold to another person; (c) the withdrawals made by Zenaida were made in her capacity as co-depositor of the bank accounts which she jointly owned with petitioners; and (d) the withdrawals did not prove that the money withdrawn were used to pay the subject property.<sup>16</sup>

Respondents also denied the due execution and authenticity of the Affidavit and stated that Atty. Domingo D. Estrella (Atty. Estrella) was not an appointed notary public in the City of Manila for the year 1980 to 1981

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<sup>9</sup> Id. at 51-53.  
<sup>10</sup> Id. at 54.  
<sup>11</sup> Id.  
<sup>12</sup> Id. at 43-45.  
<sup>13</sup> Id. at 46-47.  
<sup>14</sup> Id. at 36-42.  
<sup>15</sup> Id. at 48-49.  
<sup>16</sup> Id. at 59-65.

evidenced by the certification<sup>17</sup> from the Office of the Clerk of Court & Ex-Officio Sheriff Notarial Section. They also presented a certification<sup>18</sup> from the Records Management and Archives Office which shows that copy of said affidavit is not available in its files.

### **Ruling of the Regional Trial Court**

On April 26, 2010, the RTC rendered Decision in favor of petitioners and ordered respondents to: (a) reconvey and surrender possession of the property, including any and all improvements thereon, and the title (TCT No. RT-80689 [237346]) covering the same to petitioner; (b) pay jointly and severally petitioner the amount of ₱50,000.00 as attorney's fees; and (c) pay the amount of ₱55,000.00 as cost of suit.<sup>19</sup>

The RTC held that the testimony of petitioners coupled with the letters written by Zenaida satisfactorily proves the existence of an express trust. The RTC pointed out that by her letter, Zenaida is rendering to Ricardo an accounting of the withdrawals from their joint dollar account. The RTC said that the said evidence supports Ricardo's claim that he had planned to invest in some properties in the Philippines and that he had constituted his sister and his brother in law to carry out these investments for and in his behalf. Thus, there exist clear and convincing evidence that an express trust was created over the subject property of this case.<sup>20</sup>

Undaunted, respondents filed an appeal with the CA.

### **Ruling of the Court of Appeals**

In a Decision<sup>21</sup> dated February 4, 2014, the CA granted the appeal and reversed and set aside the Decision of the RTC, and dismissed the complaint for lack of merit.<sup>22</sup>

The CA held that petitioners failed to support their claim that an express trust existed between them and Zenaida. According to the CA, what Zenaida wrote in her letter is not adequate to support a conclusion that a trust relation exists between the parties because Zenaida's statement is capable of other interpretations. The CA further said that nowhere in the record is there any evidence that money to purchase the subject property was from Ricardo or that the latter designated or constituted his brother-in-law, Candido or his sister, Zenaida as the trustee of the property. The CA also

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<sup>17</sup> Id. at 67.  
<sup>18</sup> Id. at 68.  
<sup>19</sup> Id. at 77.  
<sup>20</sup> Id. at 75-76.  
<sup>21</sup> Supra note 2.  
<sup>22</sup> *Rollo*, pp. 32.

said that by Ricardo's own admission, he is not certain that Zenaida used the money withdrawn from their joint account to pay for the property.<sup>23</sup>

The CA held that the withdrawals made by Zenaida in the account jointly owned with her brother Ricardo is not by itself conclusive proof that the said amount was used to pay the purchase price of the property and is by no means evidence of an express trust for the benefit of petitioners. The checks issued by Ricardo, which he claims were intended for the payment of the property were all issued in the year 1979 but the records show that the title to the property under TCT No. RT-80689 (237346), was issued to Zenaida, married to Candido, on August 2, 1977. The mortgage was cancelled on March 4, 1978.<sup>24</sup>

The CA noted the fact that Zenaida submitted a certification from the Office of the Clerk of Court & Ex-Officio Sheriff Notarial Section that Atty. Estrella was not an appointed notary public in the City of Manila for the year 1980 to 1981. In addition, Zenaida also presented a certification from the Records Management and Archives Office which shows that copy of said affidavit is not available in its files. Accordingly, the CA held that the said affidavit allegedly executed by Zenaida, could not be given credence and is merely considered a private document.<sup>25</sup>

Petitioners' filed a Motion for Reconsideration<sup>26</sup> but it was denied in a Resolution<sup>27</sup> dated June 2, 2014 of the CA, hence, this petition.

Petitioners insist that a trust agreement existed between them and respondents. They said that there was nothing on records that would support Zenaida's bare assertion of Ricardo's supposed debt. Petitioners said that the CA erred in holding Zenaida's affidavit dated December 5, 1980 as a mere private document. They said that the CA failed to consider the testimony of Atty. Estrella which proves the authenticity and due execution of said affidavit. Atty. Estrella testified that he saw Zenaida execute and sign the said document in his presence and positively identified the signature appearing therein as Zenaida's signature.

In their Comment,<sup>28</sup> respondents maintain that no trust agreement existed between the parties. In this case, no deed, instrument or any writing was ever presented by petitioners showing his intention to create a trust. The evidence adduced by petitioners of the alleged letters of Zenaida do not constitute a direct or positive act creating a trust.

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<sup>23</sup> Id. at 30.

<sup>24</sup> Id. at 31.

<sup>25</sup> Id.

<sup>26</sup> Id. at 143-148.

<sup>27</sup> Id. at 138-139.

<sup>28</sup> Id. at 191-199.

### Issue

The sole issue to be resolved is whether an express trust was established by petitioners in favor of respondents.

### Ruling of the Court

The petition lacks merit.

The present petition is a reiteration of factual issues and arguments raised by petitioners in their appeal, which had already been fully passed upon by the CA. The question of the existence of an express trust is factual, hence, ordinarily outside the purview of Rule 45. Nevertheless, our review is justified by the need to make a definitive finding on this factual issue in light of the conflicting rulings rendered by the courts below.<sup>29</sup>

At any rate, a perusal of the records of the instant case shows that there is a substantial evidence to support the CA's conclusion that no trust relation existed between the parties, contrary to the RTC's finding that there was evidence on record showing that an express trust relation arose between the parties on the basis of Ricardo's testimony and two letters allegedly written by Zenaida.

The Court held that express trusts, sometimes referred to as direct trusts, are intentionally created by the direct and positive acts of the settlor or the trustor – by some writing, deed, or will or oral declaration. It is created not necessarily by some written words, but by the direct and positive acts of the parties. This is in consonance with Article 1444 of the Civil Code, which states that “no particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended.”<sup>30</sup>

The intention to create a trust cannot be inferred from Ricardo's testimony and the attendant facts and circumstances surrounding this case. Ricardo testified only to the effect that he was desirous to invest in some properties in the Philippines. He merely alleged that he arranged to purchase the subject property from the Spouses Garcia, but since he was leaving for the United States, he will just send the payment through his brother-in-law, Candido.

We are also not persuaded by the contention of petitioners that the language of Zenaida's letter created an express trust. The letters of Zenaida was merely a private correspondence between siblings. In fact, a careful scrutiny of the plain and ordinary meaning of the terms used in the letters do not offer any indication that the parties thereto intended that petitioners

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<sup>29</sup> *Juan v. Yap, Sr.*, 662 Phil. 321, 327 (2011).

<sup>30</sup> *Philippine National Bank, v. Azar*, 664 Phil. 461, 478 (2011).

become beneficiaries under an express trust and that respondents serve as trustor.

The CA aptly stated that what Zenaida wrote in her letters are not adequate to support a conclusion that a trust relation exist between the parties because Zenaida's statement is capable of other interpretations.<sup>31</sup>

The Court held that although no particular words are required for the creation of an express trust, a clear intention to create a trust must be shown; and the proof of fiduciary relationship must be clear and convincing. The creation of an express trust must be manifested with reasonable certainty and cannot be inferred from loose and vague declarations or from ambiguous circumstances susceptible of other interpretations.<sup>32</sup>

No such reasonable certitude in the creation of an express trust obtains in this case. The only evidence of petitioners to support their claim that an express trust existed was the self-serving testimony of Ricardo and the two letters from Zenaida.

The bank statements of the dollar and peso savings account jointly owned by Zenaida and Ricardo do not in any way prove that the money withdrawn by Zenaida were used to pay for the property. Contrary to petitioners' claim that Ricardo was remitting money for the payment of the said property, the CA expressly pointed out that there was no evidence showing that the money used to purchase the property was from him, thus:

x x x By RICARDO's own admission, he is not certain that ZENAIDA used the money withdrawn from their joint account to pay for the property, thus:

Q: Who deposited what?

A: Those checks were deposited by her. They are in the name of my wife Carmelita but she deposited them in the Security Bank and then withdrew the – when they were cleared, she withdrew the amount.

Q: So, do you know how or as to what purpose your sister Zenaida used the money?

A: I don't know but she closed the account in 1980, so I assumed she used all those money in whatever she is – I don't know if she used it for paying whatever obligations she got but those are the money that were deposited in my account that she closed in 1980.

Q: So, you have no personal knowledge, Mr. Witness, that the money from these checks were indeed used to pay the Garcia property?

A: No, I do not.<sup>33</sup>

<sup>31</sup> Rollo, p. 30.

<sup>32</sup> *Cañez v. Rojas*, 563 Phil. 551, 566 (2007).

<sup>33</sup> Rollo, p. 30.

The records also showed that the property was already fully paid by Zenaida on March 4, 1978,<sup>34</sup> which negates petitioners' claim that the checks they issued in the name of Carmelita from January to November 1979, were intended for the payment of the property.

As to the Affidavit dated December 5, 1980, it merely stated that: (a) Zenaida is a depositor of Security Bank and Trust Company (SBTC) located at Rizal Avenue, Manila; (b) Zenaida is the exclusive and legal owner of a Philippine currency savings account in SBTC; (c) Zenaida co-owns with petitioners a dollar account also in SBTC; (d) the extent of petitioners' ownership is in the amount of US\$15,000.00; (e) said deposit had already been withdrawn to pay for the properties situated in the Philippines bought by Ricardo and Carmelita; and (f) all the aforementioned savings account had already been closed by Zenaida.<sup>35</sup>

The CA did not give credence to the said affidavit and merely treated it as a private document because of the fact that Atty. Estrella notarized the affidavit outside the territorial jurisdiction of his commissioning court.

Indeed, one of the purposes of requiring documents to be acknowledged before a notary public is to authorize such documents to be given without further proof of their execution and delivery. The notarization by a notary public converts a private document into a public document, making it admissible in evidence without further proof of its authenticity.

Nevertheless, a private document can still be received in evidence. Being a private document, the affidavit is now subject to the requirement of proof under Section 20,<sup>36</sup> Rule 132 of the Rules of Court which states that before any private document is received in evidence, its due execution and authenticity must be proved either by anyone who saw the document executed or written, or by evidence of the genuineness of the signature or handwriting of the maker.

In this case, the CA failed to consider the testimony of Atty. Estrella that: (1) he saw Zenaida execute or sign the affidavit in his presence; and (2) he positively identified the signature appearing in the affidavit as Zenaida's signature. Atty. Estrella also said that he is familiar with Zenaida because his mother-in-law is Zenaida's elder sister of.<sup>37</sup> Accordingly, the affidavit's due execution and authenticity was properly proved.

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<sup>34</sup> Id. at 31.

<sup>35</sup> Id. at 46.

<sup>36</sup> Section 20. Proof of private document. - Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:  
(a) By anyone who saw the document executed or written; or  
(b) By evidence of the genuineness of the signature or handwriting of the maker.  
Any other private document need only be identified as that which is claimed to be.

<sup>37</sup> *Rollo*, pp. 146-147.

The Court took note of the fact that the affidavit clearly stated that the extent of petitioners' ownership in the joint dollar account with Zenaida is in the amount of US\$15,000.00, and that said amount had already been withdrawn. Consequently, it is proper for respondents to return the said amount of US\$15,000.00 to petitioners.

Consequently, when an obligation is breached and it consists in the payment of a sum of money, the Court held that beginning July 1, 2013 the interest due shall be that which may have been stipulated in writing. In the absence of such a stipulation, the interest rate shall be 6% *per annum* to be computed from judicial or extrajudicial demand. The 12% *per annum* legal interest rate shall apply only until June 13, 2013.<sup>38</sup>

This is in consonance with the Court's pronouncement that a general prayer for "other reliefs just and equitable" appearing on a complaint or petition normally enables the court to award reliefs supported by the complaint or other pleadings, by the facts admitted at the trial, and by the evidence adduced by the parties, even if these reliefs are not specifically prayed for in the complaint.<sup>39</sup>

Nonetheless, it is still clear that this affidavit does not show that there existed a trust relation between the parties. The burden of proving the existence of a trust is on the party asserting its existence, and such proof must be clearly and satisfactorily shown.<sup>40</sup> Unfortunately, petitioners failed to discharge that burden.

From the foregoing disquisitions, We hold that there was no trust relation established between petitioners and respondents. Hence, it is clear that the CA did not err in declaring that reconveyance of the subject property to petitioners is unwarranted.

**WHEREFORE**, the petition is **DENIED**. The Decision dated February 4, 2014 and the Resolution<sup>41</sup> dated June 2, 2014 of the Court of Appeals in CA-G.R. CV No. 95751 are **AFFIRMED with MODIFICATION**. Respondents Zenaida P. Gatmaitan, Francis P. Gatmaitan, and Maria Regina Vina Joyce G. Francisco are **ORDERED** to return the amount of US\$15,000.00 or its peso equivalent plus twelve percent (12%) interest *per annum* computed from the date of judicial demand on July 4, 2006 to June 30, 2013, and six percent (6%) interest *per annum* from July 1, 2013 until full payment thereof.

<sup>38</sup> *Nacar v. Gallery Frames*, 716 Phil. 267 (2013)

<sup>39</sup> *Ilusorio v. Ilusorio*, G.R. No. 210475, April 11, 2018.

<sup>40</sup> *Supra* note 30, p. 565.

<sup>41</sup> *Rollo*, p. 98.



**SO ORDERED.**” (J. Lopez, J., vice Rosario, J., designated as Member per Raffle dated September 29, 2021; Dimaampao, J., designated as additional Member per Special Order No. 2839 dated September 16, 2021.)

By authority of the Court:

*Mic De Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *11/15/21*

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(Crim. Case No. Q-06-58330)

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