Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **January 28, 2015** *which reads as follows:*

"G.R. No. 164962 - *SPOUSES MARIANO AND ALICE C. GOKIOCO, AND JENNIFER GOKIOCO, Petitioners, v. FORMER EIGHTH DIVISION OF THE COURT OF APPEALS, AND EUSTAQUIO GOKIOCO, FOR HIMSELF AND AS ATTORNEY-IN-FACT OF THE ESTATE OF SEE CHUA GOKIOCO, Respondents.*

Upon the denial of a defendant's motion to dismiss on demurrer to evidence, the trial court must set the case for trial to receive the evidence of the movant.

The Case

Under review is the decision promulgated on May 26, 2004,[1] whereby the Court of Appeals (CA) set aside the order dated September 11, 1996 issued by the Regional Trial Court, Branch 79, in Morong, Rizal (RTC) denying petitioner Jennifer Gokioco's Motion to Dismiss (on Demurrer to Evidence) but nonetheless dismissing respondents' amended complaint dated August 26, 1993.[2] The CA remanded the case for further proceedings.

- over - twelve (12) pages .....

[1] *Rollo*, pp. 20-24; penned by Associate Justice Eliezer R. de los Santos (retired/deceased), and concurred in by Associate Justice Conrado M. Vasquez, Jr. (later Presiding Justice, now retired) and Associate Justice Rosalinda Asuncion-Vicente (retired).

[2] Id. at 26-27; penned by Judge Alejandro A. Marquez.

Antecedents

Respondent Eustaquio Gokioco and his late spouse See Chua Gokioco had six sons, namely: Fernando, petitioner Mariano, Antonio, Ricardo, Francisco and William, all surnamed Gokioco; and two daughters, namely: Elena Gokioco-Yu and Linda Gokioco-Ng. Mariano is married to co-petitioner Alice Co-Gokioco, while co-petitioner Jennifer Gokioco is their daughter.

On October 10, 1992, an action for specific performance was commenced in the names of Eustaquio and See Chua-Gokioco in the RTC (docketed as Civil Case No. 454-M) to compel petitioners to reconvey two properties – the first, the parcel of land with an area of 1.872 hectares located in Baras, Rizal, and registered under Transfer Certificate of Title No. M-2926 of the Registry of Deeds of Rizal "donated" by the plaintiffs to Mariano and Alice; the second, the parcel of land with an area of 2,241 square meters adjacent to the first, and registered under Original Certificate of Title No. M-5014 of the Registry of Deeds of Rizal, also donated by the plaintiffs to Jennifer. Allegedly, the defendants (petitioners herein) had committed acts of "ingratitude, disrespect and misconduct short of killing plaintiffs and other members of their family; some of these acts were the subject of civil and criminal cases of which herein plaintiffs and defendants were the protagonists;" and that the plaintiffs were seeking "judicial remedies to annul the consummated donations which led to the eventual registration of title in the name of herein defendants."[3]

On January 22, 1993, petitioners, through the De Veyra, Uy, Galope and Associates Law Offices,[4] filed a joint answer with counterclaim countering that they had acquired the properties with their own funds; that the cause of action, if any, had already prescribed; that the right to revoke a donation, being personal on the part of the donor, could no longer be possible by reason of the death of See Chua-Gokioco even before the filing of the action; that the alleged acts of ingratitude were untrue; and that the possession of the certificates of title of the properties by the plaintiffs constituted the illegal act of withholding the certificates from the lawful owners of the land, rendering the plaintiffs liable to surrender the titles to the defendants as the registered owners.

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[3] Records, pp. 3-5.
[4] Id. at 26-32.

On January 26, 1993, Atty. Antonio P. Coronel entered his appearance as the new counsel for petitioners.[5] On the next day, Atty. Coronel submitted another answer with counterclaim,[6] which, although averring affirmative defenses essentially identical to those stated in their first pleading, prayed that:

> x x x judgment be rendered in favor of defendants and against plaintiffs, as follows:
>
> (1) Dismissing the complaint, with cost against the plaintiffs;
>
> (2) On defendants' counterclaims: Ordering the plaintiffs to pay defendants, jointly and severally, the sum of ₱200,000.00 as actual damages; ₱1,000,000.00 as moral damages; ₱100,000.00 as exemplary damages; and ₱400,000.00 as and by way of attorney's fees and expenses of litigation.
>
> Defendants further pray for such other reliefs as may be deemed just and equitable in the premises.

In the meanwhile, the complaint was amended to substitute the late See Chua-Gokioco with her heirs (*i.e.*, respondents herein). The amended complaint was subsequently admitted.

After the pre-trial was terminated, the RTC set the trial on the merits on February 3, 10, 17, 24, and March 3, 1994.[7]

During the trial, Eustaquio and other witnesses, including Fernando, testified, and identified relevant documents. The plaintiffs' evidence showed that the lot located in Baras, Rizal had been purchased by Eustaquio from Cristeta and Adeltrudes Peñaranda with his exclusive money, but the vendee was Mariano because Eustaquio had intended the lot for Mariano; that Mariano and Alice were not around at the time of the purchase; that Eustaquio paid the taxes, and took possession of the property, introducing improvements like a house, a piggery and fruit-bearing mango trees; that Eustaquio and Francisco managed the property for about 10 years; that to give the Baras property access to the main highway, Eustaquio also bought the adjacent property from Dr. Ceferino A. Matignas with money managed by his wife, See Chua-Gokioco, and registered the property in the name of Jennifer; that the reason for

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5 Id. at 33.
6 Id. at 36-39.
7 Id. at 129-131.

registering the property in the name of Jennifer was that the property had not been registered at the time of purchase, and because Alice was still a Chinese national, Eustaquio and his wife applied for a free patent in the name Jennifer; that following the purchase, Eustaquio and his wife took possession of the property, constructed a house thereon, planted fruit-bearing trees and later built a piggery under the business name City Swine Farm, registered in the name of Francisco; that Eustaquio and his wife paid all the taxes; that the petitioners were never in possession of the properties; that all the documents on the payment of the taxes remained in Eustaquio's possession all along; that Mariano attempted to cause the reconstitution of Transfer Certificate of Title No. M-2926 (subject of the case) in his name claiming to have lost the title, but See Chua-Gokioco opposed the petition, informing the trial court that the owner's copy of the title was not lost but remained in her possession since the time of the purchase in 1976; hence, the trial court dismissed the petition; that Eustaquio wanted to exclude the names of petitioners from the titles because Mariano and Alice had initiated several cases against him and his other children in court, including criminal cases for physical injuries, grave threats and malicious mischief, which were all dismissed; that Eustaquio himself charged Mariano and Alice with attempted homicide, but the Office of the City Prosecutor of Caloocan City instead recommended that Mariano and Alice be only charged with slight physical injuries; that Eustaquio likewise sued Mariano and Alice for ejectment, and the Metropolitan Trial Court of Caloocan City decided the case in Eustaquio's favor and ordered the latter to vacate the premises and to pay reasonable rentals; that Eustaquio further sued Mariano and Alice in the RTC in Caloocan City for damages for their having forcibly removed their machinery, tools and equipment from their parents' building; and that Eustaquio and his late wife desired to recover legal title from petitioners who had become disrespectful to their parents.

Thereafter, respondents submitted a Formal Offer of Evidence, which petitioners objected to.[8] The RTC approved the Formal Offer of Evidence.

On May 9, 1996, following the approval of respondents' Formal Offer of Evidence, Jennifer filed her Motion to Dismiss (on Demurrer to Evidence),[9] claiming that the parcel of land in Sitio Mambog, Baras, Rizal covered by Original Certificate of Title No. M-5014 had been donated to her by Eustaquio and See Chua Gokioco during the latter's lifetime; that petitioners as the defendants had committed "acts of ingratitude, disrespect

[8] Id. at 306-310.
[9] Id. at 314-321.

and misconduct short of killing plaintiff Eustaquio Gokioco and his wife and other members of their family, some of these acts were subject of civil and criminal cases of which herein plaintiffs and defendants were the protagonists;" that the documentary and testimonial evidence of the plaintiffs showed that "the acts of ingratitude, disrespect and misconduct" could refer only to "the assault allegedly committed by defendants Mariano Gokioco and Alice Co Gokioco subject of I.S. No. 94-1639 before the City Prosecutor of Kalookan City, Metro Manila (cf. Exhibit "I") eventually filed as Criminal Case No. 161089 before the Metropolitan Trial Court of Kalookan City, Branch 51;" that it was clear "that defendant Jennifer Gokioco did not commit said '[act] of ingratitude, disrespect and misconduct';"[10] that the imputed acts of Mariano and Alice could not be imputed to her and become the basis to revoke the donation made in her favor by the plaintiffs;[11] that because the donation had been made during the lifetime of donor See Chua Gokioco, "the action to revoke the donation cannot be instituted by her heirs[,]" because "[t]he right to file an action to revoke the alleged donation to defendant Jennifer Gokioco is a purely personal right granted to donor See Chua Gokioco;"[12] and that Eustaquio could revoke "only half of the alleged donation of the parcel of land." Hence, she prayed "that the judgment be rendered dismissing the complaint with regard the revocation of the alleged donation of a parcel of land in Sitio Mambog, Baras, Rizal covered by Original Certificate of Title No. M-5014 by plaintiff Eustaquio Gokioco and his deceased spouse, See Chua Gokioco, during her lifetime, in favor of defendant Jennifer Gokioco."[13]

On July 2, 1996, respondents opposed the Motion to Dismiss (on Demurrer to Evidence),[14] contending that the averment of petitioners that the "plaintiffs heirs of See Chua Gokioco have no standing to institute the present action in behalf of the deceased because the latter was already dead at the time the complaint was filed" was already resolved in the order dated August 13, 1993; that the defendants had committed several offenses against the plaintiffs that had been the subject of criminal complaint for frustrated homicide; that Article 765 of the *Civil Code* did not state that the offense against the donor must be a criminal offense to constitute an act of ingratitude; that the defendants had committed the highest form of ingratitude by not attending the wake and burial of See Chua Gokioco, an

[10] Id. at 316-317.
[11] Id. at 317-318.
[12] Id. at 319.
[13] Id. at 320.
[14] Id. at 331-334.

offense that they could establish on rebuttal; and that the action filed sought specific performance, which was "an action to recover real property or interest therein which survives the death of the deceased party litigant." Hence, they prayed that the Motion to Dismiss be denied for lack of merit.[15]

On July 29, 1996, Jennifer filed her Reply (to Opposition to Motion to Dismiss).[16]

On September 11, 1996,[17] the RTC, although denying the Motion to Dismiss (on Demurrer to Evidence), dismissed the amended complaint dated August 26, 1993, holding thusly:

> What is prayed for by the defendants in their Motion to Dismiss is that since defendant Jennifer Gokioco did not commit any acts (sic) of ingratitude against her grandparents, the transfer of the property which as shown by the plaintiff is a virtual donation cannot be declared null and void, supported by arguments with authorities cited in the said motion. Admittedly, the defendants concede that the mode of transfer of the property covered by Transfer Certificate of Title No. 2926 to the defendants was by way of donation. But the theory of the plaintiff that it is a virtual donation cannot be sustained by the Court for the reason that from the records as well as the evidence presented by the plaintiff, nothing is shown that there was a deed of donation. For(,) a donation of a real property to be valid and effective[,] it must appear in a public document and duly received by the donee either in the same document or in a separate public document. Thus, under Article 749 of the New Civil Code of the Philippines, it is provided:
>
> > "In order that the donation of an immovable maybe (sic) valid, it must be made in a public instrument, specifying therein the property donated and the value of the charges which the donee must satisfy.
> >
> > The acceptance maybe (sic) made in the same deed of donation or in a separate public document, but it shall not take effective *(sic)* unless it is done during the lifetime of the donee.
> >
> > If the acceptance is made in a separate instrument the donor shall be notified thereof in a[n] authentic form and this step shall be noted in both instruments."

[15] Id. at 333.
[16] Id. at 335-343.
[17] Id. at 344-345.

> Since there is no donation of the property covered by Original Certificate of Title No. 5014 as well as the other parcel of land covered by Transfer Certificate of Title No. 2926 in the name of the defendant Mariano Gokioco, the alleged acts of ingratitude [of] the donee are irrelevant and immaterial. Arguments on this point in the motion is off-tangent. Defendants' motion to dismiss is therefore denied.
>
> With the denial of the motion to dismiss, what will happen with the Amended Complaint of August 26, 1993? Since the allegations in the said amended complaint particularly that appearing in paragraph five (5) says:
>
> > "That the money used in the acquisition and subsequent development of the two (2) parcels of land mentioned above, were capital shelled out alone by plaintiff Eustaquio Gokioco and his wife virtually as donation *inter vivos* in favor of herein defendants;"
>
> it is a virtual donation *inter vivos* and since the plaintiff failed to prove that the transfer to the defendants was through a donation, as earlier noted, the complaint must likewise be dismissed.
>
> WHEREFORE, motion to dismiss by the defendants is denied and the amended complaint of August 26, 1993 is dismissed.
>
> SO ORDERED.

Respondents sought the reconsideration of the order,[18] and Jennifer opposed their motion.[19] On January 23, 1997, the RTC denied the motion for reconsideration of respondents.[20]

Decision of the CA

In their appeal, respondents assigned the following errors, namely:

I. THE COURT ERRED IN LABORING IN THE ERRONEOUS NOMEN OF THE CASE AND IN DISMISSING THE SAME.

II. THE DISMISSAL OF THE CASE DEFEATS THE ENDS OF JUSTICE AND ABETS UNJUST ENRICHMENT ON THE PART OF THE DEFENDANTS.

[18] Id. at 348-351.
[19] Id. at 359-363.
[20] Id. at 381.

III. THE DISPOSITION OF THE CASE BELOW SUFFERED FROM PROCEDURAL LAPSE.[21]

On May 26, 2004, the CA promulgated its assailed decision,[22] setting aside the order dated September 11, 1996 and ordering the remand of the case to the RTC for the reception of petitioners' evidence, stating:

> The only issue is the propriety of the Order of Dismissal.
>
> At the outset, substantial issues, *viz.* 1) whether or not the Court *a quo* erred in dismissing the case based on facts that the plaintiffs-appellants' cause of action was based on donations; and 2) whether or not dismissal of the case defeats the ends of justice or abets unjust enrichment on the part of defendants-appellees --- are matters to be threshed out by the trial court.
>
> We are therefore left with the procedural issue, to wit: whether or not the Court *a quo's* Order dismissing the case suffered from any procedural lapse.
>
> Indeed, the Court *a quo* committed an error in dismissing the case. Section 1, Rule 33 of the 1997 Rules of Civil Procedure provides:
>
> > "**SECTION 1.** *Demurrer to evidence.* - After the plaintiff has completed the presentation of his evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. **If the motion is denied, he shall have the right to present evidence.** x x x." (Emphasis Supplied)
>
> Thus, upon denial of the defendants-appellees' motion to dismiss, they have the right to present their evidence. However, instead of requiring the defendants-appellees to present their evidence, the Court *a quo* dismissed the case. There was therefore a procedural lapse. The Court *a quo* should not have dismissed the case since the allegation that the transaction is not a virtual donation *inter vivos* but an implied trust is a matter of evidence. It should not have cut the judicial process by dismissing the case itself.
>
> WHEREFORE, premises considered, the appeal is **GRANTED.** The Order dated September 11, 1996 of the Court *a quo* is hereby **SET ASIDE** and the case is ordered remanded to the Court *a quo* for the reception of defendants-appellees' evidence. Thereafter, the Court *a quo* is directed to decide the case with dispatch.
>
> **SO ORDERED.**[23]

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21 CA *rollo*, p. 35.
22 Supra note 1.
23 *Rollo*, pp. 22-23.

On July 6, 2004, petitioners sought reconsideration of the decision.[24] The CA denied the motion for reconsideration on August 13, 2004.[25]

Issues

Hence, this appeal, wherein petitioners reiterate the issues raised in their ill-fated motion for reconsideration, namely: (1) that the CA erred in declaring that the RTC had erred in dismissing the case on the basis that "the allegation that the transaction is not a virtual donation *inter vivos* but an implied trust is a matter of evidence, and thus, pursuant to Section 1, Rule 33 of the 1997 Rules of Civil Procedure, the Trial Court should have required petitioners to present their evidence;"[26] and (2) that the finding by the CA that the dismissal by the RTC had suffered from a procedural lapse was erroneous, considering that "the Trial Court denied the Motion to Dismiss because it did not agree with the grounds for the dismissal raised therein by petitioners. However, the Trial Court, nevertheless, dismissed the case using a different ground, which is the non-existence of the alleged donation as private respondents failed to prove the same."[27]

Ruling of the Court

The appeal is devoid of merit.

Upon its denial of Jennifer's Motion to Dismiss (on Demurrer to Evidence), the RTC should have still set Civil Case No. 454-M for hearing to receive the evidence of petitioners as the defendants. Such action was in compliance with Rule 33 of the *Rules of Court*, which governs demurrer to evidence in a civil action, which pertinently states:

> Section 1. *Demurrer to Evidence.*- After the plaintiff has completed the presentation of evidence, the defendant may move for dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. **If his motion is denied, he shall have the right to present evidence.** If his motion is granted but on appeal the order of dismissal is reversed, he is deemed to have waived his right to present evidence. (Emphasis supplied)

In *Condes v. Court of Appeals*,[28] this Court explains the nature and purpose of a demurrer to evidence, *viz*:

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[24] CA *rollo*, pp. 195-203.
[25] *Rollo*, p. 25.
[26] Id. at 11.
[27] Id. at 16.
[28] G.R. No. 161304, July 27, 2007, 528 SCRA 339, 351-352.

> x x x A demurrer to evidence is a motion to dismiss on the ground of insufficiency of evidence and is filed after the plaintiff rests his case. It is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced, is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The question in a demurrer to evidence is whether the plaintiff, by his evidence in chief, has been able to establish a *prima facie* case.
>
> In civil cases, the burden of proof is on the plaintiff to establish his case by preponderance of evidence. "Preponderance of evidence" means evidence which is of greater weight, or more convincing than that which is offered in opposition to it. It is, therefore, premature to speak of "preponderance of evidence" in a demurrer to evidence because it is filed before the defendant presents his evidence. The purpose of a demurrer to evidence is precisely to expeditiously terminate the case without the need of the defendant's evidence. It authorizes a judgment on the merits of the case without the defendant having to submit evidence on his part as he would ordinarily have to do, if it is shown by plaintiff's evidence that the latter is not entitled to the relief sought.

The Court has defined some guidelines on the action to be taken by the trial court on the demurrer to evidence, to wit:

> A demurrer to evidence may be issued when, upon the facts and the law, the plaintiff has shown no right to relief. Where the plaintiff's evidence, together with such inferences and conclusions as may reasonably be drawn therefrom does not warrant recovery against the defendant, a demurrer to evidence should be sustained. A demurrer to evidence is likewise sustainable when, admitting every proven fact favorable to the plaintiff and indulging in his favor all conclusions fairly and reasonably inferable therefrom, the plaintiff has failed to make out one or more of the material elements of his case, or when there is no evidence to support an allegation necessary to his claim. It should be sustained where the plaintiff's evidence is *prima facie* insufficient for recovery.[29]

Clearly, therefore, when the trial court denies the demurrer to evidence, the defendant has to present countervailing evidence against the evidence adduced by the plaintiff.[30] The rationale is expounded in *Siayngco, etc. v. Costibolo*,[31] as follows:

[29] Id. at 352-353, citing *Heirs of Emilio Santioque v. Heirs of Emilio Calma*, G.R. No. 160832, October 27, 2006, 505 SCRA 665, 679-680.
[30] *Republic v. Estate of Alfonso Lim, Sr.*, G.R. No. 164800, July 22, 2009, 593 SCRA 404, 423.
[31] No. L-22506, February 28, 1969, 27 SCRA 272, 283-284.

> 2. The rationale behind the rule and doctrine is simple and logical. The defendant is permitted, without waiving his right to offer evidence in the event that his motion is not granted, to move for a dismissal (*i.e.*, demur to the plaintiff's evidence) on the ground that upon the facts as thus established and the applicable law, plaintiff has shown no right to relief. If the trial court *denies* the dismissal motion, *i.e.*, finds that plaintiff's evidence is sufficient for an award of judgment in the absence of contrary evidence, the case still remains before the trial court which should then proceed to hear and receive the defendant's evidence so that all the facts and evidence of the contending parties may be properly placed before it for adjudication as well as before the appellate courts, in case of appeal. Nothing is lost. **The doctrine is but in line with the established procedural precepts in the conduct of trials that the trial court liberally receive all proffered evidence at the trial to enable it to render its decision with all possibly relevant proofs in the record, thus assuring that the appellate courts upon appeal have all the material before them necessary to make a correct judgment, and avoiding the need of remanding the case for retrial or reception of improperly excluded evidence, with the possibility thereafter of still another appeal, with all the concomitant delays.** The rule, however, imposes the condition by the same token that if his demurrer is *granted* by the trial court, and the order of dismissal is *reversed on appeal*, the movant loses his right to present evidence in his behalf and he shall have been deemed to have elected to stand on the insufficiency of plaintiff's case and evidence. In such event, the appellate court which reverses the order of dismissal shall proceed to render judgment on the merits on the basis of plaintiff's evidence. (Emphasis supplied)

Civil Case No. 454-M involved two distinct properties – the first, the parcel of land registered in the names of Mariano and Alice; the second, the parcel of land registered in the name of Jennifer. The Motion to Dismiss (Demurrer to Evidence) would benefit only Jennifer, her prayer therein being that judgment be rendered dismissing the complaint with regard to the property registered in her name. The fact that the Motion to Dismiss (Demurrer to Evidence) was filed only by Jennifer was emphasized in her Reply (to Opposition to Motion to Dismiss). Mariano and Alice did not join Jennifer's Motion to Dismiss (Demurrer to Evidence) in relation to the property registered in their names. They did not also file a similar motion.

Considering that none of petitioners as the defendants had presented any countervailing evidence when the RTC issued its order of September 11, 1996, the RTC should have forthwith set the hearing to receive the evidence of petitioners, including Jennifer,[32] instead of dismissing the

[32] *Northwest Airlines, Inc. v. Court of Appeals*, G.R. Nos. 120334 and 120337, January 20, 1998, 284 SCRA 408, 415.

amended complaint and counterclaim. This course of action was conformable with the aforestated rules and guidelines on granting or denying a defending party's demurrer to evidence.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on May 26, 2004 remanding the case to the Regional Trial Court, Branch 79, in Morong, Rizal as the court of origin for the reception of the evidence of petitioners **SPOUSES MARIANO AND ALICE C. GOKIOCO**, and **JENNIFER GOKIOCO**; and **ORDERS** petitioners to pay the costs of suit.

SO ORDERED."

Very truly yours,

EDGAR O. ARICHETA
Division Clerk of Court
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The Hon. Presiding Judge
Regional Trial Court, Br. 79
Morong 1960 Rizal
(Civil Case No. 454-M[R-40])

Judgment Division (x)
Supreme Court

Court of Appeals (x)
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