

TOCADO v. CA

C.S. No. 127405; October 4, 2000

FACTS: Private respondent Nante A. Anay met petitioner William T. Bello, then the vice-president for operations of West Bend Water Purifier, through her former employer in Bangkok. Bello introduced Anay to petitioner Marjorie Tocas, who expressed her desire to enter into a joint venture with her for the importation and local distribution of kitchen coolers. Under the joint venture, Bello acted as capitalist, Tocas as president and general manager, and Anay as head of the marketing department and later, vice-president for sales.

The parties agreed that Bello's name should not appear in any documents relating to their transactions with West Bend Company. Anay having secured the distributorship of coolers and products from the West Bend Company and organized the administrative staff and the sales force, the coolers and business took off successfully. They operated under the name of Camanosa Enterprises, a sole proprietorship registered in Marjorie Tocas's name.

The parties agreed further that Anay would be entitled to:

(1) ten percent (10%) of the annual net profits of the business;

(2) overriding commission of six percent (6%) of the overall weekly production;

(3) thirty percent (30%) of the sales she would make; and

(4) two percent (2%) for her demonstration services. The agreement was not reduced to writing on the strength of Bello's assurance that he was sincere, dependable and honest when it came to financial commitments.

On October 3, 1987, Anay learned that Marjorie Tocas had signed a letter addressed to the Culao sales office to the effect that she was no longer the vice-president of Camanosa Enterprises.

Anay attempted to contact Bello. She wrote him twice to demand her overriding commission for the period of January 8, 1988 to February 5, 1988 and the audit of the company to determine her share in the net profits.

Anay still received her five percent (5%) overriding commission up to December 1987. The following year, 1988, she did not receive the same commission although the company posted a gross sales of P 13,348,948.00.

Defendant raised the defense of prescription and title thus: "open, continuous, exclusive and public and notorious possession of land in dispute. It also alleged that the registration of the land was obtained by plaintiff's predecessor through fraud or error.

The lower court rendered judgment in favor of the plaintiff and ordered the defendant to restore possession of the land to the plaintiff, as well as to pay corresponding rent from January 1940 until he vacates the land. On appeal defendant raised a number of assignments or errors in the decision, one of which is that the trial court erred in not dismissing the case on the ground that the case was not brought by the real party in interest.

Issue: Whether or not the lower court erred in not dismissing the case on the ground that it was not brought by the real party in interest. - NO

Held: When the Rules of Court require in that an action be brought in the name of, but not necessarily by, the real party in interest, in fact the practice is for an attorney-at-law to bring the action, that is to file the complaint, in the name of the plaintiff. That practice appears to have been followed in this case, since the complaint is signed by the law firm of Araneta and Araneta, "counsel for plaintiff" and commences with the statement "comes now plaintiff, through its undersigned counsel." It is true that the complaint also states that the plaintiff is "represented herein by its Managing Partner, Gregorio Araneta, Inc.", another corporation, but there is nothing against a corporation being represented by another person, natural or juridical, in a suit in court. The contention that Gregorio Araneta, Inc. cannot act as managing partner for plaintiff on the theory that it is illegal for two corporations to enter into a partnership is without merit, for the true rule is that "although a corporation has no power to enter into a partnership, it may nevertheless enter into a joint venture with another where the nature of that venture is in line with the business authorized by its charter."

AGUILA, JR. v. CA

FACTS: In April 1982, the spouses Ruben and Felicidad Abregu entered into a loan agreement with a lending firm called A.C. Aguilá & Sons, Co., a partnership. The loan was for P200K. To secure the loan, the spouses mortgaged their house and lot located in a subdivision. The terms of the

On April 5, 1988, Nante A. Anay filed Civil Case No. 88-505, a complaint for sum of money with damages against Marjorie C. Tocas and William Bello before the Regional Trial Court of Makati, Branch 140

The trial court held that there was indeed an "oral partnership agreement between the plaintiff and the defendants. The Court of Appeals affirmed the lower court's decision.

ISSUE: Whether the parties formed a partnership

HOLD: Yes, the parties involved in this case formed a partnership

The Supreme Court held that to be considered a juridical personality, a partnership must fulfill these requisites:

(1) two or more persons bind themselves to contribute money, property or industry to a common fund; and

(2) intention on the part of the partners to divide the profits among themselves. It may be constituted in any form; a public instrument is necessary only where immovable property or real rights are contributed thereto.

This implies that since a contract of partnership is consensual, an oral contract of partnership is as good as a written one.

In the case at hand, Bello acted as capitalist while Tocas as president and general manager, and Anay as head of the marketing department and later, vice-president for sales. Furthermore, Anay was entitled to a percentage of the net profits of the business.

Therefore, the parties formed a partnership.

JM TUNZON and CO v. BOLANOS

95 PHIL 108

Fact: This is an action to recover possession of registered land situated in Santa Tecla, Quezon City. The complaint of plaintiff (B) Tucson & Co Inc was amended 3 times with respect to the extent and description of the land sought to be recovered. Originally, the land sought to be recovered was said to be more or less 13 hectares, but it was later amended to 6 hectares, after the defendant had indicated the plaintiff's surveyor the portion of land claimed and occupied by him. The second amendment is that the portion of the said land was covered in another TCT and the 3rd amendment was made after the defendant's surveyor and a witness, Quirino Rera testified that the land occupied by the defendant was about 13 hectares.

retained the validity of the deed of sale. The Court of Appeals reversed the RTC. The CA ruled that the sale is void for it is a pactum commissorium sale which is prohibited under Art. 2088 of the Civil Code (note the disparity of the purchase price which is the loan amount, with the actual value of the property which is after all located in a subdivision).

ISSUE: Whether or not the case filed by Felicidad shall prosper.

HOLD: No. Unfortunately, the civil case was filed not against the real party in interest. As pointed out by Aguilá, he is not the real party in interest but rather it was the partnership A.C. Aguilá & Sons, Co. The Rules of Court provide that "every action must be prosecuted and defended in the name of the real party in interest." A real party in interest is one who would be benefited or injured by the judgment, or who is entitled to the avails of the suit. Any decision rendered against a person who is not a real party in interest in the case cannot be executed. Hence, a complaint filed against such a person should be dismissed for failure to state a cause of action, as in the case at bar.

Under Art. 1748 of the Civil Code, a partnership "has a juridical personality separate and distinct from that of each of the partners." The partners cannot be held liable for the obligations of the partnership unless it is shown that the legal fiction of a different juridical personality is being used for fraudulent, vicious, or illegal purposes. In this case, Felicidad has not shown that A.C. Aguilá & Sons, Co. is a separate juridical entity, in being used for fraudulent, unfair, or illegal purposes. Moreover, the title to the subject property is in the name of A.C. Aguilá & Sons, Co. It is the partnership, not its officers or agents, which should be impleaded in any complaint or contract in its name. A violation of this rule will result in the dismissal of the complaint.

PASCUAL v. COMMISSIONERS OF INTERNAL REVENUE

148 SOLA 560 (1986)

Fact: On June 22, 1945, petitioners Mariano Pascual and Renata Oregon bought two (2) parcels of land from Santiago Bernardino, et al. and on May 28, 1946, they bought another three (3) parcels of land from Juan Roque.

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