



Republic of the Philippines  
**Supreme Court**  
 Manila

SECOND DIVISION

**CERILA J. CALANASAN, represented  
 by TEODORA J. CALANASAN as  
 Attorney-in-Fact,**  
 Petitioner,

**G.R. No. 171937**

Present:

CARPIO, J.,  
*Chairperson,*  
 BRION,  
 DEL CASTILLO,  
 ABAD,\* and  
 PEREZ, JJ.

- versus -

**SPOUSES VIRGILIO DOLORITO  
 and EVELYN C. DOLORITO,**  
 Respondents.

Promulgated:

NOV 25 2013

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**DECISION**

**BRION, J.:**

Through a petition for review on *certiorari*,<sup>1</sup> filed under Rule 45 of the Rules of Court, petitioner Cerila J. Calanasan seeks the reversal of the decision<sup>2</sup> dated September 29, 2005, and the resolution<sup>3</sup> dated March 8, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 84031.

**THE FACTS**

The petitioner, Cerila J. Calanasan (*Cerila*), took care of her orphan niece, respondent Evelyn C. Dolorito, since the latter was a child. In 1982, when Evelyn was already married to respondent Virgilio Dolorito, the petitioner donated to Evelyn a parcel of land which had earlier been mortgaged for ₱15,000.00. The donation was conditional: Evelyn must

\* Designated as acting member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1619 dated November 22, 2013.

<sup>1</sup> *Rollo*, pp. 3-19.

<sup>2</sup> Penned by Associate Justice Conrado M. Vasquez, and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Japar B. Dimaampao; id. at 26-30.

<sup>3</sup> Id. at 33.

redeem the land and the petitioner was entitled to possess and enjoy the property as long as she lived. Evelyn signified her acceptance of the donation and its terms in the same deed. Soon thereafter, Evelyn redeemed the property, had the title of the land transferred to her name, and granted the petitioner usufructuary rights over the donated land.

On August 15, 2002, the petitioner, assisted by her sister Teodora J. Calanasan, complained with the Regional Trial Court (*RTC*) that Evelyn had committed acts of ingratitude against her. She prayed that her donation in favor of her niece be revoked; in their answer, the respondents denied the commission of any act of ingratitude.

The petitioner died while the case was pending with the *RTC*. Her sisters, Teodora and Dolores J. Calanasan, substituted for her.

After the petitioner had rested her case, the respondents filed a demurrer to evidence. According to them, the petitioner failed to prove that it was Evelyn who committed acts of ingratitude against the petitioner; thus, Article 765<sup>4</sup> of the New Civil Code found no application in the case.

### **THE RTC'S RULING**

In its September 3, 2004 order,<sup>5</sup> the **RTC granted the demurrer to evidence and dismissed the complaint.** Article 765 of the New Civil Code did not apply because the ungrateful acts were committed against Teodora, the donor's sister, and not against the donor, the petitioner. Equally important, the perpetrator of the ungrateful acts was not Evelyn, but her husband Virgilio.

### **THE CA'S RULING**

The petitioner challenged the *RTC's* ruling before the *CA*.

In its September 29, 2005 decision,<sup>6</sup> **the CA affirmed the RTC ruling but on a different legal ground.** The *CA*, after legal analysis, found that the donation was *inter vivos* and onerous. Therefore, the deed of

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<sup>4</sup> Article 765. The donation may also be revoked at the instance of the donor, by reason of ingratitude in the following cases:

(1) **If the donee should commit some offense against the person, the honor or the property of the donor, or of his wife or children under his parental authority;**

(2) If the donee imputes to the donor any criminal offense, or any act involving moral turpitude, even though he should prove it, unless the crime or the act has been committed against the donee himself, his wife or children under his authority;

(3) If he unduly refuses him support when the donee is legally or morally bound to give support to the donor.

<sup>5</sup> Penned by Judge Alexander P. Tamayo, *RTC*, Branch 15, Malolos City, Bulacan; *rollo*, pp.22-24-A.

<sup>6</sup> *Supra* note 2.

donation must be treated as an ordinary contract and Article 765 of the New Civil Code finds no relevance.

On March 8, 2006, the CA rejected the petitioner's motion for reconsideration.

### **THE PARTIES' ARGUMENTS**

The petitioner filed the present petition for review on *certiorari* with this Court to challenge the CA rulings. The petitioner insists that Evelyn committed acts of ingratitude against her. She argues that, if the donation was indeed onerous and was subject to the rules of contracts, then greater reason exists to revoke it. According to the petitioner, Evelyn violated all the terms of the contract, especially the provision enjoining the latter from acquiring ownership over the property during the lifetime of the donor.

The respondents, for their part, point out that the petitioner raises factual issues that a petition under Rule 45 of the Rules of Court does not allow. Furthermore, the petitioner misleads the Court in claiming that the deed of donation prohibited Evelyn from acquiring ownership of the land. In fact, the deed of donation confined the donation to only two conditions: 1) redemption of the mortgage; and 2) the petitioner's usufruct over the land as long as she lived. The respondents complied with these conditions. The respondents likewise remind the Court that issues not advanced before the lower courts should not be entertained – the objective that Teodora is now trying to accomplish. Finally, the respondents applaud the CA in finding that the donation, being *inter vivos* and onerous, is irrevocable under Article 765 of the New Civil Code.

### **THE COURT'S RULING**

**We resolve to deny the petition for lack of merit.**

**The petitioner may not raise factual issues;  
arguments not raised before the lower courts  
may not be introduced on appeal.**

Teodora insists that Evelyn perpetrated ungrateful acts against the petitioner. Moreover, the donation never materialized because Evelyn violated a suspensive condition of the donation when she had the property title transferred to her name during the petitioner's lifetime.

As correctly raised by the respondents, these allegations are factual issues which are not proper for the present action. The Court is not a trier of

facts.<sup>7</sup> The Court cannot re-examine, review or re-evaluate the evidence and the factual review made by the lower courts.<sup>8</sup> In the absence of compelling reasons, the Court will not deviate from the rule that factual findings of the lower tribunals are final and binding on this Court.

It has not escaped the Court's attention that this is the only time the petitioner raised the arguments that donation never materialized because the donee violated a condition of the donation when she had the title of the property transferred to her name. The petitioner never raised this issue before the lower courts. It can't be emphasized enough that the Court will not revisit the evidence presented below as well as any evidence introduced for the first time on appeal.<sup>9</sup> Aside from being a factual issue that is not proper for the present action, the Court dismisses this *new argument* for being procedurally infirm and violative of due process. As we have held in the past: "points of law, theories, issues and arguments not brought to the attention of the trial court will not be and ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal. Basic consideration of due process impels this rule."<sup>10</sup>

**Rules of contract govern the onerous portion of donation; rules of donation only apply to the excess, if any.**

We now come to the appreciation of the legal incidents of the donation *vis-à-vis* the alleged ungrateful acts.

In *Republic of the Phils. v. Silim*,<sup>11</sup> we classified donations according to purpose. A pure/simple donation is the truest form of donation as it is based on pure gratuity. The remuneratory/compensatory type has for its purpose the rewarding of the donee for past services, which services do not amount to a demandable debt. A conditional/modal donation, on the other hand, is a consideration for future services; it also occurs where the donor imposes certain conditions, limitations or charges upon the donee, whose value is inferior to the donation given. Lastly, an onerous donation imposes upon the donee a reciprocal obligation; this is made for a valuable consideration whose cost is equal to or more than the thing donated.<sup>12</sup>

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<sup>7</sup> *Co v. Vargas*, G.R. No. 195167, November 16, 2011, 660 SCRA 451, citing *Aliño v. Heirs of Angelica A. Lorenzo*, G.R. No. 159550, June 27, 2008, 556 SCRA 139; *Diesel Construction Co., Inc. v. UPSI Property Holdings, Inc.*, G.R. Nos. 154885 and 154937, March 24, 2008, 549 SCRA 12.

<sup>8</sup> *Ibid.*, citing *Alicer v. Compas*, G.R. No. 187720, May 30, 2011, 649 SCRA 473.

<sup>9</sup> *Ibid.*, citing *China Banking Corporation v. Asian Construction and Development Corporation*, G.R. No. 158271, April 8, 2008, 550 SCRA 585.

<sup>10</sup> *Mark Anthony Esteban, etc. v. Spouses Rodrigo C. Marcelo and Carmen T. Marcelo*, G.R. No. 197725, July 31, 2013, citing *Nunez v. SLTEAS Phoenix Solutions, Inc.*, G.R. No. 180542, April 12, 2010, 618 SCRA 134, 145.

<sup>11</sup> 408 Phil. 69 (2001).

<sup>12</sup> *Id.* at 76.

In *De Luna v. Judge Abrigo*,<sup>13</sup> we recognized the distinct, albeit old, characterization of onerous donations when we declared: “Under the old Civil Code, it is a settled rule that donations with an onerous cause are governed not by the law on donations but by the rules on contracts, as held in the cases of *Carlos v. Ramil*, L-6736, September 5, 1911, 20 Phil. 183, *Manalo vs. de Mesa*, L-9449, February 12, 1915, 29 Phil. 495.”<sup>14</sup> In the same case, we emphasized the retention of the treatment of onerous types of donation, thus: “The same rules apply under the New Civil Code as provided in Article 733 thereof which provides:

Article 733. Donations with an onerous cause shall be governed by the rules on contracts, and remuneratory donations by the provisions of the present Title as regards that portion which exceeds the value of the burden imposed.”<sup>15</sup>

We agree with the CA that since the donation imposed on the donee the burden of redeeming the property for ₱15,000.00, the donation was onerous. As an endowment for a valuable consideration, it partakes of the nature of an ordinary contract; hence, the rules of contract will govern and Article 765 of the New Civil Code finds no application with respect to the onerous portion of the donation.

Insofar as the value of the land exceeds the redemption price paid for by the donee, a donation exists, and the legal provisions on donation apply. Nevertheless, despite the applicability of the provisions on donation to the gratuitous portion, the petitioner may not dissolve the donation. She has no factual and legal basis for its revocation, as aptly established by the RTC. *First*, the ungrateful acts were committed not by the donee; it was her husband who committed them. *Second*, the ungrateful acts were perpetrated not against the donor; it was the petitioner’s sister who received the alleged ill treatments. These twin considerations place the case out of the purview of Article 765 of the New Civil Code.

**WHEREFORE**, premises considered, the Court **DENIES** the petition for review on *certiorari*. The decision dated September 29, 2005, and the resolution dated March 8, 2006, of the Court of Appeals in CA-G.R. CV No. 84031 are hereby **AFFIRMED**. Costs against Cerila J. Calanasan, represented by Teodora J. Calanasan as Attorney-in-Fact.

**SO ORDERED.**

  
**ARTURO D. BRION**  
Associate Justice

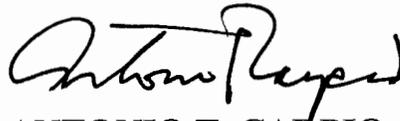
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<sup>13</sup> 260 Phil. 157 (1990).

<sup>14</sup> Id. at 164.

<sup>15</sup> Ibid.

**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**MARIANO C. DEL CASTILLO**  
Associate Justice



**ROBERTO A. ABAD**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice

**ATTESTATION**

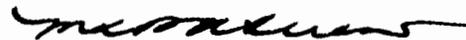
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice