

## PART 1 - TRIAL MEMORANDUM:

Consider the following direct testimonies given in a hypothetical case for annulment of contract. Assume that you are the lawyer for either one of the parties. Using the information given, choose one side and write a memorandum of arguments that the court may consider before deciding the case.

### 1. Testimony of the Plaintiff

COURT STAFF: (After swearing in the witness) State your name and personal circumstances.

WITNESS: I am Anna Geronimo, 35 years old, married and an accountant.

ATTY. RICHARD VALDEZ: With the Court's permission. Ms. Geronimo, do you know the defendant in this case, Mr. Peter Pascual?

A: Yes.

Q: How do you know him?

A: My husband, Raul Geronimo, and I have been friends with him since our college days.

Q: Could you please tell us why you filed this suit for annulment of contract with damages against him?

A: My husband sold our one-bedroom condominium unit to Mr. Pascual without my consent.

Q: Could you please tell us how you learned about the sale?

A: I knew about the sale because I was the one who offered the property to Mr. Pascual.

Q: Could you please elaborate on that?

A: Since we got married in 2006, my husband and I have been living in a one-bedroom condominium unit. When I learned that I was having a baby sometime in 2008, we decided to buy a house to make room for the nanny and all the baby stuff we need.

Q: When did you acquire this condo unit?

A: My husband bought it in 2001 when he was still single.

Q: But you have been living there since you got married?

A: Yes.

Q: So, how did Mr. Pascual learn about your plan to buy a house?

A: Like I said, we were close friends. He usually came to our condo unit for weekend dinners. Sometime in January 2009, I mentioned our plan to him. He said that he would love to buy our condo unit should we finally decide to sell it. He mentioned something about it being a good investment.

Q: When did the actual negotiations for the sale of the condo unit start?

A: In April 2009, I called Mr. Pascual and informed him that we finally found a house. I told him that we were now selling our condo unit. Since he was still interested in buying it, I offered it to him at ₱2 million. He said that he will call back once the deed of sale and manager's check were ready.

Q: Did he call back?

A: I left for the United States in May 2009 to give birth. He called my husband while I was away.

Q: If you were the one who negotiated the sale, why are you saying now that your husband sold the condo unit without your consent?

A: While I was in the United States, I decided not to sell the condo unit anymore. I thought it would be better to keep it in the meantime as an investment.

Q: Did you tell your husband about this?

A: Yes. He called me in June 2009. He said that he already signed the deed of sale and that he already has the manager's check. When I told him that I already changed my mind, he said that we will just talk about it when I get back.

Q: When did you return?

A: In September 2009.

Q: What happened then?

A: I called Mr. Pascual and explained that we were no longer selling the condo unit. I even offered to return his money in cash.

Q: Did he agree?

A: No. He insisted that the sale had been consummated and refused to accept the money.

Q: What did you do?

A: I consulted a lawyer and decided to file a suit for annulment of contract with damages.

ATTY. RICHARD VALDEZ: That is all for the witness, your honor.

## **2. Statement of the Defendant**

COURT STAFF: (After swearing in the witness) State your name and personal circumstances.

WITNESS: I am Peter Pascual, 36 years old, single and a sales manager.

ATTY. JUDD LAUREL: With the Court's permission. Mr. Pascual, do you know the plaintiff in this case, Ms. Anna Geronimo?

A: Yes.

Q: How do you know her?

A: I have been friends with her and her husband, Raul Geronimo, since college.

Q: Do you know why she filed this suit for annulment of contract with damages against you?

A: She claims that her husband sold their one-bedroom condominium unit to me without her consent.

Q: Could you please tell us how you learned that the condo unit was for sale?

A: Sometime in January 2009, I visited their condo unit. Ms. Geronimo told me that they were planning to buy a house. They were expecting a baby soon and they would need a nursery room and storage area for their baby stuff.

Q: What did you tell her when you heard that?

A: Since I have been living in an apartment for several years, I thought it might be a good idea to invest and buy my own condo unit. Since the spouses Geronimo have been my friends for a long time, I have seen how they took care of their condo unit. Thus, I told Ms. Geronimo that I will buy it should they finally decide to sell it.

Q: What did she say?

A: She promised to call me once they have found a house.

Q: Did she call?

A: Yes.

Q: When?

A: In April 2009, she told me that they finally found a house. She asked if I was still interested in buying their condo unit. When I told her I was, she informed me that they were giving it for ₱2 million.

Q: Did you accept the offer?

A: Yes. I said that I'll call back once the deed of sale and manager's check were ready.

Q: When did the deed and payment become ready?

A: I immediately asked a lawyer-friend to prepare the necessary deed of sale. I also prepared a manager's check for ₱2 million. Sometime in June 2009, I met up with Mr. Geronimo. I told him that the sale could not have come at a better time since I was getting married and will use the condo unit as our conjugal home. After I handed him the manager's check, he signed the deed of sale.

Q: How about Ms. Geronimo? Did she sign the deed of sale?

A: No.

Q: Why not?

A: She was in the United States to give birth.

Q: When did you learn that Ms. Geronimo did not want to sell the condo unit anymore?

A: When she returned in September 2009, Ms. Geronimo called me. She said they won't be selling the condo unit anymore.

Q: What did you tell her?

A: I told her that they can't back out now. The sale had been consummated.

Q: Were you able to get the certificate of title from Mr. Geronimo?

A: Yes.

Q: To whom was it named?

A: It was under the name of Mr. Geronimo.

Q: Were you able to have it transferred in your name?

A: Yes.

Q: Did you tell Ms. Geronimo about that?

A: Yes.

Q: What did she say?

A: She said that the condo unit was their property. Since there was no valid consent from her end, she will have the deed of sale annulled.

Q: Would you know of any reason why she suddenly changed her mind?

A: Actually during that phone call, she told me that she wasn't happy that I was getting married and was going to use the condo unit as our conjugal home. I think she might be jealous because I always thought her to be extremely nice and sweet to me. But that's absurd. She's already married and we have been really good friends.

ATTY. JUDD LAUREL: That is all for the witness, your honor.

### **Laws and jurisprudence that may apply**

#### **1. Article 96 of the Family Code**

The administration and enjoyment of the community property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the common properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance

by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

2. Article 124 of the Family Code

The administration and enjoyment of the conjugal partnership shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to the court by the wife for proper remedy, which must be availed of within five years from the date of the contract implementing such decision.

In the event that one spouse is incapacitated or otherwise unable to participate in the administration of the conjugal properties, the other spouse may assume sole powers of administration. These powers do not include disposition or encumbrance without authority of the court or the written consent of the other spouse. In the absence of such authority or consent, the disposition or encumbrance shall be void. However, the transaction shall be construed as a continuing offer on the part of the consenting spouse and the third person, and may be perfected as a binding contract upon the acceptance by the other spouse or authorization by the court before the offer is withdrawn by either or both offerors.

3. Article 1318 of the Civil Code

There is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;
- (2) Object certain which is the subject matter of the contract;
- (3) Cause of the obligation which is established.

4. Article 1319 of the Civil Code

Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and the acceptance absolute. A qualified acceptance constitutes a counter-offer.

Acceptance made by letter or telegram does not bind the offerer except from the time it came to his knowledge. The contract, in such a case, is presumed to have been entered into in the place where the offer was made.

5. Article 1330 of the Civil Code

A contract where consent is given through mistake, violence, intimidation, undue influence, or fraud is voidable.

6. Article 1390 of the Civil Code

The following contracts are voidable or annulable, even though there may have been no damage to the contracting parties:

- (1) Those where one of the parties is incapable of giving consent to a contract;
- (2) Those where the consent is vitiated by mistake, violence, intimidation, undue influence or fraud.

These contracts are binding, unless they are annulled by a proper action in court. They are susceptible of ratification.

7. Article 1431 of the Civil Code

Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

8. *Jader-Manalo v. Camaisa*, G.R. No. 147978, January 23, 2002, 374 SCRA 498

The law requires that the disposition of a conjugal property by the husband as administrator in appropriate cases requires the written consent of the wife, otherwise, the disposition is void.

The properties subject of the contracts in this case were conjugal; hence, for the contracts to sell to be effective, the consent of both husband and wife must concur.

Respondent Norma Camaisa admittedly did not give her written consent to the sale. Even granting that respondent Norma actively participated in negotiating for the sale of the subject properties, which she denied, her written consent to the sale is required by law for its validity. Significantly, petitioner herself admits that Norma refused to sign the contracts to sell. Respondent Norma may have been aware of the negotiations for the sale of their conjugal properties. However, being merely aware of a transaction is not consent.

9. *Abalos v. Macatangay, Jr.*, G.R. No. 155043, September 30, 2004, 439 SCRA 649

Being essentially consensual, a contract of sale is perfected at the moment there is a meeting of the minds upon the thing which is the object of the contract and upon the price. However, ownership of the thing sold shall not be transferred to the vendee until actual or constructive delivery of the property.

[T]he husband may dispose of conjugal property without the wife's consent if such sale is necessary to answer for conjugal liabilities mentioned in Articles 161 and 162 of the Civil Code. In *Tinitigan v. Tinitigan, Sr.*, the Court ruled that the husband may sell property belonging to the conjugal partnership even without the consent of the wife if the sale is necessary to answer for a big conjugal liability which might endanger the family's economic standing. This is one instance where the wife's consent is not required and, impliedly, no judicial intervention is necessary.

10. *Ainza v. Padua*, G.R. No. 165420, June 30, 2005, 462 SCRA 614

The consent of both Eugenia and Antonio is necessary for the sale of the conjugal property to be valid. Antonio's consent cannot be presumed. Except for the self-serving testimony of petitioner Natividad, there is no evidence that Antonio participated or consented to the sale of the conjugal property. Eugenia alone is incapable of giving consent to the contract. Therefore, in the absence of Antonio's consent, the disposition made by Eugenia is voidable.

11. *Co Chien v. Sta. Lucia Realty and Development, Inc.*, G.R. No. 162090, January 31, 2007, 513 SCRA 570

[A] person is considered in estoppel if by his conduct, representations or admissions or silence when he ought to speak out, whether intentionally or through culpable negligence, "causes another to believe certain facts to exist and such other rightfully relies and acts on such belief, as a consequence of which he would be prejudiced if the former is permitted to deny the existence of such facts."

12. *Malbarosa v. Court of Appeals*, G.R. No. 125761, April 30, 2003, 402 SCRA 168

The acceptance of an offer must be made known to the offeror. Unless the offeror knows of the acceptance, there is no meeting of the minds of the parties, no real concurrence of offer and acceptance. The offeror may withdraw its offer and revoke the same before acceptance thereof by the offeree. The contract is perfected only from the time an acceptance of an offer is made known to the offeror. If an offeror prescribes the exclusive manner in which acceptance of his offer shall be indicated by the offeree, an acceptance of the offer in the manner prescribed will bind the offeror. On the other hand, an attempt on the part of the offeree to accept the offer in a different manner does not bind the offeror as the absence of the meeting of the minds on the altered type of acceptance. An offer made *inter praesentes* must be accepted immediately. If the parties intended that there should be an express acceptance, the contract will be perfected only upon knowledge by the offeror of the express acceptance by the offeree of the offer. An acceptance which is not made in the manner prescribed by the offeror is not effective but constitutes a counter-offer which the offeror may accept or reject. The contract is not perfected if the offeror revokes or withdraws its offer and the revocation or withdrawal of the offeror is the first to reach the offeree. The acceptance by the offeree of the offer after knowledge of the revocation or withdrawal of the offer is inefficacious. The termination of the contract when the negotiations of the parties terminate and the offer and acceptance concur, is largely a question of fact to be determined by the trial court.

13. *Bautista v. Silva*, G.R. No. 157434, September 19, 2006, 502 SCRA 334

To establish his status as a buyer for value in good faith, a person dealing with land registered in the name of and occupied by the seller need only show that he relied on the face of the seller's certificate of title. But for a person dealing with land registered in the name of and occupied by the seller whose capacity to sell is restricted, such as by Articles 166 and 173 of the Civil Code or Article 124 of the Family Code, he must show that he inquired into the latter's capacity to sell in order to establish himself as a buyer for value in good faith.

14. *Ravina v. Villa Abrille*, G.R. No. 160708, October 16, 2009, 604 SCRA 120

In the present case, the property is registered in the name of Pedro and his wife, Mary Ann. Petitioners cannot deny knowledge that during the time of the sale in 1991, Pedro was married to Mary Ann. However, Mary Ann's conformity did not appear in the deed. Even assuming that petitioners believed in good faith that the subject property is the exclusive property of Pedro, they were apprised by Mary Ann's lawyer of her objection to the sale and yet they still proceeded to purchase the property without Mary Ann's written consent.