



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 13, 2019, which reads as follows:*

**“G.R. No. 248414 (Francisco R. Reyes and Carolina Inez Angela S. Reyes v. Adolfo R. Reyes, Ramon R. Reyes, and Carlos R. Reyes).** - This is a Petition for Review on *Certiorari*<sup>1</sup> of the Decision<sup>2</sup> dated June 29, 2018 and the Resolution<sup>3</sup> dated July 15, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 106737.

**Antecedents**

In 1992, petitioner Francisco R. Reyes (Frank) thought of putting up his own restaurant and franchising business after gaining considerable experience from working in one of Manila’s well-known restaurants, Aristocrat Restaurant.<sup>4</sup>

On June 24, 2002, Frank formalized the establishment of Reyes Barbecue when he registered it as a sole proprietorship with the Department of Trade and Industry (DTI).<sup>5</sup> On July 13, 2005, Frank filed an application for registration of the trademark “Reyes Barbecue written in stylized form” with the Intellectual Property Office (IPO).<sup>6</sup>

Meanwhile, sometime in August 2005, Frank allegedly offered his brothers, Adolfo, Ramon, and Carlos, all surnamed Reyes (respondents), to form a partnership for the franchising arm of Reyes Barbecue as he needed risk capital to expand the business. Respondents acceded and provided Frank with the capital needed for the expansion. Adolfo and Carlos each contributed ₱100,000.00 in exchange for a 24% and 15% share, respectively, in the alleged partnership. Ramon contributed a desktop computer valued at

<sup>1</sup> *Rollo*, pp. 3-29.

<sup>2</sup> Penned by Associate Justice Maria Filomena D. Singh, with Associate Justices Sesinando E. Villon and Edwin D. Sorongon, concurring; *id.* at 45-61-A.

<sup>3</sup> *Id.* at 62-69.

<sup>4</sup> *Id.* at 45.

<sup>5</sup> *Id.* at 45-46.

<sup>6</sup> *Id.* at 46.

₱39,000.00 for a 25% share. For Frank, it was agreed that his contribution will be the “Reyes Barbecue” trademark registered in his name.<sup>7</sup>

Frank denied proposing to form a partnership with his brothers. Frank insisted that he and his wife, petitioner Carolina Inez Angela S. Reyes (Inez), conceptualized the business on their own. He claimed that the intent, from the start, was to form a franchising corporation with his brothers, not a partnership, and that the contributions his brothers made were really subscription payments to the franchising corporation.<sup>8</sup>

Due to disagreements among the siblings on the ownership structure, capitalization requirements, and lack of consensus on the royalty to be paid to Frank for the use of the “Reyes Barbecue” trademark, Frank became hesitant in proceeding with the plan. He allegedly decided to abandon the plan when he discovered that the Reyes Barbecue trademark had been fraudulently transferred<sup>9</sup> to a certain Ronnie Enriquez, who turned out to be an employee of Atty. Adolfo Reyes II, his nephew.<sup>10</sup> Thereafter, Adolfo, Carlos, and Ramon, through counsel, sent a demand letter dated May 8, 2008 to Frank, demanding an accounting of the business to determine any share in the profits that may be due them.<sup>11</sup>

Alleging that Frank, as a partner, breached his legal obligations to the partnership, respondents filed a Complaint for Damages with Prayer for Temporary Restraining Order and/or Writ of Preliminary Injunction<sup>12</sup> against Frank and Inez. Adolfo, Carlos, and Ramon pleaded *inter alia* that judgment be rendered restoring management, control, and administration of the franchising business to them.<sup>13</sup>

### RTC Ruling

In a Decision<sup>14</sup> dated November 9, 2015, the Regional Trial Court of Quezon City, Branch 216 (RTC) dismissed the Complaint. The RTC agreed with the claim of Frank and Inez that no partnership was formed and finalized. The RTC found that no written document was presented to prove that all parties agreed to form a partnership. For the RTC, the acts of Frank, while they were trying to incorporate a corporation, showed his intention to continue the business as a sole proprietorship until such time that the corporation shall have been formed. He retained the administration of funds and managed his employees without the help of his siblings. He was the only one who signed all checks and franchising agreements for the business.<sup>15</sup>

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 44.

<sup>10</sup> Id. at 47.

<sup>11</sup> Id. at 47.

<sup>12</sup> Id. at 35-42.

<sup>13</sup> Id. at 40.

<sup>14</sup> Penned by Presiding Judge Alfonso C. Ruiz II; id. at 166-176.

<sup>15</sup> Id. at 175.

The RTC also held that the participation of respondents in the operation of the business was very limited as they did not participate in the actual management of the business. With regard to Ramon, while he may have made several suggestions to improve the business, there is no evidence that he was directly involved in the actual day-to-day operations of the business.<sup>16</sup>

The RTC noted that it took respondents more than two (2) years from the time the partnership was allegedly formed, or only on May 9, 2008, to demand for an accounting of the finances of the supposed partnership.<sup>17</sup> For the RTC, the failure to immediately demand for an accounting casts doubt on the veracity of the claim that a partnership was agreed upon.<sup>18</sup>

### CA Ruling

In a Decision<sup>19</sup> dated June 29, 2018, the CA ruled as follows:

**WHEREFORE**, the appeal is **GRANTED**. The Decision of Branch 216, Regional Trial Court of Quezon City dated 9 November 2015 in Civil Case No. Q-08-62804 dismissing the Complaint is **REVERSED**.

Civil Case No. Q-08-62804 is **REINSTATED**. However, the case is **REMANDED** to Branch 216, Regional Trial Court of Quezon City, which is **DIRECTED** to schedule the conduct of an accounting of the profits of the "Reyes Barbecue" business among the parties, which must show:

(a) the portion of the profits derived from the "Reyes Barbecue" business that may be attributed to the contributions, tangible or otherwise, made by the plaintiffs-appellants; and

(b) the portion of the profits derived from the "Reyes Barbecue" business that may be attributed to Francisco Reyes' contribution only.

Thereafter, based on the results of the accounting, Francisco Reyes, as trustee of the assets of the joint venture, shall pay his brothers their rightful share in the profits from the assets of the joint venture, based on the shareholdings detailed above to determine the respective shares due the plaintiffs-appellants, with utmost dispatch.

The plaintiffs-appellants Adolfo, Ramon, and Carlos, all surnamed Reyes, are **DECLARED** entitled to attorney's fees in the amount of Seventy-Five Thousand Pesos (P75,000.00).

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<sup>16</sup> Id.  
<sup>17</sup> Id.  
<sup>18</sup> Id. at 176.  
<sup>19</sup> Id. at 45-61-A.

The actual damages to be awarded after the conduct of the accounting, and the attorney's fees herein awarded, shall earn interest at the rate of 12% interest *per annum* from 17 June 2008, the date of the filing of the Complaint, to 20 June 2013, and 6% *per annum* from 1 July 2013 until full satisfaction.

**SO ORDERED.**<sup>20</sup>

The CA held that even if no partnership agreement was formalized, nor any corporation registered, once Frank received the material contributions of his siblings and allowed them to actively participate in the business, a contract for a joint venture was perfected and actually executed.<sup>21</sup> It was Frank's brothers' relationships with potential franchisees, particularly Ramon, that led to securing the first batch of franchises or branches of Reyes Barbecue.<sup>22</sup> The CA ruled that the totality of the circumstances reveal the intention of the Reyes brothers to set up a business venture together though the structure had yet to be determined. The CA considered the intangible contributions of Frank's siblings, by way of sound business advice on industry operations, helpful in cementing Reyes Barbecue's reputation in the restaurant industry.<sup>23</sup> Based on the contributions of respondents, the CA concluded that the equivalent percentage of share in the business of each respondent is as follows: Adolfo – 24%; Ramon – 25%; and Carlos – 15%.<sup>24</sup>

In a Resolution<sup>25</sup> dated July 15, 2019, the CA denied<sup>26</sup> the Motion for Reconsideration<sup>27</sup> of Frank and Inez.

In the present petition, Frank and Inez point out that the conclusion of the CA that a partnership does not exist, but at the same time ruling that the parties entered into an agreement that is "akin to a joint venture" – which is indistinguishable from a partnership – is inherently contradictory.<sup>28</sup> They also argue that a mere agreement to contribute, or even the actual contribution, of money, property, or industry to a common fund is, by and of itself, inadequate to establish the existence of a partnership, joint venture, or any other similar agreement. It is crucial that there is a specific intent among the purported partners to divide the profits and share the losses from that common fund or business venture.<sup>29</sup> They posit that the circumstance alone that respondents made contributions to what they perceived to be a common fund is insufficient to establish a partnership, joint venture, or other similar arrangement.<sup>30</sup> The absence of an unequivocal agreement between the parties to jointly manage

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<sup>20</sup> Id. at 61-61-A.  
<sup>21</sup> Id. at 52.  
<sup>22</sup> Id. at 54.  
<sup>23</sup> Id. at 55.  
<sup>24</sup> Id. at 59.  
<sup>25</sup> Id. at 62-69.  
<sup>26</sup> Id. at 68.  
<sup>27</sup> Id. at 70-79.  
<sup>28</sup> Id. at 16-17.  
<sup>29</sup> Id. at 19.  
<sup>30</sup> Id. at 20.

and control Reyes Barbecue, as well as share in its profits and losses, contradicts a conclusion that they are partners or parties to a joint venture.<sup>31</sup>

### Issue

The issue to be resolved in this case is whether a partnership, joint venture or any other commercial agreement was entered into by Frank and his siblings for the expansion of the Reyes Barbecue business, entitling Adolfo, Ramon, and Carlos to demand for the accounting of the finances of the business, damages, and control over the management of the franchising business.

### The Court's Ruling

After a judicious study of the case, the Court resolves to deny the petition.

The CA erred in ruling that although there was no partnership formed, a joint venture was created by the parties. A declaration that there is no partnership is inconsistent with the finding that a joint venture agreement was entered into by the parties. Article 1767 of the Civil Code defines partnership as follows:

Art. 1767. By the contract of partnership two or more persons bind themselves to contribute money, property, or industry to a common fund, with the intention of dividing the profits among themselves.

Two or more persons may also form a partnership for the exercise of a profession.

Meanwhile, in *Kilosbayan, Incorporated v. Guingona, Jr.*<sup>32</sup> We defined a joint venture as:

[A]n association of person or companies jointly undertaking some commercial enterprise; generally all contribute assets and share risks. It requires a community of interest in the performance of the subject matter, a right to direct and govern the policy in connection therewith, and duty, which may be altered by agreement to share both in profit and losses.<sup>33</sup>

In *Aurbach v. Sanitary Wares Manufacturing Corporation*,<sup>34</sup> the Court likened a joint venture to a partnership, thus:

The legal concept of a joint venture is of common law origin. It has no precise legal definition, but it has been

<sup>31</sup> Id. at 21.

<sup>32</sup> 302 Phil. 107 (1994).

<sup>33</sup> Id. at 162.

<sup>34</sup> 259 Phil. 606 (1989).

generally understood to mean an organization formed for some temporary purpose. It is hardly distinguishable from the partnership, since their elements are similar – community of interest in the business, sharing of profits and losses, and a mutual right of control. The main distinction cited by most opinions in common law jurisdiction is that the partnership contemplates a general business with some degree of continuity, while the joint venture is formed for the execution of a single transaction, and is thus of a temporary nature. This observation is not entirely accurate in this jurisdiction, since under the Civil Code, a partnership may be particular or universal, and a particular partnership may have for its object a specific undertaking. It would seem therefore that **under Philippine law, a joint venture is a form of partnership and should thus be governed by the law of partnerships.** The Supreme Court has however recognized a distinction between these two business forms, and has held that although a corporation cannot enter into a partnership contract, it may however engage in a joint venture with others.<sup>35</sup> (Citations omitted; emphasis ours)

In essence, a joint venture is a partnership although created for a limited or particular purpose.

It appears that the parties, although the structure of the business was not formalized and registered, entered into a partnership. Each of the Reyes brothers contributed money, property, and/or industry to a common fund with the intention of dividing the profits (and the losses) among themselves. Though there is no written agreement between the parties, the conduct of the parties supports the conclusion that a partnership was formed. The moment the contributions of Adolfo, Ramon, and Carlos were received by Frank and the fact that each carried out their respective tasks in the management of the business leads Us to believe that a partnership was indeed created.

Although the registration of the franchising arm of Reyes Barbecue did not materialize, numerous franchises were opened through the contributions and efforts of all the Reyes brothers. Thus, a partnership for the franchising business of Reyes Barbecue was created.

Even in case of failure to comply with the requirements of Article 1772, with reference to the execution of a public instrument and registration with the Securities and Exchange Commission (SEC) in cases when the partnership capital exceeds ₱3,000.00, the partnership acquires juridical personality.<sup>36</sup>

<sup>35</sup> Id. at 624.

<sup>36</sup> Article 1772 of the Civil Code states:

Art. 1772. Every contract of partnership having a capital of three thousand pesos or more, in money or property, shall appear in a public instrument, which must be recorded in the Office of the Securities and Exchange Commission.

Failure to comply with the requirements of the preceding paragraph shall not affect the liability of the partnership and the members thereof to third persons.

Despite the error of the CA in finding that no partnership was created, the conclusion and resulting recourse of the Court remain the same. A joint venture is a form of partnership and should thus be governed by the law of partnerships.<sup>37</sup> As We are not a trier of facts, a remand of the case to the RTC is necessary in order for the trial court to determine the following: (1) the portion of the profits derived from the franchising business of Reyes Barbecue that may be attributed to the contributions, tangible or otherwise, made by the plaintiffs-appellants; and (2) the portion of the profits derived from the franchising business of Reyes Barbecue that may be attributed to Francisco Reyes' contribution only.

Lastly, We find that the award of damages and interest, at this stage of the proceedings, would be premature and inconsistent with Our directive to remand the case to the RTC. Should the RTC find the award of damages and interest proper, the monetary award shall conform to the guidelines on the imposition of damages and interest We established in the recent case of *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*<sup>38</sup>

**WHEREFORE**, premises considered, Civil Case No. Q-08-62804 is **REINSTATED**. The case is **REMANDED** to the Regional Trial Court of Quezon City, Branch 216, which is **DIRECTED** to schedule the conduct of an accounting of the profits of the franchising business of Reyes Barbecue to determine the following:

- (a) the portion of the profits derived from the franchising business of Reyes Barbecue that may be attributed to the contributions, tangible or otherwise, made by the respondents Adolfo, Ramon, and Carlos Reyes; and
- (b) the portion of the profits derived from the franchising business of Reyes Barbecue that may be attributed to Francisco Reyes' contribution only.

Thereafter, based on the results of the accounting, Francisco R. Reyes, as trustee of the assets of the partnership, shall pay respondents their rightful share in the profits of the partnership, based on their contribution. Should the Regional Trial Court find the award of damages and interest proper, the monetary award shall conform to the guidelines on the imposition of damages and interest We established in the recent case of *Lara's Gifts & Decors, Inc. v. Midtown Industrial Sales, Inc.*

<sup>37</sup> Supra note 35.

<sup>38</sup> G.R. No. 225433, August 28, 2019.

**SO ORDERED.”** (Leonen, J., on official business; Gesmundo, J., designated as Acting Chairperson of the Third Division per Special Order No. 2737; Lazaro-Javier, J., designated as Additional Member of the Third Division per Special Order No. 2728, on official leave.)

Very truly yours,

*Mis-DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Deputy Division Clerk of Court*

*11/10/20*

FELIPE P. CRUZ LAW OFFICE  
Counsel for Petitioners  
U-1204 Jollibee Plaza Condominium  
F. Ortigas Jr. Road, Ortigas Center  
1605 Pasig City

SYCIP SALAZAR HERNANDEZ &  
GATMAITAN  
Collaborating Counsel for Petitioners  
4/F SyCipLaw Center  
105 Paseo de Roxas, Makati City

COURT OF APPEALS  
CA G.R. CV No. 106737  
1000 Manila

REYES CABRERA ROJAS GOLEZ  
& ASSOCIATES  
Counsel for Respondents  
Unit 1502 Jollibee Plaza Bldg.  
F. Ortigas, Jr. Road, Ortigas Center  
1605 Pasig City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 216, 1100 Quezon City  
(Civ. Case No. Q-08-62804)

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