

95 Phil. 670

[ G.R. No. L-6802. August 26, 1954 ]

**JUDGE RAMON R. SAN JOSE OF BRANCH IV, COURT OF FIRST INSTANCE OF MANILA, THE SHERIFF OF MANILA, AND ANTERO PEREZ, PETITIONERS, VS. NATALIO JAVIER AND AMANDO JAVIER, RESPONDENTS.**

## **D E C I S I O N**

### **MONTEMAYOR, J.:**

This is an appeal by way of certiorari to review the decision of the Court of Appeals. The facts are not disputed. In Civil Case No. 6519 of the Court of First Instance of Manila Antero Perez brought an action against Natalio Javier and Amando Javier for specific performance of a contract wherein defendants promised to sell to plaintiff for the sum of P1,000 a house located at 1009 Economia Street, Sampaloc, Manila built on a lot belonging to the Rita Legarda Estate, Inc. and leased to Natalio Javier and his wife for many years, with right and option to purchase said lot. Plaintiff Perez had made an advance payment of P280 on account of the purchase price, thereby leaving a balance of P720 which he deposited with the Clerk of Court for the benefit of defendants in the event of a favorable judgment in his (Perez) favor. The trial court in that case found that plaintiff Perez had made the advance payment of P280, leaving a balance of P720 still unpaid and that he had spent for improvements in the house the sum of P3,247.74. We reproduce the dispositive part of the judgment in said case 6519 rendered on February 26, 1952, which reads:

“Wherefore, with regards to Civil Case No. 6519, judgment is hereby rendered in favor of the plaintiff Antero Perez and against the defendants Natalio Javier and Beatriz Sacdalan Javier, ordering the latter to execute a deed of sale in favor of the plaintiff covering the house located at 1009 Economia, Sampaloc, Manila, and the option to purchase the land. In the event, however, that they could not include the option to purchase the land in the deed of sale, and the plaintiff would not acquiesce to the sale of the house without the option, the defendants

are hereby required to return to the plaintiff the sum of P280 and to pay to him the sum of P3,247.74, with legal interest on both amounts from October 20, 1948, the date of the filing of the complaint, until fully paid, plus the costs.”

On October 14, 1952, Judge Ramon R. San Jose who rendered the decision issued a writ of execution “commanding the Sheriff of Manila to cause to be made” the sum of P3,527.74 together with interest thereon from October 20, 1948, and the further sum of P42 for costs of suit and lawful fees.

On October 31, 1952, Natalio Javier in his own behalf and in representation of his son and co-defendant Amando Javier, executed a deed of sale in favor of Antero Perez of the house in question, as well as their rights as tenants, over the lot in which it was erected, together with the option to purchase the same.

On November 11, 1952, defendants Natalio and Amando filed an urgent motion asking that the writ of execution be recalled on the ground that it did not conform with the dispositive part of the decision, and that the Sheriff be restrained from selling at public auction defendants’ goods and chattels that had been attached pursuant to the writ of execution, for the reason that according to said urgent motion the deed of sale was already accomplished and executed on October 31, 1952, and the same had been delivered to the Sheriff of Manila.

During the discussion of the motion for execution, an affidavit of the Assistant Manager of the Rita Legarda Estate, Inc. was presented stating that according to the records of his office the deed of sale covering the lot on which the house is erected had been executed in favor of one Fermin Halili on May 27, 1950.

Judge San Jose after hearing the parties overruled the motion, ordered the execution of the judgment in accordance with the writ of execution of October 14, 1952, and granted plaintiff Perez’s petition for withdrawal of his deposit of P720. Defendants Natalio and Amando took the case to the Court of Appeals in certiorari proceedings, claiming that respondent Judge in issuing the writ of execution had acted without jurisdiction and with grave abuse of discretion, and that said writ of execution constituted an amendment to the judgment, a thing which cannot be legally made after the judgment had become final and executory; and that respondent judge had likewise acted without jurisdiction and with grave abuse of discretion in allowing Perez to withdraw his deposit of P720 for the reason that said amount already belonged to them by reason of their execution of the deed of sale of the house to

Perez.

After consideration of the case, the Court of Appeals in its decision promulgated on April 27, 1953, found and held that in issuing the writ of execution on October 14, 1952, and enforcing the second alternative instead of the first alternative of the judgment (the dispositive part above reproduced) and allowing Antero Perez to withdraw his deposit of P720, respondent Judge San Jose had introduced an amendment in the judgment which had already become final and executory, and had violated the terms thereof, thereby acting without jurisdiction and with serious abuse of discretion. As a result, the Court of Appeals declared null and void “the writ of execution of October 14, 1952,, as well as all actuations, orders or rulings derived therefrom”. That is the decision which Antero Perez now seeks to have reviewed by this Tribunal.

The theory and reason of the Court of Appeals in support of its ruling and judgment are the following:

“There is nothing in the record which would show that petitioners had guaranteed their right to sell their option to buy the lot. On the other hand, it was known by all the parties concerned that the lot was leased to petitioners from time immemorial, with the right of option which is likewise given to the other tenants of the hacienda with respect to their holdings, to purchase the same, a right which is not written but respected, as a matter of general tradition and practice. It is, therefore, implied that in the enforceability of such right or option much would have to depend upon the Rita Legarda Estate, notwithstanding the desire of the parties to comply with it. Knowing this to be true, and the Estate not having been made a party to the transactions involved in this case, or given its consent thereto, the inclusion of such condition, that is, to sell the option to buy the lot, should not have been interpreted to mean that the petitioners must warrant the validity and effectiveness of the option. The execution of the deed of sale is one thing, and the validity of its terms is another. The deed of sale (Appendix B) clearly contains the first part of the alternative judgment. Whether the term of such first part may be validly enforced under the circumstances of the case, is a matter completely foreign to the issue whether the said deed of sale is in conformity with the judgment.

“The contention that the lot in question was already sold by Rita Legarda, Inc. to

one Fermin Halili, and that petitioners have no more right to sell it to the respondent Antero Perez, is a new issue that must be ventilated elsewhere, giving the said estate and all the parties concerned their day in court. The question as to who has the right of option to buy, cannot be taken up in these proceedings. This is not an incident of the main issues litigated between the parties. It is an incident brought after the merits of the case had been finally adjudicated. While it is admitted that the assistant manager of the estate gave the affidavit (Appendix 4), the same, however, could not have affected, for obvious reasons, the rights of the petitioners.”

We are unable to agree with the learned Court in its view as stated above. We cannot ascertain from the record of this case on appeal the exact date when Antero Perez on one side, and Natalio and Amando on the other, entered into agreement for the sale of the house to Antero, but it must have been sometime in 1948 because the trial court under the second alternative of its judgment awarded him interest from October 20, 1948, on the P280 advanced to defendants on account of the purchase price and on the value of the improvements introduced by him; and that was almost two years before the sale of the lot on which the house stands, to Fermin Halili in May 1950, and consequently, at a time when Natalio and Amando still had the right of option to purchase said lot. It is hard to believe that Perez would agree to buy a house unless he also could buy the lot on which it is erected. What shall it profit him to buy and own a house, erected on a lot belonging to a stranger like Fermin Halili with whom he had no dealings, much less an agreement regarding said lot? It may be that as stated in the decision of the Court of Appeals the defendants did not guarantee their right to sell their option to buy the lot. But as we have already said, at the time of the agreement to sell the house, the vendors still had the right of option to buy the lot and so naturally, said right was understood to be included in the sale of the house. The fact that subsequently said right of option was lost by the vendors of the house did not and could not affect the mutual rights and obligations of the parties—vendors and vendee, particularly the former, as stated in the dispositive part of the decisions of the trial court. The vendors were given two alternatives, namely, that if they (vendors) could still sell the right of option to buy the lot together with the house, then the sale of said house was to go through and be consummated; but if they could no longer include in the sale of the house the right of option to buy the lot because they no longer had that right, and if plaintiff Perez was not agreeable to buying the house alone without the option, then the second alternative would operate, namely, the defendants vendors to return to the plaintiff vendee the sum of P280 as well as the value of the improvements, with legal interest.

To us the terms of the dispositive part of the decision of the trial court are quite clear. When it stated the first alternative, it referred to a valid enforcement of its term, namely, that together with the sale of the house the defendants could validly convey the right of option to buy the lot. It could not have contemplated an empty, nay an invalid and even illegal sale by the defendant of a right of option which they did not have. That would be illogical and unreasonable. Such a conveyance would be a mere gesture and absolutely of no utility and benefit to the vendee (the plaintiff) and so, he must have given up the purchase of the house and chose to avail himself of the second alternative, resulting in the writ of execution.

There was no need for the inclusion as a party of the Rita Legarda Estate, Inc. in order to bind the said entity as to any decision concerning the option to buy the lot, as suggested in the decision of the Court of Appeals. This, because the plaintiff was not insisting on and was not absolutely determined to, having both house and lot at all costs. If it could validly be done, well and good; if not, then he would be satisfied with the return of the part of the purchase price advanced by him and the value of the improvements he had made in the house.

If the defendants were not satisfied with the judgment of the trial court particularly the dispositive part thereof, knowing as they did that they could no longer make a valid sale of the option to buy the lot and therefore unable to comply with the terms of the first alternative, and so, necessarily they would come under the second alternative, they should have appealed from said decision. Since they failed to do so, they are bound by its second alternative contained in the dispositive part of the decision.

In view of the foregoing, the decision of the Court of Appeals is hereby set aside, and "the writ of execution of October 14, 1952, as well as all actuations, orders, or rulings derived therefrom", will stand. The appellants will pay the costs.

*Paras, C. J., Pablo, Bengzon, Padilla, Reyes, A., Labrador, Bautista Angelo, Jugo, Concepcion, and Reyes, J. B. L., JJ., concur.*

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