103 Phil. 717

[G.R. No. L-12375. May 21, 1958]

REPUBLIC OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ALTO SURETY & INSURANCE CO., INC., DEFENDANT AND APPELLANT.

D E C I S I O N

CONCEPCION, J.:

On October 6, 1948, Cesareo Fabricante and the Bureau of Hospitals executed the deed of purchase and sale Exhibit A, whereby the former sold to the latter a parcel of land of about 423.5790 hectares, situated in Cabusao, Camarines Sur, for the sum of P42,350, with express warranty against eviction and promise of a bond in the sum of P80,000, to back up the warranty. The conditions of said bond (Exhibit B), executed on January 4, 1949, by Fabricante, as principal, and the Alto Surety & Insurance Co., Inc., as surety, were:

> "WHEREAS, the above bounden PRINCIPAL, on the 6th day of October, 1948 entered into a contract of purchase and sale of one (1) parcel of land with the BUREAU OF HOSPITALS, copy of which contract is hereto attached and made a part
> hereof as annex 'A';
>
> "WHEREAS, said contract requires said PRINCIPAL to give good and sufficient hond in the above stated sum as per recommendation of the Department of Justice,
> dated June 17, 1948, to secure the full and faithful performance on his part of said contract.
>
> WHEREAS, the said recommendation contains the following conditions : that if the Court should declare that the land does not belong to the Vendor, the purchase price will be returned to the Bureau of Hospitals and payment will be

made of such damages and expenses incurred by it in connection with the sale;

"NOW, THEREFORE, if the PRINCIPAL shall well and truly perform and fulfill all the undertakings, convenants, terms, conditions and agreements stipulated in said contract as modified by said recommendation of the Department of Justice, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, except as hereunder provided.

"The liability of the ALTO SURETY AND INSURANCE CO., INC., under this bond will expire one (1) year after the land shall have been registered in the name of the Bureau of Hospitals.

"The Bureau of Hospitals, will commence registration proceedings within one (1) year from the date of this bond.

"In case a third party succeeds in claiming a portion of the property above-mentioned, the PRINCIPAL and consequently the SURETY will respond proportionally at the maximum rate of P100 per hectare.

"The liability of
the SURETY shall not in any case exceed that of the PRINCIPAL."

On July 22, 1952, the Republic of the Philippines instituted Civil Case No. 2172 of the Court of First Instance of Camarines Sur, against Sulpicio Roco, to quiet title to the land above referred to, in view of the fact that Roco claimed to own a portion thereof, of about 55 hectares. Thereafter, Fabricante was made a party in the proceedings. In due course, decision was rendered by said court, on October 6, 1954, declaring that the controverted portion is the property of Roco (Exhibit D). Upon being notified of this decision and asked to pay the corresponding indemnity under Exhibit B, the surety company suggested that an appeal be taken, but the Government did not do so, and the decision became final. When, subsequently, a second demand for payment was made, the surety company replied that it had defenses against liability under the bond. Hence, the present action against the surety company.

In its answer, the latter alleged, by way of special defense, that said bond

contemplated a land registration case to be instituted by the Government within one (1) year from January 4, 1949; that plaintiff filed no such case, and instead instituted Civil Case No. 2172, after the expiration of said period; that plaintiff had not notified the defendant of the pendency of said case No. 2172; that plaintiff failed and neglected to appeal from the decision therein rendered, despite defendant's aforementioned request; that inasmuch as the land in question is involved in some land registration cases which are still pending, the title of Roco to the land adjudicated to him in case No. 2172 is not, as yet definitely settled; that defendant's liability under the bond cannot exceed F100 per hectare; and that not having paid, as yet, any amount to Roco, plaintiff has not, so far, suffered any damage by reason of the decision in said Civil Case No. 2172.

After appropriate proceedings, the Court of First Instance of Camarines Sur rendered a decision the dispositive part of which reads:

> "The defendant is, consequently, liable under the surety bond to pay the plaintiff for the loss it suffered by reason of its eviction from a portion of the land sold containing 55 hectares. Considering, however, that maximum rate of liability at P100.00 per hectare is fixed in the bond, the defendant shall, pay the plaintiff only the sum of P5,500.00 and the cost of this action."

The surety company brought this case for review to the Court of Appeals, which, later on, certified the record to this Court, upon the ground that the issues raised in defendant and appellant's brief involve purely questions of law.

Indeed, defendant maintains that:

> "1. The lower court erred in not holding that the filing of civil case No. 2172, Court of First Instance of Camarines Sur, by plaintiff and appellee against Sulpicio Roco on July 22, 1952, constitutes a violation of the terms of the bond, Exhibit E, and has released defendant and appellant from

liability.

"2. The lower court erred in not holding that the failure of plaintiff and appellee to notify defendant and appellant of the filing or pendency of civil case No. 2172 has released said appellant from liability.

"3. The lower court erred in not holding that the failure of plaintiff and appellee to appeal from the decision rendered in civil case No. 2172 after repeated requests by defendant and appellant on an excellent ground has released
said appellant from liability.

"4. The lower court erred in not holding that the liability of defendant and appellant cannot be based on the decision rendered in civil case No. 2172.

"5. The lower court erred in ordering the defendant and appellant to pay the plaintiff and appellee the sum of P5,500 and the cost of the
suit."

The first and fourth assignments of error are predicated upon three propositions, namely: (a) that the surety bond intends, contemplates and assumes that title to the property would be established in a land registration proceedings; (b) that the filing of Civil Case No. 2172 is unjustified and has increased appellant's risks; and (c) that said civil case was filed out of time.

At the outset, it should be noted that every vendor warrants his title to the thing sold and "shall answer for the eviction even though nothing has been said in the contract on the subject." (Articles 1547 and 1548, Civil Code of the Philippines.) Cesareo Fabricante, the vendor in the case at bar, was subject to this implied warranty. What is more, he expressly undertook in the deed of purchase and sale Exhibit A, "to warrant the peaceful possession and title" to the land sold by him, and to "at all times defend the same against any and all claims of any person or persons whomsoever," and held "himself responsible for any damages that may be caused" to the Government "by reason of an eviction from the premises above-described, resulting from any better or superior claim of any third person whomsoever", Upon the other hand, "eviction shall take place

whenever by a final judgment based on a right prior to the sale * * * the vendee is deprived of the whole or part of thing purchased". (Article 1548, first paragraph, Civil Code of the Philippines.) The judgment effecting the eviction need not be rendered in a land registration case, provided it is a "final judgment", and "the vendee need not appeal" therefrom "in order that the vendor may become liable for eviction." (Article 1549, Civil Code of the Philippines.) These were the rights of the Government under the law, as buyer of the property above referred to, independently of appellant's bond, prior to its execution.

It appears, however, that the Secretary of Justice was not satisfied with such rights. He wanted further protection for the Government. Upon his recommendation, Cesareo Fabricante was required to give a bond in the sum of P80,000. This he did on January 4, 1949, with the defendant herein, as surety. For obvious reasons, a time limit for defendant's liability, as such surety, had to be fixed. Hence, Exhibit B provides that said liability "will expire one (1) year after the land shall have been registered in the name of the Bureau of Hospitals," which would "commence registration proceedings within one (1) year" from said date. This was a period, not a condition to appellant's liability.

In any event, the land in dispute was claimed by Silverio Salva in land registration (Special Proceeding) Case No. 149 of the Court of First Instance of Camarines Sur, instituted on May 6, 1948. In an opposition, filed on May 14, 1949 (or within the period of one (1) year fixed in Exhibit B), the Government claimed said land as its own. As correctly stated in the decision appealed from, "this opposition is, to all legal intents and purposes, equivalent to an application for registration." Hence, the provision in Exhibit B about the commencement of land registration proceedings within one (1) year from January 4, 1949, has been substantially complied with.

It is, urged, however, that a decision in an action to quiet title, such as case No. 2172, was not the one intended, contemplated and assumed in Exhibit B. This would be correct, if appellant referred to the event that would fix the duration of its liability, not the liability itself or the accrual thereof.

There is nothing in Exhibit B which may be construed as barring the plaintiff

from vindicating its rights, at any time, by any of the means authorized by law. As already adverted to, this was a right plaintiff had as vendee, by operation of law, before Exhibit B was executed. This bond did not limit, qualify or impose restrictions upon such right. It merely gave plaintiff an additional protection, though limited in point of time only.

Appellant says that the filing of case No. 2172 was unjustified and increased its risks. This pretense is based upon two premises, both of which are absolutely false, namely: (1) that the filing of said case is violative of Exhibit B, as if the same prohibited it, either expressly or by implication; and (2) that defendant could be required by plaintiff to pay more than once for the same property, that is to say, each time said plaintiff lost in the several cases affecting the land in question. Suffice it to recall, as regards the last premise that Exhibit B limits appellant's liability to a maximum rate of P100 per hectare, and that the decision in case No. 2172, affected only the 55 hectares claimed by Roco, not the whole parcel of 423.5790 hectares purchased by plaintiff from Cesareo Fabricante. It is true that plaintiff may still hold appellant liable in case of eviction as regards the rest of about 368.5790 hectares, but this is not the same property for which liability is exacted in the case at bar. Needless to say, if case No. 2172 was not contemplated in the bond Exhibit B, as defendant maintains, it follows that the period of time therein fi,xed was not intended for, and does not apply to said case. In other words, the same was not filed "out of time."

Not a single legal provision has been invoked in support of the second assignment of error. Defendant's citations from American Jurisprudence, concerning the effect, upon the liability of a surety, of any act of the creditor which injures the surety, increases his risks, or exposes him to greater liability constitute good law, which is, however, inapplicable to the case at bar, for the institution of case No. 2172 has not injured the defendant or increased its risks or exposed it to greater liability.

The third assignment of error is clearly devoid of merit for, by explicit provision of law (Article 1549 of the Civil Code), "the vendee need not appeal from the decision" adjudicating the subject matter of the sale to a third party, "in order that the vendor may become liable for eviction."

Appellant insists
that plaintiff could have pleaded estoppel against Roco it appearing from the decision rendered in case No. 2172 that Roco did not oppose the entry into the land in question of the representative of the Government. But, this event took place after the sale to the Government, so that it could not have influenced its decision to buy the land, and, hence, could not possibly place Roco in estoppel, as regards the title to said land.

The fifth assignment of error, is a mere consequence of those already disposed of, and, accordingly, it needs no further comment.

Wherefore, the decision appealed from is hereby affirmed, with costs against defendant and appellant, Alto Surety & Insurance Co., Inc.

It is so
ordered.

Paras, C.J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J.B.L., Endencia, and *Felix, JJ.,* concur.

Date created: February 17, 2017