

MARIANO RODRIGUEZ AND MARINA RODRIGUEZ, PLAINTIFFS AND APPELLEES, VS. PORFIRIO BELGICA AND EMMA BELGICA, DEFENDANTS AND APPELLANTS.

G.R. No. L-10801. February 28, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

This was originally a partition case, instituted in the Court of First Instance of Rizal, Quezon City Branch. After a series of pleadings filed by the parties, and on one of the hearings held, the defendants made a verbal offer to compromise. Pursuant to the said offer, the plaintiffs, on August 27, 1955, filed a "Motion Re-Offer to Compromise." What transpired afterwards is best depicted in the following judgment of the lower court:

"The above-entitled case was scheduled in the calendar of this court today to consider the "motion re-offer of compromise" as a result of the pre-trial held by the parties and their respective attorneys in this case.

"The parties have discussed and considered the terms and conditions set forth in said Offer of Compromise submitted by the attorney for the plaintiffs and as a result thereof they have arrived at an amicable settlement, the terms of which were dictated in open court by the attorneys of both parties in the presence of their clients, with the exception of plaintiffs Mariano Rodriguez and his wife Marina Rodriguez who were represented by their son, Atty. Jose Rodriguez. The terms and conditions of said Compromise Agreement are as follows:

Atty. Fineza: If your Honor please, as regards the Motion Re Offer of Compromise presented by the plaintiffs dated August 26, 1955, we wish to inform this Honorable Court that with regard to paragraph 1-A wherein the length of time given to the defendants to pay the plaintiffs of P35,000.00 is thirty (30) days, we request that said period be seventy (70) days counted from today, August 80, 195S. With regard to Paragraphs 1-B and 1-C, we are agreeable to the terms and conditions therein stated:

Court: Any objection to the said counter proposal of the defendants?

Atty. Orendain: We have no objection, Your Honor.

Court:—(To defendant Mr. Porfirio Belgica).

Mr. Porfirio Belgica, have you heard what Atty. Fineza, your lawyer have proposed to the Court and are you agreeable to the same?

Defendant Porfirio Belgica: Yes, Your Honor.

Atty. Fineza: Inasmuch as defendant Porfirio Belgica will have to negotiate a portion of the part pertaining to him, to raise the amount of P35,000.00 with which he will pay the plaintiffs, we request that the plaintiffs make' new selection of the portion, they desire as per plan Exhibit E.

Atty. Orendain: According to my clients, your Honor, I was instructed to choose the portion which is nearest to Quezon City, in other words, the portion in the bigger lot which is the Southern portion as appears in Exhibit E and which is encircled in red pencil, subject to relocation or readjustment after a survey is made.

That the plaintiffs will sign the necessary transfer of the 86 per cent in favor of the defendants upon payment of the P35,000.00.

That the plaintiffs agree to grant authority to defendant Rosario Belgica to negotiate the sale or mortgage of the 36 per cent which is proposed to be conveyed to him, for the purpose of raising the P35,000.00 to be paid to the plaintiffs.

That the Motion Re Offer of Compromise is hereby made a part and parcel of the Compromise Agreement, as modified.

Parties agree that in the event the defendants fail to pay to the plaintiffs said amount of P35,000.00 within the period above fixed or stipulated, the plaintiffs will automatically be the owners of the 36 per cent of the two parcels of land, and that the 14 per cent pertaining to the defendants will be taken from the portion towards Caloocan, or more particularly in the portion encircled in blue pencil, subject to the survey and relocation of a surveyor.

Court: Make of record that this Compromise Agreement was made in open court in the presence of Atty. Jose Rodriguez, who is the son of the plaintiff Mariano Rodriguez, their attorney Mr. Ignacio M. Orendain, the defendant Mr. Porfirio Belgica and his counsel Atty. Jose S. Fineza.

Parties respectfully pray this Honorable Court to render judgment in accordance without costs."

The transcript of the notes taken by the Stenographer of the proceedings taken by the parties before they arrived at an amicable settlement was signed by the parties and their respective attorneys and submitted to this Court for corresponding decision.

In view of the foregoing, judgment is hereby rendered approving en toto the foregoing Compromise Agreement and the parties are hereby ordered to abide by and comply strictly with the terms and conditions contained in said Compromise Agreement, without pronouncement as to costs."

On September 3, 1955, the defendants filed a Motion for Withdrawal of Exhibits, particularly the Certificates of Titles covering the lands, subject matter of the present controversy. Among the reasons given in the motion was "the defendants have already taken steps to effect that partition of the property for the purpose of delimiting the respective portion which would appertain to each, which delimitation has to be effected in order that defendants may have the opportunity of negotiating their half or any portion thereof to raise the P35,000.00 which he undertook to pay to the plaintiffs". The above motion bore the conformity of counsel for the plaintiffs.

On November 19, 1955, after the lapse of the seventy (70) day period stipulated in the compromise agreement, and upon the failure of the defendants to pay, the plaintiffs presented a Motion praying that the defendants be ordered to deliver to the plaintiffs the Certificates of Titles so that the 14 per cent of the property pertaining to the defendants could be segregated. An opposition was registered by the defendants, contending that the inability to meet the obligation to pay the P35,000.00 was due to the deliberate refusal of the plaintiffs to grant the authority to defendant Porfirio Belgica to negotiate the sale or mortgage of the 36 per cent; and that since the decision had created reciprocal obligations, the refusal or failure on the part of one to comply did not make the other in default. In the opposition, the defendants prayed that the plaintiffs be ordered to grant defendant Porfirio Belgica the authority to negotiate the sale or mortgage of the 36 per cent. The lower court, on November 26, 1955, ordered the defendants to surrender to the Court the TCTs they withdrew, not later than December 1, 1955. On this date, the defendants filed a "Motion to Compel Plaintiffs to Comply with the Conditions of the Judgment", reiterating in substance, the reasons they invoked in their previous opposition. On December 15, 1955, the trial court acting on the motion of defendants, handed down the following order; to wit:

"Defendant Belgica's contention is that the plaintiff Mariano Rodriguez has refused to grant the authority

adverted to Said defendant, however, has not done anything, nor has he filed any petition with the Court regarding the alleged refusal of the plaintiff Rodriguez to grant such authority before the expiration of the 70-day period fixed by the parties within which to pay the said amount of P35,000.00. The petition to compel the plaintiffs to comply with the condition of the judgment, namely to command said plaintiffs to grant the authority above referred to was only filed on December 1, 1955, or after the expiration of 90 days. In the opinion of the Court, the decision rendered in this case has already become final and executory under the terms and conditions Stipulated by the parties and upon which said decision was based.

In view of the foregoing, the said motion to compel the plaintiffs to comply with the condition embodied in the judgment is hereby Denied."

The above order is now the subject of the present appeal, appellants contending in their lone assignment of error that the lower court erred "in denying the motion of December 1, 1955 (to compel the plaintiffs to grant the authority), on the ground that because of the failure of defendants-appellants to pay the plaintiffs-appellees the amount of P35,000.00 within the period of seventy days, the judgment of August 30, 1955, has already become due and executory."

Whether the denial of the motion to compel the plaintiffs to grant the authority is proper and legal, would seem to be the dominant issue.

On the plaintiffs-appellees was imposed the obligation of granting to defendants-appellants the requisite authority to negotiate either the sale or mortgage of the 36 per cent interest in the property. This is understandable, because on the face of the two certificates, of title covering the properties, defendants owned only 14 per cent, while plaintiffs owned 86 per cent. Without such authority executed by plaintiffs in favor of the defendants, it was difficult not to say, impossible for the latter to effect a negotiation. This the plaintiffs fully knew, because in the compromise, they acknowledged that the amount of P35,000.00 due to them would be paid within 70 days from August 30, 1953, with money to be derived from the sale or mortgage of the property. It was, therefore, incumbent upon the plaintiffs "to grant authority" to defendants to negotiate the sale or mortgage of the 36 per cent of the property. Considering that a reciprocal obligation has been established by the compromise agreement, the sequence in which the reciprocal obligations of the parties are to be performed, is quite clear. The giving of the authority to sell or mortgage precedes the obligation of the defendants to pay P35,000.00 (*Martinez vs. Cavives*, 25 Phil., 681). Until this authority is granted by the plaintiffs, the 70-day period for payment will not commence to run. The plaintiffs insinuated that defendants did not ask for the authority. There was, however, a statement or allegation by the defendants to the effect that they made verbal requests for such authority, but plaintiffs refused to give, a statement or allegation discredited by the lower court. But even without a request, from the very nature of the obligation assumed by plaintiffs, demand by defendants that it be performed, was not necessary (Article 1169, par. 2, Civil Code).

It is true that defendants' petition to compel the plaintiffs to grant the authority repeatedly mentioned, was only filed on December 1, 1955, after the expiration of the 70-day period. It should, however, be observed that the actuations or acts of the defendants have always been lulled by a sense of an honest but insecure misunderstanding, as to the scope and extent of the terms and conditions of the compromise. To show that defendants had not abandoned their obligation to pay the sum of P35,000.00, on September 3, 1955, within the 70-day period which expired on November 8, 1955, they filed a motion to withdraw documents and certificates of title to delimit the respective portions, in order that they (defendants) might have an opportunity of negotiating one-half or any portion to raise P35,000.00 to which motion the plaintiffs agreed. While waiting for the grant of authority to descend, like manna from Heaven, the defendants were surprised to receive, on November 19, 1955, plaintiffs' motion to have the titles returned so that the defendants' 14 per cent could be segregated, as they (plaintiffs) wanted to remain with the 86 per cent of the properties.

The lower court and with it, the plaintiffs-appellees had indulged in fine technicalities which in this particular case, would work injustice to the defendants-appellants, more than anything else. The compromise agreement being onerous the doubt should be settled in favor of the greatest reciprocity of interests. Without the authority in question, the obligation of the defendants to pay the plaintiffs the sum of P35,000.00 cannot be considered as having matured, and the lapse of the 70-day period fixed in the decision can not be adjudged as having resulted in the forfeiture of their right to repurchase their 36 per cent interest in the properties (*Price, Inc. vs. Rilloraza, et al.* No. L-8253, May 25, 1955).

The claim of the appellees that the appellants failed to comply with their initial obligation to delimit the property, as stated by them in their motion to withdraw, is not supported by the evidence. The delimitation or segregation of the property to be sold or mortgaged which appellants should have done first so that the authority could have, been granted, had long been accomplished. This is clear: from the words of appellees' counsel when he said, "According to my clients, Your Honor, I was instructed to choose the portion which is nearest to Quezon City * *

*".

In view hereof, the resolution of the lower Court dated December 15, 1955, is reversed, and another entered, ordering the plaintiffs-appellees to execute in favor of the defendants-appellants, the proper authority to sell or Mortgage 36% of the properties in litigation within 30 days from notice of this decision and further directing the defendants appellants to pay unto the plaintiffs-appellees the sum of P35,000.00 within 30 days from the date such authority is granted. Without special pronouncement as to costs.

Bengzon, Acting C. J., Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, and Dizon, JJ., concur.

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