

VICENTA REYES, ET AL., PETITIONERS VS. GUARDALINO C. MOSQUEDA AND THE COURT OF APPEALS, RESPONDENTS.*G.R. No. L-8669. May 25, 1956*

Ponente: MONTEMAYOR, J.

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On February 18, 1949, Guardalino C. Mosqueda sold to Jose Marquez Lim his parcel of land in the City of Iloilo, containing 9,460 square meters, covered by Transfer Certificate of Title No. T-2794 issued by the Register of Deeds of the province of Iloilo, for the sum of P65,605. Claiming that Mosqueda had previously contracted her services to sell the same land with a commission of 5 per cent on the sales price, and that thru her efforts she could bring together Mosqueda and Lim who finally agreed upon and consummated the sale of the land, and because Mosqueda refused to pay her commission of 5 per cent she commenced this action in the Court of First Instance of Iloilo to recover from Mosqueda the sura of P3,280.25 representing 5 per cent of the sales price with interest from the date of the filing of the complaint. After hearing, the trial court rendered judgment in her favor ordering defendant Mosqueda to pay to her P3,280-25 with interest of 6 per cent from March 7, 1949, with costs. On appeal to the Court of Appeals, said Tribunal reversed the appealed decision and dismissed the complaint without costs. Plaintiff Reyes is now petitioning for the revision of said decision of the Court of Appeals.

The Court of Appeals thru Justice Dionisio de Leon states the position taken and the evidence presented by both parties in support of their respective claims as follows:

"Plaintiff Vicente Reyes alleges that on February 16, 1949, she was contracted by defendant Guardalino Mosqueda to sell the land of the latter, with an area of 9,460 square meters, situated in Iloilo City, and covered by transfer certificate of title No. 2794, for the sum of P7.50 per square meter, at a commission of 5 per cent on the total purchase price (Exhibits A and D). She offered the sale of the land to Jose Marquez Lim who, after an ocular inspection of the premises, said that the price of P7.50 per square meter was high as the land was covered with water, but he was willing to buy the land for a lower price. Reyes went back to Mosqueda and informed him about what her buyer had told her about the land. Mosqueda reduced the price to P7.30 per square meter. On this occasion, Reyes told Mosqueda that inasmuch as the purchase price has already been settled, she was now free to disclose, as she did that her buyer was Jose Marquez Lim who would see Mosqueda personally about the consummation of the sale.

"Appellant Mosqueda said that on February 16, 1949, he went to see Jose Marquez Lim, Manager of the Philippine-American Insurance Co. in Iloilo City, about a loan offering his land covered by transfer certificate of title 2794 as security, as he was in urgent need of money to pay his debt with a bank which was due on February 18, 1949. Lim informed Mosqueda that only the Manila office of the Company could grant loans. Lim, however, offered to buy Mosqueda's land as it adjoined his own land. Mosqueda replied that he was willing to sell his land to him at P8 per square meter. Lim asked for time to think it over as Mosqueda's price was high. Anxious to buy the land, Lim requested Vicente Reyes, who, together with her husband, were employees in his office, to approach Mosqueda on his behalf and exact from him the last price he could offer for his land. Reyes went to see Dr. Mosqueda and told him that she had a buyer for his land without divulging

the identity of her said buyer, resulting in the execution of Exhibits A and D. Also on that same day, Vicenta Reyes informed Lim that the price on Mosqueda was now P7.50 per square meter. Lim still considered this as high, so that he again sent Vicenta Reyes to ask for a lower price from Mosqueda. Mosqueda reduced it to P7.30. Reyes told Lim about Mosqueda's last quotation. Apparently, Lim was still not agreeable to the price of P7.30 per square meter, so that he told Vicenta Reyes to desist from further contracting Mosqueda on his behalf as he, himself, would deal directly with Mosqueda as he had initially done earlier on the same day. Lim offered to pay P500 to Reyes' for her efforts, but the latter demanded P1,000, after which she left Lim's office evidently in an angry mood. Reyes went back to Mosqueda and told him that her buyer was not willing to buy his land at P7.30 per square meter, and that she would not sell any more the land because of the disagreement between her and her buyer, whom she disclosed for the first time to be Jose Marquez Lim. Mosqueda wanted to withdraw the authority which he had given Vicenta Reyes, but the latter pleaded that she be given until the afternoon of the following days, February 17, within which to find another buyer. The following day, due to the failure of Reyes to find another buyer for his land, Mosqueda informed Reyes that he was' definitely cancelling her authority to find a buyer for his land. The following day, February 18, Lim went personally to the clinic of Dr. Mosqueda, resulting in the execution of the deed of sale (Exhibit 1 or F)."

Then said Court makes the following findings or observations :

"We have gone carefully over the evidence of record, and we have arrived at the conclusion that the same fairly preponderates in favor of the appellant. Jose Marquez Lim and Alejandro Santiago companion of the appellant when the latter went to see Lim about a loan, corroborated the claim of the appellant that Lim had offered to buy the appellant's land. Vicenta Reyes did not testify how she came to learn that Mosqueda was looking for a buyer of his land. Perhaps, when she was requested by him to intercede in his behalf with respect to the sale of Mosqueda's land, Vicenta Reyes grabbed this opportunity to make spare money as a sideline. It must also be noted that while Reyes said Lim was willing to buy the land for a price less than P7.50 per square meter, she did not testify that Lim was willing to buy the property for P7.30, or that Lim authorized her to close the deal with Mosqueda at any price lower than P7.50 per square meter.

"There is no dispute that the appellee was contracted by the appellant to find a buyer for his land, with a commission of 5 per cent. Mosqueda reduced his original price of P8 to P7.30 per square meter through the intervention of Vicenta Reyes. The question, however, is whether it was also through the efforts of the appellee that the sale (Exhibit 1 or F) was finally effected at the price of P65,605, or less than P7 per square meter, on February 18, 1949.

"Vicente Reyes was hired as a broker, not as commercial agent. * * * At the ,time the contract of sale (Exhibit 1 or F) was signed by the parties on February 18, 1949, the authority of Reyes as a broker for Mosqueda has already been withdrawn by the latter. * * * At the time the authority of the appellee was withdrawn, there was still no meeting of the minds between Mosqueda and Lim with respect to the price and terms of the sale; Again, the land was sold at price and terms arrived alt by the contracting parties without the appellee's intervention and Lim bought the property independently of the efforts of Reyes. Vicenta Reyes was told by Lim to leave him alone in the transaction. We have every reason to believe Lim's testimony as this action for recovery of a sum of money is not directed against him, and ha has nothing to lose or gain by telling the truth."

Accepting, as we have to, the findings of the Court of Appeals, we find its judgment of reversal to be supported by the facts and the law. If as found by the Court of Appeals plaintiff Reyes was engaged only as a broker, then in order to earn her commission, it was not sufficient for her to find a prospective buyer but to find one who will actually buy the property on the terms and conditions imposed by the owner. In the case of *Danon vs. Brimo & Co.*, 42 Phil., 133, we said:

"The broker must be the efficient agent or the procuring cause of the sale. The means employed by him and his efforts must result in the sale. He must find the purchaser, and the sale must proceed from his efforts acting as a broker. (Cases cited.)

Besides, according to the findings of the Court of Appeals, the actual sale was perfected and consummated without the intervention of plaintiff Reyes, and what is more, before that, her authority to sell the property had been withdrawn, at a time when there was still no meeting of the minds of buyer and seller.

We realize that there are times when the owner of a property for sale may not legally cancel or revoke the authority given by him to a broker when the negotiations through the broker's efforts have reached such a stage that it would be unfair to deny the commission earned, especially when the property owner acts in bad faith and cancels the authority only to evade the payment of said commission. Such was our holding in the same case of *Danon vs. Brimo & Co.*, *supra*:

"* * * the right of the principal to terminate his authority is absolute and unrestricted, except only that he may not do it in bad faith, and as a mere device to escape the payment of the broker's commissions. Thus, if in the midst of negotiations instituted by the broker, and which were plainly and evidently approaching success, the seller should revoke the authority of the broker, with the view of concluding the bargain without his aid, and avoiding the payment of commission about to be earned, it might be well said that the due performance of his obligation by the broker was purposely prevented by the principal. But if the latter acts in good faith, not seeking to escape the payment of commissions, but moved fairly by a view of his own interest, he has the absolute right before a bargain is made while negotiations remain unsuccessful, before commissions are earned, to revoke the broker's authority, and the latter cannot thereafter claim compensation for a sale made by the principal even though it be to a customer with whom the broker unsuccessfully negotiated, and even though, to some extent, the seller might justly be said to have availed himself of the fruits of the broker's labor." (*Danon vs. Brimo*, 42 Phil., 133, 141-142, citing *Sibbald vs. Bethlehem Iron Co.*, 83 N.Y. 378, 38 Am. Rep. 441, 444-446.)

In the present case, there is nothing to show that bad faith was involved in the cancellation of the authority of plaintiff Reyes before the consummation of the sale. Not only this, but the actuations of plaintiff Reyes are not entirely above suspicion. As observed by the Court of Appeals she did not explain how she came to know that defendant Mosqueda was interested in selling his land and was looking for a buyer thereof. It is highly possible that after Reyes was commissioned by her employer Lim to approach Mosqueda with a view to reducing the price of P8 per square meter, it was then and only then that Reyes came to know about the desire of Mosqueda to sell his land to cover his obligations with the bank inasmuch as he failed to secure a loan from the Insurance Company, and as said by the Court of Appeals—

"* * *, Perhaps, when she was requested by Lim to intercede in his behalf with respect to the sale of Mosqueda's land, Vicenta Reyes grabbed this opportunity to make spare money as a sideline."

In view of the foregoing, the decision of the Court of Appeals appealed from is hereby affirmed, with costs in both instances.

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

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