

JOSEFINA LODOVICA, PETITIONER, VS. COURT OF APPEALS AND PEDRO ROXAS, RESPONDENTS.*G.R. No. L-29678. July 18, 1975*

Ponente: CASTRO, J.

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The petitioner Josefina Lodovica and the respondent Pedro Roxas are at odds over a 254-square-meter lot situated at the Quezon Memorial Grove in Quezon City. The action filed by Roxas against Lodovica and the Philippine Homesite and Housing Corporation in the Court of First Instance of Quezon City (civil case Q-4694) was dismissed by the trial court for lack of merit, but, on appeal, the respondent Court of Appeals (CA-G.R. 32515-R) upheld Roxas and ordered the lot awarded to him.

Hence the present recourse.

The following findings of fact made by the Court of Appeals are cited by the parties:

"The evidence shows that appellant Pedro Roxas was the first to occupy and build a house on lot 11 way back in 1947. Since then he has resided on this lot and has planted thereon some fruit bearing trees. He declared his house for tax purposes and paid the taxes thereon (Exhibits C, C-1 to C-5). When the PHHC conducted an investigation in 1951 for the purpose of taking a census of the occupants of the subdivision it found that the said lot was being occupied by appellant, one Luciana Samson and a certain Jose Barlizo (Exhibit 1) all of whom having been required to appear before the PHHC for a hearing or inquiry. After the inquiry appellant was found to be the most deserving and qualified among the occupants for which reason the Manager of the PHHC accordingly recommended that the lot be awarded to him. To the other two occupants were assigned other lots. The recommendation was approved on October 15, 1953; however, the award could not be implemented because of the alleged regulation that there must first be opened subdivision roads before the lots could be sold (Exhibit 1). According to Exhibit 1, appellee Josefina Lodovica, at the time of the investigation in 1951, appears to have a house on the road area in front of lots 9 and 11. A recommendation was made that she be awarded one-half of lot 2, also of Block K-72. The same exhibit further states that upon her request, another investigation was made in December 1957 wherein she claimed that she had already acquired the house of Luciana Samson on lot 11 and on that basis insisted that she had priority to purchase the lot.

"After the survey of the subdivision was completed and the roads were opened, appellant, in compliance with a notice sent to him, went to the PHHC from where he was surprised to learn that lot 11 was awarded anew to Josefina. On the prodding of one Bienvenido Olarte, then chief of the homesite housing management division of the PHHC, appellant was eventually persuaded to accept lot 12 in place of lot 11, for after all both had the same area of 254 sq. m. But appellant made it clear that he was accepting lot 12 only because of the assurance of Olarte that the PHHC would remove therefrom the house of Angel Lodovica, Josefina's cousin, and would place him (appellant) in possession. This condition or understanding was known to the chief of the sales division of the PHHC, Roman Careaga, who, among others, was then present. On April 15, 1958 a conditional contract to sell lot 11 was executed by the PHHC in favor of Josefina. In the meantime, appellant despite demands on him to pay the 10% down payment on lot 12, refused to do so because the PHHC had taken no step to evict Angel Lodovica who had likewise sought judicial intervention for the protection of his alleged

right to said lot, he, too, claiming preference over it by virtue of his prior occupation thereof. Due to the inability of the PHHC to place him in possession of lot 12, appellant insisted that the original award to him of lot 11 be effected. The PHHC failing or refusing to heed his demand and believing that he was a victim of a fraudulent scheme or machination between Josefina and some officials of the PHHC, appellant instituted this action.

"The trial court, although finding appellant to have occupied lot 11 prior to Josefina, held that the award thereof to the latter was with the conformity of the former, and since there was already a perfected contract between appellees Josefina and the PHHC, dismissed the complaint."

In reversing the decision of the trial court, the Court of Appeals held that Roxas' acceptance of lot 12 (in lieu of lot 11) was conditioned upon the PHHC's delivery to him of the said parcel free of any occupant, and that the PHHC's failure in this regard rendered Roxas' acceptance ineffective. On the matter of the conflicting awards of lot 11 to Roxas and Lodovica, the Court of Appeals ruled that the award to Roxas has clear precedence.

The petitioner Lodovica assigns but a single error in this appeal. She contends that by his acceptance of lot 12, Roxas is now precluded from making further claim to lot 11 and from asking for the annulment of the sale of the latter parcel to Lodovica.

The petitioner's invocation of the principle of estoppel is erroneous. Be it remembered that the award to her of lot 11 was made prior to the alleged acceptance by Roxas of lot 12. The purported reinvestigation in December, 1957 was carried out sub rosa and without the knowledge of Roxas who not only had a building on lot 11 but was the awardee thereof as early as 1953. It cannot be said, therefore, that Lodovica procured the award with the assent of Roxas which would estop the latter from disputing Lodovica's claim. Nor may it be said that Roxas is estopped from questioning the subsequent conditional sale of lot 11 by the PHHC to Lodovica. It has not been shown that Roxas gave his imprimatur to the execution of that sale, and nowhere in the record can we find an indubitable indication of abandonment by Roxas of the earlier award made by the PHHC to him.

In plain fact, the acceptance by Roxas of lot 12 in lieu of lot 11 was conditional. It was conditioned upon the delivery to him of lot 12, free of any tenant, by the PHHC. Under this circumstance, the PHHC and Lodovica had no right to assume that Roxas had waived all his rights to lot 11 or feel secure about the indefeasibility of the sale between them. The PHHC's failure to place Roxas in possession of lot 12 freed the latter from his commitment and firmed up his right to insist upon the original award to him of lot 11. To put it another way, the PHHC and Lodovica entered into the contract of conditional sale of lot 11 with full notice that it was subject to the possible assertion of a superior claim by Roxas.

Parenthetically, nowhere in the pleadings filed here and below does Lodovica assail the validity of the 1953 award made in favor of Roxas. Lodovica admits that her alleged right of preference merely springs from her purchase of the house of Luciana Samson which happened to stand also on lot 11. But the record shows that the right of Lodovica's predecessor, Samson, had previously been adjudicated by the PHHC without any objection from Samson. It should be pointed out that at the time of the original investigation in 1951, Lodovica's house was situated on the road area in front and clearly outside of lot 11.

The petitioner Lodovica faults the Court of Appeals for citing *Teves vs. PHHC*[1] in upholding Roxas on the ground that the facts of that case differ from the facts of the case at bar. The petitioner overlooks the point, however, that *Teves* was invoked by the Court of Appeals not to buttress the right of Roxas as against the petitioner's claim to the property in question. Essentially *Teves* was cited as authority that one who is not a party to a contract may nevertheless ask for its annulment "if he is prejudiced in his rights with respect to one of the contracting parties, and can show the detriment which would positively result to him ..." [2] In the case at bar, it is clear that had the contract of sale between the PHHC and Lodovica been allowed to take effect, the same would

have directly prejudiced Roxas even to the extent that he would forever lose his right to acquire lot 11.

During the pendency of this appeal, Roxas moved to have the petitioner Lodovica and the general manager of the PHHC held in contempt of court. It is charged (a) that the PHHC had proceeded to sell lot 11 to Lodovica and that the latter had paid in full for it; (b) that the PHHC, at the instance of Lodovica, had given written authority to the latter to repair her house on lot 11; and (c) that Lodovica had instituted an ejectment suit against Roxas — all these notwithstanding the pendency of the case at bar.

From the comments filed by the PHHC and the petitioner Lodovica, we are satisfied that no ground exists for holding either of them in contempt of this Court. Firstly, a final deed of sale between the PHHC and Lodovica has not yet, in fact, been executed, and the various payments of Lodovica were made on the express understanding that they would be subject to the final outcome of this case. Secondly, the grant by the PHHC to Lodovica of authority to repair the latter's dwelling was restrictive enough to exclude new constructions and was made merely for humane considerations. Moreover, as stated by the PHHC, its action was not covered by any court-issued injunction. And, finally, while the eviction suit brought by Lodovica against Roxas is clearly ill-advised, such resort by Lodovica to a court of law cannot be considered contemptuous. Roxas' remedy was to ask the inferior court to hold the ejectment proceeding in abeyance pending the outcome of this case.

ACCORDINGLY, the decision of the Court of Appeals is affirmed. The motion to hold the general manager of the PHHC and the petitioner Lodovica in contempt of court is hereby denied for lack of merit. No costs.

Makasiar, Esguerra, Muñoz Palma, and Martin, JJ., concur.

Teehankee, J., is on leave.

[1] L-21498, June 27, 1968, 23 SCRA 1141.

[2] *Id.*, pp. 1147-1148; see also *Ibañez vs. Hongkong and Shanghai Bank*, 22 Phil. 572, 584-585.

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