

ARSENIA GUARDIANO, PETITIONER, VS. JORGE ENCARNACION, RESPONDENT.

G.R. No. L-23396. August 29, 1969

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

In this Review on certiorari of a decision of the Court of Appeals, we sustain the action of the People's Homesite and Housing Corporation (PHHC) in upholding the preferential right of a bona fide occupant as against an outsider or non-occupant to purchase its subdivision lots.

The bare facts that gave rise to the institution of this case on May 9, 1961 before the Court of First Instance of Rizal, Branch V, Quezon City, by respondent Jorge Encarnacion as plaintiff against the PHHC as defendant and petitioner Arsenia Guardiano as intervenor, as recited in the decision of the trial court are as follows: "Plaintiffs spouses are the awardees of Lot 18, Block E-148 of the East Avenue Subdivision owned by the defendant corporation. Pursuant to the order of payment (Exh. A-1), and consequent to the application to purchase lot (Exh. A-2), plaintiffs made a deposit to the defendant corporation in the sum of P810.00 (Exh. A); that being a squatter themselves, plaintiffs have demanded from the defendant PHHC to execute the contract of conditional sale but the said defendant corporation refused and still refuses to do so. Hence, the plaintiffs instituted the instant motion for specific performance.

"On the other hand, defendants in justifying their refusal to execute the contract of conditional sale claims that on the strength of the complaint of Arsenia S. Guardiano (Exh. 2)[*]; that accordingly an investigation was conducted and the investigating committee recommended the cancellation of the award (Exhs. 3 and 3-A); that the General Manager, Mr. Orosa, wrote the plaintiffs cancelling the award (Exhs. C and 6); that it is the contention of the defendant corporation that by virtue of the transfer of right to a deposit made by the plaintiffs (Exh. 1), the latter have abandoned their award." [1]

After trial, the trial Court rendered its decision in favor of plaintiff, herein respondent, as follows:

"WHEREFORE, judgment is hereby rendered in this case in favor of the plaintiffs and against the defendant PHHC, by ordering the latter to execute the conditional contract to sell covering Lot 18, Block E-148 involved in this case; to pay the plaintiff, the sum of P300.00 as attorney's fees under the provisions of par. 2 of Art. 2208 of the Civil Code; and to pay the costs.

"The intervention of Arsenia Guardiano is hereby ordered DISMISSED." [2]

On appeal to the Court of Appeals by the PHHC and intervenor, herein petitioner, the Court of Appeals affirmed the trial court's judgment, ruling as follows:

"IT RESULTING: That there is not much debate that the land in question, Lot 18, Block E-148 of the East Avenue Sub-division, belonged to the PHHC sometime previous to 5 February 1957, part of it was already occupied by Arsenia Guardiano, a squatter; on that date, plaintiff, Jorge Encarnacion signed an 'application to purchase' the lot, Exh. A-2 on the usual form of the People's Homesite and pursuant to it, PHHC executed in his favor the 'conditional contract to sell' Exh. B on the same date, for the price of P8,100.00 after Jorge had paid the initial amount of P810.00 under the 'order of payment' Exh. A-1, and in his favor was issued the receipt O. R. No. A-4113442 for that same amount; but when Jorge came to take possession, he could not because Arsenia objected and thereafter the question was sought to be settled by the PHHC but nothing resulted to the satisfaction of both, so that Jorge was compelled to file as he did file the present case against PHHC for specific performance, but Arsenia came in as intervenor, and the theory of Jorge was that he had a demandable right based on his contract, but that of PHHC was that he had not such right and at any rate that he had given it because he had assigned his P810.00 paid unto PHHC to his creditor, a certain Serafin Gabriel, Exh. Y. Although it is not also shown that the assignment became a consummated fact and the theory of Arsenia on the other hand is that besides that, it was she who as prior occupant, had the preferential right to buy the lot;.

"CONSIDERING: That under the 'conditional contract to sell' Exh. B, the PHHC 'promise and agree to sell' the property in question, in consideration of Jorge's payment of P8,100.00 of which P810.00 was to be given as a down payment and the balance in 120 equal installments and on the fulfillment of other consideration by Jorge, and Jorge having as a consequence of it, paid P810.00 then and there, would appear to be no serious debate that in law, there had been entered into between PHHC as vendor, and Jorge, as vendee, a perfected contract to sell, because there was an agreement as to subject-matter, and as to the price, Art. 1475, New Civil Code; but more than that, it became even partially executed by the payment of Jorge of the P810.00; that being the case, it was a legal impossibility for PHHC to unilaterally claim that it could cancel it as it sought to do under its letter, Exh. C; as to the argument that the P810.00 was a mere 'deposit,' under Exh. A-1 the answer is that not the wording but the intent must prevail in the interpretation of documents, and here, the payment of P810.00 was on the other hand, clearly meant to be from the tenor of PHHC's own document, Exh. B, the contract to sell, a payment and on the very moment of the execution of the sale so that there being a perfected contract between vendor and purchaser, the former could not be heard to annul it by unilateral act which was what its investigating committee sought to do under Exh. 3-A; as to the argument that since afterwards, Jorge had assigned his right to the money unto his creditor, a certain Serafin Gabriel, Exh. Y, this is true, but one thing is the assignment of the money by him paid, if this could be done, and another, the assignment by him of his rights under the contract; at any rate, not only is there no showing that such an assignment was or became a consummated fact, ... but there is neither any showing at all, as PHHC now seeks to pretend, that there was 'novation' of the contract by reason thereof, and if there had been what was the new contract? For if there was a novation, that must mean that a new contract was entered into as a result thereof, but it is not shown what it was, nor could any be shown really at all, for Serafin Gabriel has not come to claim any right, and the money to all appearances, remains with the PHHC; so that the foregoing will dispose of the errors raised by PHHC;

"CONSIDERING: As to the appeal by Arsenia Guardiano, that the points by her raised are the same as those submitted by PHHC with the exception of her claim that:

'Besides the award to the plaintiffs is contrary to the defendant corporation's policy, i.e. to award the lot to the actual occupants (pp. 5-7, t.s.n., hearing of August 25, 1961). Intervenor has proved that her husband constructed their house on the lot in question since 1945, over twelve years before plaintiffs applied to purchase the lot. Having lived near the lot in question for quite sometime (p. 11, t.s.n., id.) the plaintiffs must have had actual knowledge that the lot was then occupied by the intervenor. When they filed their application,

plaintiffs knew all along that the lot in question is no longer available for sale to them as it has already been occupied by a squatter. Plaintiffs deliberately suppressed this fact from their application (Exh. 'A-2'), and their knowledge and suppression of the knowledge of such occupancy by the intervenor is fraud committed by the plaintiffs on the corporation.' (Brief for the Intervenor-Appellant, p. 11)

but the vice of this argument is that the basis is all wrong, for the law has never and can never make it a policy to give prior choice unto the first squatter, is the words of the Supreme Court, 'these laws are not meant for the benefit of the lawless; Republic of the Philippines vs. Vda. de Caliwán (L-16927, May 31, 1961, but even at that and on the assumption, so far fetched as it is, that such could have been the law, either is there any proof that before 5 February, 1957, Jorge had been clearly apprised of Arsenia's squatting so as to put him on notice.'"[3]

Intervenor Arsenia Guardiano, now petitioner herein, has appealed the appellate Court's judgment and seeks its reversal, on the following main assignments of error: that the appellate court erred, firstly, in sustaining the trial court's decision holding that there was a perfected contract of purchase and sale of the subject lot in favor of respondent Jorge Encarnacion, plaintiff in the case below, rather than finding that there was merely a tentative acceptance of respondent's application to purchase said lot, and secondly, in failing to recognize petitioner's preferential right to purchase the lot and in dismissing her intervention. As indicated at the outset, we sustain petitioner's contentions in law.

1. We find that the appellate court erred in concluding from the documents submitted in evidence that "there had been entered into between PHHC as vendor, and Jorge (Encarnacion), as vendee, a perfected contract to sell," citing "the 'conditional contract to sell,' Exh. B, (under which) the PHHC 'promise and agree to sell' the property in question" supra. The record shows that the cited "conditional contract to sell," Exh. B is but a blank PHHC printed form of contract. Respondent claims that he "already signed" the said "conditional contract to sell," [4] but the record shows this exhibit to be devoid of any signature whatever. At any rate, it is an undisputed fact that the PHHC management did not execute; or sign the said contract form,[5] for the very purpose of respondent's suit as plaintiff in the case below was for judgment "ordering defendant PHHC to execute the Conditional Contract to Sell over the lot described in paragraph 3 of their complaint and to deliver peaceful possession of the said lot to the plaintiffs." [6] The record likewise shows that what respondent transacted with the PHHC was to file on February 8, 1957 his application to purchase the subject lot, Exh. A-2 and on the same date secure a tentative award of the lot to him, by virtue of which he was authorized to make a 10% deposit in the amount of P810.00. (Exh. A-1). The application, Exh. A-2, shows that there was no "perfected contract to sell," because it was a mere application which provided that a contract setting out the terms would still have to be executed after survey and inspection of the lot involved and further provided for the forfeiture to the PHHC of 5% of the 10% deposit should the applicant not proceed with the purchase, "when (the lot) is ready to be sold." The initial 10% deposit was expressly and precisely received as such deposit, not as "10% initial payment" for which there was a separate space provided in the Order of Payment form, Exh. A-1. The passbook, Exh. A shows no entry other than this initial deposit, as no monthly payments were ever made thereafter by respondent nor accepted by the PHHC. There was therefore no "perfected contract to sell" reached between respondent and the PHHC nor was the "Conditional Contract to Sell" ever executed between them.

2. This holding and reversal of the appellate court's conclusion is in line with decisions of this Court holding that the allocation of a certain land in a sales memorandum containing all the pertinent data regarding the lot which was forwarded to the prospective purchaser did not create a perfected sale, and upholding the underlying policy of the government that in the application for home lots, preference should be given to occupants over other

individuals.

"Petitioners' contention is tenable. The fact that the Rural Progress Administration allotted the land in question to Kangleon in a sales memorandum containing all the pertinent data regarding the lot which was forwarded to him did not create a perfected contract of sale in his favor, in the same manner as this Court did not consider the so called 'Deed of Sale' involved in a similar case as one generating a perfected contract of sale between the parties but a mere application to purchase the land.

.....

"If in the Alvarez case, (4 SCRA 195), the controverted deed of sale which embodied all the essential elements of a contract of sale by installment was considered by this Court merely as an application to buy the land, and not a perfected contract of sale, there is more cogent reason to conclude that the sales memorandum sent to Kangleon in the instant case has not ripened into that juridical relation. In fact, not even a contract to sell the lot was executed by Kangleon and the Rural Progress Administration. Hence, neither party could compel the other to go through with the transaction because the same is not binding upon them. Indeed, under this premise, the Rural Progress Administration could not have compelled Kangleon to purchase the property through an action for specific performance simply because the latter had gone twice to the office of the former offering to pay the price of the lot, in the same manner that Kangleon could not compel the Rural Progress Administration, as he now seeks in the instant case, to sell the lot to him simply because a sales memorandum containing the pertinent data relative to the lot in dispute was forwarded to him. Evidently, the court a quo, as well as the Court of Appeals, erred in concluding that under the circumstances a perfected contract of sale had already existed Kangleon and the Rural Progress Administration." [7] Respondent cannot fall back and beg the question by claiming, as he does in his brief, (at page 14) that petitioners' contention that the "above-enumerated Exhibits were not evidence of an agreement to sell the lot in question, needs no detailed discussion considering that this contention involves questions of facts which were already found to be sufficiently established by the Court of Appeals," since the very issue of law in this case is whether or not said Exhibits justify the appellate court's conclusion of a "perfected contract to sell."

3. Soon after the tentative award of the lot to respondent, Mr. Vicente Orosa, then PHHC Chairman-General Manager, citing the PHHC policy of giving priority to the actual occupants of the lots, sent respondent on September 12,, 1957, the following letter:

"Our records show that you have paid in good faith and with honest motive the required 10% deposit on a lot situated in our East Avenue Subdivision, better known as Lot 18, Block E-148. However, on inspection and survey of the lot we found that a squatter is actually occupying it.

"There are over 300 squatters whose families have been residing for years in the East A venue Subdivision and who has been occupying the premises since June 16, 1945 and had done all necessary improvements thereon, insists that the Corporation sell it to him, knowing fully well that he has had the priority to buy it. In our effort to give him justice, we are constrained to cancel the sale of the lot in your favor. However, in place of said lot we shall substitute another which is free and just as good, but located in another block.

"You are therefore requested to come to the Office of the Head, Management Department at your earliest convenience to arrange for the substitution as aforesaid." [8]

Respondent ignored the PHHC offer to substitute in his favor the subject lot occupied by petitioner with "another which is free and just as good, but located in another block." Instead on December 23, 1957, respondent executed in favor of one Serafin Gabriel an "Assignment and Transfer of Rights to a Deposit" wherein he undertook to transfer "said money deposit (of P810.00) and all rights of ownership to Serafin Gabriel, assignee, as the final payment of an obligation long due and payable in a separate contract of sale of an automobile (Make-Packard) by the parties" and agreed that he "shall not withdraw his deposit from the PHHC without written consent from the assignee." [9]

Thereafter, as petitioner had filed a complaint on March 11, 1958 with the Office of the President which was endorsed to the PHHC, the PHHC Administrative Investigating Committee, under Mrs. Salud V. Parreño, as Chairman, investigated the Complaint after hearing both petitioner and respondent [9a] and submitted its Resolution No. 235 of December 14, 1960, where it found that "the supposed awardee (respondent) is not in dire need of the lot in question as evidenced by the fact that he transferred his rights over the controverted lot to one Serafin Gabriel which is considered a clear indication that he acquired the lot for speculative purposes" and recommended that the lot be awarded to petitioner as "the deserving claimant-squatter." [10]

4. We find no explicable or plausible reason in the record why respondent who was just squatting in the nearby lot of the MVO offices, [11] would insist on taking over the subject lot occupied by petitioner since 1945 and reject the PHHC offer to sell to him another lot "which is free and just as good, but located in another block." Incidentally, this offer of the PHHC to provide another home lot to respondent was not brought out or appreciated in the appealed decisions of the trial and appellate courts. On the other hand, we find the PHHC to have acted properly and in accordance with its functions under its charter [12] and the Presidential policy since 1957 to sell its subdivided lots to actual bona fide occupants, [13] such as petitioner, and re-affirmed in the directive of then President Macapagal, through then Executive Secretary Calixto O. Zaldivar, on February 20, 1964 that the lots in the East Avenue Subdivision should be sold to the members of the Pinahan Homeowners Association who were still occupants thereof, and whose names are listed in the East Avenue Subdivision Plan as occupants, [14] in which petitioner was admittedly listed as a member and actual occupant under No. 272. [15] The PHHC action, *motu proprio* and on petitioner's complaint, of seeking to do justice both to petitioner by recognizing her priority right to purchase the subject lot which has been actually occupied by her since 1945 and to respondent by offering him another lot "which is free and just as good but in another block," which offer respondent spurned, is to be commended. Prescinding from respondent's non-exhaustion of administrative remedies belatedly raised by petitioner in this instance, it should be borne in mind that in the absence of error or abuse of powers or lack of jurisdiction or grave abuse of discretion clearly conflicting with either the letter or the spirit of a legislative enactment creating or charging a governmental agency as the PHHC, with the administration and enforcement thereof, the action of the agency would not be disturbed by the judicial department. [16]

5. We find untenable the appellate court's curt dismissal of petitioner's claim of priority to the subject lot on the ground that "the law has never and can never make it a policy to give prior choice unto the first squatter," *supra*. Untenable in fact, because petitioners' initial status as a squatter had been legalized with her having been duly accepted by the PHHC as a "registered squatter" or bona fide occupant occupying the lot since 1945, [17] and untenable in law, because as stated in the PHHC Answer, "the lot in question was really intended for squatters as per PHHC policy and by virtue of a Memorandum of the President of the Philippines, dated April 15, 1957 whereby lots in said area were earmarked for allocation to prior and deserving squatters." [18] Furthermore, respondent himself was admittedly also a squatter as alleged in his own complaint, that he "is squatting on a lot

belonging to another,"[19] and as against petitioner, a "registered squatter" and actual occupant of the subject lot, recognized by the PHHC, which upheld its award thereof to petitioner as "regular, justified and in order,"[20] respondent is but an interloper seeking to oust petitioner therefrom and rejecting the eminently reasonable offer of the PHHC to accommodate him with another lot just as good.

WHEREFORE, the decision appealed from is hereby reversed and the complaint for specific performance filed by respondent as plaintiff in the lower court is hereby dismissed, with costs in all instances against respondent.

IT IS SO ORDERED.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano and Barredo, JJ., concur.

Reyes, J.B.L., J., is on official leave.

[*]Sic.

[1]Rec. on Appeal, pp. 39-40.

[2] Id., pp. 42-43.

[3] Annex "A," Petitioner's Brief, pp. 32-39, italics supplied.

[4] Respondents' Brief, p. 5, 12.

[5] Id., p. 12.

[6] Complaint, Rec. on App., p. 7.

[7] Galvez vs. Vda. de Kangleon, 6 SCRA 162, 167-168.

[8] Rec. on Appeal, pp. 12-13; italics supplied.

[9] Exh. 1.

[9a] Exh. 3.

[10] Exh. 3-A; Rec. on Appeal, pp. 29-30.

[11] Exh. D.

[12] Exec. Order No. 399, Jan. 5, 1951.

[13] Exh. C, and 6; PHHC Answer, par.: 11, Rec. on App., p. 15. Annex A, Petition.

[15] T.S.N., August 25, 1961, p. 11.

[16] Alvarez vs. Bd. of Liquidator, 4 SCRA 195; Grande v. Santos, 98 Phil. 61.

[17] PHHC Answer, Par. h, Rec. on App., p. 14, Exh. C.

[18] Id., par. i, Rec. on App., p. 15.

[19] Par. 8, Rec. on App., p. 5.

[20] Rec. on App., p. 15.

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