

MINDANAO ACADEMY, INC., ETC., ET AL., PLAINTIFFS AND APPELLEES VS. ILDEFONSO D. YAP, ET AL., DEFENDANTS; ROSENDA A. D. NUQUI, ET AL., PLAINTIFFS AND APPELLEES, VS. ILDEFONSO D.

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G.R. Nos. L-17681-82. February 26, 1965

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

By deed entitled "Mutual Agreement," executed on May 10, 1964, Rosenda A. de Nuqui (widow of deceased Sotero Dionisio) and her son Sotero Dionisio, Jr. sold three Parcels of residential land in Oroquieta, Misamis Occidental, and another parcel in Ozamis City in favor of Ildefonso D. Yap. Included in the sale were certain buildings situated on said lands as well as laboratory equipment, books, furniture and fixtures used by two schools established in the respective properties: the Mindanao Academy in Oroquieta and the Misamis Academy in Ozamis City. The aggregate price stated in the deed was P100,700.00, to be paid according to the terms and conditions specified in the contract.

Besides Rosenda and her son Sotero, Jr., both of whom signed the instrument, Adelaida Dionisio-Nuesa (a daughter of Rosenda) is also named therein as co-vendor, but actually did not take part either personally or through her uncle and supposed attorney-in-fact, Restituto Abuton.

These three-Rosenda and her two children above named are referred to in the deed as the owners pro-indiviso of the properties sold. The truth, however, was that there were other co-owners of the lands, namely, Erlinda D. Diaz, Ester Aida D. Bas, Rosalinda D. Belleza and Luz Minda D. Dajao, children also of Rosenda by her deceased husband Sotero Dionisio, Sr., and that as far as the school buildings, equipment, books, furniture and fixtures were concerned, they were owned by the Mindanao Academy, Inc., a corporation operating both the Mindanao Academy in Oroquieta and the Misamis Academy in Ozamis City.

The buyer, Ildefonso D. Yap, obtained possession of the properties by virtue of the sale, took over the operation of the two schools and even changed their names to Harvardian Colleges. In view thereof two actions were commenced in the Court of First Instance of Misamis Occidental. The first was for annulment of the sale and recovery of rents and damages (Civil Case No. 1774, filed May 3, 1955) with the Mindanao Academy, Inc., the five children of Rosenda Nuqui who did not take part in the deed of sale, and several other persons who were stockholders of the said corporation, as plaintiffs, and the parties who signed the deed of sale as defendants. The second action was for rescission (Civil Case No. 1907, filed July 17, 1956) with Rosenda Nuqui, Sotero Dionisio, Jr. and Erlinda D. Diaz (and the latter's husband Antolin Diaz) as plaintiffs, and Ildefonso D. Yap as lone defendant. The other four children of Rosenda did not join, having previously ceded and quitclaimed their shares in the litigated properties in favor of their sister Erlinda D. Diaz.

The two actions were tried jointly and on March 31, 1960 the court a quo rendered judgment as follows:

"In both Cases;

(1) The Mutual Agreement is hereby declared null and void ab initio;

(2) Defendant Ildefonso D. Yap is hereby ordered to pay the costs of the proceedings in both cases;

In Civil Case No. 1907 only;

(1) Defendant Ildefonso D. Yap is hereby ordered to restore to the plaintiffs in said case all the buildings and grounds described in the Mutual Agreement together with all the permanent improvements thereon;

(2) To pay to the plaintiffs therein the amount of P300.00 monthly from July 31, 1956 up to the time he shall have surrendered the properties in question to the plaintiffs therein, plus P1,000.00 as attorney's fees to plaintiffs Antolin and Erlinda D. Diaz.

In Civil Case No. 1774 only;

(1) Defendant Ildefonso D. Yap is hereby ordered to restore to the Mindanao Academy, Inc., all the books, laboratory apparatus, furniture and other equipments described in the Mutual Agreement and specified in the Inventory attached to the Records of this case; or in default thereof, their value in the amount of P23,500.00;

(2) To return all the Records of the Mindanao Academy and Misamis Academy;

(3) To pay to the plaintiffs stockholders of the Mindanao Academy, Inc., the amount of P10,000.00 as nominal damages; P3,000.00 as exemplary damages; and P2,000.00 as attorney's fees. These damages shall be apportioned to each of the stockholders named as plaintiffs in said case in proportion to their respective interests in the corporation."

Ildefonso D. Yap appealed from the foregoing judgment and has assigned five errors therein.

1. He first contends that the lower court erred "in concluding that the mutual agreement dated May 10, 1954. . . is entirely void and legally non-existent in that the vendors therein ceded to defendant-appellant not only their interest, rights, shares and participation in the property sold but also those that belonged to persons who were not parties thereto."

The lower court did not rule categorically on the question of rescission, considering it unnecessary to do so in view of its conclusion that the contract of sale is null and void. This conclusion is premised on two grounds: (a) the contract purported to sell properties of which the sellers were not the only owners, since of the four parcels of land mentioned in the deed their shares consisted only of 7/12, (6/12 for Rosenda Nuqui and 1/12 for Sotero, Jr.), while in the buildings, laboratory equipment, books, furniture and fixtures they had no participation at all, the owner being the Mindanao Academy, Inc.; and (b) the prestation involved in the sale was indivisible, and therefore incapable of partial annulment, inasmuch as the buyer Yap, by his own admission, would not have entered into the transaction except to acquire all of the properties purchased by him.

These premises are not challenged by appellant. But he calls attention to one point, namely, that the four children of Rosenda Nuqui who did not take part in the sale, besides Erlinda Dionisio Diaz, quitclaimed in favor of the latter their interests in the properties; and that the trial court held that Erlinda as well as her husband acted in bad faith, because "having reasonable notice of defendants' having unlawfully taken possession of the property, they failed to make reasonable demands for (him) to vacate the premises to respect their rights thereto." It is argued that being herself guilty of bad faith, Erlinda D. Diaz, as owner of 5/12 undivided interest in the properties (including the 4/12 ceded to her by her four sisters), is in no position to ask for annulment of the sale. The argument does not convince us. In the first place the quitclaim, in the form of an extrajudicial partition, was made on May 6, 1956, after the action for annulment was filed, wherein, the plaintiffs were not only Erlinda but also the

other co-owners who took no part in the sale and to whom there has been no imputation of bad faith. Secondly the trial courts' finding of bad faith is an erroneous conclusion induced by a manifest oversight of an undisputed fact, namely, that on June 10, 1954, just a month after the deed of sale in question, Erlinda D. Diaz did file an action against Ildefonso D. Yap and Rosenda Nuqui, among others, asserting her rights as co-owner of the properties (Case No. 1646). Finally, bad faith on the part of Erlinda would not militate against the nullity of the sale, considering that it included not only the lands in common by Rosenda Nuqui and her six children but also the buildings and school facilities owned by the Mindanao Academy, Inc., an entity which had nothing to do with the transaction and which could be represented solely by its Board of Trustees.

The first assignment of error is therefore without merit.

II. The second and third errors are discussed jointly in appellant brief. They read as follows:

"THE LOWER COURT ERRED IN HOLDING DEFENDANT-APPELLANT LIABLE FOR RENTS AND ATTORNEY'S FEES IN THE SUM OF P1,000.00 AFTER DECLARING THAT ALL THE PLAINTIFFS-APPELLEES IN CIVIL CASE NO. 1907 ACTED IN BAD FAITH.

THE LOWER COURT ERRED IN HOLDING THAT PLAINTIFFS-APPELLEES IN SAID CIVIL CASE NO. 1907 ARE ENTITLED TO RECOVER ALL THE LANDS, BUILDINGS AND OTHER PERMANENT IMPROVEMENTS DESCRIBED IN THE MUTUAL AGREEMENT DATED MAY 10, 1954."

The lower court correctly found that both vendors and vendee in the sale acted in bad faith and therefore must be treated, vis-a-vis each other, as having acted in good faith. The return of the properties by the vendee is a necessary consequence of the decree of annulment. No Part of the purchase price having been paid, as far as the record shows, the trial court correctly made no corresponding order for the restitution thereof.

In regard to the rents the trial court found that prior to the sale the Mindanao Academy, Inc., was paying P300.00 monthly for its occupancy of the lands on which the buildings are situated. This is the amount the defendant has been ordered to pay to the plaintiffs in Civil Case No. 1907, beginning July 31, 1956, when he filed his "first pleading" in the case. There can be no doubt that Erlinda D. Diaz is entitled to recover a share of the said rents in proportion to her own interest in the lands and the interest of her four co-owners which she had acquired. Rosenda Nuqui and her son Sotero, it is true, acted in bad faith when they sold the properties as theirs alone; but so did the defendant Yap when he purchased them with knowledge of the fact that there were other co-owners. Although the bad faith of one party neutralizes that of the other and hence as between themselves their rights would be as if both of them had acted in good faith at the time of the transaction, this legal fiction of Yap's good faith ceased when they sold the properties as theirs alone; but so did the court's declaration of liability for the rents thereafter is correct and proper. A possessor in good faith is entitled to the fruits only so long as his possession is not legally interrupted, and such interruption takes place upon service of judicial summons (Arts. 544 and 1123, Civil Code).

In our opinion the award of attorney's fees to Erlinda D. Diaz and her husband is erroneous. Civil Case No. 1907, in which said fees have been adjudged, is for rescission (more properly resolution) of the so-called "mutual agreement" on the ground that the defendant Yap failed to comply with certain undertakings specified therein relative to the payment of the purchase price. Erlinda Diaz was not a party to that agreement and hence had no cause of action for rescission. And as already stated, the trial court did not decide the matter of rescission because of the decree of annulment it rendered in the other case (Civil No. 1774), wherein the defendants are not only Ildefonso D. Yap but also Rosenda Nuqui and her son Sotero. Erlinda D. Diaz could just as well have refrained from joining as plaintiff in the action for rescission, not being a part to the contract sought to be rescinded and being already one of the plaintiffs in the other action. In other words, it cannot be said with justification that she was constrained to litigate, in Civil Case No. 1907, because of some cause attributable to the appellant.

The appellant claims reimbursement for the value of the improvements he allegedly introduced in the schools, consisting of new building worth P8,000.00 and a toilet costing P800.00, besides laboratory equipment, furniture, fixtures and books for the libraries. It should be noted that the judgment of the trial court specifies, for delivery to the plaintiffs (in Civil Case No. 1907), only "the buildings and grounds described in the mutual agreement together with all the permanent improvements thereon." If the defendant constructed a new building, as he alleges, he cannot recover its value because the construction was done after the filing of the action for annulment, thus rendering him a builder in bad faith who is denied by law any right of reimbursement.

In connection with the equipment, books, furniture and fixtures brought in by him, he is not entitled to reimbursement either, because the judgment does not award them to any of the plaintiffs in these two actions. What is adjudged (in Civil Case No. 1774) is for the defendant to restore to the Mindanao Academy, Inc. all the books, laboratory apparatus, furniture and other equipment "described in the Mutual Agreement and specified in the Inventory attached to the records of this case; or in default thereof, their value in the amount of P23,500.00." In other words, "whatever has been brought in by the defendant is outside the scope of the judgment and may be retained by him.

III. The appellant's fourth assignment of error refers to the nominal and exemplary damages, as well as the attorney's fees, granted to the stockholders of the Mindanao Academy, Inc. The trial court awarded no compensatory damages because the Mindanao Academy, Inc., had been operating the two schools at a loss before the sale in question, and the defendant himself was no more successful after he took over. Are the stockholders of the said corporation who joined as plaintiffs in Civil Case No. 1774 entitled to nominal and exemplary damages? We do not believe so. According to their second amended complaint they were joined merely pro forma, and "for the sole purpose of the moral damage which has been all the time alleged in the original complaint." Indeed the interests of the said stockholders, if any, were already represented by the corporation itself, which was the proper party plaintiff; and no cause of action accruing to them separately from the corporation is alleged in the complaint, other than that for moral damages due to "extreme mental anguish, serious anxiety and wounded feelings." The trial court, however, ruled out this claim for moral damages and no appeal from such ruling has taken. The award for nominal and exemplary damages should be eliminated in toto.

The award for attorney's fees in the amount of P2,000.00 should be upheld, although the same should be for the account, not of the plaintiff stockholders of the Mindanao Academy, Inc., but of the corporation itself, and payable to their common counsel as prayed for in the complaint.

IV. Under the fifth and last assignment of error the appellant insists on the warranty provided for in Clause VI of the deed of sale in view of the claims of the co-owners who did not take part therein. The said clause provides: "if any claim shall be filed against the properties or any right, share or interest which are in the possession of the party of the First Part (vendors) which had been hereby transferred, ceded and conveyed unto the party of the Second Part (vendee) the party of the First Part assumes as it hereby holds itself answerable."

It is unnecessary to pass upon the question posed in this assignment of error in view of the total annulment of the sale on grounds concerning which both parties thereto were at fault. The nullity of the contract precludes enforcement of any of its stipulations.

WHEREFORE, the judgment appealed from is modified by eliminating therefrom the award of attorney's fees of P1,000.00 in favor of Erlinda D. Diaz and her husband, plaintiffs in Civil Case No. 1907, and the award of nominal and exemplary damages in Civil Case No. 1774; and making the award of attorney's fees in the sum of P2,000.00 payable to counsel for the account of the Mindanao Academy, Inc. instead of the plaintiff stockholders. In all other respects the judgment appealed from is affirmed. No pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J.B.L., Paredes and Bengzon, J.P., JJ., concur.

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