

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. THE COURT OF APPEALS, HON. HERMOGENES CALUAG, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, AND SPOUSES HONESTO G. NICANDRO...

G.R. No. L-28774. February 28, 1980

Ponente: ANTONIO, J.

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ANTONIO, J.:

Petition for certiorari to set aside the decision of the Court of Appeals,[1] dated February 29, 1968, in *Honesto G. Nicandro, et al. v. Development Bank of the Philippines and People's Homesite and Housing Corporation* (CA-G.R. No. 34518-R), affirming the decision of the trial court in Civil Case No. Q-6091.

The facts are summarized as follows:

On March 18, 1955, the Board of Governors of petitioner-appellant DBP (hereinafter referred to as petitioner or simply DBP for brevity and convenience), under its Resolution No. 2004, appropriated the sum of P1,204,000.00 to purchase land for a housing project for its employees. It was contemplated that the Bank itself will build houses on the land to be acquired and these will then be sold to employees who do not yet own homes and who shall pay for them in monthly installments over a period of twenty (20) years.[2]

Pursuant thereto, on October 20, 1955, the DBP bought 91, 188.30 square meters of land, consisting of 159 lots, in the proposed Diliman Estate Subdivision, West Triangle, Quezon City, of the People's Homesite and Housing Corporation (PHHC). Of the price of P802,155.56, the DBP paid the amount of P400,000.00 as down payment. The area sold was then part of a bigger parcel embraced under TCT No. 1356 and because the subdivision plan for the area (including the 159 lots sold to the DBP) was still pending approval by the Bureau of Lands, the sales agreement between the DBP and the PHHC was not pre-sented immediately for registration by the DBP. Lots 2 and 4, which form part of said 159 lots, are the properties involved in the instant litigation.[3]

In a memorandum to the Auditor General dated December 6, 1955, Mr. Isidro Buñag, the DBP Auditor, expressed his doubts as to whether the DBP could acquire the property in question for the intended purpose of a housing project in the light of the then Section 13 of Republic Act No. 85 (Exhibit 12A-DBP).

The Auditor General endorsed the matter to the Office of the President, Malacañang, Manila, and on July 30, 1957 the Executive Secretary, in turn, referred the question (re legality of the acquisition of the lots in question by the DBP) to the Secretary of Justice for opinion (Exhibit 13-DBP).

Meanwhile, on June 24, 1957, without the knowledge of the DBP, a portion of the property covered by the master title, TCT No. 1356, including the 159 lots sold to the DBP, were segregated therefrom and a separate certificate of title, TCT No. 36533, was issued for the segregated portion in the name of PHHC. However, the subdivision plan on which the segregation was based was not annotated on the master title, TCT No. 1356, nor was the fact that the latter was cancelled pro tanto by TCT No. 36533 as to the 159 lots (Exhibit 15-DBP).

Atty. Roman Cariaga, Chief of the Sales Division of the PHHC, testified that on or before September 29, 1958, he was summoned by Benjamin Gray, Secretary to the Board of Directors of the PHHC, and, while in the latter's room, was introduced to respondent-appellee, Honesto G. Nicandro. Gray then requested Cariaga to prepare the order of payment for Lots 2 and 4 in favor of Honesto G. Nicandro. Cariaga informed them (Gray and Nicandro) forthwith that both lots were part of those already sold to the DBP.

On September 29, 1958, Mr. Sergio Ortiz Luis, a PHHC Director, and, at the time, Acting Manager of the PHHC, wrote to the Chairman of the DBP that Lots 2 and 4, Block WT-21, had been inadvertently included among the lots sold to the DBP and for said reason requested that the two lots be excluded from the sale (Exhibit 1-DBP).

In his reply letter dated October 16, 1958, Chairman Gregorio S. Licaros of the DBP refused to exclude Lots 2 and 4 as requested, insisting that they form part of the 159 lots sold to the DBP as shown in the Sales Agreement dated October 20, 1955 and for which DBP has made a partial payment of P400,000.00 (Exhibit 2-DBP). On October 14, 1958, Acting Manager Sergio Ortiz Luis, without waiting for the reply of DBP Chairman Licaros, approved the order of payment for Lots 2 and 4, Block WT-21, in favor of appellees Honesto G. Nicandro and Elisa F. Nicandro who paid the sum of P700.56 and P660.00 as down payment, representing 10% of the price of the lots.

On October 28, 1958, Mr. Angel G. de la Paz, Chairman of the DBP Housing Project Committee, also wrote to the Board of Directors of the PHHC, as follows:

"In connection with your inquiry whether this bank will proceed with the purchase of the employees housing project site in the West Triangle Subdivision, Quezon City, please be advised that this Bank will definitely purchase the area allocated to it by that Corporation.

"During a convocation held yesterday, at which Mr. G. S. Licaros, our new Chairman, spoke, this question was brought by Chairman Licaros that this housing project will go through, to be financed either by this Bank or by other financial institutions in case the Secretary of Justice renders an adverse opinion as to its legality." (Exhibit 3-DBP).

On October 31, 1958, without the knowledge of the DBP, Bernardo Torres, the General Manager of the PHHC, also approved the Order of Payment for 39 lots (comprised also in the 159 lots already sold to the DBP) in favor of the so-called Garcia Group. Among these was an Order of Payment for Lot 2, Block WT-21 (which was already reawarded to respondent-appellee Honesto G. Nicandro) in favor of Bernabe G. Garcia, who paid also the 10% down payment of P700.50 (Exhibits 7-DBP and 11-DBP).

On November 3, 1958, the PHHC accepted payment in full of Lots 2 and 4 from respondents spouses Honesto G. Nicandro and Elisa F. Nicandro (herein-after referred to simply as respondent spouses).

On November 6, 1958, Honesto G. Nicandro went to see Atty. Roman Cariaga, Chief of the Sales Division, PHHC, and demanded that the corresponding deeds of sale for Lots 2 and 4 be executed in their favor. Atty. Cariaga accompanied him to the General Manager, Bernardo Torres, and in the presence of Mr. Nicandro, the former asked Mr. Torres whether the deeds of sale for the two (2) lots requested by Mr. Nicandro should be prepared considering that the DBP has not yet relinquished its right thereon. However, the General Manager told him to go ahead and prepare the deeds of sale.

On November 7, 1958, a deed of sale over Lot 2 in favor of Honesto G. Nicandro and another deed of sale over Lot 4 in favor of his wife, Elisa F. Nicandro, were prepared by the Sales Division of the PHHC under Atty. Cariaga.

On November 13, 1958, Mr. Bienvenido C. Olarte, Homesite Management Chief, PHHC, wrote to the Gene-ral

Manager a memorandum which in part reads as follows:

"Respectfully forwarded to the Board of Directors PHHC, Quezon City, for its information and consideration.

"The memorandum was prepared in view of the sale of Lots 2 and 4, Block WT-21 to Honesto and Elisa Nicandro who have paid in full their purchase prices, and the acceptance from Gov. Garcia of deposits for 10 lots in Block WT-21, 14 lots in WT-22, notwithstanding previous sale of all these lots to the DBP under conditional contract to sell. The DBP made initial payment of P400,000.00 on the 159 lots in the RFC (DBP) area, leaving an unpaid balance of P402,155.56. The employees of the DBP will definitely push through the purchase as confirmed in the letters of Messrs. Licaros, DBP Chairman and Angel de la Paz, DBP Housing Project Committee Chairman, both dated October 16 and 29, 1958, respectively.

"The deposits made for the 39 lots are subject to final arrangement of the purchase of the 159 lots by the DBP employees. However, as to the sale of Lots 2 and 4, Block WT-21, it is recommended that the execution of the final deed of sale be suspended until after the aforesaid arrangement shall have been determined." (Exhibit 7-DBP. Italics supplied.)

Despite the aforesaid recommendation of Mr. Olarte, the deeds of sale for Lots 2 and 4 in favor of respondent spouses were prepared and submitted to the Board of Directors of the PHHC on December 17, 1958.

Thereafter, the General Manager, Mr. Bernardo Torres, signed the deeds of sale over Lots 2 and 4 in favor of respondent spouses. Notwithstanding this fact, however, the originals of said deeds of sale (Exhibits 10-DBP and 10-A-DBP) were retained at the PHHC and were never released to the respondent spouses.

On January 15, 1959, the Sales Agreement dated October 20, 1955 between the PHHC and the DBP (covering the 159 lots including Lots 2 and 4 in question) was presented for registration to the Register of Deeds of Quezon City. It was entered in the day book and annotated on TCT No. 1356 as a "sale of an unsegregated portion" with the note "new titles to be issued upon presentation of the corresponding subdivision plan and technical descriptions duly approved by the authorities." (Exhibit 15.)

On January 20, 1959, pursuant to the Executive Secretary's reference of the matter to the Secretary of Justice for an opinion, as mentioned earlier, the latter issued Opinion No. 16, s. of 1959, holding that –

"Premises considered, it is our opinion that the RFC (DBP) has no express or incidental power to undertake the housing project under consideration and that the same is incongruous with, if not a clear violation of, the prohibition contained in Section 13 of Republic Act No. 85." (Annex "A", Complaint.)

On February 16, 1959, respondent Honesto G. Nicandro attempted to register the sale of Lots 2 and 4 in his favor by presenting copies of the deeds of sale in their favor (as mentioned earlier, the originals were retained by the PHHC and were never released) before the Register of Deeds of Quezon City, but registration was denied because: (1) the deeds of sale were only photostatic copies; (2) the consent of the GSIS (to whom the whole property was mortgaged) to the sale is not shown therein; and (3) the deeds of sale lacked the necessary documentary stamps. On the following day, February 17, affidavits of adverse claims on Lots 2 and 4 were filed by the respondents and these were registered and annotated on TCT No. 36533 (Exhibit 15-DBP).

On February 17, 1959, on the basis of the afore-mentioned Opinion No. 16, s. of 1959, of the Secretary of Justice, the Office of the President addressed a memorandum to the Board of Governors of the DBP directing it to revoke Resolution No. 2004 dated March 18, 1955.[4]

On March 6, 1959, upon learning that the required subdivision plan of the 159 lots sold to it were already submitted and duly recorded on TCT No. 36533, the DBP forthwith requested the annotation of its sales agreement dated October 20, 1955 covering the lots in question on TCT No. 36533, and as a consequence, the

Register of Deeds transferred the annotation of said sales agreement appearing on TCT No. 1356 to the new certificate of title, TCT No. 36533.[5]

As the DBP's request for issuance of new certificates of title for Lots 2 and 4 was being opposed by the respondent spouses and unable to decide as to who should be issued certificates of title for the two lots, the Register of Deeds of Quezon City referred the matter on consulta to the Land Registration Commission, where it was docketed as In Re Consulta No. 250. In a resolution dated July 25, 1959, the Land Registration Commission held that respondent spouses Honesto G. Nicandro and Elisa F. Nicandro were better entitled to the issuance of certificates of title for Lots 2 and 4. After its motion for reconsideration of the resolution was denied, the DBP promptly appealed the decision to this Court.

On April 29, 1961, resolving DBP's appeal of In Re Consulta No. 250,[6] this Court held that the annotation made on January 15, 1959 of the sales agreement in favor of the DBP on TCT No. 1356 constituted sufficient registration to bind third parties, thereby reversing the resolution of the Land Registration Commission of July 25, 1959, to the effect that the annotation on TCT No. 1356 of the sales agreement between the PHHC and the vendee DBP did not constitute sufficient registration to bind innocent third parties (referring to the Nicandros), in favor of the appellees.

Meanwhile, prior to the aforesaid decision of this Court, on March 14, 1960, in reply to the query of the Board of Governors of the DBP whether the Bank can sell the 159 lots on a cash basis to its employees, the Secretary of Justice issued Opinion No. 40, holding that the deed of sale covering said lots is not only ultra vires but is also illegal and void and, for that reason, the DBP cannot sell the same to its employees even for cash.

On June 17, 1961, Republic Act No. 3147 was enacted, amending certain provisions of the DBP Charter (Republic Act No. 85), among which was Section 13 which, as Section 23 in the amended law, now reads as follows:

"No officer or employee of the bank nor any government official who may exercise executive or supervisory authority over the said bank either directly, or indirectly, for himself or as representative or agent of others shall, except when the same shall be in the form of advances appropriated or set aside by the Bank itself in order to provide for housing for the benefit of its officials and employees, borrow money from the Bank, nor shall become a guarantor, indorser or surety for loans from the said bank to the others, or in any manner be an obligor for moneys borrowed from the said Bank. Any such officer or employee who violates the provisions of this section shall be immediately removed by competent authority and said officer or employee shall be punished by imprisonment of not less than one year nor exceeding five years and by a fine of not less than one thousand nor more than five thousand pesos." (Italics supplied.)[7]

On November 10, 1961, respondent spouses then filed the case at bar against the DBP and the PHHC, to rescind the sale of Lots 2 and 4 by PHHC in favor of DBP, to cancel the transfer certificate of title that may have been issued covering the two lots to DBP, and to order DBP to pay damages to the plaintiffs. It was alleged that the acquisition of Lots 2 and 4 by the DBP is not only in excess of its corporate powers but also a violation of the express prohibition of Section 13 of its Charter, Republic Act No. 85, as amended. Against the PHHC, respondent spouses alleged that in the alternative event that the case against the DBP will not prosper, that PHHC be adjudged to pay to the plaintiff the "value which the said properties may have on the date of decision * * *".

It is important to note that the PHHC alleged as defenses the actuations of the plaintiffs (Nicandro spouses) which have been characterized by bad faith, thus:

(a) that notwithstanding the information given by the defendant to the plaintiffs that the question of legality of the acquisition by the DBP of lots has not been resolved, plaintiffs insisted in paying on November 3, 1958, the full

purchase price of the lots in question;

(b) that notwithstanding the understanding between the defendant and the plaintiffs that no final deed of sale over the lots in question will be executed until the question of legality of the acquisition of lots by the DBP is resolved, the plaintiffs insisted in the execution of the final deed of sale to which the defendant agreed with the understanding that the latter will be given until about December 12, 1959 to obtain a clearance from the GSIS of the mortgage on the lots in question, and that, in the meantime, the final deed of sale will not be presented to the Register of Deeds for registration; and

(c) that without a copy of the final deed of sale being officially released, the plaintiffs, one way or another, succeeded in obtaining a signed copy of the aforesaid deed of sale which they presented to the Register of Deeds for registration in violation of the understanding mentioned in the immediately preceeding paragraph (b) above.

In its decision, the respondent Court of First Instance of Rizal held that the sale of Lots 2 and 4, Block WT-21 of the Diliman Estate Subdivision, to the DBP is null and void, for being in violation of Section 13 of the DBP Charter, ignoring in toto the other defenses. No provision at all was made for return of the price that was paid to PHHC for the two lots in question. A motion for reconsideration having been filed and denied, the DBP appealed said decision to the Court of Appeals.

On February 29, 1968, the Court of Appeals affirmed the decision of the trial court.

In their brief, the DBP maintains:

(1)

that the Court of Appeals erred in holding that the respondent spouses have legal personality to question the legality of the sale in question because:

(a)

the spouses have no relation to the contracting parties nor to the property itself at the time the transaction took place;^[8]

(b)

the question of whether or not a corporation has acted without authority or has abused its authority or has acted in con-travention of law cannot be raised by one whose rights accrued subsequent to the transaction in question; ^[9]

(c)

rescission of contract requires mutual res-titution. Hence, since the respondent spouses are neither principally nor subsi-diarily bound under the sales agreement between the PHHC and the DBP, they are not in a position to make any restitution on the questioned contract and, consequently, they have no right to ask for its annul-ment;^[10] and

(d)

the respondent spouses, being second vend-ees of Lots 2 and 4, merely stepped into the shoes of the vendor, PHHC, and their right to question the transaction cannot rise above that of the PHHC. Since the contract between the PHHC and the DBP has been fully executed and the DBP's right thereto has been perfected by the regis-tration of the sales agreement in its favor, the PHHC is now in estoppel to question the transaction. A fortiori the spouses are similarly bound from doing so; and

(2) that when Congress amended Section 13 of its Charter on June 17, 1961, five (5) years after the questioned

transaction, it in effect ratified the DBP acquisition of said lots from the PHHC, and dispelled whatever doubts existed as to the power of the DBP to acquire the lots in question, unless some interest or right which would be adversely affected has accrued in favor of third parties. On the latter question, the DBP claims that since the Supreme Court itself has recognized the rights of the DBP over and above those of the respondent spouses over the two lots, the latter have no interest that will bring it out of the curative effects of the amendment.

The general rule is that the action for the annulment of contracts can only be maintained by those who are bound either principally or subsidiarily by virtue thereof.[11] There is, however, an exception to the rule. This Court, in *Teves v. People's Homesite and Housing Corporation*,^[12] held that "a person who is not obliged principally or subsidiarily in a contract may exercise an action for nullity of the contract if he is prejudiced in his rights with respect to one of the contracting parties, and can show the detriment which could positively result to him from the contract in which he had no intervention." We applied this exception to the rule in *Yturalde v. Vagilidad*;^[13] *De Santos v. City of Manila*;^[14] and *Bañez v. Court of Appeals*.^[15] It cannot be denied that respondent spouses stand to be prejudiced by reason of their payment in full of the purchase price for the same lots which had been sold to the petitioner by virtue of the transaction in question. We, therefore, hold that respondent spouses have sufficient standing to institute the action in the case at bar.

Since the case may be resolved on the issue of retroactivity of the amendment of Section 13 of Republic Act No. 85, by Republic Act No. 3147, this Court does not find it necessary to resolve whether or not the sale to the DBP was void, pursuant to Section 13 of Republic Act No. 85. Even assuming that the DBP had no authority initially to acquire the lots in question for the housing project of the corporation for its employees, the important issue is whether or not the Court of Appeals erred in not granting retroactive effect to Republic Act No. 3147 amending Republic Act No. 85, which authorizes the DBP to provide for housing for the benefit of its officials and employees. The Court of Appeals, in effect, held that the amendment "cannot validate the sale of Lots 2 and 4 in favor of the DBP because the rights of the plaintiffs have already accrued before its amendment" and section 13 as subsequently amended contains no express provision of retro-active application. It necessarily follows that such amended section cannot be given retroactive effect.

It may be stated, as a general rule, that curative statutes are forms of "retrospective legislation which reach back on past events to correct errors or irregularities and to render valid and effective attempted acts which would be otherwise ineffective for the purpose the parties intended." They are intended to enable persons to carry into effect that which they have designed and intended, but which has failed of expected legal consequences by reason of some statutory disability or irregularity in their action. They thus make valid that which, before enactment of the statute, was invalid.^[16] There cannot be any doubt that one of the purposes of Congress when it enacted Republic Act No. 3147, by amending Section 13 of Republic Act No. 85, was to erase any doubts regarding the legality of the acquisition by the DBP of the 159 lots from the PHHC for the housing project which it intended to establish for its employees who did not yet have houses of their own. This is obvious from the fact that Republic Act No. 3147 was enacted on July 17, 1961, at a time when the legality of the acquisition of the lots by the DBP for its housing project was under question. It is, therefore, a curative statute to render valid the acquisition by the DBP of the 159 lots from the PHHC. Since such curative statute may not be given retroactive effect if vested rights are impaired thereby, the next question then is whether or not the respondent spouses have any vested right on the property which may be impaired by the statutory amendment. It is admitted in the partial stipulation of facts that after the second sale of Lots 2 and 4 to Honesto and Elisa Nicandro on November 7, 1958 by the PHHC, the question arose as to who between the DBP, which purchased three (3) years earlier the afore-mentioned lots on October 20, 1955, and the Nicandro spouses were better entitled to the issuance of the certificates of title for Lots 2 and 4 on the basis of entries made on the day book and annotations on the old and new certificates of title covering the lots in question.

In the decision of this Court of April 29, 1961, in *Register of Deeds of Quezon City v. Nicandro, et al.*,^[17] it held that: (a) the deed of sale of October 20, 1955 by the PHHC to the DBP of the 159 lots is "clearly, a registerable document"; and (b) that the annotation of the deed of sale in favor of the DBP on TCT No. 1356 on January 15, 1959 constituted sufficient registration to bind third parties and, consequently, ordered the Register of Deeds of Quezon City to issue the corresponding certificate of title in favor of appellant DBP. This Court further stated:

"Neither can it be claimed that the annotation of the deed of sale in favor of the DBP on TCT No. 1356, under date of January 15, 1959, does not constitute sufficient registration to bind third parties. True it may be that when the instrument was presented to the Register of Deeds for registration, and in fact it was so inscribed in the day book, the 159 lots subject of the sale were already covered by a separate certificate of title, TCT No. 36533. It must be remembered, however, that on said date, January 15, 1959, TCT No. 1356 which originally covered the whole tract of land, including the 159 lots, was yet uncanceled nor any inscription appeared thereon to the effect that a new certificate was already issued in respect to the said 159 lots. Evidently, when the DBP presented the deed of sale for registration, there were two subsisting titles covering the 159 lots subject of the sale. As TCT No. 1356, being uncanceled, did, for all intents and purposes, still cover the 159 lots, the annotation thereon of the sale to the DBP is valid and effective. For this reason, the Register of Deeds acted correctly in transferring the inscription from TCT No. 1356 to TCT No. 36533 upon discovery that the subdivision plan had already been approved, submitted and annotated, and a new certificate of title issued. Even on this score alone, considering that the adverse claim of the Nicandros was annotated on TCT No. 36533 only on February 17, 1959, whereas the sale to the DBP was registered as of January 15, 1959, the certificate of title on the two lots in controversy should be issued in favor of the first registrant, the DBP.

"There is, however, another reason why the Commissioner's ruling must be set aside.

"Although admittedly we have here a case of double sale, actually this is not an instance of double registration. As above stated, only the deed of sale in favor of appellant was inscribed on the certificate of title covering the lots in question. The Nicandros were not able to register their deeds of sale; instead, informed of the prior registration by the DBP, they sought to protect their right by filing adverse claims based on the said deeds of sale under Section 110 of Act 496, which provides:

'SEC. 110. Whoever claims any right or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed. x x x.'

"It is clear from the above quotation that for this special remedy (adverse claim) to be availed of, it must be shown that there is no other provision in the law for registration of the claimant's alleged right or interest in the property. The herein claim of the Nicandros is based on a perfected contract of sale executed in their favor by the lawful owner of the land. Considering that the Land Registration Act specifically prescribes the procedure for registration of a vendee's right on a registered property, (Section 57, Act 496) the remedy provided in Section 110, which was resorted to and invoked by appellees, would be ineffective for the purpose of protecting their said right or interest on the two lots.

"WHEREFORE, the Resolution appealed from is hereby set aside, and the Register of Deeds of Quezon City ordered to issue the corresponding certificate of title in favor of appellant DBP. Without costs. So ordered." (At pp. 1341-1342. *Italics supplied.*)

There is evidence to the effect that prior to or during the preparation of the corresponding deeds of sale for Lots 2 and 4 in their favor, the private respondents knew of the previous acquisition of said property by the DBP. Sometime in September 1958, the Chief of the Sales Division of the PHHC informed Honesto G. Nicandro that Lots 2 and 4 were part of the 159 lots previously sold by the PHHC to the DBP. On November 6, 1958, when

Nicandro asked that the corresponding deeds of sale over Lots 2 and 4 be prepared, the same Chief of the Sales Division expressed his misgivings by telling the General Manager of the PHHC, in the presence of Nicandro, that the two lots that the Nicandros wanted to buy had already been sold to the DBP and the latter had not yet re-linquished its right over said property.[18] In any event, the Nicandros were not able to register their deeds of sale over Lots 2 and 4. Before the registration of a deed or instrument, a registered property is not bound thereby insofar as third persons are concerned. Registration is the means whereby the property is made subject to the terms of the instrument. It is the operative act that gives validity to the transfer or creates a lien upon the land.[19] In *Register of Deeds of Quezon City v. Nicandro*, supra, this Court held that the registration of the sales agreement between the PHHC and the DBP and the annotation thereof on the old TCT No. 1365 constituted a prior valid registration of its rights to the properties sold.

Under such circumstances, since under the Torrens system, registration is the operative act that gives validity to the transfer,[20] and it was the sale to the DBP that was registered and transfer certificate of title issued to the DBP, private respondents could not have, therefore, acquired any complete, absolute and unconditional right over the property. They had no vested rights on the property at the time of the enactment of Republic Act No. 3147. A "vested right is one which is absolute, complete, and unconditional, to the exercise of which no obstacle exists, and which is immediate and perfect in itself and not dependent upon a contingency." [21] To be vested in its accurate legal sense, a right must be complete and consummated, and one of which the person to whom it belongs cannot be divested without his consent.[22]

During the pendency of this case, the People's Homesite and Housing Corporation (PHHC) has been dissolved and its powers, functions, balance of appropriations, records, assets, rights and choses in action, subject to certain conditions, were transferred to the National Housing Authority.[23] Considering that this case has been pending in the courts since 1961, and the constitutional right of the parties to a speedy disposition of their case, this Court hereby renders judgment herein, without awaiting the substitution of the PHHC by the National Housing Authority.

WHEREFORE, in view hereof, judgment is hereby rendered: (1) reversing the judgment of the Court of Appeals in CA-G. R. No. 34518-R, dated February 29, 1968, and dismissing the complaint filed by the respondent spouses for "rescission of the sale"; and (2) ordering the Development Bank of the Philippines to reimburse to the Nicandro spouses the payments which they made to the PHHC in connection with said lots, with interest at the legal rate from November 6, 1958 until fully paid, which amount shall be deducted from the balance of the purchase price of the property. No special pronouncement as to costs.

SO ORDERED.

Barredo, (Chairman), and Aquino, JJ., concur.

Concepcion, Jr., J., took no part.

Abad Santos, J., on leave.

De Castro and Melencio-Herrera, JJ., Members of the First Division, were designated to sit in the Second Division.

[1] Composed of Justice Hermogenes Concepcion Jr. (now Associate Justice of this Court) as ponente, and Justices Juan P. Enriquez and Angel H. Mojica.

[2] Partial Stipulation of Facts, Record on Appeal, p. 45.

[3] Ibid., Record on Appeal, p. 43.

- [4] Partial Stipulation of Facts, Record on Appeal, p. 48.
- [5] Ibid., Record on Appeal, p. 45.
- [6] L-16448, April 29, 1961, 1 SCRA 1334.
- [7] Partial Stipulation of Facts, Record on Appeal, p. 48.
- [8] Cook v. McMicking, No. 8913, March 3, 1914, 27 Phil. 10; Harding v. Commercial Union Assurance Co., No. 12707, Aug. 10, 1918, 38 Phil. 464.
- [9] 19 Corpus Juris Secundum, pp. 441-443.
- [10] Santander, et al. v. Villanueva, et al., L-6184, Feb. 28, 1958, 103 Phil. 1.
- [11] Article 1397, Civil Code.
- [12] L-21498, June 27, 1968, 23 SCRA 1141, 1147-1148.
- [13] L-20571, May 30, 1969, 28 SCRA 393, 398.
- [14] L-21677, June 29, 1972, 45 SCRA 409, 416.
- [15] L-30351, Sept. 11, 1974, 59 SCRA 15, 21.
- [16] Wichelman v. Minser, 83 NW 2d 890; Farnik v. Board of County of Com'rs of Uncle County, 341 P. 2d 467, 471; Fullilone v. U. S. Cas. Co., 129 So. 2d 816, 827; 10 A, Words & Phrases 420.
- [17] L-16448, April 29, 1961, 1 SCRA 1334.
- [18] Thus, Atty. Roman Cariaga, Chief, Sales Division, of the PHHC, testified as follows:
- "COURT:
- P.
- You also claim that when you called the attention of the Manager that these two lots here which the PHHC wanted to sell, to the Nicandros have already been sold, you claim to have given that manifestation in the presence of the Nicandros and within their hearing?
- A.
- Yes, Your Honor.
- P.
- What was his reaction, did he comment anything, did he say 'I am willing to buy it at my own risk?' You claim that Mr. Nicandro was present when you have informed the Manager and called his attention that these two lots that the Nicandros wanted to buy have already been sold to the Development Bank of the Philippines?
- R.
- That is right.
- P.
- What was the reaction of the Nicandros?
- R.

He was there and he argued with the Manager. That is the reaction of Mr. Nicandro. He explained his arguments to the Manager why the deed of sale should be given due course.

P.

In spite of the information given by you that the two lots were already sold to the DBP?

R.

Yes, Your Honor.

P.

What was the reason he alleged why the People's Homesite & Housing Corporation should proceed with the sale?

R.

I cannot remember his exact words but in substance I think he said that if the deeds of sale were executed and released to him it would give him more bargaining power with the DBP'. (T.s.n. pp. 31-33, Hearing of Feb. 8, 1963)" (Page 47, Brief for Defendant-Appellant DBP, in CA-G.R. No. 34518-R, page 36, Rollo).

[19] Section 51, Act No. 496; *Vargas v. Tancioco and Guerrero*, No. 45899, April 12, 1939, 67 Phil. 308.

[20] *Paraiso v. Camon*, L-13919, Sept. 18, 1959, 57 O.G. 1229.

[21] *Hutton v. Autoridad Sobre Hogares a la Capital* (DC Puerto Rico), 78 F. Supp. 988; 16 Am. Jur. 2d 421.

[22] *Merchants Bank v. Garrard*, 158 G. 867, 124 SE 715, 38 ALR, 102.

[23] Section 5, Presidential Decree No. 757.

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