

RAFAEL L. LAZARO, FLORENCIO GLEN PITALLANO, EVANGELINE L. MIRAFUENTES, FRANCISCO CALAUD, REYNALDO R. AGUTAYA, CLARO FELLOSIS AND RENATO CHUA, PLAINTIFFS-APPELLANTS, VS. PNB REPU...

Ponente: ASUNCION-VICENTE, J.

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ASUNCION-VICENTE, J.:

The Case

Before this Court is an appeal from the decision[1] dated April 7, 1999, which was rendered by the Regional Trial Court (RTC) of Manila, Branch 44, in a case for Specific Performance with Damages, docketed as Civil Case No. 97-85172.

The Facts

On September 22, 1997, Rafael L. Lazaro, Florencio Glen Pitallano, Evangeline L. Mirafuentes, Francisco Calaud, Reynaldo R. Agutaya, Claro Pellosis and Renato Chua (hereinafter, plaintiffs-appellants) filed a complaint for specific performance with damages[2] against PNB Republic Bank [formerly Republic Planters Bank, now Maybank Phils., Inc.] (hereinafter, defendant-appellee). Plaintiffs-appellants alleged that they sent defendant-appellee a letter dated October 30, 1986 offering to buy a parcel of land located at 1131 P. Burgos St., Paco, Manila, covered by Transfer Certificate of Title No. 188425 for the price of P400,000.00 pesos; that on even date, plaintiffs-appellant deposited with defendant-appellee the amount of P40,005.00 pesos, representing ten percent (10%) of the price they were offering; that defendant-appellee in a letter dated November 20, 1986 notified plaintiffs-appellants that it was deferring the sale of the subject property until some legal matters were cleared; and that defendant-appellee deferred the sale of the subject property in bad faith since it was not prevented by any legal obstacle to consummate the sale but was impelled merely by its desire to increase the purchase price of the subject property, to the damage and prejudice of plaintiffs-appellants.

On October 30, 1997, defendant-appellee filed an answer[3] alleging that it did not accept plaintiffs-appellants' offer; that it was not selling the subject property; that the parties are still in the negotiation stage as shown by plaintiffs-appellants' improved offers to buy the subject property; and that no contract of sale was perfected between the parties.

On February 26, 1998, defendant-appellee filed a motion[4] to admit amended answer alleging that it had already transferred and conveyed to the Bangko Sentral ng Pilipinas by way of dacion en pago all titles, rights and interests over certain loans and assets covered by the Memorandum of Agreement dated November 22, 1994. In its amended answer, defendant-appellee alleged that in view of the said Memorandum of Agreement, it is no longer the real party in interest, hence, the suit may be dismissed.[5] In its Order[6] dated March 19, 1998, the RTC granted the motion and admitted the amended answer.

On June 25, 1998, the RTC issued a pre-trial order[7] defining the common issues raised by both parties:

- “1. Whether there was a perfected contract; and
2. Whether or not the plaintiffs or the defendants are liable for damages.”

During trial, plaintiffs-appellants presented three (3) witnesses. The first witness was Reynaldo Agutaya, a resident of 1311-D Burgos St., Paco, Manila, who testified that he is a tenant in one of the apartment units on the subject property; that he and his wife learned from a newspaper advertisement that the subject property was for sale for P400,000.00; that after confirming the same with defendant-appellee, he spoke with the other tenants about the prospect of acquiring the subject property and all of them agreed to buy the property on installment basis; that they made a formal offer, tendering an initial deposit of 10% of the offer price; that they later received a letter from defendant-appellee informing them that the sale of the subject property was being deferred since there was a pending case before the Court of Appeals which prevented the bank from taking any action regarding the sale of the property; and that they sent a letter to the bank informing it of their willingness to wait until the bank's legal problem was resolved. Meanwhile, they were depositing their rentals in an escrow account in the names of Republic Planters Bank (RPB) and Salustiano Oca, former owner of subject property, because both were demanding payment of the rentals.[8] Reynaldo Agutaya further testified that sometime in August 1997, the officers of RPB told the tenants to make a new offer to conform with the current market value of the property; that the tenants offered to buy the subject property for P800,000.00; which was rejected by the bank because the offer was below the current market value of the property; that they made a third offer of P2,000,000.00; which was also rejected by the bank; hence, the tenants sought the advice and services of a lawyer.[9]

On cross-examination, Reynaldo Agutaya stated that he was aware of the suit concerning the ownership of the subject property between RPB and Salustiano Oca when they offered to buy the subject property.[10]

Plaintiffs-appellants' second witness, Claro Pellosis, a resident of 1311-F Burgos St., Paco, Manila testified that Jose Recto, an officer of RPB, taught them the procedure on how to make an offer to buy the subject property; that despite the bank's letter dated November 20, 1986 deferring the sale and advising the tenants to withdraw the deposit from RPB, the tenants decided not to withdraw the same and manifested their willingness to wait for the bank's decision until some legal problems were resolved; that the former owner of the subject property was Celestiano Oca and that the last time he paid directly to Celestiano Oca was in June 1986; that thereafter, the lease rentals were deposited in an escrow account with a bank; that sometime in August 1997, he was informed that the legal problem regarding the ownership of the subject property was already solved which prompted him and the other tenants to renew their intention to buy the subject property; that they were told by the bank that their previous offer was no longer binding because the property was no longer owned by RPB; and that they made a second offer for P800,000.00 and then a third offer for P2,000,000.00, but both offers were rejected by the bank.[11]

On cross-examination, Claro Pellosis said that their first proposal to purchase the subject property was disapproved by the bank; and that the letter dated November 20, 1986 regarding the bank's decision to defer the sale of the subject property, informed them that the bank was no longer selling the subject property and that they were advised to withdraw their deposit. Nonetheless, he insisted that the bank accepted their offer because they were told to make a deposit.[12]

Plaintiffs-appellants' third witness, Eduardo Chua, a resident of 1311-G Burgos St., Paco, Manila, testified that he and his siblings rented the apartment on the subject property since 1960; that they had been paying the rent directly to Mr. Salustiano Oca's administrator ever since until June 1986; that after being informed about a case involving Salustiano Oca and RPB, they paid the rentals to the bank in escrow; that upon Jose Recto's advice, they offered to buy the subject property at the price of P400,000.00 which offer was accepted by the bank when it

received the deposit equivalent to ten percent (10%) thereof; that they were informed by the bank, through a letter dated November 20, 1986, that the sale was deferred due to a pending case between Salustiano Oca and RPB; that they decided to leave their deposit with the bank and wait until the controversy between Mr. Oca and the bank was resolved; that they were informed later that their initial offer of P400,000.00 was rejected for being inadequate; that sometime in 1997, the tenants made an improved offer of P800,000.00 which was still not acceptable to the bank; and that they made a third offer in the amount of P2,000,000.00 but the same was also rejected by the bank.[13]

On the other hand, defendant bank presented Rolando Liwanag who testified that he was an employee of the former PNB Republic Bank, now Maybank; that he is currently the officer-in-charge of the loans recovery and acquired assets department; that in the sale of bank assets, the bank requires a 10% deposit from those interested in buying the bank's acquired asset to see whether the offeror is serious and has the financial capacity to buy the property; and that the deposit can be refunded once the offer is unacceptable to the bank.[14]

Rolando Liwanag further said that plaintiffs-appellants offered to buy the subject property covered by Transfer Certificate of Title No. 188425 at the price of P400,000.00; that the bank rejected the offer because there were unresolved legal matters concerning the ownership of the subject property and advised plaintiffs-appellants thru a letter dated November 20, 1986 to claim their deposit from the bank due to the deferment of the sale; that plaintiffs-appellants, in their letter dated December 11, 1986, opted to leave their deposit with the bank; that after the suit between Salustiano Oca and the bank was resolved in favor of the bank, it consolidated its ownership over the subject property on September 13, 1989 and was issued TCT No. 188425; that plaintiffs-appellants in a letter dated August 25, 1997 made a second offer to buy the property at the price of P800,000.00, which was rejected by the bank; and that plaintiffs-appellants sent another letter dated September 1, 1997 again offering to buy the subject property at the price of P2,000,000.00, but the bank also rejected the offer because it was below the market value of the property.[15]

Rolando Liwanag also testified that the bank transferred its rights and ownership over the subject property, among other assets of the bank, in favor of Bangko Sentral ng Pilipinas (BSP) pursuant to a Memorandum of Agreement entered into by BSP, PNB Republic Bank and Philippine National Bank; and that due to the filing of the complaint against it, the bank engaged the services of Santiago, Corpuz and Ejercito Law Office for P30,000.00, as acceptance fee, and P1,500.00, per court appearance, to protect the interest of the bank.[16]

On April 7, 1999, the RTC rendered a decision in favor of defendant-appellee, dispositive portion of which reads:

“WHEREFORE, in view of the foregoing, the complaint is dismissed for lack of merit with costs upon the plaintiffs.

SO ORDERED.”[17]

Hence, this appeal by plaintiffs-appellants.

The Issues

In their appellants' brief, plaintiffs-appellants raised the following errors allegedly committed by the lower court:

- THE LOWER COURT ERRED IN HOLDING THAT THERE WAS NO PERFECTED CONTRACT OF SALE BETWEEN PLAINTIFFS-APPELLANTS AND DEFENDANT-APPELLEE.
- THE LOWER COURT ERRED IN HOLDING THAT DEFENDANT-APPELLEE COULD NOT BE HELD LIABLE FOR DAMAGES.[18]

The Court's Ruling

The appeal is unmeritorious.

The two assigned errors, being interrelated, will be discussed jointly.

Plaintiffs-appellants allege that defendant-appellee acted in bad faith and in violation of Articles 19 and 20 of the Civil Code for its willful and deliberate refusal to comply with its obligation to sell the subject property; that upon receipt of the ten percent (10%) deposit, defendant-appellee is deemed to have given its consent to the contract of sale; that all the essential requisites of a contract are present in the case at bench; and that their improved second and third offers cannot defeat the enforceability of the contract of sale.[19]

Plaintiffs-appellants' contentions are untenable.

It must be stressed that contracts, in general, undergo three distinct stages, to wit: negotiation; perfection or birth; and consummation. Negotiation begins from the time the prospective contracting parties manifest their interest in the contract and ends at the moment of agreement of the parties. A negotiation is formally initiated by an offer. Perfection or birth of the contract takes place when the parties agree upon the essential elements of the contract. Consummation occurs when the parties fulfill or perform the terms agreed upon in the contract, culminating in the extinguishment thereof.[20]

In the case at bench, this Court finds that defendant-appellee and plaintiffs-appellants are still in the process of negotiation with respect to the price of the subject property as shown by the series of offers made by the latter. Corollarily, the rejection of said offers due to the inadequacy of the price offered shows that defendant-appellee has not yet given its consent, which prevented the contract from reaching the perfection stage. Article 1475 of the Civil Code explicitly provides:

“ARTICLE 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts.”

In conjunction with the abovequoted provisions, Articles 1319 and 1320 also provide:

“ARTICLE 1319. Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and the acceptance absolute. A qualified acceptance constitutes a counter-offer.

Acceptance made by letter or telegram does not bind the offerer except from the time it came to his knowledge. The contract, in such a case, is presumed to have been entered into in the place where the offer was made. (1262a)

ARTICLE 1320. An acceptance may be express or implied.

From the foregoing provisions, it is clear that a sale is perfected by the concurrence between the offer and acceptance, which is absent in the case at bench.

Likewise, plaintiffs-appellants' argument that defendant-appellee is deemed to have given its consent when it accepted the 10% deposit deserves scant consideration. Reynaldo Agutaya, in his testimony, said:

Q: Now, after the deposit, what transpired? What action was taken by the bank?

A: We were told to wait for an official communication to inform us to make another deposit of 10%. Because

they will present the case to their Board.

Q: And what happened?

A: But then, what we received was a letter from the bank advising us that the sale of the property has been deferred pending legal constraint or legal problems” [TSN July 9, 1998 pp. 30-31]

The foregoing testimony shows that defendant-appellee could not commit itself to the contract due to a legal problem concerning the ownership of the subject property. In fact, in its letter[21] dated November 20, 1986, defendant-appellee even instructed plaintiffs-appellants to claim their deposit, which evinces that their offer was rejected. From this, it can be clearly inferred that there was no meeting of the minds between defendant-appellee and plaintiffs-appellants.

Moreover, plaintiffs-appellants' act of depositing ten percent (10%) of the offered price does not imply that defendant-appellee already acquiesced to the former's offer. According to its witness Rolando Liwanag, the bank requires the said deposit only for the purpose of determining the seriousness and financial capacity of the prospective buyer to buy the property.

It must also be emphasized that defendant-appellee as a corporation, can only act through its board of directors which exercises its corporate powers. Section 23 of the Corporation Code provides:

“SECTION 23. The board of directors or trustees. — Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stocks, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year until their successors are elected and qualified.”

In the case at bench, no board resolution authorizing the sale of said property in favor of plaintiffs-appellants was presented in evidence indubitably showing that defendant-appellee's consent has not been given in the instant case.

Furthermore, the existence of the second and third offers to buy the subject property unquestionably belies plaintiffs-appellants assertion that a contract of sale was perfected between the parties. As aptly illustrated in *Weldon Construction Corporation vs. Court of Appeals*:[22]

“The first proposal submitted by Weldon Construction for rendering service under a contract of supervision (Exhibit "A") is simply that, a proposal. It never attained perfection as the contract between the parties. Only an absolute or unqualified acceptance of a definite offer manifests the consent necessary to perfect a contract (Article 1319, New Civil Code). The advance payment of P10,000.00 Pesos was not an unqualified acceptance of the offer contained in the first proposal (Exhibit "A") as in fact an entirely new proposal (Exhibit "4") was submitted by Weldon Construction subsequently. If, as claimed by the petitioner, the parties had already agreed upon a contract of supervision under Exhibit "A," why then was a second proposal made? *Res ipsa loquitur*. The existence of the second proposal belies the perfection of any contract arising from the first proposal.”

Accordingly, without a perfected contract of sale, there could be no cause of action for specific performance or breach thereof.[23] Hence, plaintiffs-appellants' action for specific performance has no leg to stand on and must perforce be dismissed.

On the issue of damages, when a right is exercised in a manner which does not conform with the norms enshrined in Article 19 and results in damage to another, a legal wrong is thereby committed for which the wrongdoer must be responsible. The object of this article is to set certain standards which must be observed not only in the

exercise of one's rights but also in the performance of one's duties. These standards are the following: act with justice, give everyone his due and observe honesty and good faith. Its antithesis, necessarily, is any act evincing bad faith or intent to injure. Its elements are the following: (1) there is a legal right or duty; (2) which is exercised in bad faith; (3) for the sole intent of prejudicing or injuring another. When Article 19 is violated, an action for damages is proper under Articles 20 or 21 of the Civil Code.[24] Articles 20 and 21 respectively provide:

“ART. 20. Every person who, contrary to law, wilfully or negligently causes damage to another, shall indemnify the latter for the same.

ART. 21. Any person who wilfully causes loss or injury to another in manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage.”

In the case at bench, defendant-appellee did not violate any law or commit an act, which is contrary to morals, good customs or public policy. There is likewise no showing that any of plaintiffs-appellants' rights were violated. In fact, defendant-appellee acted well within its rights in dealing with plaintiffs-appellants. It cannot, therefore, be said that defendant-appellee unjustly, deliberately and willfully refused to proceed with the sale of the subject property. Accordingly, plaintiffs-appellants' claim for damages must likewise fail.

WHEREFORE, in view of the above premises, the instant appeal is hereby DISMISSED for lack of merit. The assailed Decision of the Regional Trial Court dated April 7, 1999 is hereby AFFIRMED.

SO ORDERED.

Sabio, Jr., (Chairman), and Bato, Jr., JJ., concur.

[1] Rollo, pp. 15-23

[2] Record, pp. 1-3

[3] Record, pp. 13-17

[4] Record, pp. 44-45

[5] Record, p. 48-49

[6] Record, p. 72

[7] Record, p. 90

[8] TSN July 9, 1998, pp. 13-35

[9] TSN July 9, 1998, p. 36-53

[10] TSN July 9, 1998, p. 57

[11] TSN August 6, 1998, pp. 8-28

[12] TSN August 6, 1998, pp. 39-47

[13] TSN September 3, 1998, pp. 5-36

[14] TSN October 8, 1998, pp. 6-10

[15] TSN October 8, 1998, pp. 11-47

[16] TSN October 8, 1998, pp. 52-56

[17] Rollo, p. 23

[18] Rollo, p. 30

[19] Rollo, pp. 34-35

[20] Swedish Match AB vs. Court of Appeals, 441 SCRA 1

[21] Record, p. 130

[22] 154 SCRA 618

[23] Development Bank of the Philippines vs. Ong, 460 SCRA 170

[24] Nikko Hotel Manila Garden vs. Reyes, 452 SCRA 532

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