HEIRS OF PEDRO S. FAJARDO NAMELY: MONICA ROBLES FAJARDO, RHOLAND FAJARDO, CARLOS FAJARDO, PEDIE FAJARDO, MANUEL FAJARDO, CHRISTOPHER FAJARDO, AQUILINA FAJARDO AZARDON, MAYETTE F...

Ponente: BUESER, J.

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BUESER, J.:

Before this Court on appeal is the May 8, 2009 Decision[1] of the Regional Trial Court, Branch 54, of Macabebe, Pampanga, the dispositive portion of which reads -

> "WHEREFORE, all the foregoing considered, this Court hereby (1) orders defendants and their successors in interest to cease and desist from entering, encroaching and intruding on the subject two lots; (2) declares the Deed of Absolute Sale dated December 29, 1999, defendant Dumulus executed in favor of defendants Lucio Ignacio and Luisita Guintu-Ignacio as null and void; (3) order the defendants to pay plaintiffs jointly and severally the following: (a) P50,000.00 moral damages; (b) P50,000.00 exemplary damages; (c) P100,000.00 attorneys fees and P5,000 per appearance.
>
> SO ORDERED."

The Facts

On January 7, 1994, Pedro Fajardo executed a Deed of Absolute Sale[2] over his two (2) parcels of land situated in Poblacion, Masantol, Pampanga, covered by TD No. 12001-325 and TD No. 12001-26 ("subject properties"), both with an area of 262 square meters, in favor of Bernardo Dumulus ("appellant Dumulus"). The following day, Pedro Fajardo and appellant Dumulus entered into an agreement, the pertinent provisions reads -

> "That on January 7, 1994 Party of the First Part (Dumulus) bought two lots from the party of the second part, as evidenced by the Deed of Absolute Sale dated January 7, 1994 also notarized by Atty. Venancio M. Viray of Masantol, Pampanga and entered into his notarial seal as Doc. No. 1, Book 1. Page 1, Series of 1994 and mutually stated and agreed as follows, to wit:
>
> a) That the true and correct consideration for the sale of the two (2) lots elsewhere mentioned is P800,000.00, Philippine Currency, and P200,000.00 has been paid by the party of the first part to the party of the second part, leaving a balance of P600,000 Philippine Currency, which the party of the first part agreed and/or committed to pay to the party of the second part upon his claim being paid by DPWH (Delta Development Project), as of this date – January 7, 1994. However, if Delta will not push through, then the party of the first part has only 2 months from knowledge of such information that of the Delta project not to proceed to pay the balance;
>
> b) The party of the first part can take immediate possession of the premises, can improve the same, and can build houses, if he wants to. However, if the party of the second part is not paid of the balance pf P600,000.00 as indicated in the preceding number and/or paragraph, the downpayment of P200,000 shall be deemed forfeited in favor of the second part. All improvements made on the lots shall inure to the benefit of the party

> of the second part and the deed of sale already executed by the party of the second part in favor of the party pf the first part shall be cancelled, revoked, nullified and/or otherwise declared null and void without further force and effect.
>
> c) That the balance of P600,000.00 shall not bear interest, legal and/or otherwise."[3]

The Delta Project has been completed but defendant Dumulus did not settle the outstanding balance of P600,000.00 so Pedro Fajardo, through counsel, informed defendant Dumulus on September 25, 1999, that -

> "Since you agreed to pay such balance upon his claim being paid by DPWH (Delta Development Project) as of this date, January 7, 19947. However, if Delta Project will not push through then, the party of the first part has only two (2) month from knowledge or such information to pay the balance.
>
> Since the requirement of the Delta Project has long pushed thru and your claim has been paid by Delta, we are exercising the right to consider the agreement as NULL and VOID. We are implementing the self-revocation claims of the agreement. As of date, our client is taking immediate possession of the lot in question."

Without having fully paid the purchase price of the subject property, defendant Dumulus sold the same properties to spouses Lucio and Luisita Ignacio ("appellant spouses Ignacio") on December 29, 1999. Hence, the heirs of Pedro Fajardo namely: Monica, Rholand, Carlos, Pedie, Manuel, Christopher, Aquilina and Mayette ("appellees") filed a complaint for annulment of deed of absolute sale.

The Trial Court's Ruling

Subsequently, after the issues have been joined, a pre-trial conference was held on January 11, 2005. Thereafter, trial ensued. After due proceedings, the trial court rendered the assailed Decision ruling in favor of the appellees because -

> "In the instant case, the stipulations in the Agreement reflected the parties" intention to amend the Deed of Sale and make the same dependent on the terms and conditions stipulated in the Agreement. First, the parties agreed that as regards the consideration for the two lots, what will prevail is the amount stipulated in the Agreement and not the one reflected in the Deed of Sale executed on January 7, 1994. Second, the parties stipulated that:
>
> "x x x if the party of the second part is not paid the balance of P600,000.00 as indicated in the preceding number and/or paragraph, the downpayment of P200,000 shall be deemed forfeited in favor of the second part. All improvements made on the lots shall inure to the benefit of the party of the second part and the deed of sale already executed by the party of the second part in favor of the party of the first part shall be cancelled, revoked, nullified and/or otherwise declared null and void without further force and effect. (Underscoring supplied).
>
> From the foregoing stipulations, it can be easily discerned that the existence of the Deed of Sale executed on January 7, 1994, depended on the compliance of the written Agreement dated January 8, 1994.

xxx

> xxx Dumulus could not validly sell the subject lots for reason that he did not own the same. Basic is the principle that nobody can dispose of that which does not belong to him."

Hence, this appeal.

Assignment of Errors

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I

THE TRIAL COURT ERRED IN NOT DISMISSING THE COMPLAINT FOR A NUMBER OF FATAL DEFICIENCIES.

II

THE TRIAL COURT ERRED IN RULING THAT THE DEED OF SALE EXECUTED BY PEDRO FAJARDO IN FAVOR OF APPELLANT DUMULUS ON JANUARY 7, 1994 WAS SUPERSEDED BY THE AGREEMENT DATED JANUARY 8, 1994.

III

THE TRIAL COURT ERRED IN RULING THAT THE PAYMENT MADE BY APPELLANT DUMULUS IN THE AMOUNT OF P200,000.00 WAS FORFEITED AND THE SALE OF THE LOTS IN FAVOR OF APPELLANT DUMULUS WAS SET ASIDE.

IV

THE TRIAL COURT ERRED IN DECLARING THE DEED OF ABSOLUTE SALE EXECUTED BY APPELLANT DUMULUS IN FAVOR OF APPELLANT SPOUSES IGNACIO NULL AND VOID.

This Court's Ruling

Appellants Dumulus and spouses Ignacio argue that the death certificate of Pedro Fajardo was not presented and no proof of the relationship of appellees' with Pedro Fajardo was submitted. Therefore, without such proof, appellees' have no cause of action to file the instant complaint.

Contrary to the allegations of appellants Dumulus and spouses Ignacio, the death of Pedro Fajardo and that the appellees are the former's legal heirs have been admitted no less by them. We would like to refresh their memories and quote a portion of the stipulations and admissions made by both parties during the pre-trial, thus -

- The personal circumstances of the parties as stated in the complaint and the answer;

- The jurisdiction of the Court to proceed and hear the complaint;

- The fact of death of Pedro Fajardo;

- The plaintiffs are the compulsory heirs and legitimate sons and daughters of Pedro Fajardo;

- The controversy centers around two (2) parcels of land, both portions of Lot 281 situated at Poblacion, Masantol, Pampanga, with an area of 524 square meters more or less;

- A written agreement was executed the day after the deed of sale was executed;

- The receipt of the letter dated September 26, 1999;

- The residence of defendants Lucio F. Ignacio and Luisita G. Ignacio is adjacent to the lot in question.

Clearly, the foregoing admissions dispensed with the submission of any proof regarding the death of Pedro Fajardo and the existence of his heirs. Pre-trial admission in civil cases is one of the instances of judicial admissions explicitly provided for under Section 7, Rule 18 of the Rules of Court, which mandates that the contents of the pre-trial order shall control the subsequent course of the action, thereby, defining and limiting the issues to be tried. In Bayas, et. al. v. Sandiganbayan, et. al.,[4] the Supreme Court emphasized that:

> "Once the stipulations are reduced into writing and signed by the parties and their counsels, they become

> binding on the parties who made them. They become judicial admissions of the fact or facts stipulated. Even if placed at a disadvantageous position, a party may not be allowed to rescind them unilaterally, it must assume the consequences of the disadvantage."

We now go to the resolution of the merit of the case.

The document that spells out the nature of the transaction of the parties is the Agreement dated January 8, 1994. The Agreement superseded the Deed of Sale dated January 7, 1994. An agreement can be entered into without novating or supplanting existing contracts, but in this case, the irreconcilable incompatibility between the Deed of Sale and the Agreement inevitably resulted in extinctive novation.

A careful reading of the stipulations in the Agreement conveys the intent of the parties to enter into a contract to sell. Letter (b) of the the contract states that if the party of the second part is not paid the balance of P600,000.00 as indicated in the preceding number and/or paragraph, the downpayment of P200,000 shall be deemed forfeited in favor of the second part. All improvements made on the lots shall inure to the benefit of the party of the second part and the deed of sale already executed by the party of the second part in favor of the party of the first part shall be cancelled, revoked, nullified and/or otherwise declared null and void without further force and effect. Clearly, the intent is to reserve ownership in the seller, Pedro Fajardo, until the buyer, appellant Dumulus, pays in full the purchase price.

Appellants Dumulus and spouses Ignacio contend that the trial court erred in ruling that the failure of appellant Dumulus to settle his whole obligation of P800,000.00 resulted to the forfeiture of the downpayment of P200,000.00 in favor of Pedro Fajardo, and the setting aside of the Deed of Sale executed on January 7, 1994.

We disagree.

Records show that the DPWH project has long been concluded. Despite of that, the balance of P600,000.00 has not been settled. The failure of appellant Dumulus to pay the remainder of the purchase price, under the time agreed upon, constitutes a failure to perform his obligation under the Agreement and thus a ground for revocation of the first contract, the Deed of Sale.

Contracts are law between the parties, and they are bound by its stipulations.[5]

Appellants Dumulus' and spouses Ignacio's contention that the revocation of the Deed of Sale can only be done with judicial action likewise fails.

The applicable provision of law in instant case is Article 1191 of the New Civil Code which provides as follows:

> Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.
>
> The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.
>
> The Court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.
>
> This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law. (1124)

Pursuant to the above, the law makes it available to the injured party alternative remedies such as the power to rescind or enforce fulfillment of the contract, with damages in either case if the obligor does not comply with what is incumbent upon him. There is nothing in this law which prohibits the parties from entering into an

agreement that a violation of the terms of the contract would cause its cancellation even without court intervention.[6]

The rationale for the foregoing is that in contracts providing for automatic revocation, judicial intervention is necessary not for purposes of obtaining a judicial declaration rescinding a contract already deemed rescinded by virtue of an agreement providing for rescission even without judicial intervention, but in order to determine whether or not the rescission was proper. Where such propriety is sustained, the decision of the court will be merely declaratory of the revocation, but it is not in itself the revocatory act. Moreover, the vendor's right in contracts to sell with reserved title to extrajudicially cancel the sale upon failure of the vendee to pay the stipulated installments and retain the sums and installments already received has long been recognized by the well-established doctrine of 39 years standing. The validity of the stipulation in the contract providing for automatic rescission upon non-payment cannot be doubted. It is in the nature of an agreement granting a party the right to rescind a contract unilaterally in case of breach without need of going to court.[7]

All told, rescission under Article 1191 was inevitable due to petitioners' failure to pay the stipulated price within the original period fixed in the agreement.

Lastly, appellant Dumulus' reason that he was paying the balance of P600,000.00 on September 23, 1999 but Pedro Fajardo refused to accept it.

We are in full accord with the clear findings and apt ruling of the trial court, to wit -

> "There was no payment of the amount of P600,000.00 as consideration for the subject two lots. Defendants failed to show neither documentary nor testimonial proof of payment. Dumulus, who could have testified that he made the payment, if any, did not appear in court all throughout the proceedings notwithstanding that provision in the Joint Agreement executed between Dumulus and the Ignacio spouses on March 21, 2000, which states:
>
> 1. xxx should cases are (be) filed in court by Pedro S. Fajardo and (sic) Bernardo Dumulus is willing to testify in any forum should a case is (sic) filed by Pedro S. Fajardo against Sps. Lucio F. Ignacio and Luisia G. Ignacio.
>
> The most that defendants did was to try, through their lawyer, to tender payment to Fajardo, the amount of P600,000.00 in Planters Bank Cashier's Check No. 507036 on September 23, 1999. The tender of payment was refused by Fajardo. The refusal was proper not only because the tender of payment was made far beyond the period given the buyer (Dumulus) to pay the same, but also because, this was made by Luisita Ignacio who was not the buyer of the property, a total stranger to the transaction between Fajardo and Dumulus. There was no privity of contract between Luisita Ignacio and Fajardo.
>
> After that tender of payment on September 23, 1999 was refused, never was there any other tender of payment made and neither did anyone of the defendants consign the amount with the Court. Instead Atty. Venancio Viray who made the tender of payment, returned the refused Cashier's Check to Luisita Ignacio who, xxx encashed the same.
>
> The tender of payment made was not valid and did not result to payment. Tender of payment does not by itself produce legal payment, unless it is completed by consignation. A mere tender of payment, without consignation, is not enough to extinguish an obligation. xxx A valid consignation is made when the amount is consigned with the court within the required period or within a reasonable time thereafter. Absent a valid consignation, mere tender will not suffice to extinguish an obligation. Thus, in the instant case, the tender of payment of the amount of P600,000.00 was not valid."

Having declared the Deed of Sale dated January 7, 1994 by Pedro Fajardo to appellant Dumulus as revoked, the

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sale of the subject properties to appellant spouses Ignacio produced no legal effect. Since ownership of the subject properties was never transferred to appellant Dumulus but remained with Pedro Fajardo, it follows that no title to the same land could be conveyed by the former to appellant spouses Ignacio.

It is worthy to note that appellant spouses Ignacio, as buyers, have not proved their status as purchasers in good faith and for value of the land which, in the first place, appellant Dumulus had no right to sell. The burden of proving the status of a purchaser in good faith and for value lies upon him who asserts that status. In discharging the burden, it is not enough to invoke the ordinary presumption of good faith, that everyone is presumed to act in good faith. The good faith that is here essential is integral with the very status which must be proved. Instead, badges of bad faith reek in this case. Firstly, appellant spouses Ignacio, who resided adjacent to the subject properties, was well aware that it was appellees who were in possession of the subject properties, huge streamers were in fact put up by the appellees announcing to everyone that they own the subject properties and trespassing was prohibited; secondly, appellant spouses Ignacio was aware that the full purchase price agreed upon by seller Pedro Fajardo and appellant Dumulus was not complied with, for it was appellant Luisita Ignacio who tendered the payment for the balance of P600,000.00; thirdly; they knew that the tender of payment of P600,00.00 was not accepted by Pedro Fajardo; and fourthly, they knew that non-payment of the full purchase price of P800,000.00, upon the lapse of the period agreed upon, would cause the automatic revocation of the deed of sale. Despite all the foregoing, appellant spouses Ignacio went right ahead and bought the subject properties from appellant Dumulus. Hence, We declare the deed of absolute sale executed by appellant Dumulus in favor of appellant spouses Ignacio null and void.

WHEREFORE, the May 8, 2009 Decision of the Regional Trial Court, Branch 54, of Macabebe, Pampanga is AFFIRMED in toto.

SO ORDERED.

De Guia-Salvador (Chairman) and Garcia, JJ., concur.

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[1] Records, pp.286-295.

[2] Id. at 10.

[3] Id. at 67.

[4] G.R. Nos. 143689-91, November 12, 2002.

[5] Spouses Garcia vs. Court of Appeals, G.R. No. 172036, April 23, 2010.

[6] Spouses Garcia vs. Court of Appeals, G.R. No. 172036, April 23, 2010.

[7]Ibid.

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