

CIRILO PAREDES, PLAINTIFF-APPELLANT, VS. JOSE L. ESPINO, DEFENDANT-APPELLEE.

G.R. No. L-23351. March 13, 1968

Ponente: REYES, J.B.L., Acting C.J.

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REYES, J.B.L., Acting C.J.:

Appeal from an order of the Court of First Instance of Palawan in its Civil Case No. 453, granting a motion to dismiss the complaint.

Appellant Cirilo Paredes had filed action to compel defendant-appellee Jose L. Espino to execute a deed of sale and to pay damages. The complaint alleged that the defendant "had entered into the sale" to plaintiff of Lot No. 67 of the Puerto Princesa Cadastre at P4.00 a square meter; that the deal had been "closed by letter and telegram" but the actual execution of the deed of sale and payment of the price were deferred to the arrival of defendant at Puerto Princesa; that defendant upon arrival had refused to execute the deed of sale although plaintiff was able and willing to pay the price, and continued to refuse despite written demands of plaintiff; that as a result, plaintiff had lost expected profits from a resale of the property, and caused plaintiff mental anguish and suffering, for which reason the complaint prayed for specific performance and damages.

Defendant filed a motion to dismiss upon the ground that the complaint stated no cause of action, and that the plaintiff's claim upon which the action was founded was unenforceable under the Statute of Frauds.

Plaintiff opposed in writing the motion to dismiss and annexed to his opposition a copy of a letter purportedly signed by defendant (Annex "A"), wherein it was stated (Record on Appeal, pp. 19-20) –

"106 Gonzaga St.

Tuguegarao, Cagayan

May 18, 1964

Mr. Cirilo Paredes

Pto. Princesa, Palawan

Dear Mr. Paredes:

So far I received two letters from you, one dated April 17 and the other April 29, both 1964. In reply thereto, please be in-formed that after consulting with my wife, we both decided to accept your last offer of Four (P4.00) pesos per square meter of the lot which contains 1826 square meters and on cash basis.

In order that we can facilitate the tran-saction of the sale in question, we (Mrs. Es-pino and I) are going there (Puerto Princesa, Pal.) to be there during the last week of the month, May. I will send you a telegram, as per your request, when I will reach Manila before taking the boat for Pto. Princesa. As it is now, there is no schedule yet of the boats plying between Manila and Pto. Princesa for next week."

Plaintiff also appended as Annex "A-1", a telegram apparently from defendant advising plaintiff of his arrival by boat about the last week of May 1964 (Annex "A-1", Record on Appeal, p. 21), as well as a previous letter of defendant (Appendix B, Record on Appeal, p. 35) referring to the lot as the one covered by Certificate of Title No. 62.

These allegations and documents notwithstanding, the Court below dismissed the complaint on the ground that there being no written contract, under Article 1403 of the Civil Code of the Philippines –

"Although the contract is valid in itself, the same can not be enforced by virtue of the Statute of Frauds."
(Record on Appeal, p. 37).

Plaintiff duly appealed to this Court.

The sole issue here is whether enforcement of the contract pleaded in the complaint is barred by the Statute of Frauds; and the Court a quo plainly erred in holding that it was unenforceable.

The Statute of Frauds, embodied in Article 1403 of the Civil Code of the Philippines, does not require that the contract itself be in writing. The plain text of Article 1403, paragraph (2) is clear that a written note or memorandum, embodying the essentials of the contract and signed by the party charged, or his agent, suffices to make the verbal agreement enforceable, taking it out of the operation of the statute.

"ART. 1403. - The following contracts are unenforceable, unless they are ratified:

(1) x x x

(2) Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or sane note or memorandum thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing or a secondary evidence of its contents:

xxx xxx xxx

(e) An agreement for the leasing for a longer period than one year, or for the sale of real property or of an interest therein.

xxx xxx xxx."

In the case at bar, the complaint in its paragraph 3 pleads that "the deal had been closed by letter and telegram" (Record on Appeal, p. 2), and the letter referred to was evidently the one copy of which was appended as Exhibit A to plaintiff's opposition to the motion to dismiss. This letter, transcribed above in part, together with that one marked as Appendix B, constitute an adequate memorandum of the transaction. They are signed by the defendant-appellee; refer to the property sold as a lot in Puerto Princesa, Palawan, covered by T.C.T. No. 62; give its area as 1826 square meters and the purchase price of Four (P4.00) pesos per square meter payable in cash. We have in them, therefore, all the essential terms of the contract, and they satisfy the requirements of the Statute of Frauds. We have ruled in *Berg vs. Magdalena Estate Inc.*, 92 Phil. 110, 115, that a sufficient memorandum may be contained in two or more documents.

Defendant-appellee argues that the authenticity of the letters has not been established. That is not necessary for the purpose of showing prima facie that the contract is enforceable. For as ruled by us in *Shaffer vs. Palma*, G.R. No. L-24115, March 1, 1968, whether the agreement is in writing or not, is a question of evidence; and the authenticity of the writing need not be established until the trial is held. The plaintiff having alleged that the contract is backed by letter and telegram, and the same being a sufficient memorandum, his cause of action is

thereby established, especially since the defendant has not denied the letters in question. At any rate, if the Court below entertained any doubts about the existence of the written memorandum, it should have called for a preliminary hearing on that point, and not dismissed the complaint.

WHEREFORE, the appealed order is hereby set aside, and the case remanded to the Court of origin for trial and decision. Costs against defendant-appellee Jose L. Espino.

SO ORDERED.

Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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