

**LEON DE GUZMAN AND GENOVEVA RODRIGUEZ DE GUZMAN,
PLAINTIFFS AND APPELLANTS, VS. FRANCISCA T. GUIEB AND
MACARIO P. GUIEB, DEFENDANTS AND APPELLEES.**

G.R. No. L-28862. November 24, 1972

Ponente: BARREDO, J.

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BARREDO, J.:

Appeal from a judgment of the Court of First Instance of Manila in its Civil Case No. 58116, an action for quieting of title over a home-lot, originally taken to the Court of Appeals but certified by said appellate court to this Court, the issues raised by appellants being purely legal ones.

The trial court's decision dismissing appellants' complaint is based on the following stipulation of facts:

"COME NOW the parties in the above-entitled case, through their respective counsel, and unto this Honorable Court, respectfully submit the following Stipulation of Facts:

"1. That on June 17, 1948, the defendants, as bona fide tenants of the then Ana Sarmiento Estate, acquired the right to purchase the parcel of land subject matter of this case. An Agreement to Purchase and Sales was duly executed between the Bureau of Lands (which Bureau and later the Land Tenure Administration administered the Ana Sarmiento Estate when the government acquired the said estate for re-sale to bona fide tenants of the same) and the defendants on June 17, 1948;

"2. That on November 20, 1954, defendants, for and in consideration of the sum of Four Thousand (P4,000.00) Pesos, executed a Deed of Sale, selling, transferring and conveying all the defendants' right under the aforesaid agreement to sell, dated June 17, 1948 over the property subject of this case to Teodoro de Guzman (son of the plaintiffs) as shown in the original copy of the said deed of sale hereto attached and made a part hereof as Exhibit 'A' for the plaintiff; and that on November 22, 1954, the Director of Land approved the aforesaid transfer of the property in question to Teodoro de Guzman as per letter of the Director of Land, hereto attached marked as Annexes 'B' and 'B-1'; and that on the same date, November 20, 1954 and simultaneously with the execution of the deed of sale, Exhibit 'A', Teodoro de Guzman and defendant Francisca Torres Guieb executed an 'Option to Purchase Real Property,' said option to purchase real property referring to the same property subject of the deed of sale. A duplicate original of the option is hereto attached and made a part hereof as Exhibit 'B' for the plaintiffs and as Exhibit "1" for the defendants. The option period was for five (5) years from November 20, 1954 and was to expire on November 21, 1959;

"3. That the Director of Land executed a Deed of Absolute Sale in favor of Teodoro de Guzman, son of the plaintiffs, which Deed of Sale was registered in the Office of the Register of Deeds for the City of Manila and Transfer Certificate of Title No. 38058 was issued in his (Teodoro de Guzman) name with the corresponding lien and encumbrance, stating that the property cannot be sold, mortgaged or encumbered to any other persons or entities within the period of five (5) years without the written consent of the Land Tenure Administration, which is annotated on the back of the said title; and that on January 1955, the City Assessor of Manila transferred the tax declarations of the said parcel of land in question together with all the improvements in the name of Teodoro de Guzman, as per notice hereto attached and made part hereof as Exhibits 'C' and 'C-1'

for the plaintiffs;

“4. That during the period of five years within which defendant Francisca Torres Guieb could exercise the option to purchase the property as provided in Exhibit '1', said defendants paid all the rentals as shown in the receipts, photostatic copies of which are hereto attached and made parts hereof as Exhibits '2', '3', '4', '5', '6', '7', '8', '9', '10', '11', '12', '13', '14' and '15' of the defendants. All the said exhibits, with the exception of Exhibits '6', '11' and '12', (which were respectively signed by Caridad de Guzman, sister of Teodoro de Guzman and Leon de Guzman, father of Teodoro) were prepared by Teodoro de Guzman and invariably signed by him with the signatures and names 'Teodoro de Guzman,' 'T. R. Guzman' and 'Teodoro R. de Guzman.' The parties agree however, that as shown by Exhibits '8' to '13' inclusive, defendants were not up to date in the payment of the P40.00 monthly rental for the reason that during the period June 20, 1955 to June 20, 1959, defendants failed to pay the rental for more than six (6) successive months. It is a fact however that at the end of the option period, November 21, 1959, as shown by Exhibit '15', all the rentals covering the five (5) year option period were and had been fully paid by defendants;

“5. That on June 1959, the defendant Francisca T. Guieb and Teodoro R. de Guzman signed a document also entitled 'Option to Purchase Real Property,' said option to purchase real property referring to the same property subject matter in this case, a duplicate signed copy of which is hereto attached and made a part hereof as Exhibit 'D' for the plaintiff. Said option to purchase being exactly in the same tenor, words and figures as the same option to purchase Exhibit '1' except for the date ‘_th day of June, 1959' and the fact that the same is not notarized and is without the signatures of witnesses;

“6. That on October 5, 1959, Teodoro de Guzman, signing as 'Teodoro R. de Guzman' signed a document also entitled 'Option to Purchase Real Property,' the original of which is hereto attached and made a part hereto as Exhibit '16' for the defendants, said option to purchase being exactly in the same tenor, words and figures as the first option to purchase Exhibit '1' for defendants and Exhibit 'D' for plaintiffs, except for the date ‘5th day of October, 1959' and the fact that the second option to purchase, Exhibit '16', is likewise without the signatures of witnesses and not notarized;

“7. That after the execution of the second option to purchase real property, Exhibit '16', defendants continued to pay the monthly rentals of P40.00 to Teodoro de Guzman and upon his death on March 20, 1964, to the plaintiffs, as shown by Exhibits '15', '17', '18', '19' and '20'. All the rentals from November 21, 1959 to July 20, 1964, were paid, although as shown in Exhibit '19', it was only on July 21, 1964 that defendants paid the rentals for the past 45 months counting backwards from July 21, 1964;

“8. That Teodoro de Guzman died on March 20, 1964. His parents, plaintiffs herein, thereafter executed an extrajudicial partition on April 25, 1964 over the estate left by the said Teodoro R. de Guzman, of which the property subject of this case formed part. Transfer Certificate of Title No. 75800 of the Registry of Deeds of Manila was thereafter issued in the names of the plaintiffs on July 13, 1964 with the lien and encumbrance still appearing that the property in question cannot be sold, transferred or encumbered to any other person without the written consent of the Land Tenure Administration annotated at the back of the said title;

“9. That on July 31, 1964, defendant went to the residence of plaintiffs and advised plaintiff Genoveva Rodriguez, her husband Leon de Guzman being then out of their residence, that she was exercising and did exercise the right and option to purchase the property by tendering payment in cash to Genoveva Rodriguez the sum of Four Thousand Forty (P4,040.00) Pesos, P4,000.00 of which was for the purchase price of the property as provided in Exhibit '16', and the sum of P40.00 corresponding to the rental for the period from July 21, 1964 to August 20, 1964. On the said occasion defendant also tried to deliver to defendant Genoveva Rodriguez a letter dated July 30, 1964, copy of which is hereto attached and made a part hereof as Exhibit '21' for defendants. Plaintiff Genoveva Rodriguez refused to accept the P4,040.00 and also refused to receive the letter Exhibit '21';

“10. That defendant Francisca Torres Guieb on August 4, 1964, by registered special delivery mail, sent to

plaintiffs a letter, copy of which is hereto attached and made a part hereof as Exhibit '21', the said letter having been received by plaintiffs on August 5, 1964;

"11. That on August 5, 1964 defendant Francisca Torres Guieb duly filed with the Register of Deeds for the City of Manila, an Adverse Claim over the property subject hereof and that plaintiffs were duly notified by the Register of Deeds of Manila of the said Adverse Claim as shown in Annex 'A' of plaintiffs' complaint. The Adverse Claim is duly annotated on the back of Transfer Certificate of Title No. 75800.

"12. That on September 15, 1964 defendant filed Civil Case No. 126601 in the City Court of Manila against the plaintiffs for specific performance with consignment, which case is now pending trial before Branch VIII of the City Court of Manila with the agreement that the said case be held in abeyance pending a final decision in the instant case. As shown in Official Receipt No. 048717-I, dated September 15, 1965 issued by the Treasurer of Manila, photostatic copy of which is hereto attached and made a part hereof as Exhibit '23' for the defendants, defendants duly consigned with the City Court of Manila, the sum of P4,040.00 the sum which plaintiff Genoveva Rodriguez refused to accept when it was tendered to her on July 31, 1964 by defendants;

"13. That on October 22, 1964, the plaintiff Leon de Guzman filed an ejectment case against the defendants herein in the City Court of Manila, Branch II, for non-payment of rentals from August 1964, Civil Case No. 128123, which case is also pending, awaiting a final decision in the instant case;

"14. That plaintiffs or their predecessor in interest were never in actual physical possession of the property involved in this litigation;

"15. That defendants' third counterclaim against the plaintiffs is based on a private document entered into by defendants and one, Antonio Jocson, a signed copy of which document is hereto attached and made a part hereof as Exhibit '24' for the defendants;

"16. That the parties agree that the previous markings of their exhibits as attached to their respective pleadings be disregarded and that the markings of the exhibits as stated in this stipulation shall be the one to be followed."

Upon these facts, His Honor held:

"(1) Whether the option to purchase real pro-property, contained in Exhibit 1, was renewed in the option to purchase real property, Exhibit 16;

"(2) Whether upon failure of defendants to pay rentals for forty five (45) months, their right to exercise the option to purchase real property was extinguished.

"The parties agreed to submit the case for decision on the strength of the documentary evidence submitted, together with the STIPULATION OF FACTS. (Exhibits A, B, B-1, C, C-1, D, and Exhibits 1 to 24, inclusive, and the respective memorandum.)

"Under Exhibit 1, Teodoro de Guzman, now deceased, the predecessor in interest of the plaintiffs, granted to defendant Francisca Guieb the right and option to purchase the property in question within five (5) years from November 20, 1954 for the same sum of P4,000.00 which was the amount paid by Teodoro de Guzman to defendant Francisca Guieb as consideration for the sale of the property to him. The five-year period was to expire on November 20, 1959. Prior to the end of the five-year period, defendants had been in arrears in the payment of the rentals provided for in the OPTION TO PURCHASE REAL PROPERTY. Defendants were in arrears for periods between (6) months to two (2) years (Exhibits 8 to 13). However, in a document entitled 'OPTION TO PURCHASE REAL PROPERTY,' Exhibit D, executed in June, 1959 by Teodoro de Guzman and Francisca Guieb, the latter was given another option to purchase real property with the same right or option as was given under the original option, Exhibit 1. On October 5, 1959, Teodoro de Guzman and Francisca Guieb executed another option to purchase real property, said option being exactly of the same tenor

and in the same words and figures as the first option, Exhibit 1. However, prior to the expiration of the option period provided in Exhibit 1, all the rentals in arrears were paid. Teodoro de Guzman did not demand that defendants vacate the property despite failure to pay rentals for as long a period as two (2) years. As a matter of fact, de Guzman signed in June and October, 1959 the options to purchase real property, Exhibits D and 16, respectively.

"As provided in the option, Exhibit 16, defendants had until October 5, 1964 within which to exercise the option to purchase the property in question. Prior thereto, defendants were in arrears in the payment of the rentals for more than six (6) consecutive months. Neither Teodoro de Guzman nor his successors in interest took any steps to eject defendants for violation of the option agreement. As a matter of fact, they continued to receive the rentals which were made up-to-date on July 21, 1964. On July 21, 1964, defendants exercised the option to purchase the property by tendering in cash the total sum of P4,040.00, P4,000.00 of which was for the purchase price of the property and P40.00 corresponding to the rental for the period July 31, 1964 to August 20, 1964. As plaintiffs refused to accept the tender of payment, defendants consigned the same in court.

"It is undeniable that although defendants were in arrears in their payment of the rentals for more than six (6) consecutive months, Teodoro de Guzman and Francisca Guieb signed and executed two options, Exhibits D and 16. This was an indication that the parties respected the right of Francisca Guieb to purchase the property in question provided that at the time of the exercise of the option, all rentals were paid and that the consideration agreed upon in the option agreement were likewise paid.

"It cannot be denied that the conduct of Teodoro de Guzman, and after his death his successors in interest, the plaintiffs, in accepting the payment of rentals despite long periods of arrearages and their failure to take steps to eject defendants from the property in question, constituted a waiver of the conditions in paragraph 3 of the option agreement. It will be noted that an ejectment suit was initiated against herein defendants only on October 22, 1964 or after this action had been filed.

"While it is true that Exhibit 16 is not a public document, unlike Exhibit 1, however, the contracting parties in Exhibit 16 are the same as those who executed Exhibit 1. Furthermore, under Article 1403, Civil Code, all that is required is that there be some note or memorandum in writing. Hence, Exhibit 16 is binding upon Teodoro de Guzman and his successors in interest, the plaintiffs herein." Now come the appellants and contend that:

"ASSIGNMENT OF ERRORS

I

THE TRIAL COURT ERRED IN HOLDING THAT WHILE IT IS TRUE THAT EXHIBIT 16 IS NOT A PUBLIC DOCUMENT, UNLIKE EXHIBIT 1, HOWEVER, THE CONTRACTING PARTIES IN EXHIBIT 16 ARE THE SAME AS THOSE WHO EXECUTED EXHIBIT 1. FURTHERMORE, UNDER ARTICLE 1403, CIVIL CODE, ALL THAT IS REQUIRED IS THAT THERE BE SOME NOTE OR MEMORANDUM IN WRITING. HENCE EXHIBIT 16 IS BINDING UPON TEODORO DE GUZMAN AND HIS SUCCESSORS IN INTEREST, THE PLAINTIFFS HEREIN.

II

THE TRIAL COURT ERRED IN HOLDING THAT IT CANNOT BE DENIED THAT THE CONDUCT OF TEODORO DE GUZMAN, AND AFTER HIS DEATH HIS SUCCESSORS IN INTEREST, THE PLAINTIFFS, IN ACCEPTING THE PAYMENT OF RENTALS DESPITE LONG PERIODS OF ARREARAGES AND THEIR FAILURE TO TAKE STEPS TO EJECT DEFENDANTS FROM THE PROPERTY IN QUESTION, CONSTITUTED A WAIVER OF THE CONDITIONS IN PARAGRAPH 3 OF THE OPTION AGREEMENT. IT WILL BE NOTED THAT AN EJECTMENT SUIT WAS INITIATED AGAINST HEREIN DEFENDANTS ONLY ON OCTOBER 22, 1964 OR AFTER THIS ACTION HAD

BEEN FILED.

III

THE TRIAL COURT ERRED IN NOT: (1) DECLARING THAT THE DEFENDANTS HAVE NO TITLE TO OR INTEREST OF ANY KIND IN SAID REAL PROPERTY IN QUESTION INCLUDING ALL IMPROVEMENTS THEREIN; AND THAT THE TITLE OF THE PLAINTIFFS THERETO IS VALID BINDING AS AGAINST THE WHOLE WORLD; (2) ORDERING THAT THE DEFENDANTS BE PERPETUALLY RESTRAINED FROM ASCERTAINING THEIR SUPPOSED RIGHT TO SAID REAL PROPERTY IN QUESTION AND ALL ITS IMPROVEMENTS; AND (3) TO PAY THE PLAINTIFFS THE SUM OF P500.00 AS ATTORNEY'S FEES AND TO PAY THE COSTS."

In their first assignment of error, it is the position of appellants that the "Option to Purchase Real Property" dated October 5, 1959 cannot be considered as a renewal of the first "Option" dated November 20, 1954 "as the same is not duly acknowledged before a notary public and not signed in the presence of witnesses" and because if it were such a renewal, "it should have been executed on November 29, 1959, the date of the expiration" of the first option, and, furthermore, because there is no statement therein saying that it is a renewal. It is obvious that this posture is without merit. To be effective as an option, there was no need at all that the document of October 5, 1959 be a renewal of the first option, for there is no reason why it cannot be considered as another option by itself. In fact, nowhere in the appealed decision does it appear that the trial court took it as a renewal. And since there is no dispute that it is genuine, as very well pointed out by His Honor, it constitutes an enforceable agreement under Article 1403 (2) of the Civil Code, or the Statute of Frauds, the same being at least a note or memorandum, in writing, of the agreement of the parties and signed by the party charged, in this case, Teodoro de Guzman, the predecessor in interest of appellants.

Appellants' second assignment of error is equally untenable. In effect, the contention of appellants is that the failure of appellees to pay the stipulated rentals for long periods, particularly, those for the forty-five months they paid only on July 21, 1964, rendered their option null and void under the following provision of the option agreement, Exhibit 16:

"3. That the Grantee shall pay to the Grantor a monthly rental of P40.00 per month payable within the first ten (10) days of every month and failure of the Grantee to pay said rentals for six (6) consecutive months shall render this option to purchase null and void and the Grantee shall immediately vacate the premises."

But appellants do not deny that in spite of the long arrearages, neither they nor their predecessor, Teodoro de Guzman, ever took steps to cancel the option or to eject the appellees from the home-lot in question. On the contrary, it is admitted that the delayed payments were received without protest or qualification. True, appellants did file an ejectment case against appellees in the City Court of Manila on October 22, 1964, but this was after appellees had already gone to their residence on July 31, 1964 tendering the purchase price and the current rental and had followed up said visit with a registered letter on August 4, 1964 with the same objective. Under these circumstances, We cannot but agree with the lower court that at the time appellees exercised their option, appellants had already forfeited their right to invoke the above-quoted provision regarding the nullifying effect of the non-payment six months rentals by appellees by their having accepted without qualification on July 21, 1964 the full payment by appellees of all their arrearages.

The third assignment being a mere corollary of the first two which We have already overruled needs no discussion.

IN CONSEQUENCE OF ALL THE FOREGOING, the judgment appealed from is affirmed, with costs against appellants.

Concepcion, C.J., Zaldivar, Castro, Fernando, Teehankee, Makasiar, Antonio, and Esguerra, JJ., concur.
Makalintal, J., on official leave.

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