

MIGUEL TOLENTINO, PETITIONER, VS. PHILIPPINE LAND IMPROVEMENT CO., INC., FEDERICO C. VIDUYA AND LIM BUN HIOC, RESPONDENTS.

G.R. No. L-2469. September 30, 1950

Ponente: BENGZON, J.

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BENGZON, J.:

This is a petition for revision of the judgment of the Court of Appeals affirming the decision of the court of first instance that dismissed the complaint of the herein petitioner Miguel Tolentino.

According to the appellate court,

"On January 28, 1935, the defendant Philippine Land Improvement Co., Inc., agreed to sell, transfer and convey to the plaintiff a lot situated at the corner of Rizal Avenue Extension and Chico Road, Malabon, Rizal, and a house built thereon, and the latter agreed to pay to the former therefor the total sums of P3,239.60 and P9,920.00, respectively, in equal monthly instalments of P26.16 and P66.83 for a period of ten years x x . Upon the execution of the contracts the plaintiff herein took possession of the property. It was specifically provided in the contracts (Paragraph 9) that if the purchaser should be in default in the payment of the monthly instalments for ninety (90) days, the company may rescind the contract and take immediate possession of the property, the purchaser thereby losing all the amounts theretofore paid on account of the purchase price. On Nov. 25, 1941, plaintiff was in arrears in the payment of 23 monthly instalments for the lot and 24 monthly instalments for the house. Having been previously elected Representative of Batangas in the elections of November, 1941j he wrote a letter to the defendant on December 1, 1941, stating that he was 'ready and willing to assign part of my salary (as Congressman) x x x for four years, namely, 1942, 1943, 1944 and 1945, respectively, to fully cover the total sum due.1 (Record on Appeal, p. 4.) The defendant company agreed to the plaintiff's proposition and answered on December 19, 1941, that the monthly instalment that plaintiff would pay for the next four years would be P215.83 for both lot and house (Record on Appeal, pp. 5-6), which instalments would amount to the total price due, including the taxes. Plaintiff did not reply to this answer. Neither did he, nor could he, make the proposed assignment of parts of his salary as Congressman, because the war came. Before Congress could convene or organize, the Japanese Army had invaded Luzon and it occupied Manila on January 1, 1942.

"Plaintiff continued in possession of the house during the year 1942, but he made absolutely no payment on account of the purchase price. On January 19, 1943, the defendant company advised the plaintiff that the latter was in default in the payment of the instalments totalling P4,679.38 for both the house and lot. And it demanded payment of at least P395.25 for the insurance and taxes, and P200.00 for instalments overdue on or before January 31, 1943, otherwise it would cancel the contract, in accordance with Paragraph 9 of the same (Exhibit 1-Viduya). Plaintiff apparently received the letter, but he neither answered the company's demand nor made any payment on account thereof. So on February 17, 1943, defendant company wrote him a letter (Exhibit 3-Viduya) informing him that it had cancelled its contracts with plaintiff as of February 15, 1943.

"In the month of March, 1943, plaintiff called at defendant's office and expressed his desire to repurchase the

property. He was granted a period of 15 days to do so at the price of P13,159.60, upon a down payment of P1,000.00 but he did not make the down payment of the repurchase (see Exhibit 2-Viduya). On May 14, 1943, the defendant Federico C. Viduya offered to purchase the property, and the defendant company accepted the offer. Viduya paid for the property on May 18, 1943. The company thereupon informed plaintiff by letter dated May 19, 1943, that the property had been sold to Federico C. Viduya and requested him to vacate the house (Exhibit H). x x. On December 13, 1943, Viduya sold the property to the defendant Lim Bun Hioc, x x. It is prayed in the complaint, as amended on April 20, 1945, that the amount consigned be accepted as full and complete payment for the lot and the house in question, and that the defendant company be required to execute a final deed of sale in his favor and that the sale in favor of Viduya and that executed by the latter in favor of Lim Bun Hioc be cancelled, and that in the meanwhile defendants pay rentals to him at P200 a month; x x. The legal basis upon which plaintiff predicates his action is that if he was unable to effect the assignment of his salary, this was due to force majeure, i. e., the war and the occupation of Manila by the Japanese military forces on January 2, 1942.

"The defendant Federico C. Viduya answered the complaint alleging that he bought the property after assurance from his co-defendant, Philippine Land Improvement Co., of peaceful possession and ownership, and that he was willing to resell the property to plaintiff, but that the latter defaulted in making the payment on time. The defendant Philippine Land Improvement Co. alleged in its answer that its counter-offer, in reply to the proposed assignment, was never accepted by plaintiff; that plaintiff did not comply with the terms of the contract or have any reason, valid or otherwise, for not complying with the original terms or with his own offer or assignment of salary; and that it has no knowledge of the alleged improvements. As special defense it alleged that it cancelled the contracts by virtue of their clauses because of arrears and defaults in the payment of instalments. The defendant Lim Bun Hioc denies the allegations of the complaint and alleges as special defense that he purchased the property in good faith, for value, and without notice of any defect in vendor's title, or of any allegation relative to the same, x x."

The Court of Appeals held that because Miguel Tolentino had made absolutely no payments during the year 1942, the defendant Philippine Land Improvement Company had a right to cancel, and cancelled, its contracts with him in February, 1943.

The petitioner's contention in his first assignment of error is that inasmuch as the Philippine Land Improvement Company had agreed to let him pay the instalments by assignment of his salary as Representative, and inasmuch as he could not make the assignment by reason of the war, his failure to deliver the instalments was excused, and therefore the said company had no legal motive to cancel the contracts.

It will be observed that Tolentino's letter merely offered (without any particulars) to assign part of his salary to fully cover the total sums due; and that the Company's letter expressing willingness to accept assignment of salary particularized the monthly instalments to be ceded during the next four years. The instalments were bigger than the amounts originally fixed in the contracts. Tolentino never agreed to the specified bigger instalments, because he did not reply to the letter and never paid any instalment in compliance therewith. It is, therefore, to be doubted whether the counter-offer contained in the letter of the Company had been so accepted as to be binding upon it and the petitioner.

Anyway, supposing there was a definite agreement as to assignment, this Court's opinion is that the Philippine Land Improvement Company merely agreed to permit petitioner to make payments of the instalments by means of periodical cessions of his salary. It never stipulated that payment shall be made exclusively by such assignments or that payments shall thereafter be made out of petitioner's salary. Therefore when petitioner could not make the assignments, it was his duty to make payment by other means.

The most that petitioner could assert is that the war released him from the obligation to make assignments or

payment of greater instalments under the new arrangement; but then he will have to admit that his obligation to make payments under the original contract automatically arose. And yet he never paid any single instalment nor any amount of money after the alleged new agreement. Hence the right of the company to revoke its contracts with petitioner in accordance with their terms of forfeiture, which terms, by the way; were not affected nor modified by the agreement as to assignment.

The petitioner himself believed that the company had a right to cancel, because in March, 1943, i.e., after the cancellation, he proposed the repurchase of the property, and the company agreed to resell it to him at a total price of P13,159.60 with a down payment of P1,000.00. Unluckily he could make no down payment and the repurchase fell through. Wherefore, it is now too late for him to question the cancellation, inasmuch as he practically ratified it, and the company, believing he had acquiesced in its effectiveness, subsequently sold the property to Federico C. Viduya, a purchaser in good faith.

Consequently the Court of Appeals committed no error in upholding the cancellation of the sale made by the Philippine Land Improvement Company.

The second assignment of error, invoking the moratorium decrees, has no merit. This is not an action seeking to enforce payment of a defendant's debt. Nobody is requiring petitioner to satisfy a monetary obligation. And the moratorium decrees do not have the effect of condoning forfeitures accruing during the Japanese occupation through non-payment of obligations, (cf. Barrozo v. Macaraeg, G.R. No. L-1282, promulgated April 25, 1949).

The third, fourth, fifth and sixth errors refer to the alleged mistake of the Court of Appeals in refusing to annul the sale made by Viduya to Lim Bun Hioc on the ground that the latter as a Chinese citizen had no capacity to acquire the land. It is unnecessary to go into this matter inasmuch as the petitioner has established no right to the return of the property, and has no legal interest in the alleged invalidity of the conveyance by Viduya to Lim Bun Hioc. To all intents and purposes he is a stranger to it, like any other Philippine citizen.

In view of all the foregoing, we find no prejudicial error in the decision of the appellate court. Wherefore, the petition for certiorari is dismissed and the decision is affirmed, with costs.

Ozaeta, Paras, Pablo, Tuason, Montemayor, and Reyes, JJ., concur

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