HEIRS OF THE LATE JUAN AND JUANA GODEN REPRESENTED BY SOFRONIO GODEN DIZON, ALEJANDRO GODEN LORA AND/OR SEVERA GODEN SOLIS, PLAINTIFFS-APPELLEES, VS. SPOUSES BIENVENIDO AND FLOR...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal on the Decision[1] of the Regional Trial Court (RTC), Branch 39, Sogod, Southern Leyte in Civil Case No. R-111-C dated October 27, 2011 adjudging plaintiffs-appellees as the true owner and the ones entitled to the possession of the two parcels of land subject of the case; declaring the Deed of Absolute Sale dated May 30, 1979 by Arcadio Goden over ½ portion of the second parcel in favor of defendants-appellants as null and void for lack of consideration; declaring the area covered by the sale and occupied by defendants-appellants as owned pro-indiviso by plaintiffs-appellees; ordering defendants-appellants to vacate the portion they occupied and turn-over the possession of the two parcels of land to plaintiffs-appellees; and condemning defendants-appellants to pay damages, attorney's fees and costs of suit to plaintiffs-appellees.

The Antecedents

Plaintiffs-appellees, the Heirs of the Late Juan and Juana Goden (the Heirs of Goden), filed a case[2] for accion publiciana with damages against defendants-appellants Spouses Bienvenido and Florencia Diapolit (Spouses Diapolit). The suit was mainly for the recovery of two parcels of agricultural lands which were both situated in Magcot, Mac, Sogod, Southern Leyte. According to the Heirs of Goden, they were the grandchildren of Spouses Juan and Juana Goden (Spouses Goden) and their parents, Hilario, Narcisa, Catalina, Arcadio and Sofia, all surnamed Goden, were the five children of the said spouses. Their predecessors were all deceased.

During the lifetime of Spouses Goden, they owned the two parcels of land subject of the suit. The first parcel (Parcel 1) contained an area of 3.2575 hectares and covered by Tax Declaration (TD) No. 23029.[3] Meanwhile, the second parcel (Parcel 2) contained an area of 2.3258 hectares and Spouses Goden acquired this latter property from Crispolo Achecoso (Achecoso). The record of Parcel 2 was not yet transferred and the tax declaration[4] for the said lot was still in the name of Achecoso.

During their lifetime, Spouses Goden occupied and cultivated the two parcels. After their death, their heirs agreed to appoint Placido Ramis, Spouses Goden's son-in-law and the husband of Catalina Goden, as administrator of the properties. Sometime in 1952, however, Placido and Catalina moved over to Mindanao and left the administration of the properties to the family of Narcisa Goden (Narcisa). In about 1986 or 1987, the heir of Narcisa who was designated to personally cultivate the land and the abaca plants growing thereon, was constrained to avoid visiting the properties due to the active movement of communist rebels within the area which was situated in the outskirts of Mac, Sogod, Southern Leyte.

In about 1990 to 1991, the Heirs of Goden were surprised to find out that Spouses Diapolit were already in possession of the lands and were harvesting the abaca produce without their consent. The Heirs of Goden were

not able to immediately make a collective concrete step to recover possession of the properties from Spouses Diapolit since they had already settled in various parts of the country. Nonetheless, the Heirs of Goden repeatedly made verbal demands upon Spouses Diapolit to vacate the properties and turn these over to them. Spouses Diapolit, however, refused to peacefully settle with them even when the matter was brought to the Lupong Tagapamayapa of Mac, Sogod, Southern Leyte. Hence, the heirs of Goden brought the suit seeking not only to recover the possession of the properties from Spouses Diapolit, but also for payment by the latter of damages representing the proceeds of the abaca harvests, damages and the costs of the suit.

Spouses Diapolit filed their Answer.[5] In gist, the same averred that by virtue of a private instrument denominated as a Deed of Absolute Sale[6] (deed of sale), Arcadio Goden (Arcadio) sold one half (½) portion of Parcel 2 to Bienvenido Diapolit (Bienvenido) on April 30, 1979 for Five Thousand Pesos (P5,000.00). Since then, Spouses Diapolit had possessed an area of a little more than 1 hectare of Parcel 2. Spouses Diapolit denied that the lands had abaca growing thereat, as according to them, they were the ones who rehabilitated and replanted the area after it was destroyed by typhoon Besing in March 1982.

The case went to a full-blown trial. During the proceedings, it was revealed that Arcadio and Bienvenido agreed to the sale of ½ portion of Parcel 2 for the sum of P5,000.00. Bienvenido, however, was only able to give Arcadio the amount of One Thousand Two Hundred Pesos (P1,200.00) as initial payment; and for the balance of P3,800.00, he executed, through his wife Florencia Diapolit (Florencia), a promissory note dated May 30, 1979.[7] Unfortunately, Bienvenido never got to pay the remaining amount.

After the proceedings, the trial court ruled in favor of the Heirs of Goden. It awarded Parcel 1 to the said heirs since Spouses Diapolit did not advance any dispute regarding the said property. The trial court did the same for Parcel 2 upon ruling that the deed of sale executed by Arcadio in favor of Bienvenido was null and void for want of price or consideration. The trial court declared that although Arcadio and Bienvenido were able to initially agree on the consideration or purchase price, they subsequently differed on the mode or manner by which the said consideration had to be paid. Bienvenido's promissory note for the remaining unpaid amount was never consented to by Arcadio. Hence, there was really no agreement as to the mode of paying the purchase price, which resulted to the lack of agreement regarding the element of price or consideration. The absence of such element rendered the deed of sale void. The trial court further declared that the said document was bogus, thus, Parcel 2 still belonged pro-indiviso to the Heirs of Goden.

The dispositive portion of the trial court's decision reads, viz.:

> WHEREFORE, finding more preponderance of evidence in favor of the plaintiffs and against the defendants, this Court hereby renders Judgment, as follows:
>
> - With respect to the First parcel of land aforementioned, with an area of 3.2575 hectares, the plaintiffs are adjudged as the true and absolute owner thereof and entitled to its peaceful possession immediately;
>
> - As regards the Second Parcel aforestated with an area of 2.3258 hectares:
>
> a) The Deed of Sale executed by Arcadio Goden dated May 30, 1979 is DECLARED null and void for lack of price certain or consideration;
>
> b) The entire area covered by the sale and occupied by the defendants by reason thereof is DECLARED owned by the plaintiffs pro indiviso;
>
> - The defendants are ORDERED to vacate from, turn over and/or surrender possession of, the entire areas of the two parcels of land peacefully to the plaintiffs; and

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- The defendants are CONDEMNED TO pay plaintiffs:

a) The sum of P180,000.00 as Temperate or moderate damages;

b) The sum of P 50,000.00 as Moral damages;

c) The sum of P20,000.00 as Exemplary damages;

d) The sum of P100,000.00 as Attorney's fees and the amount of P10,000.00 per appearance fee; and

e) To pay the costs of the suit.

SO ORDERED.[8]

Aggrieved, Spouses Diapolit appealed[9] to Us and assigned the following errors,[10] to wit:

- WHETHER OR NOT THERE WAS A PERFECTED CONTRACT OF SALE BETWEEN ARCADIO GODEN AND THE DEFENDANT BIENVENIDO DIAPOLIT;

- WHETHER OR NOT THE REGIONAL TRIAL COURT ERRED IN HOLDING THAT THE PRESENT ACTION IS NOT BARRED BY PRESCRIPTION;

- WHETHER OR NOT THE AWARD FOR DAMAGES IN FAVOR OF THE PLAINTIFFS HAS LEGAL BASIS.

This Court’s Ruling

The appeal is partly meritorious.

For an orderly discussion, We resolve first the issue on prescription.

Spouses Diapolit contended that ordinary acquisitive prescription already barred the Heirs of Goden from recovering the portion of Parcel 2 that they had occupied. We disagree.

The requirements for ordinary acqusitive prescription are mentioned in Article 1117 of the Civil Code which provides, thus:

ART. 1117. Acquisitive prescription of dominion and other real rights may be ordinary or extraordinary.

Ordinary acquisitive prescription requires possession of things in good faith and with just title for the time fixed by law. [Emphasis and underscoring supplied.]

The period of possession fixed by law is ten years, as provided under Article 1134, thus:

ART. 1134. Ownership and other real rights over immovable property are acquired by ordinary prescription through possession of ten years.

Ordinary acquisitive prescription demands, as aforesaid, that the possession be in good faith and with just title.[11] Possession "in good faith" consists in the reasonable belief that the person from whom the thing is received has been the owner thereof, and could transmit his ownership. Meanwhile, there is "just title" when the adverse claimant came into possession of the property through one of the modes recognized by law for the

acquisition of ownership or other real rights, but the grantor was not the owner or could not transmit any right.[12] According to Spouses Diapolit, they had satisfied these requirements for they acquired the portion of Parcel 2 through a deed of sale; they were in good faith when they acquired the portion since at the time of the purchase, Bienvenido was with a strong belief that Arcadio owned Parcel 2; and they had been in possession of the portion for more than ten years already.

The records, however, contradict Spouses Diapolit's contention. In the Answer, they admitted the allegation regarding the names of the five children of Spouses Goden.[13] When Bienvenido was in the witness stand, he repeatedly confirmed[14] that he knew that Spouses Goden had five children. Bienvenido could not, therefore, claim that his acquisition of the ½ portion of Parcel 2 was done in good faith and with just title, because he knew very well that Arcadio could not dispose such area since the latter had four other siblings/co-owners. It is a settled rule that a purchaser of real estate with knowledge of any defect or lack of title of the vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or interest therein.[15] Not being possessors in good faith and with just title, the ten-year period required for ordinary acquisitive prescription cannot be applied in favor of Spouses Diapolit.

We now tackle the validity of the deed of sale between Arcadio and Bienvenido. Spouses Diapolit maintained that there was a perfected contract of sale between Arcadio and Bienvenido and the document evidencing the same, despite being a private instrument, was valid and binding between the parties. Although Bienvenido was only able to pay P1,200.00 as initial consideration, Spouses Diapolit maintained that there was already a perfected contract of sale on a deferred payment of the purchase price. Contrary to the pronouncement of the trial court, the transaction was not a case of a sale without consideration which results in the nullity of the contract; but one in which the vendee failed to pay the whole consideration, and which gives the seller the right to demand either the fulfillment or cancellation of the obligation.

Spouse Diapolit's arguments on these points are valid.

The unnotarized deed of sale was indeed a private document. However, it had been duly authenticated through the testimony of Florencia who testified that she saw the vendee Arcadio signed the document when she gave him the payment; and that she also saw the two siblings of Arcadio signed the same.[16] The Heirs of Goden may have assailed the authenticity and due execution of the deed of sale, however, apart from their bare allegations, they never presented any proof to dispute the said document. More importantly, the Heirs of Goden were deemed to have abandoned their attack on the deed of sale when they themselves presented as their rebuttal evidence, [17] the Promissory Note signed by Florencia pertaining to the P3,800.00-unpaid balance of the consideration stated in the deed of sale. By offering the Promissory Note as their evidence, the Heirs of Goden impliedly admitted the deed of sale.

The fact that the deed of sale was unnotarized[18] did not work against its validity. This specific matter had been thoroughly threshed out in the case of Heirs of Gonzales v. Heirs of Perez,[19] whereby the Supreme Court ruled that the failure to observe the proper form prescribed by Article 1358 of the Civil Code does not render the acts or contracts enumerated therein invalid. The Highest Court addressed the issue, as follows:

> It has been uniformly held that the form required under the said Article is not essential to the validity or enforceability of the transaction, but merely for convenience. The Court agrees with the CA in holding that a sale of real property, though not consigned in a public instrument or formal writing, is, nevertheless, valid and binding among the parties, for the time-honored rule is that even a verbal contract of sale of real estate produces legal effects between the parties. Stated differently, although a conveyance of land is not made in a public document, it does not affect the validity of such conveyance. Article 1358 does not require the accomplishment of the acts or contracts in a public instrument in order to validate the act or contract but only

to insure its efficacy. [Emphasis and underscoring supplied.]

We now shift Our focus to the question on whether or not Bienvenido's failure to pay the balance of the consideration invalidated his transaction with Arcadio. In resolving this issue, We are guided by the principle that a contract of sale is not a real, but a consensual contract. As such, it becomes a binding and valid contract upon the meeting of the minds as to price.

In this case, Arcadio and Bienvenido agreed that the consideration for the ½ portion of the property would be P5,000.00. Unfortunately, however, Bienvenido was only able to initially pay P1,200.00 and never got to pay the rest of the consideration. These circumstances, however, did not invalidate the sale for it was expressly ruled in the case of Spouses Buenaventura and Joaquin v. Court of Appeals[20] that if there is a meeting of the minds of the parties as to the price, the contract of sale is valid, despite the manner of payment, or even the breach of that manner of payment. It was further held in the same case that it is not the act of payment of price that determines the validity of a contract of sale. Payment of the price has nothing to do with the perfection of the contract. Payment of the price goes into the performance of the contract. Failure to pay the consideration is different from lack of consideration. The former results in a right to demand the fulfillment or cancellation of the obligation under an existing valid contract while the latter prevents the existence of a valid contract.

Premised upon the aforesaid pronouncement, the deed of sale in Bienvenido's favor was, therefore, a valid contract; although jurisprudence says that the failure to pay the consideration results in the vendor's right to demand the fulfillment or cancellation of the sale.

This Court notes, however, that the Heirs of Goden themselves posited in their Reply[21] that if the sale by Arcadio was indeed valid, its extent should pertain only to one-fifth (1/5) of Parcel 2 because such proportion was Arcadio's ideal share in the property. Taking this averment into account, this Court construes that the stance of the Heirs of Goden is to give effect to the sale, but only to the extent of Arcadio's 1/5 portion in Parcel 2.

Consequently, since Parcel 2 consisted of 2.3258 hectares, Arcadio could validly dispose 4,651.6[22] square meters thereof. Considering that ½ of the whole property was priced at P5,000.00, Arcadio intended to sell the lot at P0.43 per square meter or about P2,000.00 for his whole share. Unfortunately, Bienvenido was only able to pay P1,200.00.

Considering, however, that Arcadio had no right to dispose the ½ portion of Parcel 2, it follows that he, in turn, had no right to demand Bienvenido to pay its price of P5,000.00. Taking into account the factual milieu of this case, the Court finds it most prudent to adjudge in Bienvenido's favor, a portion of Parcel 2 equivalent to 2,791[23] square meters, which is the area of the said property that corresponds to the amount he paid to Arcadio.

In view of Our modification of the trial court's ruling with respect to Parcel 2, specifically Our declaration that Spouses Diapolit are entitled to a portion of Parcel 2 equivalent to 2, 791 square meters, the award for damages no longer has any leg to stand on.

WHEREFORE, the appeal is PARTLY GRANTED. The Decision of the Regional Trial Court (RTC), Branch 39, Sogod, Southern Leyte in Civil Case No. R-111-C dated October 27, 2011 is hereby MODIFIED, except No. 1 thereof. Accordingly, dispositions Nos. 2, 3 and 4 are hereby SET ASIDE.

Spouses Bienvenido and Florencia Diapolit are ADJUDGED ENTITLED to a portion of Parcel 2 equivalent to two thousand, seven hundred ninety-one (2,791) square meters.

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SO ORDERED.

Hernando, Chairperson and Azcarraga-Jacob, JJ., concur.

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[1] Rollo, pp. 25-45.

[2] See Complaint dated August 8, 2003, record, pp. 1-6.

[3] Record, p. 102-104.

[4] See record, pp. 108-109.

[5] Record, pp. 25-30.

[6] Record, p. 31.

[7] See TSN dated September 24, 2009, pp. 188-189;194-195; and 267.

[8] Rollo, pp. 44-45.

[9] See Notice of Appeal, record, pp. 237-238.

[10] Rollo, p. 10.

[11] See Marcelo v. Court of Appeals, G.R. No. 131803. April 14, 1999.

[12] See Tan v. Ramirez, G.R. No. 158929. August 3, 2010.

[13] Record, p. 25.

[14] TSN dated September 24, 2009, p. 181 and p. 190.

[15] See Adviento v. Heirs of Alvarez, G.R. No. 150844. August 20, 2008.

[16] TSN dated September 20, 2010, p. 216-217.

[17] See Exhibit I, record, p. 203.

[18] Article 1358 requires contracts which have for their object the transmission of real rights over immovable property to appear in a public document and Article 1403 (2) provides that the sale of real property should be in writing and subscribed by the party charged for it to be enforceable.

[19] G.R No. 169681. November 5, 2009.

[20] G.R. No. 126376. November 20, 2003.

[21] See paragraph 2.b of the Reply, record, p. 35-36.

[22] Result of dividing the area of the property at 2.3258 hectares with the number of children of Spouses Goden (5 children).

[23] P1,200.00 divided by P0.43/square meter.

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