

LINO R. TOPACIO, PETITIONER, VS. HON. COURT OF APPEALS, BPI INVESTMENT CORP., RESPONDENTS.

G.R. No. 102606. July 03, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by way of certiorari from the decision[1] in CA G.R. CV 23258 which reversed the decision[2] of the Regional Trial Court, Branch 98, Quezon City in Civil Case No. 51954.

On March 9, 1988, the parties submitted the following stipulation of facts:

“1. The parties admit the personal and corporate circumstances of each other as found in the complaint.

“2. The spouses Juan P. de Villa, Jr. and Rosalia de Villa, parents-in-law of the plaintiff, were the former owners of Lot No. 13, Block 21-A, covered by TCT No. 280808 of the Registry of Deeds of Quezon City. This property was previously mortgaged to the Ayala Investment and Development Corporation to secure an obligation of P500,000.00. For failure of the said mortgagors to pay upon maturity, the mortgage was foreclosed and consequently, defendant acquired the property as highest bidder in the auction sale, following the foreclosure. No redemption having been exercised by the mortgagors, the defendant was able to consolidate its title over the property.

“3. Plaintiff, who lives with his in-laws, negotiated to purchase the property from defendant. He first made an offer on August 9, 1985 (Annex A, complaint) for P900,000.00 but defendant asked plaintiff to improve his offer. Subsequently, the plaintiff and Mr. Manuel Ablan, then Manager of the Loans Adjustment and Special Asset Department of the defendant arrived at P1,250,000.00 as the purchase price, with 30% downpayment, and the balance, payable in cash, upon execution of the Deed of Sale. Plaintiff confirmed his offer in his letter to the defendant dated November 27, 1985 (Annex B, complaint; Annex 1, Answer), with his check payment of P375,000.00.

“4. Defendant received plaintiff's initial payment of P375,000.00 on November 28, 1985, for which a receipt was issued under defendant's Official Receipt No. 112375 (Annex C, Complaint).

“5. On December 4, 1985, defendant wrote to the plaintiff, informing him of the terms and conditions of the sale, as approved by the management of defendant, which, among other things, gives plaintiff up to January 4, 1986 within which to pay the balance of P875,000.00 (Annex D, Complaint, Annex 2, Answer).

“6. Plaintiff asked for extensions within which to pay the balance. The first was made on January 8, 1986 (Annex 3, Answer), another on April 22, 1986 (Annex 4, Answer). Defendant agreed to extend the payment up to June 30, 1986, in accordance with defendant's letter dated May 5, 1986, requiring plaintiff, in addition, to pay interest at 24% per annum on the unpaid balance (Annex 5, Answer).

“7. Plaintiff, not having been able to meet defendant's deadline (June 30, 1986), defendant wrote a letter to plaintiff dated September 6, 1986 (Annex 6, Answer) declaring itself (defendant) free to sell the property to other buyers and informing plaintiff that he could already claim his initial payment of P375,000.00.

"8. In response, plaintiff, in its letter dated October 22, 1986 (Annex 7, Answer), asked for an extension of another six (6) months, within which to pay the balance of P875,000.00. Defendant denied plaintiff's request and asked plaintiff to get back his P375,000.00, in defendant's letter to plaintiff dated November 7, 1986 (Annex 8, Answer).

"9. On January 5, 1987, defendant wrote plaintiff, reiterating its request that plaintiff get back his P375,000.00 (Annex 9, Answer) and on February 12, 1987 (Annex E, Complaint, Annex 10, Answer), defendant mailed to plaintiff a cashier's check for P375,000.00, payable to him. Plaintiff replied on March 6, 1987 (Annex F, Complaint, Annex 11, Answer), declining acceptance of the P375,000.00 and insisting therein that defendant allow plaintiff to pay the balance of P875,000.00.

"10. Subsequently, defendant informed plaintiff that the property is being sold for P1,600,000.00, in its Answer. Plaintiff then wrote on April 1, 1987 to Mr. Xavier Loinaz of defendant (Annex 13, Answer) asking that original price of P1,250,000.00 be maintained. Defendant again wrote to plaintiff on May 29, 1987 (Annex 14, Answer) reiterating its position that defendant was willing to sell at P1,600,000.00.

"11. Plaintiff, in its letter to defendant dated July 21, 1987, (Annex G, Complaint, Annex 15, Answer), returned the cashier's check earlier issued by defendant in favor of plaintiff. Defendant acknowledged receipt of said letter but declined to take back the said check as expressed in defendant's letter of the same date (Annex 16, Answer).

"12. The cashier's check of P375,000.00 payable to plaintiff remains uncashed to date and is still in the hands of the plaintiff, after defendant refused to accept its return.

"13. Plaintiff admits that Annexes 1 to 16 attached to the Answer are true and faithful copies of the originals. Defendant likewise admits that Annexes A to G attached to the complaint are true and faithful copies of the originals. Said Annexes are hereby adopted by the parties as part of this Stipulation of Facts and may be received in evidence without further authentication or identification." (Rollo, pp. 21-24)

On the basis of the foregoing stipulation, the trial court rendered judgment in favor of the petitioner, finding that there is a perfected contract of sale which is still enforceable because the respondent failed to rescind either by judicial or notarial rescission.

The dispositive portion of the trial court's decision is quoted hereunder:

"Samakatwid, iginagawad ng hukumang ito and pasiya para sa nagsasakdal at ipinag-uutos sa ipinagsakdal na BPI Investment Corporation na tanggapin mula sa nagsasakdal:

"Una - Ang tsekeng P375,000.00 bilang paunang bayad na tatlung porsiento ng buong halaga;

"Pangalawa - Ang huliang P875,000.00 na may kalakip na interes na labindalawang (12%) porsiyento simula sa ika-lima ng Oktubre, 1987 hanggang mabayaran ito;

"Pangatlo - At isagawa ng nasasakdal na BPI Investment Corporation ang pagsasalin ng ari-arian na nabanggit sa dakong itaas sa pamamagitan ng isang bilihang tuluyan sa kapakanan ng nagsasakdal na si Lino Topacio at kanyang may-bahay.

"Ang gastos ay dapat bayaran ng ipinagsasakdal.

"IPINAG-UUTOS." (Rollo, p. 24)

The Court of Appeals, on appeal, reversed the trial court's decision stating that the letter dated December 4, 1985, sent by BPI to the petitioner reveals that the contract entered into by them is a contract to sell, not a contract of sale.

The letter of December 4, 1985 is hereby quoted as follows:

'We are pleased to inform you that the management has approved the sale for the above property to you under the following terms and conditions:

- '1. Selling price of P1,250,000.00 is on CASH basis;
- '2. Execution of a Deed of Absolute Sale;
- '3. All expenses relative to the sale/transfer of title shall be for the account of the buyer;
- '4. Eviction of tenants, if any, shall be for the account of the buyer;
- '5. Sale of the property is on as-is--where-is basis.

"If you are agreeable to the foregoing, kindly indicate your conformity by signing on the space provided below and return the copies to us together with your balance of P875,000.00. The validity of the above approval is good up to January 4, 1986.'" (Rollo, pp. 7-8)

The petition is impressed with merit.

The payment by petitioner of P375,000.00 on November 28, 1991 which respondent accepted, and for which an official receipt was issued, the body of which hereby quoted:

"Partial payment for the purchase of real property, formerly owned by Juan de Villa.
P375,000.00"

was the operative act that gave rise to a perfected contract of sale between the parties. Article 1482 of the Civil Code provides:

"Art. 1482. Whenever earnest money is given in a contract of sale, it shall be considered as part of the price and as proof of the perfection of the contract."

Earnest money is something of value to show that the buyer was really in earnest, and given to the seller to bind the bargain. Under the Civil Code, earnest money is considered part of the purchase price and as proof of the perfection of the contract. The P375,000.00 given by petitioner representing 30% of the purchase price is earnest money.

Furthermore, Article. 1475 of the Civil Code states:

"Article 1475. The contract of sale is perfected at the moment there is a meeting of the minds upon the thing which is the object of the contract and upon the price.

"From the moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts."

Based on the aforecited article, the parties have agreed on the object of the contract which is the house and lot located at No. 32 Whitefield St., White Plains, Quezon City and even before November 27, 1985, (the date petitioner sent his letter together with the 30% downpayment), the parties have agreed on the price which is P1,250,000.00.

Nowhere in the transaction indicates that BPI reserved its title on the property nor did it provide for any automatic rescission in case of default. So when petitioner failed to pay the balance of P875,000.00 despite several extensions given by private respondent, the latter could not validly rescind the contract without complying with the provision of Article 1592 or Article 1191 on notarial or judicial rescission respectively. The ruling in Taguba

v. Vda. de Leon, 132 SCRA 722 applies in the case at bar, to wit:

"Considering, therefore the nature of the transaction between petitioner Taguba and private respondent, which We affirm and sustain to be a contract of sale, absolute in nature the applicable provisions of Article 1592 of the New Civil Code which states:

‘Article 1592. In the sale of immovable property, even though it may have been stipulated that upon failure to pay the price at the time agreed upon the rescission of the contract shall of right take place, the vendee may pay, even after the expiration of the period, as long as no demand for rescission of the contract has been made upon him either judicially or by notarial act. After the demand the court may not grant him a new term.’

"In the case at bar, it is undisputed that the petitioner Taguba never notified private respondent by notarial act that he was rescinding the contract, and neither had he filed suit in court to rescind the sale."

Respondent cannot just consider the sale cancelled by simply returning the downpayment which petitioner refused to accept.

WHEREFORE, the appealed decision of the Court of Appeals is hereby REVERSED and SET ASIDE and the decision of the Regional Trial Court of Quezon City, Branch 89, dated April 10, 1989 is AFFIRMED with costs against respondent.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Nocon, JJ., concur.

Padilla, J., no part.

[1] Penned by Justice Ricardo L. Pronove, Jr. concurred in by Justices Nicolas P. Lapena, Jr. and Consuelo Ynares-Santiago.

[2] Penned by Judge Cesar C. Peralejo.

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