

ROMULO A. CORONEL, ALARICO A. CORONEL, ANNETTE A. CORONEL, ANNABELLE C. GONZALES (FOR HERSELF AND ON BEHALF OF FLORAIDA C. TUPPER, AS ATTORNEY-IN-FACT), CIELITO A. CORONEL, FLOR...

G.R. No. 103577. October 07, 1996

Ponente: MELO, J.

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MELO, J.:

The petition before us has its roots in a complaint for specific performance to compel herein petitioners (except the last named, Catalina Balais Mabanag) to consummate the sale of a parcel of land with its improvements located along Roosevelt Avenue in Quezon City entered into by the parties sometime in January 1985 for the price of P1,240,000.00.

The undisputed facts of the case were summarized by respondent court in this wise:

On January 19, 1985, defendants-appellants Romulo Coronel, et. al. (hereinafter referred to as Coronels) executed a document entitled "Receipt of Down Payment" (Exh. "A") in favor of plaintiff Ramona Patricia Alcaraz (hereinafter referred to as Ramona) which is reproduced hereunder:

RECEIPT OF DOWN PAYMENT

P1,240,000.00 - Total amount

50,000.00 - Down payment

P1,190,000.00 - Balance

Received from Miss Ramona Patricia Alcaraz of 146 Timog, Quezon City, the sum of Fifty Thousand Pesos purchase price of our inherited house and lot, covered by TCT No. 119627 of the Registry of Deeds of Quezon City, in the total amount of P1,240,000.00.

We bind ourselves to effect the transfer in our names from our deceased father, Constancio P. Coronel, the transfer certificate of title immediately upon receipt of the down payment above-stated.

On our presentation of the TCT already in our name, We will immediately execute the deed of absolute sale of said property and Miss Ramona Patricia Alcaraz shall immediately pay the balance of the P1,190,000.00.

Clearly, the conditions appurtenant to the sale are the following:

1. Ramona will make a down payment of Fifty Thousand (P50,000.00) pesos upon execution of the document aforestated;
2. The Coronels will cause the transfer in their names of the title of the property registered in the name of their deceased father upon receipt of the Fifty Thousand (P50,000.00) Pesos down payment;

3. Upon the transfer in their names of the subject property, the Coronels will execute the deed of absolute sale in favor of Ramona and the latter will pay the former the whole balance of One Million One Hundred Ninety Thousand (P1,190,000.00) Pesos.

On the same date (January 15, 1985), plaintiff-appellee Concepcion D. Alcaraz (hereinafter referred to as Concepcion), mother of Ramona, paid the down payment of Fifty Thousand (P50,000.00) Pesos (Exh. "B", Exh. "2").

On February 6, 1985, the property originally registered in the name of the Coronel's father was transferred in their names under TCT No. 327043 (Exh. "D"; Exh "4")

On February 18, 1985, the Coronels sold the property covered by TCT No. 327043 to intervenor-appellant Catalina B. Mabanag (hereinafter referred to as Catalina) for One Million Five Hundred Eighty Thousand (P1,580,000.00) Pesos after the latter has paid Three Hundred Thousand (P300,000.00) Pesos (Exhs. "F-3"; Exh. "6-C")

For this reason, Coronels canceled and rescinded the contract (Exh. "A") with Ramona by depositing the down payment paid by Concepcion in the bank in trust for Ramona Patricia Alcaraz.

On February 22, 1985, Concepcion, et. al., filed a complaint for a specific performance against the Coronels and caused the annotation of a notice of lis pendens at the back of TCT No. 327403 (Exh. "E"; Exh. "5").

On April 2, 1985, Catalina caused the annotation of a notice of adverse claim covering the same property with the Registry of Deeds of Quezon City (Exh. "F"; Exh. "6").

On April 25, 1985, the Coronels executed a Deed of Absolute Sale over the subject property in favor of Catalina (Exh. "G"; Exh. "7").

On June 5, 1985, a new title over the subject property was issued in the name of Catalina under TCT No. 351582 (Exh. "H"; Exh. "8").

(Rollo, pp. 134-136)

In the course of the proceedings before the trial court (Branch 83, RTC, Quezon City) the parties agreed to submit the case for decision solely on the basis of documentary exhibits. Thus, plaintiffs therein (now private respondents) proffered their documentary evidence accordingly marked as Exhibits "A" through "J", inclusive of their corresponding submarkings. Adopting these same exhibits as their own, then defendants (now petitioners) accordingly offered and marked them as Exhibits "1" through "10", likewise inclusive of their corresponding submarkings. Upon motion of the parties, the trial court gave them thirty (30) days within which to simultaneously submit their respective memoranda, and an additional 15 days within which to submit their corresponding comment or reply thereto, after which, the case would be deemed submitted for resolution.

On April 14, 1988, the case was submitted for resolution before Judge Reynaldo Roura, who was then temporarily detailed to preside over Branch 82 of the RTC of Quezon City. On March 1, 1989, judgment was handed down by Judge Roura from his regular bench at Macabebe, Pampanga for the Quezon City branch, disposing as follows:

WHEREFORE, judgment for specific performance is hereby rendered ordering defendant to execute in favor of plaintiffs a deed of absolute sale covering that parcel of land embraced in and covered by Transfer Certificate of Title No. 327403 (now TCT No. 331582) of the Registry of Deeds for Quezon City, together with all the improvements existing thereon free from all liens and encumbrances, and once accomplished, to immediately deliver the said document of sale to plaintiffs and upon receipt thereof, the plaintiffs are ordered to pay defendants the whole balance of the purchase price amounting to P1,190,000.00 in cash. Transfer Certificate of Title No. 331582 of the Registry of Deeds for Quezon City in the name of intervenor is hereby canceled and declared to be without force and effect. Defendants and intervenor and all other persons claiming

under them are hereby ordered to vacate the subject property and deliver possession thereof to plaintiffs. Plaintiffs' claim for damages and attorney's fees, as well as the counterclaims of defendants and intervenors are hereby dismissed.

No pronouncement as to costs.

So Ordered.

Macabebe, Pampanga for Quezon City, March 1, 1989.

(Rollo, p. 106)

A motion for reconsideration was filed by petitioners before the new presiding judge of the Quezon City RTC but the same was denied by Judge Estrella T. Estrada, thusly:

The prayer contained in the instant motion, i.e., to annul the decision and to render anew decision by the undersigned Presiding Judge should be denied for the following reasons: (1) The instant case became submitted for decision as of April 14, 1988 when the parties terminated the presentation of their respective documentary evidence and when the Presiding Judge at that time was Judge Reynaldo Roura. The fact that they were allowed to file memoranda at some future date did not change the fact that the hearing of the case was terminated before Judge Roura and therefore the same should be submitted to him for decision; (2) When the defendants and intervenor did not object to the authority of Judge Reynaldo Roura to decide the case prior to the rendition of the decision, when they met for the first time before the undersigned Presiding Judge at the hearing of a pending incident in Civil Case No. Q-46145 on November 11, 1988, they were deemed to have acquiesced thereto and they are now estopped from questioning said authority of Judge Roura after they received the decision in question which happens to be adverse to them; (3) While it is true that Judge Reynaldo Roura was merely a Judge-on-detail at this Branch of the Court, he was in all respects the Presiding Judge with full authority to act on any pending incident submitted before this Court during his incumbency. When he returned to his Official Station at Macabebe, Pampanga, he did not lose his authority to decide or resolve cases submitted to him for decision or resolution because he continued as Judge of the Regional Trial Court and is of co-equal rank with the undersigned Presiding Judge. The standing rule and supported by jurisprudence is that a Judge to whom a case is submitted for decision has the authority to decide the case notwithstanding his transfer to another branch or region of the same court (Sec. 9, Rule 135, Rule of Court).

Coming now to the twin prayer for reconsideration of the Decision dated March 1, 1989 rendered in the instant case, resolution of which now pertains to the undersigned Presiding Judge, after a meticulous examination of the documentary evidence presented by the parties, she is convinced that the Decision of March 1, 1989 is supported by evidence and, therefore, should not be disturbed.

IN VIEW OF THE FOREGOING, the "Motion for Reconsideration and/or to Annul Decision and Render Anew Decision by the Incumbent Presiding Judge" dated March 20, 1989 is hereby DENIED.

SO ORDERED.

Quezon City, Philippines, July 12, 1989.

(Rollo, pp. 108-109)

Petitioners thereupon interposed an appeal, but on December 16, 1991, the Court of Appeals (Buena, Gonzaga-Reyes, Abad-Santos (P), JJ.) rendered its decision fully agreeing with the trial court.

Hence, the instant petition which was filed on March 5, 1992. The last pleading, private respondents' Reply Memorandum, was filed on September 15, 1993. The case was, however, re-raffled to undersigned ponente only on August 28, 1996, due to the voluntary inhibition of the Justice to whom the case was last assigned.

While we deem it necessary to introduce certain refinements in the disquisition of respondent court in the affirmance of the trial court's decision, we definitely find the instant petition bereft of merit.

The heart of the controversy which is the ultimate key in the resolution of the other issues in the case at bar is the precise determination of the legal significance of the document entitled "Receipt of Down Payment" which was offered in evidence by both parties. There is no dispute as to the fact that the said document embodied the binding contract between Ramona Patricia Alcaraz on the one hand, and the heirs of Constancio P. Coronel on the other, pertaining to a particular house and lot covered by TCT No. 119627, as defined in Article 1305 of the Civil Code of the Philippines which reads as follows:

Art. 1305. A contract is a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.

While, it is the position of private respondents that the "Receipt of Down Payment" embodied a perfected contract of sale, which perforce, they seek to enforce by means of an action for specific performance, petitioners on their part insist that what the document signified was a mere executory contract to sell, subject to certain suspensive conditions, and because of the absence of Ramona P. Alcaraz, who left for the United States of America, said contract could not possibly ripen into a contract of absolute sale.

Plainly, such variance in the contending parties' contention is brought about by the way each interprets the terms and/or conditions set forth in said private instrument. Withal, based on whatever relevant and admissible evidence may be available on record, this Court, as were the courts below, is now called upon to adjudge what the real intent of the parties was at the time the said document was executed.

The Civil Code defines a contract of sale, thus:

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

Sale, by its very nature, is a consensual contract because it is perfected by mere consent. The essential elements of a contract of sale are the following:

- a) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- b) Determinate subject matter; and
- c) Price certain in money or its equivalent.

Under this definition, a Contract to Sell may not be considered as a Contract of Sale because the first essential element is lacking. In a contract to sell, the prospective seller explicitly reserves the transfer of title to the prospective buyer, meaning, the prospective seller does not as yet agree or consent to transfer ownership of the property subject of the contract to sell until the happening of an event, which for present purposes we shall take as the full payment of the purchase price. What the seller agrees or obliges himself to do is to fulfill his promise to sell the subject property when the entire amount of the purchase price is delivered to him. In other words the full payment of the purchase price partakes of a suspensive condition, the non-fulfillment of which prevents the obligation to sell from arising and thus, ownership is retained by the prospective seller without further remedies by the prospective buyer. In *Roque vs. Lapuz* (96 SCRA 741 [1980]), this Court had occasion to rule:

Hence, We hold that the contract between the petitioner and the respondent was a contract to sell where the ownership or title is retained by the seller and is not to pass until the full payment of the price, such payment being a positive suspensive condition and failure of which is not a breach, casual or serious, but simply an event that prevented the obligation of the vendor to convey title from acquiring binding force.

Stated positively, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, the prospective seller's obligation to sell the subject property by entering into a contract of sale with the prospective buyer becomes demandable as provided in Article 1479 of the Civil Code which states:

Art. 1479. A promise to buy and sell a determinate thing for a price certain is reciprocally demandable.

An accepted unilateral promise to buy or to sell a determinate thing for a price certain is binding upon the promisor of the promise is supported by a consideration distinct from the price.

A contract to sell may thus be defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, that is, full payment of the purchase price.

A contract to sell as defined hereinabove, may not even be considered as a conditional contract of sale where the seller may likewise reserve title to the property subject of the sale until the fulfillment of a suspensive condition, because in a conditional contract of sale, the first element of consent is present, although it is conditioned upon the happening of a contingent event which may or may not occur. If the suspensive condition is not fulfilled, the perfection of the contract of sale is completely abated (cf. *Homesite and Housing Corp. vs. Court of Appeals*, 133 SCRA 777 [1984]). However, if the suspensive condition is fulfilled, the contract of sale is thereby perfected, such that if there had already been previous delivery of the property subject of the sale to the buyer, ownership thereto automatically transfers to the buyer by operation of law without any further act having to be performed by the seller.

In a contract to sell, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, ownership will not automatically transfer to the buyer although the property may have been previously delivered to him. The prospective seller still has to convey title to the prospective buyer by entering into a contract of absolute sale.

It is essential to distinguish between a contract to sell and a conditional contract of sale specially in cases where the subject property is sold by the owner not to the party the seller contracted with, but to a third person, as in the case at bench. In a contract to sell, there being no previous sale of the property, a third person buying such property despite the fulfillment of the suspensive condition such as the full payment of the purchase price, for instance, cannot be deemed a buyer in bad faith and the prospective buyer cannot seek the relief of reconveyance of the property. There is no double sale in such case. Title to the property will transfer to the buyer after registration because there is no defect in the owner-seller's title per se, but the latter, of course, may be sued for damages by the intending buyer.

In a conditional contract of sale, however, upon the fulfillment of the suspensive condition, the sale becomes absolute and this will definitely affect the seller's title thereto. In fact, if there had been previous delivery of the subject property, the seller's ownership or title to the property is automatically transferred to the buyer such that, the seller will no longer have any title to transfer to any third person. Applying Article 1544 of the Civil Code, such second buyer of the property who may have had actual or constructive knowledge of such defect in the seller's title, or at least was charged with the obligation to discover such defect, cannot be a registrant in good faith. Such second buyer cannot defeat the first buyer's title. In case a title is issued to the second buyer, the first buyer may seek reconveyance of the property subject of the sale.

With the above postulates as guidelines, we now proceed to the task of deciphering the real nature of the contract entered into by petitioners and private respondents.

It is a canon in the interpretation of contracts that the words used therein should be given their natural and ordinary meaning unless a technical meaning was intended (Tan vs. Court of Appeals, 212 SCRA 586 [1992]). Thus, when petitioners declared in the said "Receipt of Down Payment" that they --

Received from Miss Ramona Patricia Alcaraz of 146 Timog, Quezon City, the sum of Fifty Thousand Pesos purchase price of our inherited house and lot, covered by TCT No. 1199627 of the Registry of Deeds of Quezon City, in the total amount of P1,240,000.00.

without any reservation of title until full payment of the entire purchase price, the natural and ordinary idea conveyed is that they sold their property.

When the "Receipt of Down payment" is considered in its entirety, it becomes more manifest that there was a clear intent on the part of petitioners to transfer title to the buyer, but since the transfer certificate of title was still in the name of petitioner's father, they could not fully effect such transfer although the buyer was then willing and able to immediately pay the purchase price. Therefore, petitioners-sellers undertook upon receipt of the down payment from private respondent Ramona P. Alcaraz, to cause the issuance of a new certificate of title in their names from that of their father, after which, they promised to present said title, now in their names, to the latter and to execute the deed of absolute sale whereupon, the latter shall, in turn, pay the entire balance of the purchase price.

The agreement could not have been a contract to sell because the sellers herein made no express reservation of ownership or title to the subject parcel of land. Furthermore, the circumstance which prevented the parties from entering into an absolute contract of sale pertained to the sellers themselves (the certificate of title was not in their names) and not the full payment of the purchase price. Under the established facts and circumstances of the case, the Court may safely presume that, had the certificate of title been in the names of petitioners-sellers at that time, there would have been no reason why an absolute contract of sale could not have been executed and consummated right there and then.

Moreover, unlike in a contract to sell, petitioners in the case at bar did not merely promise to sell the property to private respondent upon the fulfillment of the suspensive condition. On the contrary, having already agreed to sell the subject property, they undertook to have the certificate of title change to their names and immediately thereafter, to execute the written deed of absolute sale.

Thus, the parties did not merely enter into a contract to sell where the sellers, after compliance by the buyer with certain terms and conditions, promised to sell the property to the latter. What may be perceived from the respective undertakings of the parties to the contract is that petitioners had already agreed to sell the house and lot they inherited from their father, completely willing to transfer ownership of the subject house and lot to the buyer if the documents were then in order. It just so happened, however, that the transfer certificate of title was then still in the name of their father. It was more expedient to first effect the change in the certificate of title so as to bear their names. That is why they undertook to cause the issuance of a new transfer of the certificate of title in their names upon receipt of the down payment in the amount of P50,000.00. As soon as the new certificate of title is issued in their names, petitioners were committed to immediately execute the deed of absolute sale. Only then will the obligation of the buyer to pay the remainder of the purchase price arise.

There is no doubt that unlike in a contract to sell which is most commonly entered into so as to protect the seller against a buyer who intends to buy the property in installment by withholding ownership over the property until the buyer effects full payment therefor, in the contract entered into in the case at bar, the sellers were the ones who were unable to enter into a contract of absolute sale by reason of the fact that the certificate of title to the property was still in the name of their father. It was the sellers in this case who, as it were, had the impediment

which prevented, so to speak, the execution of an contract of absolute sale.

What is clearly established by the plain language of the subject document is that when the said "Receipt of Down Payment" was prepared and signed by petitioners Romulo A. Coronel, et. al., the parties had agreed to a conditional contract of sale, consummation of which is subject only to the successful transfer of the certificate of title from the name of petitioners' father, Constancio P. Coronel, to their names.

The Court significantly notes that this suspensive condition was, in fact, fulfilled on February 6, 1985 (Exh. "D"; Exh. "4"). Thus, on said date, the conditional contract of sale between petitioners and private respondent Ramona P. Alcaraz became obligatory, the only act required for the consummation thereof being the delivery of the property by means of the execution of the deed of absolute sale in a public instrument, which petitioners unequivocally committed themselves to do as evidenced by the "Receipt of Down Payment."

Article 1475, in correlation with Article 1181, both of the Civil Code, plainly applies to the case at bench. Thus,

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

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

Art. 1181. In conditional obligations, the acquisition of rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.

Since the condition contemplated by the parties which is the issuance of a certificate of title in petitioner's names was fulfilled on February 6, 1985, the respective obligations of the parties under the contract of sale became mutually demandable, that is, petitioners, as sellers, were obliged to present the transfer certificate of title already in their names to private respondent Ramona P. Alcaraz, the buyer, and to immediately execute the deed of absolute sale, while the buyer on her part, was obliged to forthwith pay the balance of the purchase price amounting to P1,190,000.00.

It is also significant to note that in the first paragraph in page 9 of their petition, petitioners conclusively admitted that:

3. The petitioners-sellers Coronel bound themselves "to effect the transfer in our names from our deceased father Constancio P. Coronel, the transfer certificate of title immediately upon receipt of the downpayment above-stated". The sale was still subject to this suspensive condition. (Emphasis supplied.)

(Rollo, p. 16)

Petitioners themselves recognized that they entered into a contract of sale subject to a suspensive condition. Only, they contend, continuing in the same paragraph, that:

. . . Had petitioners-sellers not complied with this condition of first transferring the title to the property under their names, there could be no perfected contract of sale. (Emphasis supplied.)

(Ibid.)

not aware that they have set their own trap for themselves, for Article 1186 of the Civil Code expressly provides that:

Art. 1186. The condition shall be deemed fulfilled when the obligor voluntarily prevents its fulfillment.

Besides, it should be stressed and emphasized that what is more controlling than these mere hypothetical

arguments is the fact that the condition herein referred to was actually and indisputably fulfilled on February 6, 1985, when a new title was issued in the names of petitioners as evidenced by TCT No. 327403 (Exh. "D"; Exh. "4").

The inevitable conclusion is that on January 19, 1985, as evidenced by the document denominated as "Receipt of Down Payment" (Exh. "A"; Exh. "1"), the parties entered into a contract of sale subject to the suspensive condition that the sellers shall effect the issuance of new certificate title from that of their father's name to their names and that, on February 6, 1985, this condition was fulfilled (Exh. "D"; Exh. "4").

We, therefore, hold that, in accordance with Article 1187 which pertinently provides -

Art. 1187. The effects of conditional obligation to give, once the condition has been fulfilled, shall retroact to the day of the constitution of the obligation . . .

In obligations to do or not to do, the courts shall determine, in each case, the retroactive effect of the condition that has been complied with.

the rights and obligations of the parties with respect to the perfected contract of sale became mutually due and demandable as of the time of fulfillment or occurrence of the suspensive condition on February 6, 1985. As of that point in time, reciprocal obligations of both seller and buyer arose.

Petitioners also argue there could be no perfected contract on January 19, 1985 because they were then not yet the absolute owners of the inherited property.

We cannot sustain this argument.

Article 774 of the Civil Code defines Succession as a mode of transferring ownership as follows:

Art. 774. Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent and value of the inheritance of a person are transmitted through his death to another or others by his will or by operation of law.

Petitioners-sellers in the case at bar being the sons and daughters of the decedent Constancio P. Coronel are compulsory heirs who were called to succession by operation of law. Thus, at the point their father drew his last breath, petitioners stepped into his shoes insofar as the subject property is concerned, such that any rights or obligations pertaining thereto became binding and enforceable upon them. It is expressly provided that rights to the succession are transmitted from the moment of death of the decedent (Article 777, Civil Code; *Cuison vs. Villanueva*, 90 Phil. 850 [1952]).

Be it also noted that petitioners' claim that succession may not be declared unless the creditors have been paid is rendered moot by the fact that they were able to effect the transfer of the title to the property from the decedent's name to their names on February 6, 1985.

Aside from this, petitioners are precluded from raising their supposed lack of capacity to enter into an agreement at that time and they cannot be allowed to now take a posture contrary to that which they took when they entered into the agreement with private respondent Ramona P. Alcaraz. The Civil Code expressly states that:

Art. 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

Having represented themselves as the true owners of the subject property at the time of sale, petitioners cannot claim now that they were not yet the absolute owners thereof at that time.

Petitioners also contend that although there was in fact a perfected contract of sale between them and Ramona P.

Alcaraz, the latter breach her reciprocal obligation when she rendered impossible the consummation thereof by going to the United States of America, without leaving her address, telephone number, and Special Power of Attorney (Paragraphs 14 and 15, Answer with Compulsory Counterclaim to the Amended Complaint, p. 2; Rollo, p. 43), for which reason, so petitioners conclude, they were correct in unilaterally rescinding the contract of sale.

We do not agree with petitioners that there was a valid rescission of the contract of sale in the instant case. We note that these supposed grounds for petitioner's rescission, are mere allegations found only in their responsive pleadings, which by express provision of the rules, are deemed controverted even if no reply is filed by the plaintiffs (Sec. 11, Rule 6, Revised Rules of Court). The records are absolutely bereft of any supporting evidence to substantiate petitioners' allegations. We have stressed time and again that allegations must be proven by sufficient evidence (*Ng Cho Cio vs. Ng Diong*, 110 Phil. 882 [1961]; *Recaro vs. Embisan*, 2 SCRA 598 [1961]). Mere allegation is not an evidence (*Lagasca vs. De Vera*, 79 Phil. 376 [1947]).

Even assuming arguendo that Ramona P. Alcaraz was in the United States of America on February 6, 1985, we cannot justify petitioners-sellers' act of unilaterally and extrajudicially rescinding the contract of sale, there being no express stipulation authorizing the sellers to extrajudicially rescind the contract of sale. (cf. *Dignos vs. CA*, 158 SCRA 375 [1988]; *Taguba vs. Vda. De Leon*, 132 SCRA 722 [1984])

Moreover, petitioners are estopped from raising the alleged absence of Ramona P. Alcaraz because although the evidence on record shows that the sale was in the name of Ramona P. Alcaraz as the buyer, the sellers had been dealing with Concepcion D. Alcaraz, Ramona's mother, who had acted for and in behalf of her daughter, if not also in her own behalf. Indeed, the down payment was made by Concepcion D. Alcaraz with her own personal Check (Exh. "B"; Exh. "2") for and in behalf of Ramona P. Alcaraz. There is no evidence showing that petitioners ever questioned Concepcion's authority to represent Ramona P. Alcaraz when they accepted her personal check. Neither did they raise any objection as regards payment being effected by a third person. Accordingly, as far as petitioners are concerned, the physical absence of Ramona P. Alcaraz is not a ground to rescind the contract of sale.

Corollarily, Ramona P. Alcaraz cannot even be deemed to be in default, insofar as her obligation to pay the full purchase price is concerned. Petitioners who are precluded from setting up the defense of the physical absence of Ramona P. Alcaraz as above-explained offered no proof whatsoever to show that they actually presented the new transfer certificate of title in their names and signified their willingness and readiness to execute the deed of absolute sale in accordance with their agreement. Ramona's corresponding obligation to pay the balance of the purchase price in the amount of P1,190,000.00 (as buyer) never became due and demandable and, therefore, she cannot be deemed to have been in default.

Article 1169 of the Civil Code defines when a party in a contract involving reciprocal obligations may be considered in default, to wit:

Art. 1169. Those obliged to deliver or to do something, incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation.

x x x

In reciprocal obligations, neither party incurs in delay if the other does not comply or is not ready to comply in a proper manner with what is incumbent upon him. From the moment one of the parties fulfill his obligation, delay by the other begins. (Emphasis supplied.)

There is thus neither factual nor legal basis to rescind the contract of sale between petitioners and respondents.

With the foregoing conclusions, the sale to the other petitioner, Catalina B. Mabanag, gave rise to a case of double

sale where Article 1544 of the Civil Code will apply, to wit:

Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof to the person who presents the oldest title, provided there is good faith.

The record of the case shows that the Deed of Absolute Sale dated April 25, 1985 as proof of the second contract of sale was registered with the Registry of Deeds of Quezon City giving rise to the issuance of a new certificate of title in the name of Catalina B. Mabanag on June 5, 1985. Thus, the second paragraph of Article 1544 shall apply.

The above-cited provision on double sale presumes title or ownership to pass to the buyer, the exceptions being: (a) when the second buyer, in good faith, registers the sale ahead of the first buyer, and (b) should there be no inscription by either of the two buyers, when the second buyer, in good faith, acquires possession of the property ahead of the first buyer. Unless, the second buyer satisfies these requirements, title or ownership will not transfer to him to the prejudice of the first buyer.

In his commentaries on the Civil Code, an accepted authority on the subject, now a distinguished member of the Court, Justice Jose C. Vitug, explains:

The governing principle is *prius tempore, potior jure* (first in time, stronger in right). Knowledge by the first buyer of the second sale cannot defeat the first buyer's rights except when the second buyer first registers in good faith the second sale (*Olivares vs. Gonzales*, 159 SCRA 33). Conversely, knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register, since knowledge taints his registration with bad faith (see also *Astorga vs. Court of Appeals*, G.R. No. 58530, 26 December 1984). In *Cruz vs. Cabana* (G.R. No. 56232, 22 June 1984, 129 SCRA 656), it was held that it is essential, to merit the protection of Art. 1544, second paragraph, that the second realty buyer must act in good faith in registering his deed of sale (citing *Carbonell vs. Court of Appeals*, 69 SCRA 99, *Crisostomo vs. CA*, G.R. No. 95843, 02 September 1992).

(J. Vitug, *Compendium of Civil Law and Jurisprudence*, 1993 Edition, p. 604).

Petitioners point out that the notice of *lis pendens* in the case at bar was annotated on the title of the subject property only on February 22, 1985, whereas, the second sale between petitioners Coronels and petitioner Mabanag was supposedly perfected prior thereto or on February 18, 1985. The idea conveyed is that at the time petitioner Mabanag, the second buyer, bought the property under a clean title, she was unaware of any adverse claim or previous sale, for which reason she is a buyer in good faith.

We are not persuaded by such argument.

In a case of double sale, what finds relevance and materiality is not whether or not the second buyer in good faith but whether or not said second buyer registers such second sale in good faith, that is, without knowledge of any defect in the title of the property sold.

As clearly borne out by the evidence in this case, petitioner Mabanag could not have in good faith, registered the sale entered into on February 18, 1985 because as early as February 22, 1985, a notice of *lis pendens* had been annotated on the transfer certificate of title in the names of petitioners, whereas petitioner Mabanag registered the said sale sometime in April, 1985. At the time of registration, therefore, petitioner Mabanag knew that the same property had already been previously sold to private respondents, or, at least, she was charged with knowledge

that a previous buyer is claiming title to the same property. Petitioner Mabanag cannot close her eyes to the defect in petitioners' title to the property at the time of the registration of the property.

This Court had occasions to rule that:

If a vendee in a double sale registers the sale after he has acquired knowledge that there was a previous sale of the same property to a third party or that another person claims said property in a previous sale, the registration will constitute a registration in bad faith and will not confer upon him any right. (*Salvoro vs. Tanega*, 87 SCRA 349 [1978]; citing *Palarca vs. Director of Land*, 43 Phil. 146; *Cagaoan vs. Cagaoan*, 43 Phil. 554; *Fernandez vs. Mercader*, 43 Phil. 581.)

Thus, the sale of the subject parcel of land between petitioners and Ramona P. Alcaraz, perfected on February 6, 1985, prior to that between petitioners and Catalina B. Mabanag on February 18, 1985, was correctly upheld by both the courts below.

Although there may be ample indications that there was in fact an agency between Ramona as principal and Concepcion, her mother, as agent insofar as the subject contract of sale is concerned, the issue of whether or not Concepcion was also acting in her own behalf as a co-buyer is not squarely raised in the instant petition, nor in such assumption disputed between mother and daughter. Thus, We will not touch this issue and no longer disturb the lower courts' ruling on this point.

WHEREFORE, premises considered, the instant petition is hereby **DISMISSED** and the appealed judgment **AFFIRMED**.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., and Francisco, JJ., concur.
Panganiban, J., no part.

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