

HENRY MACION AND ANGELES MACION, PETITIONERS, VS. HON. JAPAL M. GUIANI, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT BRANCH 14, COTABATO CITY AND DELA VIDA INS...

G.R. No. 106837. August 04, 1993

Ponente: ROMERO, J.

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ROMERO, J.:

The subject of this litigation revolves around two (2) parcels of adjoining lots owned by petitioners which are the proposed extension sites of De La Vida Institute, an educational institution located in Cotabato City.

On April 26, 1991, the petitioners and private respondent entered into a contract to sell under which terms, private respondent, as president of De la Vida Institute, assured petitioners that they would buy the said properties on or before July 31, 1991 in the amount of P1,750,000.00. In the meantime, petitioners surrendered the physical possession of the two lots to private respondent who promptly built an edifice worth P800,000.00.[1]

But on July 31, 1991, the sale did not materialize. Consequently, petitioners filed a complaint for unlawful detainer against private respondent (MTCC Civil Case No. 2739). In retaliation, private respondent filed a complaint for reformation of the contract to sell executed on April 26, 1991 (Civil Case 592).[2] Afterwards, the parties met to settle their differences.

On February 6, 1992, the parties entered into a compromise agreement which stipulated among others that petitioners would give private respondent five (5) months to raise the amount of P2,060,000.00;[3] that in the event of failure to raise the said amount within the designated period, private respondent would vacate the premises immediately. The compromise agreement, inter alia, provided:

"6. that upon the execution of this agreement, the defendant will furnish the plaintiff with xerox copy of the land title for each lot which the latter may use for the purpose of providing information in securing a loan from any financing or banking institution of their choice.

7. that if within the period of five (5) months from and after February 6, 1992, the plaintiff succeeds in obtaining funds for the purpose of settling their obligations with defendants in the total sum of P2,060,000.00 the latter shall oblige themselves to execute, sign and deliver to the former the corresponding Deed of Sale for the two (2) lots which is the subject of this case and turn-over to said plaintiff the owner's duplicate copy of TCT Nos. T-22004 and T-22005 of the Registry of Deeds for the City of Cotabato."

In affirmation of the compromise agreement, the Board of Trustees of De La Vida College passed thereafter a resolution expressing full support to the said agreement entered into between the parties.[4]

On March 10, 1992, private respondent wrote petitioners that "the compromise agreement we have had in the presence of Judge Guiani is not the same as per attached xerox copy you gave us." In that letter, which essentially was a counterproposal, private respondent said that the price of P2,060,000.00 was higher than what they were

willing to pay in the amount of P2,000,000.00 only.[5] Other matters taken up in the letter were: De La Vida Institute would admit students and hold classes until July 6, 1992 but in case they (private respondent) fail to deliver the said amount, they would voluntarily vacate the premises and that "in the event that the bank and other lending institutions give its nod and approval to our loan and require the submission of other documents, you will give to us the Deed of Sale and Owner's copies of the Titles of the two (2) lots to expedite release of the amount concerned." [6]

On March 25, 1992, the trial court approved the compromise agreement dated February 6, 1992.

Two (2) months after, private respondents, alleging that they had negotiated a loan from the Bank of the Philippine Islands, wrote letters dated May 19, 20 and 26 requesting petitioners to execute with them a contract to sell in their favor. On May 28, 1992, private respondent filed with the trial court an urgent motion for an order directing petitioners to execute a contract to sell in private respondent's favor in accordance with paragraph 7 of the compromise agreement.[7]

On July 8, 1992, petitioners filed a motion for execution of judgment alleging that after a lapse of five (5) months from February 6, 1992, private respondents have failed to settle their obligations with petitioners.[8]

In its order dated August 6, 1992, respondent judge denied the motion for execution and directed petitioners to execute the required contract to sell in favor of private respondent. Respondent judge opined that the proximate cause of private respondent's failure to comply with the compromise agreement was the refusal of petitioners to execute a contract to sell as required under the agreement. Respondent judge added that petitioners should have executed the contract to sell because anyway they would not be prejudiced since there was no transfer of ownership involved in a contract to sell.[9]

Hence this instant petition for certiorari, with prayer for a temporary restraining order enjoining respondent judge from enforcing its August 6, 1992 order.

On October 7, 1992, petitioners filed an Omnibus Urgent Motion praying that private respondent be ordered to consign with the court below P135,000.00 representing rentals from May 1991 to January 1992. In our resolution dated November 18, 1992, we granted said prayer. On March 9, 1993, private respondent consigned with the Office of the Clerk of Court the sum of P135,000.00. On March 29, 1993, petitioners filed with the lower court a motion to withdraw the consigned amount and on April 5, 1993, the trial court released the consigned amount to petitioners.[10]

The issue in the case at bar is whether or not respondent judge committed grave abuse of discretion in ordering petitioner to execute a contract to sell in favor of private respondent.

We dismiss the petition.

The resolution of this case hinges on whether the compromise agreement gives private respondent-buyer the right to demand from petitioner-sellers the execution of a contract to sell in favor of the former.

Apparently, paragraph 7 of the compromise agreement does not give such right to private respondent-buyer. To wit:

"7. that if within the period of five (5) months from and after February 6, 1992, the plaintiff succeeds in obtaining funds for the purpose of settling their obligations with defendants in the total sum of P2,060,000.00 the latter shall oblige themselves to execute, sign and deliver to the former the corresponding Deed of Sale for the two (2) lots which is the subject of this case and turn-over to said plaintiff the owner's duplicate copy of TCT Nos. T-22004 and T-22005 of the Registry of Deeds for the City of Cotabato." (Underscoring provided).

From the aforecited paragraph, it is clear that the seller is obliged to execute a Deed of Sale and not a Contract to Sell upon payment of the full price of P2.06 million. Thereafter, the sellers would turn over to the buyers, respondents herein, the owner's duplicate copy of Transfer Certificate of Title Nos. T-22004 and T-22005.

However, in the interpretation of the compromise agreement, we must delve into the contemporaneous and subsequent acts of the parties to fathom the real intention of the parties.[11] A review of the facts reveals that even prior to the signing of the compromise agreement and the filing of Civil Case No. 592 before the trial court, the parties had already entered into a contract to sell. Thereafter, when the transaction failed to materialize, the parties filed suits against each other; petitioners, their unlawful detainer case, and private respondent a complaint for reformation of contract, alleging that petitioners in fact had caused the preparation of the contract to sell dated April 26, 1991 with the understanding that the land would be used as a collateral in obtaining a loan with DBP.

Said contract to sell was superseded by the compromise agreement entered into on February 6, 1992 containing the abovequoted paragraph. It must be recalled that private respondent was given five (5) months from February 6, 1992, i.e., on or before July 6, 1992 to secure the purchase price of the two (2) lots. We note that within the time frame agreed upon by the parties, private respondents wrote three (3) letters dated May 19, 20 and 26 requesting petitioners to execute a contract to sell in its favor.

Under these factual circumstances, we opine that the compromise agreement must be interpreted as bestowing upon private respondent-buyer the power to demand a contract to sell from petitioner-sellers. Where the seller promised to execute a deed of absolute sale upon completing payment of the price, it is a contract to sell.[12] In the case at bar, the sale is still in the executory stage since the passing of title is subject to a suspensive condition, namely, that if private respondent is able to secure the needed funds to be used in the purchase of the two (2) lots owned by petitioners. A mere executory sale, one where the sellers merely promise to transfer the property at some future date, or where some conditions have to be fulfilled before the contract is converted from an executory to an executed one, does not pass ownership over the real estate being sold.[13]

In our jurisdiction, it has been held that an accepted bilateral promise to buy and sell is in a sense similar to, but not exactly the same, as a perfected contract of sale because there is already a meeting of minds upon the thing which is the object of the contract and upon the price.[14] But a contract of sale is consummated only upon delivery and payment. It cannot be denied that the compromise agreement, having been signed by both parties, is tantamount to a bilateral promise to buy and sell a certain thing for a price certain. Hence, this gives the contracting parties rights in personam, such that each has the right to demand from the other the fulfillment of their respective undertakings.[15] Demandability may be exercised at any time after the execution of the Deed.[16]

The order of respondent judge directing petitioners to issue a contract to sell does not place petitioners in any danger of losing their property without consideration, for, to repeat, in a contract to sell there is no immediate transfer of ownership. In contracts to sell, payment is a positive suspensive condition, failure of which does not constitute a breach but an event that prevents the obligation of the vendor to convey title from materializing, in accordance with Article 1184 of the Civil Code.[17] Petitioners as promisors were never obliged to convey title before the happening of the suspensive condition. In fact, nothing stood in the way of their selling the property to another after an unsuccessful demand for said price upon the expiration of the time agreed upon.

Since the period given by petitioners under the compromise agreement has already lapsed, we order the trial court to fix anew a period within which private respondents could secure the needed funds for the purchase of the land.[18] Moreover, considering that private respondents have only consigned rentals from May 1991 to January 1992 and have since accepted students for the present school year, it is only proper that they be ordered to deposit

the monthly rentals collected thereafter with the trial court.

WHEREFORE, the instant petition is DISMISSED. Petitioners are hereby ordered to EXECUTE a contract to sell in favor of private respondents. On the other hand, private respondent is ordered to DEPOSIT with the trial court current rentals pending consummation of the transaction between the parties. The trial court is ordered to FIX anew the period within which private respondents may be given the opportunity to raise funds for the purchase of the two (2) adjoining lots owned by petitioners.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Exhibit D, Rollo, p. 27.

[2] Exhibit E, Rollo, p. 30.

[3] Calculated as follows: P1,750,000 as price of defendants' 2 parcels of lots situated along Notre Dame Avenue, Cotabato City + P175,000 as interest of 2% a month on P1,750,000 for five months from February 6, 1992 to July 6, 1992. Provided the only interest due upon full payment of P1,750,000 and back rentals of, P135,000 shall be accounted and paid by complainant. (EX. If the above obligations are fully paid on May 31, 1992 then the interest from June 1, 1992 to July 6, 1992 shall no longer be due and payable) + P135,000 as rentals for the period from May 1991 to January 1992.

[4] Exhibit B-3, Rollo, p. 22.

[5] P1,750,000.00 - as price of the two (2) parcels of lots situated along Notre Dame Avenue Cotabato City.

P175,000.00 - as interest of two (2)% percent a month of P1,750,000.00 for five months from February 6, 1992 to July 6, 1992.

P75,000.00 - as rentals for the period from May 1991 to Jan. 1992.

[6] Exhibit K, Rollo, p. 53.

[7] Exhibit O, Rollo, pp. 58-60.

[8] Exhibit Q, Rollo, p. 63.

[9] Exhibit A, Rollo, p. 18.

[10] Rollo, pp. 144-146.

[11] Article 1371, Civil Code.

[12] Dichosos v. Roxas, G.R. No. 17441, July 31, 1962, 5 SCRA 781.

[13] Mccullough and Co., v. Berger, 43 Phil. 823 (1922).

[14] Article 1479, Civil Code, El Banco Nacional Filipino v. Ah Sing, 69 Phil. 611 (1940); Manuel v. Rodriguez, 109 Phil. 1 (1960).

[15] Villamor v. CA, G.R. No. 97332, October 10, 1991, 202 SCRA 607; Borromeo v. Franco, et al., 5 Phil. 49 (1905).

[16] Sanchez v. Rigos, G.R. No. L-25494, June 14, 1972, 45 SCRA 368, 376.

[17] Alfonso v. CA, G.R. No. 63745, June 8, 1990, 186 SCRA 400; Manuel v. Rodriguez, 109 Phil. 1 (1960); Luzon Brokerage Co. Inc. v. Maritime Building Co. Inc., G.R. No. 25885, January 31, 1972, 43 SCRA 93.

[18] Article 1197, Civil Code.

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