

DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS, CELEBRADA MANGUBAT AND ABNER MANGUBAT, RESPONDENTS.

G.R. No. 110053. October 16, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

This appeal by certiorari sprouted from the judgment of respondent Court of Appeals promulgated on September 9, 1992 in CA-G.R. CV No. 28311, and its resolution dated April 7, 1993 denying petitioner's motion for reconsideration.[1] Said adjudgments, in turn, were rooted in the factual groundwork of this case which is laid out hereunder.

On July 20, 1981, herein petitioner Development Bank of the Philippines (DBP) executed a "Deed of Absolute Sale" in favor of respondent spouses Celebrada and Abner Mangubat over a parcel of unregistered land identified as Lot 1, PSU-142380, situated in the Barrio of Toytoy, Municipality of Garchitorena, Province of Camarines Sur, containing an area of 55.5057 hectares, more or less.

The land, covered only by a tax declaration, is known to have been originally owned by one Presentacion Cordovez, who, on February 9, 1937, donated it to Luciano Sarmiento. On June 8, 1964, Luciano Sarmiento sold the land to Pacifico Chica.

On April 27, 1965, Pacifico Chica mortgaged the land to DBP to secure a loan of P6,000.00. However, he defaulted in the payment of the loan, hence DBP caused the extrajudicial foreclosure of the mortgage. In the auction sale held on September 9, 1970, DBP acquired the property as the highest bidder and was issued a certificate of sale on September 17, 1970 by the sheriff. The certificate of sale was entered in the Book of Unregistered Property on September 23, 1970. Pacifico Chica failed to redeem the property, and DBP consolidated its ownership over the same.

On October 14, 1980, respondent spouses offered to buy the property for P18,599.99. DBP made a counter-offer of P25,500.00 which was accepted by respondent spouses. The parties further agreed that payment was to be made within six months thereafter for it to be considered as cash payment. On July 20, 1981, the deed of absolute sale, which is now being assailed herein, was executed by DBP in favor of respondent spouses. Said document contained a waiver of the seller's warranty against eviction.[2]

Thereafter, respondent spouses applied for an industrial tree planting loan with DBP. The latter required the former to submit a certification from the Bureau of Forest Development that the land is alienable and disposable. However, on October 29, 1981, said office issued a certificate attesting to the fact that the said property was classified as timberland, hence not subject to disposition.[3]

The loan application of respondent spouses was nevertheless eventually approved by DBP in the sum of P140,000.00, despite the aforesaid certification of the bureau, on the understanding of the parties that DBP would

work for the release of the land by the former Ministry of Natural Resources. To secure payment of the loan, respondent spouses executed a real estate mortgage over the land on March 17, 1982, which document was registered in the Registry of Deeds pursuant to Act No. 3344.

The loan was then released to respondent spouses on a staggered basis. After a substantial sum of P118,540.00 had been received by private respondents, they asked for the release of the remaining amount of the loan. It does not appear that their request was acted upon by DBP, ostensibly because the release of the land from the then Ministry of Natural Resources had not been obtained.

On July 7, 1983, respondent spouses, as plaintiffs, filed a complaint against DBP in the trial court[4] seeking the annulment of the subject deed of absolute sale on the ground that the object thereof was verified to be timberland and, therefore, is in law an inalienable part of the public domain. They also alleged that petitioner, as defendant therein, acted fraudulently and in bad faith by misrepresenting itself as the absolute owner of the land and in incorporating the waiver of warranty against eviction in the deed of sale.[5]

In its answer, DBP contended that it was actually the absolute owner of the land, having purchased it for value at an auction sale pursuant to an extrajudicial foreclosure of mortgage; that there was neither malice nor fraud in the sale of the land under the terms mutually agreed upon by the parties; that assuming *arguendo* that there was a flaw in its title, DBP can not be held liable for anything inasmuch as respondent spouses had full knowledge of the extent and nature of DBP's rights, title and interest over the land.

It further averred that the annulment of the sale and the return of the purchase price to respondent spouses would redound to their benefit but would result in petitioner's prejudice, since it had already released P118,540.00 to the former while it would be left without any security for the P140,000.00 loan; and that in the remote possibility that the land is reverted to the public domain, respondent spouses should be made to immediately pay, jointly and severally, the total amount of P118,540.00 with interest at 15% per annum, plus charges and other expenses.[6]

On May 25, 1990, the trial court rendered judgment annulling the subject deed of absolute sale and ordering DBP to return the P25,500.00 purchase price, plus interest; to reimburse to respondent spouses the taxes paid by them, the cost of the relocation survey, incidental expenses and other damages in the amount of P50,000.00; and to further pay them attorney's fees and litigation expenses in the amount of P10,000.00, and the costs of suit.[7]

In its recourse to the Court of Appeals, DBP raised the following assignment of errors:

1. The trial court erred in declaring the deed of absolute sale executed between the parties canceled and annulled on the ground that therein defendant-appellant had no title over the property subject of the sale.
2. The trial court erred in finding that defendant-appellant DBP acted fraudulently and in bad faith or that it had misrepresented facts since it had prior knowledge that subject property was part of the public domain at the time of sale to therein plaintiffs-appellees.
3. The trial court erred in finding said plaintiffs-appellees' waiver of warranty against eviction void.
4. The trial court erred in awarding to therein plaintiffs-appellees damages arising from an alleged breach of contract.
5. The trial court erred in not ordering said plaintiffs-appellees to pay their loan obligation to defendant-appellant DBP in the amount of P118,540.[8]

As substantially stated at the outset, respondent Court of Appeals rendered judgment modifying the disposition of the court below by deleting the award for damages, attorney's fees, litigation expenses and the costs, but affirming the same in all its other aspects.[9] On April 7, 1993, said appellate court also denied petitioner's motion for

reconsideration.[10]

Not satisfied therewith, DBP interposed the instant petition for review on certiorari, raising the following issues:

1. Whether or not private respondent spouses Celebrada and Abner Mangubat should be ordered to pay petitioner DBP their loan obligation due under the mortgage contract executed between them and DBP; and
2. Whether or not petitioner should reimburse respondent spouses the purchase price of the property and the amount of P11,980.00 for taxes and expenses for the relocation survey.[11]

Considering that neither party questioned the legality and correctness of the judgment of the court a quo, as affirmed by respondent court, ordering the annulment of the deed of absolute sale, such decreed nullification of the document has already achieved finality. We only need, therefore, to dwell on the effects of that declaration of nullity.

The Court of Appeals, after an extensive discussion, found that there had been no bad faith on the part of either party, and this remains uncontroverted as a fact in the case at bar. Correspondingly, respondent court correctly applied the rule that if both parties have no fault or are not guilty, the restoration of what was given by each of them to the other is consequently in order.[12] This is because the declaration of nullity of a contract which is void ab initio operates to restore things to the state and condition in which they were found before the execution thereof.[13]

We also find ample support for said propositions in American jurisprudence. The effect of an application of the aforequoted rule with respect to the right of a party to recover the amount given as consideration has been passed upon in the case of *Leather Manufacturers National Bank vs. Merchants National Bank*[14] where it was held that: "Whenever money is paid upon the representation of the receiver that he has either a certain title in property transferred in consideration of the payment or a certain authority to receive the money paid, when in fact he has no such title or authority, then, although there be no fraud or intentional misrepresentation on his part, yet there is no consideration for the payment, the money remains, in equity and good conscience, the property of the payer and may be recovered back by him."

Therefore, the purchaser is entitled to recover the money paid by him where the contract is set aside by reason of the mutual material mistake of the parties as to the identity or quantity of the land sold.[15] And where a purchaser recovers the purchase money from a vendor who fails or refuses to deliver the title, he is entitled as a general rule to interest on the money paid from the time of payment.[16]

A contract which the law denounces as void is necessarily no contract whatever, and the acts of the parties in an effort to create one can in no wise bring about a change of their legal status. The parties and the subject matter of the contract remain in all particulars just as they did before any act was performed in relation thereto.[17]

An action for money had and received lies to recover back money paid on a contract, the consideration of which has failed.[18] As a general rule, if one buys the land of another, to which the latter is supposed to have a good title, and, in consequence of facts unknown alike to both parties, he has no title at all, equity will cancel the transaction and cause the purchase money to be restored to the buyer, putting both parties in status quo.[19]

Thus, on both local and foreign legal principles, the return by DBP to respondent spouses of the purchase price, plus corresponding interest thereon, is ineluctably called for.

Petitioner likewise contends that the trial court and respondent Court of Appeals erred in ordering the reimbursement of taxes and the cost of the relocation survey, there being no factual or legal basis therefor. It argues that private respondents merely submitted a "list of damages" allegedly incurred by them, and not official

receipts of expenses for taxes and said survey. Furthermore, the same list has allegedly not been identified or even presented at any stage of the proceedings, since it was vigorously objected to by DBP.

Contrary to the claim of petitioner, the list of damages was presented in the trial court and was correspondingly marked as "Exhibit P." [20] The said exhibit was, thereafter, admitted by the trial court but only as part of the testimonial evidence for private respondents, as stated in its Order dated August 16, 1988. [21]

However, despite that admission of the said list of damages as evidence, we agree with petitioner that the same cannot constitute sufficient legal basis for an award of P4,000.00 and P7,980.00 as reimbursement for land taxes and expenses for the relocation survey, respectively. The list of damages was prepared extrajudicially by respondent spouses by themselves without any supporting receipts as bases thereof or to substantiate the same. That list, per se, is necessarily self-serving and, on that account, should have been declared inadmissible in evidence as the *factum probans*.

In order that damages may be recovered, the best evidence obtainable by the injured party must be presented. Actual or compensatory damages cannot be presumed, but must be duly proved, and so proved with a reasonable degree of certainty. A court cannot rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered and on evidence of the actual amount thereof. If the proof is flimsy and unsubstantial, no damages will be awarded. [22]

Turning now to the issue of whether or not private respondents should be made to pay petitioner their loan obligation amounting to P118,540.00, we answer in the affirmative.

In its legal context, the contract of loan executed between the parties is entirely different and discrete from the deed of sale they entered into. The annulment of the sale will not have an effect on the existence and demandability of the loan. One who has received money as a loan is bound to pay to the creditor an equal amount of the same kind and quality. [23]

The fact that the annulment of the sale will also result in the invalidity of the mortgage does not have an effect on the validity and efficacy of the principal obligation, for even an obligation that is unsupported by any security of the debtor may also be enforced by means of an ordinary action. Where a mortgage is not valid, as where it is executed by one who is not the owner of the property, [24] or the consideration of the contract is simulated [25] or false, [26] the principal obligation which it guarantees is not thereby rendered null and void. That obligation matures and becomes demandable in accordance with the stipulations pertaining to it.

Under the foregoing circumstances, what is lost is only the right to foreclose the mortgage as a special remedy for satisfying or settling the indebtedness which is the principal obligation. In case of nullity, the mortgage deed remains as evidence or proof of a personal obligation of the debtor, and the amount due to the creditor may be enforced in an ordinary personal action. [27]

It was likewise incorrect for the Court of Appeals to deny the claim of petitioner for payment of the loan on the ground that it failed to present the promissory note therefor. While respondent court also made the concession that its judgment was accordingly without prejudice to the filing by petitioner of a separate action for the collection of that amount, this does not detract from the adverse effects of that erroneous ruling on the proper course of action in this case.

The fact is that a reading of the mortgage contract [28] executed by respondent spouses in favor of petitioner, dated March 17, 1982, will readily show that it embodies not only the mortgage but the complete terms and conditions of the loan agreement as well. The provisions of said contract, specifically paragraphs 16 and 28 thereof, are so precise and clear as to thereby render unnecessary the introduction of the promissory note which

would merely serve the same purpose.

Furthermore, respondent Celebrada Mangubat expressly acknowledged in her testimony that she and her husband are indebted to petitioner in the amount of P118,000.00, more or less.[29] Admissions made by the parties in the pleadings or in the course of the trial or other proceedings do not require proof and can not be contradicted unless previously shown to have been made through palpable mistake.[30]

Thus, the mortgage contract which embodies the terms and conditions of the loan obligation of respondent spouses, as well as respondent Celebrada Mangubat's admission in open court, are more than adequate evidence to sustain petitioner's claim for payment of private respondents' aforestated indebtedness and for the adjudication of DBP's claim therefor in the very same action now before us.

It is also worth noting that the adjustment and allowance of petitioner's demand by counterclaim or set-off in the present action, rather than by another independent action, is favored or encouraged by law. Such a practice serves to avoid circuitry of action, multiplicity of suits, inconvenience, expense, and unwarranted consumption of the time of the court. The trend of judicial decisions is toward a liberal extension of the right to avail of counterclaims or set-offs.[31]

The rules on counterclaim are designed to achieve the disposition of a whole controversy of the conflicting claims of interested parties at one time and in one action, provided all parties can be brought before the court and the matter decided without prejudicing the rights of any party.[32]

WHEREFORE, the judgment appealed from is hereby MODIFIED, by deleting the award of P11,980.00 as reimbursement for taxes and expenses for the relocation survey, and ordering respondent spouses Celebrada and Abner Mangubat to pay petitioner Development Bank of the Philippines the amount of P118,540.00, representing the total amount of the loan released to them, with interest of 15% per annum plus charges and other expenses in accordance with their mortgage contract. In all other respects, the said judgment of respondent Court of Appeals is AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Puno, Mendoza, and Francisco, JJ., concur.

[1] Justice Cezar D. Francisco, ponente, with Justices Pedro A. Ramirez and Pacita Cañizares-Nye, concurring.

[2] Original Record, 6.

[3] Ibid., 90.

[4] Civil Case No. RTC 83-152, Regional Trial Court, Branch 22, Naga City; Judge Angel S. Malaya, presiding.

[5] Ibid., 1-5.

[6] Ibid., 9-17. These are alleged as defenses, incorporated by reference in the counterclaims, and sought as reliefs by DBP in its answer (Original Record, 9-16).

[7] Ibid., 156-164.

[8] Rollo, CA-G.R. CV No. 28311, 35-C.

[9] Rollo, 26-40.

[10] Ibid., 41.

- [11] Ibid., 17.
- [12] Tolentino, A.M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. IV, [1973], 594, citing Perez, Gonzales & Alguer: 1-11 Enneccerus, Kipp & Wolff 364-366; 3 Von Tuhr 311; 3 Fabres 231.
- [13] Labrador, et al. vs. De los Santos, et al., 66 Phil. 579 (1938); Castro, et al. vs. Orpiano, et al., 90 Phil. 491 (1951).
- [14] 128 US 26, 9 S Ct, 5,32 L ed 342.
- [15] Wolfinger vs. Thomas, et al., 22 SD 57, 115 NW 100.
- [16] Robinson, et al. vs. Bressler, et al., 122 Neb 461, 240 NW 564, 90 ALR 600; Davis vs. Lee, et al., 52 Wash 330, 100 P 752.
- [17] Tate vs. Gaines, 25 Okla 141, 105 P 193.
- [18] 17 Am. Jur. 2d, Contracts, 845.
- [19] Lee vs. Laprade, 106 Va 594, 56 SE 719; 77 Am. Jur. 2d, Mistakes as to Facts, 241.
- [20] Original Record, 93.
- [21] Ibid., 97.
- [22] Ching Sui Yong vs. Intermediate Appellate Court, et al., G.R. No. 64398, November 6, 1990, 191 SCRA 187.
- [23] Article 1953, Civil Code.
- [24] Article 2085, [2], id.
- [25] Articles 1345 and 1352, id.
- [26] Article 1353, id.
- [27] Compañia General de Tabacos de Filipinas vs. Jeanjaquet, 12 Phil. 195 (1908); Lozano vs. Tan Suico, 23 Phil. 16 (1912); Lim Julian vs. Lutero, et al., 49 Phil. 703 (1926).
- [28] Exhibit 2; Rollo, 104-108.
- [29] T.S.N., August 27, 1985, 36-37; December 16, 1985, 35.
- [30] Section 2, Rule 129, Rules of Court.
- [31] 20 Am. Jur. 2d, Counterclaim, 237-238, citing Parmelee vs. Chicago Eye Shield Co. (CA8Mo) 157 F2d 582, 168 ALR 1130; Merchants National Bank of Los Angeles vs. Clark-Parker Co., et al., 215 Cal. 296, 9 P2d 826, 81 ALR 778.
- [32] Kuenzel vs. Universal Carloading and Distributing Co., Inc. (1939) 29 F. Supp. 407.

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