

LUCIO R. ILDEFONSO, PLAINTIFF AND APPELLANT, VS. ERNESTO Y. SIBAL, DEFENDANT AND APPELLEE.

G. R. No. 12181. September 30, 1959

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is a direct appeal to this Court taken by plaintiff from a decision of the Court of First Instance of Manila, dismissing his complaint and ordering him to pay defendant the sum of P500.00 as attorney's fee, plus costs.

The facts are undisputed. On October 15, 1953 in Civil Case No. 15371 of the Court of First Instance of Manila, herein appellant Lucio R. Ildefonso and appellee Ernesto Y. Sibal, plaintiff and defendant therein, respectively, reached a compromise agreement and thereafter filed a joint motion to dismiss the case. Acting upon the motion the court granted it and dismissed the case.

The compromise agreement, which was later reduced to writing but was not presented to the court for approval, reads:

"COMPROMISE AGREEMENT

For and consideration of the mutual covenants herein set forth, the parties hereinabove named agree:

- That the plaintiff agrees to dismiss the above-entitled case on the ground of amicable settlement, this Compromise Agreement, on the consideration of the promise and covenant of the defendant, to wit:
- That the defendant promises and covenants that:
- That the defendant shall pay the plaintiff this date the amount of ONE THOUSAND (P1,000.00) PESOS;
- That the defendant promises that within two (2) years from the date hereof, he shall course through the plaintiff as Realtor the former's real estate purchase or transaction and should he (defendant) fail thereof, that is, to make such real estate purchase and to course the same to the plaintiff as said Realtor, the defendant is liable further to pay the plaintiff an additional sum of TWO THOUSAND (P2,000.00) PESOS.
- That the defendant further agrees to dismiss his Counter- claim in the above-entitled case on the ground of his amicable settlement. In witness whereof, the parties have hereunto set their hands this 15th day of October, 1953, at the City of Manila.

(Sgd.) ERNESTO Y. SIBAL

(Sgd.) LUCIO R. ILDEFONSO"

Pursuant to the agreement, defendant, during the two-year period stipulated, commissioned plaintiff to sell some of his real properties situated in Sta. Mesa Heights, Quezon City. The properties, however, were not sold by plaintiff but by defendant himself sometime after the lapse of the two-year period and at a price much higher than that quoted to plaintiff. On the other hand, plaintiff, during the period agreed upon—in line with defendant's expressed intention to purchase real estate worth around P400,000.00 within the commercial district of Manila for

the future expansion of his business of selling books and school supplies—looked for real properties for sale in Manila. Apparently successful in his search, he offered to sell to defendant at various times during the stipulated period the Great Eastern Hotel for P1,300,000.00, the Borja Building for P1,500,000.00 and a lot along Rizal Avenue with an area of 157 square meters for P190,000.00. Defendant, however, told plaintiff that he could not buy any of the properties, the Great Eastern Hotel and the Borja Building being not only beyond his means to buy but also inappropriate or inadequate to his business, while the lot in Rizal Avenue was too small to meet the requirements of his plans for expansion.

Claiming that defendant Sibal has failed and neglected to make the purchase of real estate as promised in the compromise agreement above-quoted within the two-year period stipulated therein, plaintiff Ildefonso, on April 20, 1956, instituted the present action for the recovery of the penalty provided for in paragraph 2 (6) thereof in the amount of P2,000.00, with legal interests thereon from October 16, 1955, plus attorney's fee and costs.

Answering the complaint, defendant admitted the execution of the compromise agreement but denied liability, alleging that under the said agreement his liability may arise only in the event that he buys or sells real estate without coursing the same through the plaintiff and that his failure to buy or sell real estate in accordance with the agreement was entirely due to plaintiff's inability to sell the lands he (defendant) offered for sale and to obtain real properties which would be profitable for him to purchase and suitable to his business.

After trial, the lower court, on December 13, 1956, rendered judgment absolving defendant from the complaint and ordering plaintiff to pay the former the amount of P500.00 as attorney's fee. From that decision plaintiff has taken the present appeal.

The only question for determination is whether or not defendant has, upon the undisputed facts above narrated, violated the obligation imposed on him by the compromise agreement.

It is appellant's contention that under paragraph 2 (6) of the compromise agreement, defendant-appellee was under obligation to make a real estate purchase through appellant as realtor within a period of two years from October 15, 1953, when the agreement was signed, and his failure to make any such purchase made him liable to pay the penalty of P2,000.00 provided therein. The contention cannot be sustained. There is nothing in the disputed paragraph of the compromise agreement that can be construed to mean that appellee bound himself to purchase real property and to pay the penalty of P2,000.00 in case he failed to do so. The paragraph of the agreement in question simply provides "that the defendant (herein appellee) promises that within two (2) years from the date hereof, he shall course through the plaintiff (herein appellant) as Realtor the former's real estate purchase or transaction", and should appellee fail to fulfill that obligation he becomes liable to pay appellant the sum of P2,000.00 in accordance with the penal clause. It is evident, therefore, that appellee's principal undertaking was to "course" or make his real estate purchases and sales through appellant for a period of two years from the date of the execution of the compromise agreement.

In other words, as aptly stated by appellee in his brief, he has, by paragraph 2 (b) of the compromise agreement, in effect, constituted appellant for two years as his exclusive agent in the purchase or sale of real property with liability to pay P2,000.00 in case of breach. This theory is supported by the record. For during the negotiation for the compromise agreement, appellee, who had earlier expressed his intention to buy real estate for the expansion of his business, suggested that he "could course the transaction through appellant", and to that suggestion appellant, who wanted some assurance that the transaction would really be coursed through him as realtor, gave his assent after appellee had agreed to pay damages should he fail to do so. Indeed, following appellant's contention, it is hard to believe that a man of appellee's business acumen and stature would give his consent to an agreement wherein he is under compulsion to buy real estate—which may, as in this case, be not only inadequate

or inappropriate for his business, but, what is worse, also beyond his means—in order to avoid liability under the penal clause therein stipulated.

There being no dispute that appellee has, in fact, during the two-year period provided in the compromise agreement, coursed through appellant his real estate transactions and that, due to no fault attributable to him, he was not able to purchase or sell any real property through appellant (or anybody else, for that matter) which that period, we cannot say that the trial court has committed any error in dismissing the complaint.

There is, to be sure, ambiguity in the provision of the compromise agreement in question as a result of the explanatory clause ("that is, to make such real estate purchase and to course the same to the plaintiff as Realtor") inserted after the phrase "should he fail thereof" which follows the statement of appellee's obligation. But following the rule that ambiguities or obscure clauses in contracts cannot favor the one who has caused them (article 1377, new Civil Code), and it appearing that the compromise agreement was drawn by appellant through his counsel, with the paragraph in dispute creating an obligation in his favor, the ambiguity found therein must be construed in favor of herein appellee. (H. E. Heacock Co. vs. Macondray & Co., 42 Phil., 205; Asturias Sugar Central vs. The Pure Cane Molasses Co., 57 Phil., 519; Halili vs. Lloret et al., 95 Phil., 776; 50 Off. Gaz., 2493.) In view of the foregoing, the decision appealed from is hereby affirmed, with costs against appellant.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia, and Barrera, JJ., concur.

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