BRIGIDA CONCULADA, PACIANO GARCIA, JR., SPOUSES IMELDA AND MOHAMMAD ALI SALASA, SPOUSES CONCEPCION AND JAMES TAN, SPOUSES SONIA AND ALNAEB JULJANI, SPOUSES RASALIE AND YUSOP AB...

G.R. No. 130562. October 11, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Assailed in this petition for review is the decision[1] dated March 19, 1997 of the Court of Appeals in CA-G.R. No. 47157 affirming the decision[2] of the Regional Trial Court of Sulu, Branch 3, in Civil Case No. 21-3 and its order dated July 31, 1997,[3] denying petitioners' motion for reconsideration.

Petitioner Paciano Garcia, Jr. and Henrietta Borja with their six siblings were co-owners of two (2) parcels of land covered by OCT No. 106 and OCT No. P-41. They inherited them from their parents, Paciano and Ernestina Garcia. Fronting the old public market of Jolo, those parcels had a combined area of 2,692 square meters. They were leased to 28 individual tenants, including respondent spouses Kimtoy Jamaani-Wee and Tian Su Wee.

In January 1986, petitioner Garcia, Jr. and his lawyer, petitioner Ulka Ulama, without prior authority from the other Garcia heirs, announced the sale of the said lots and informed the actual occupants including private respondent Wee that they had preferential rights to buy the portions they were occupying.

Forthwith, in a letter dated January 31, 1986 to Atty. Ulama, Wee signified his interest to purchase the lot where his store was built. However, he asked for proof that Garcia, Jr. was authorized by the other Garcia heirs to represent them.

In a letter dated February 10, 1986, Ulama merely advised Wee to tender the required amount of deposit with the Allied Bank or Philippine National Bank, Iligan City, on or before February 13, 1986.[4]

On September 1, 1986, Atty. Ulama wrote Wee a letter stating that Garcia, Jr. was authorized by the other Garcia heirs to sign the deed of sale over the said parcels of land. Ulama reminded Wee about depositing P10,000.00.

Two weeks later, Ulama again wrote Wee, admonishing Wee for failing to pay the increased rental of P440.00 per month beginning January 1983. He also asked Wee to vacate the said property and to remove the improvements thereon within 30 days from receipt of the letter.

In a letter dated October 9, 1986, Wee through counsel requested Ulama to prepare the contract to sell as Wee was going to exercise the preferential right to buy Lot 4. Two weeks later, Wee deposited a P20,000.00 check as initial deposit. Ulama received the deposit unconditionally.

On August 28, 1987, despite his acceptance of the deposit, Ulama, with Garcia, Jr. and Borja sold Lot 4 to herein petitioner Brigida Conculada. Consequently, TCT No. 4381 was issued to Conculada. Thereafter, she donated the lot to her children and had it titled in their names under TCT No. T-4387 of the Sulu Registry.

After the sale, Ulama tried to return the P20,000.00 check to Wee, explaining that petitioner Conculada already purchased Lot 4. Wee refused to accept the refund. Instead, he offered to reimburse Borja the P455,000.00 paid by Conculada, but Borja declined. Wee was constrained to consign the money to the Regional Trial Court.

On September 15, 1987, herein private respondents filed with the RTC a complaint docketed as Civil Case No. 21-3 against petitioners for annulment and cancellation of the sale of Lot 4, and cancellation of the deed of donation executed by Brigida Conculada in favor of her daughters. Private respondents asked for specific performance and damages.

On March 28, 1989, the RTC dismissed the complaint, and on June 26, 1989, denied private respondents' motion for reconsideration.

On appeal, the Court of Appeals in CA-G.R. CV No. 22796 reversed the RTC decision on August 28, 1990, disposing:

> WHEREFORE, the Order of the lower court under date of March 28, 1989 as well as the Order dated June 26, 1989 sustaining the motion to dismiss are hereby REVERSED and SET ASIDE. Let this case be remanded to the Court of origin for further proceedings consistent with our pronouncements herein.[5]

On December 5, 1990, the appellate court denied the motion for reconsideration filed by petitioners.

Petitioners filed a petition for certiorari with this Court docketed as G.R. No. 96450, which we denied in a resolution dated January 21, 1991. We held:

x x x

> After deliberating thereon, the Court, in the exercise of its discretion, Resolved to DENY the petition for failure to show any reversible error in the decision and resolution subject of the petition....[6]

The resolution on G.R. No. 96450 became final and executory on February 14, 1991. Thus, the case was remanded to the RTC and trial of the same Civil Case No.21-3 proceeded.

After trial, the RTC in a decision dated January 11, 1994 granted the complaint. Its decretal portion reads:

> WHEREFORE, in view of the foregoing considerations judgment is hereby rendered declaring NULL and VOID the following: (a) the Deed of Extrajudicial Settlement of Estate executed by the heirs of Dr. Paciano T. Garcia, Sr. and Mrs. Ernestina U. Garcia affecting the land described in Original Certificate of Title No. 106 and P-41 of the Sulu Registry: (b) the Deed of Sale of Lot No. 4 of the subdivision plan Pcs-09-000699 executed by defendant Henrietta G. Borja in favor of defendant Brigida Conculada; and (c) the Deed of Donation of Lot No. 4 of subdivision plan Pcs-09-000699 executed by defendant Brigida Conculada in favor of defendants Imelda, Concepcion, Ma. Sonia and Rosalie - all surnamed Conculada, and are hereby ordered cancelled.
>
> The Acting Register of Deeds Mohammadjan Sarajan is hereby directed and ordered to cancel and annul Transfer Certificate of Title No. T-4387 of the Registry of Deeds of Sulu.
>
> Defendants Paciano Garcia, Jr. and Henrietta G. Borja (or her representative) are ordered to forthwith execute a deed of conveyance in favor of plaintiff Kimtoy Jamaani-Wee married to plaintiff Tian Su Wee, of Lot No. 4 of the subdivision plan Pcs-09-000699 and collect the purchase price of the said land in the sum of Four Hundred Fifty-Five Thousand Pesos (P455, 000.00) which plaintiffs consigned and deposited with the Officer-in-Charge of Branch III, Regional Trial Court of Sulu.
>
> Likewise, defendants are hereby ordered to pay jointly and severally the plaintiffs-spouses Kimtoy Jamaani-Wee and Tian Su-Wee, as follows: (a) moral damages in the sum of Seventy Thousand Pesos

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> (P70,000.00); (b) Attorney's fee in the sum of Fifteen Thousand Pesos (P15,000.00); (c) litigation expenses in the sum of Five Thousand Pesos (P5,000.00); and exemplary damages in the sum of Twenty Thousand Pesos (P20,000.00) all in Philippine Currency.[7]

The Court of Appeals affirmed the RTC decision in the challenged decision[8] dated March 19, 1997, with a dispositive portion reading:

> WHEREFORE, the appealed decision of the lower court in Civil Case No. 21-3 is hereby AFFIRMED by this Court, with costs against defendants-appellants.[9]

Petitioners now raise the following questions:

> I
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> WHAT HAPPENED TO THE FOUR HUNDRED FIFTY FIVE THOUSAND PESOS (P455,000.00) PAID BY PETITIONER BRIGIDA CONCULADA TO THE HEIRS OF DR. & MRS. GARCIA SR. AS PAYMENT OF LOT NO. 4 THE SUBJECT OF THIS CONTROVERSY, IN MARCH 1987? NOWHERE IN THE DECISION OF THE COURT A QUO OR RESPONDENT COURT OF APPEALS, HAS THERE BEEN ANY MENTION ABOUT IT. IS IT A LOST MONEY? WHY? TO WHOM SHOULD IT BE PAID?
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> II
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> IS THE DECISION OF THE COURT A QUO, AS AFFIRMED BY RESPONDENT COURT OF APPEALS, TO WIT: "DECLARING NULL AND VOID THE FOLLOWING (a) THE DEED OF EXTRAJUDICIAL SETTLEMENT OF ESTATE EXECUTED BY THE HEIRS OF DR. PACIANO T. GARCIA AND MRS. ERNESTINA U. GARCIA EFFECTING LAND DESCRIBED IN ORIGINAL CERTIFICATE OF TITLE NO. 106 AND P-41 OF THE SULU REGISTRY; (b) THE DEED OF SALE OF LOT NO. 4 OF THE SUBDIVISION PLAN PCS-09-000699 EXECUTED BY DEFENDANT HENRIETTA G. BORJA IN FAVOR OF DEFENDANT BRIGIDA CONCULADA; AND (c) THE DEED OF DONATION OF LOT NO. 4 OF SUBDIVISION PLAN PCS-09-000699 IN FAVOR OF DEFENDANTS IMELDA, CONCEPCION, MA. SONIA AND ROSALIE - ALL SURNAMED CONCULADA, AND ARE HEREBY ORDERED CANCELLED," - - WITHOUT ANY LEGAL BASIS AT ALL TENABLE?
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> III
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> ASSUMING ARGUENDO THAT THE ABOVE DECISION AS LEGAL AND VALID, HOW CAN THE OTHER PORTION OF THE DECISION WHICH STATES: "DEFENDANT PACIANO GARCIA, JR. AND HENRIETTA G. BORJA (OR HER REPRESENTATIVE) ARE ORDERED TO FORTHWITH EXECUTE A DEED OF CONVEYANCE IN FAVOR OF KIMTOY JAMAANI-WEE MARRIED TO PLAINTIFF TIAN SU WEE, OF LOT NO. 4 x x x COLLECT THE PURCHASE PRICE OF THE SAID LAND IN THE SUM OF FOUR HUNDRED FIFTY FIVE THOUSAND PESOS (P455,000.00) WHICH PLAINTIFF CONSIGNED AND DEPOSITED WITH THE OFFICER-IN-CHARGE OF BRANCH III, REGIONAL TRIAL COURT OF SULU," BE LEGALLY IMPLEMENTED?
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> IV
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> AS BETWEEN PETITIONERS SPOUSES BRIGIDA AND LEE KANG AND THEIR CHILDREN PETITIONERS CONCEPCION TAN, IMELDA SALASA, SONIA JULJANI, AND ROSALIE ABDULLA ON ONE HAND AND RESPONDENTS SPOUSES KIMTOY JAMAANI-WEE AND TIAN SU WEE, ON THE OTHER, WHO HAS A BETTER RIGHT TO LOT NO. 4, THE SUBJECT OF THIS CONTROVERSY? AND WHO HAD BEEN PREJUDICED AND HAD SUFFERED MORAL, ACTUAL OR COMPLEMENTARY, NOMINAL TEMPERATE, LIQUIDATED AND EXEMPLARY OR CORRECTIVE DAMAGES?[10]

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The main issue is, briefly stated, who has the better right over the disputed property?

Petitioners insist that through their inaction private respondents effectively waived their right to purchase the property. Petitioners additionally argue that the assailed decision of the appellate court is based on misapprehension of facts and not supported by substantial evidence.[11]

Private respondents, on the other hand, assert that factual findings of the trial court supported by substantial evidence, as affirmed by the Court of Appeals, bind us.

After a careful consideration of the record in this case and the submissions of the parties, we find petitioners' contention untenable. For one, the ruling of the Court of Appeals upholding the right of private respondents to buy the disputed property in CA-G.R. CV No. 22796 has already become final and executory on February 14, 1991, after we affirmed the ruling of the respondent court in G.R. No. 96450.[12] The pertinent portion of respondent court's ruling states:

> There is, therefore, no doubt that the appellants [herein plaintiffs-appellees] have a legal right of first refusal and that defendants [herein defendants-appellants] have a corresponding obligation to respect such right, but defendants violated appellants' right when they refused or did not allow them to exercise such right.
>
> x x x
>
> The over-all review of the pleadings and records of this case conveys the impression that appellants [herein plaintiffs-appellees] desired to exercise a certain degree of caution before depositing the required amount in accepting the offer to sell. In a transaction involving almost half a million pesos, such course of action is normal. To the mind of this court, the right of first refusal of legitimate tenant does not contemplate a situation which entirely disregards the time-honored legal maxim of caveat emptor. The appellants as buyers, in order to protect themselves, should be aware of the legal flaws that normally might come with sale. (Denoga vs. Insular Government, 19 Phil. 264). It would therefore seem proper to consider a few months delay as `within reasonable time' to exercise the right of first refusal as envisioned by Section 6, PD No. 1517 x x x.[13]

Petitioners themselves recognize in their brief filed with respondent court that CA-G.R. CV No. 22796 has become final and executory.[14] Having attained finality, this decision upholding the right of respondent spouses to buy Lot 4 effectively forecloses any further inquiry as to such right. Conformably with the doctrine of res judicata as embodied in Rule 39, Section 47 of the Rules of Court,[15] when a right or fact has been judicially tried and determined by a court of competent jurisdiction or an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them.[16]

Next, the determination of whether or not private respondents waived their preferential right to buy Lot 4 calls for a factual determination. Repeatedly, we have said that a review of factual questions is not a function of the Supreme Court, not unless the appellate court's findings are palpably unsupported by the evidence on record or unless the judgment itself is based on misapprehension of facts.[17] We find no such misapprehension nor misappreciation of facts to reverse the determination of the appellate court which has become final.

Petitioners also assail the appellate court's decision for its failure to take into account the P455,000.00 paid by petitioner Conculada to the Garcia heirs. They additionally challenge respondent court's order that petitioners Garcia, Jr. and Borja collect the P455,000.00 which private respondents consigned to the RTC.

Is petitioner Conculada entitled to the restitution of the P455,000 purchase price? Recall that the contract of sale of Lot 4 to petitioners was declared null and void when the trial and appellate courts found that petitioners did not let private respondent spouses exercise their right to purchase Lot 4.[18] Although the sale to Conculada must be

set aside, that sale was, properly speaking, a rescissible contract. The prevailing doctrine is that a contract of sale entered into in violation of a right of first refusal of another person is rescissible.[19]

In Guzman, Bocaling and Co., Inc. vs. Bonnevie, 206 SCRA 668, 675 (1992), the Court upheld the decision of a lower court ordering the rescission of a deed of sale which violated a right of first refusal granted to one of the parties therein. The Court held:

> ...Contract of Sale was not voidable but rescissible. Under Article 1380 to 1381 (3) of the Civil Code, a contract otherwise valid may nonetheless be subsequently rescinded by reason of injury to third persons, like creditors. The status of creditors could be validly accorded the Bonnevies for they had substantial interest that were prejudiced by the sale of the property to the petitioner without recognizing their right of first priority under the Contract of Lease.
>
> According to Tolentino, rescission is a remedy granted by law to the contracting parties and even to third persons, to secure reparations for damages caused to them by a contract, even if this should be valid, by means of the restoration of things to their condition at the moment prior to the celebration of said contract....

Thus, conformably with Art. 1385[20] of the Civil Code, the purchase price must be restored to the buyer. Accordingly, petitioner Conculada is entitled to restitution in the amount of P455,000, the price she paid to the sellers. To facilitate restitution, the same amount of P455,000 consigned by private respondents with the RTC for the purchase of Lot No. 4 could be utilized for that purpose once Garcia Jr. and Borja (or her representatives) execute the deed of conveyance in favor of private respondents as ordered by the trial court in its decision dated January 11, 1994.

Petitioners also fault respondent court for affirming the order of annulment of the Deed of Extrajudicial Settlement.[21] The question is whether the Extrajudicial Settlement of Estate prejudiced private respondents' preferential right to purchase Lot 4. The original lots under OCT No. RP-165 (0106) and OCT No. RP-164 (P-41) were consolidated and subdivided into 28 lots to facilitate sale. But to the extent that private respondents' right to Lot No. 4 was affected and insofar as the present controversy is concerned, the Extrajudicial Settlement should not stand in the way and ought to be deemed inoperative, hence null.

Having ruled that the private respondents' right to buy the lot in question has become final, we need not dwell further on the fourth and last question raised by petitioners.

WHEREFORE, the appealed decision of the Court of Appeals in CA-G.R. CV No. 47157, sustaining the decision of the RTC of Sulu dated January 11, 1994, is AFFIRMED. Private respondents' preferential right to the purchase of Lot No. 4 is upheld. Further, petitioner Brigida Conculada's right to the restitution of the purchase price in the amount of P455,000 is recognized and said amount now deposited with Branch 3 of the Regional Trial Court of Sulu, is hereby ORDERED to be restituted to her, once the deed of conveyance by the sellers of Lot No. 4 is executed in favor of private respondents. The order to cancel and annul Transfer Certificate of Title No. T-4387 of the Registry of Deeds of Sulu, and the order to defendants below, herein co-petitioners, to pay to plaintiffs below and now co-respondents Kimtoy Jamaani Wee and Tian Su-Wee damages, attorney's fees, litigation expenses and the costs are MAINTAINED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena., and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 15-A-26.

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[2] CA Rollo, pp. 75-114.

[3] Id. at 28.

[4] Records, Vol. I, p. 157.

[5] Id. at 463.

[6] Id. at 466.

[7] Id. at 15-A-16.

[8] Id. at 15-A-26.

[9] Id. at 26.

[10] Id. at 9.

[11] Id. at 46-47.

[12] Supra, note 6.

[13] Id. at 23-24.

[14] CA Rollo, p. 59.

[15] Sec. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

(a) x x x

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity; xxx

Also, Mata vs. Court of Appeals, G.R. No. 103476, 318 SCRA 416, 427-428 (1999).

[16] Stilianopulos vs. City of Legaspi, 316 SCRA 523, 542 (1999).

[17] Alba Vda. De Raz vs. Court of Appeals, G.R. No. 120066, 314 SCRA 36, 52 (1999).

[18] Rollo, p. 23.

[19] Rosencor Development Corporation, et al. vs. Paterno Inquing, et al., G.R. No. 140479, March 8, 2001, p. 14, citing Guzman, et al. vs. Bonnevie, G.R. No. 86150, 206 SCRA 668, 675 (1992).

[20] Art. 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.

x x x

[21] Rollo, pp. 10-11.

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