

**LOURDES ONG LIMSON, PETITIONER, VS. COURT OF APPEALS,
SPOUSES LORENZO DE VERA AND ASUNCION SANTOS-DE VERA,
TOMAS CUENCA, JR., AND SUNVAR REALTY DEVELOPMENT
CORPORATION, RESPONDE...***G.R. No. 135929. April 20, 2001*

Ponente: BELLOSILLO, J.

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Filed under Rule 45 of the Rules of Court this Petition for Review on Certiorari seeks to review, reverse and set aside the Decision[1] of the Court of Appeals dated 18 May 1998 reversing that of the Regional Trial Court dated 30 June 1993. The petition likewise assails the Resolution[2] of the appellate court of 19 October 1998 denying petitioner's Motion for Reconsideration.

Petitioner Lourdes Ong Limson, in her 14 May 1979 Complaint filed before the trial court,[3] alleged that in July 1978 respondent spouses Lorenzo de Vera and Asuncion Santos-de Vera, through their agent Marcosa Sanchez, offered to sell to petitioner a parcel of land consisting of 48,260 square meters, more or less, situated in Barrio San Dionisio, Parañaque, Metro Manila; that respondent spouses informed her that they were the owners of the subject property; that on 31 July 1978 she agreed to buy the property at the price of P34.00 per square meter and gave the sum of P20,000.00 to respondent spouses as "earnest money;" that respondent spouses signed a receipt therefor and gave her a 10-day option period to purchase the property; that respondent Lorenzo de Vera then informed her that the subject property was mortgaged to Emilio Ramos and Isidro Ramos; that respondent Lorenzo de Vera asked her to pay the balance of the purchase price to enable him and his wife to settle their obligation with the Ramoses.

Petitioner also averred that she agreed to meet respondent spouses and the Ramoses on 5 August 1978 at the Office of the Registry of Deeds of Makati, Metro Manila, to consummate the transaction but due to the failure of respondent Asuncion Santos-de Vera and the Ramoses to appear, no transaction was formalized. In a second meeting scheduled on 11 August 1978 she claimed that she was willing and ready to pay the balance of the purchase price but the transaction again did not materialize as respondent spouses failed to pay the back taxes of subject property. Subsequently, on 23 August 1978 petitioner allegedly gave respondent Lorenzo de Vera three (3) checks in the total amount of P36,170.00 for the settlement of the back taxes of the property and for the payment of the quitclaims of the three (3) tenants of subject land. The amount was purportedly considered part of the purchase price and respondent Lorenzo de Vera signed the receipts therefor.

Petitioner alleged that on 5 September 1978 she was surprised to learn from the agent of respondent spouses that the property was the subject of a negotiation for the sale to respondent Sunvar Realty Development Corporation (SUNVAR) represented by respondent Tomas Cuenca, Jr. On 15 September 1978 petitioner discovered that although respondent spouses purchased the property from the Ramoses on 20 March 1970 it was only on 15 September 1978 that TCT No. S-72946 covering the property was issued to respondent spouses. As a

consequence, she filed on the same day an Affidavit of Adverse Claim with the Office of the Registry of Deeds of Makati, Metro Manila, which was annotated on TCT No. S-72946. She also claimed that on the same day she informed respondent Cuenca of her "contract" to purchase the property.

The Deed of Sale between respondent spouses and respondent SUNVAR was executed on 15 September 1978 and TCT No. S-72377 was issued in favor of the latter on 26 September 1978 with the Adverse Claim of petitioner annotated thereon. Petitioner claimed that when respondent spouses sold the property in dispute to SUNVAR, her valid and legal right to purchase it was ignored if not violated. Moreover, she maintained that SUNVAR was in bad faith as it knew of her "contract" to purchase the subject property from respondent spouses.

Finally, for the alleged unlawful and unjust acts of respondent spouses, which caused her damage, prejudice and injury, petitioner claimed that the Deed of Sale, should be annulled and TCT No. S-72377 in the name of respondent SUNVAR canceled and TCT No. S-72946 restored. She also insisted that a Deed of Sale between her and respondent spouses be now executed upon her payment of the balance of the purchase price agreed upon, plus damages and attorney's fees.

In their Answer[4] respondent spouses maintained that petitioner had no sufficient cause of action against them; that she was not the real party in interest; that the option to buy the property had long expired; that there was no perfected contract to sell between them; and, that petitioner had no legal capacity to sue. Additionally, respondent spouses claimed actual, moral and exemplary damages, and attorney's fees against petitioner.

On the other hand, respondents SUNVAR and Cuenca, in their Answer,[5] alleged that petitioner was not the proper party in interest and/or had no cause of action against them. But, even assuming that petitioner was the proper party in interest, they claimed that she could only be entitled to the return of any amount received by respondent spouses. In the alternative, they argued that petitioner had lost her option to buy the property for failure to comply with the terms and conditions of the agreement as embodied in the receipt issued therefor. Moreover, they contended that at the time of the execution of the Deed of Sale and the payment of consideration to respondent spouses, they "did not know nor was informed" of petitioner's interest or claim over the subject property. They claimed furthermore that it was only after the signing of the Deed of Sale and the payment of the corresponding amounts to respondent spouses that they came to know of the claim of petitioner as it was only then that they were furnished copy of the title to the property where the Adverse Claim of petitioner was annotated. Consequently, they also instituted a Cross-Claim against respondent spouses for bad faith in encouraging the negotiations between them without telling them of the claim of petitioner. The same respondents maintained that had they known of the claim of petitioner, they would not have initiated negotiations with respondent spouses for the purchase of the property. Thus, they prayed for reimbursement of all amounts and monies received from them by respondent spouses, attorney's fees and expenses for litigation in the event that the trial court should annul the Deed of Sale and deprive them of their ownership and possession of the subject land.

In their Answer to the Cross-Claim[6] of respondents SUNVAR and Cuenca, respondent spouses insisted that they negotiated with the former only after the expiration of the option period given to petitioner and her failure to comply with her commitments thereunder. Respondent spouses contended that they acted legally and validly, in all honesty and good faith. According to them, respondent SUNVAR made a verification of the title with the Office of the Register of Deeds of Metro Manila District IV before the execution of the Deed of Absolute Sale. Also, they claimed that the Cross-Claim was barred by a written waiver executed by respondent SUNVAR in their favor. Thus, respondent spouses prayed for actual damages for the unjustified filing of the Cross-Claim, moral damages for the mental anguish and similar injuries they suffered by reason thereof, exemplary damages "to prevent others from emulating the bad example" of respondents SUNVAR and Cuenca, plus attorney's fees.

After a protracted trial and reconstitution of the court records due to the fire that razed the Pasay City Hall on 18 January 1992, the Regional Trial Court rendered its 30 June 1993 Decision^[7] in favor of petitioner. It ordered (a) the annulment and rescission of the Deed of Absolute Sale executed on 15 September 1978 by respondent spouses in favor of respondent SUNVAR; (b) the cancellation and revocation of TCT No. S-75377 of the Registry of Deeds, Makati, Metro Manila, issued in the name of respondent Sunvar Realty Development Corporation, and the restoration or reinstatement of TCT No. S-72946 of the same Registry issued in the name of respondent spouses; (c) respondent spouses to execute a deed of sale conveying ownership of the property covered by TCT No. S-72946 in favor of petitioner upon her payment of the balance of the purchase price agreed upon; and, (d) respondent spouses to pay petitioner P50,000.00 as and for attorney's fees, and to pay the costs.

On appeal, the Court of Appeals completely reversed the decision of the trial court. It ordered (a) the Register of Deeds of Makati City to lift the Adverse Claim and such other encumbrances petitioner might have filed or caused to be annotated on TCT No. S-75377; and, (b) petitioner to pay (1) respondent SUNVAR P50,000.00 as nominal damages, P30,000.00 as exemplary damages and P20,000 as attorney's fees; (2) respondent spouses, P15,000.00 as nominal damages, P10,000.00 as exemplary damages and P10,000.00 as attorney's fees; and, (3) the costs.

Petitioner timely filed a Motion for Reconsideration which was denied by the Court of Appeals on 19 October 1998. Hence, this petition.

At issue for resolution by the Court is the nature of the contract entered into between petitioner Lourdes Ong Limson on one hand, and respondent spouses Lorenzo de Vera and Asuncion Santos-de Vera on the other.

The main argument of petitioner is that there was a perfected contract to sell between her and respondent spouses. On the other hand, respondent spouses and respondents SUNVAR and Cuenca argue that what was perfected between petitioner and respondent spouses was a mere option.

A scrutiny of the facts as well as the evidence of the parties overwhelmingly leads to the conclusion that the agreement between the parties was a contract of option and not a contract to sell.

An option, as used in the law of sales, is a continuing offer or contract by which the owner stipulates with another that the latter shall have the right to buy the property at a fixed price within a time certain, or under, or in compliance with, certain terms and conditions, or which gives to the owner of the property the right to sell or demand a sale. It is also sometimes called an "unaccepted offer." An option is not of itself a purchase, but merely secures the privilege to buy.^[8] It is not a sale of property but a sale of the right to purchase.^[9] It is simply a contract by which the owner of property agrees with another person that he shall have the right to buy his property at a fixed price within a certain time. He does not sell his land; he does not then agree to sell it; but he does sell something, i.e., the right or privilege to buy at the election or option of the other party.^[10] Its distinguishing characteristic is that it imposes no binding obligation on the person holding the option, aside from the consideration for the offer. Until acceptance, it is not, properly speaking, a contract, and does not vest, transfer, or agree to transfer, any title to, or any interest or right in the subject matter, but is merely a contract by which the owner of the property gives the optionee the right or privilege of accepting the offer and buying the property on certain terms.^[11] On the other hand, a contract, like a contract to sell, involves the meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service.^[12] Contracts, in general, are perfected by mere consent,^[13] which is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. The offer must be certain and the acceptance absolute.^[14] The Receipt^[15] that contains the contract between petitioner and respondent spouses provides -

Received from Lourdes Limson the sum of Twenty Thousand Pesos (P20,000.00) under Check No. 22391

dated July 31, 1978 as earnest money with option to purchase a parcel of land owned by Lorenzo de Vera located at Barrio San Dionisio, Municipality of Parañaque, Province of Rizal with an area of forty eight thousand two hundred sixty square meters more or less at the price of Thirty Four Pesos (P34.00)[16] cash subject to the condition and stipulation that have been agreed upon by the buyer and me which will form part of the receipt. Should the transaction of the property not materialize not on the fault of the buyer, I obligate myself to return the full amount of P20,000.00 earnest money with option to buy or forfeit on the fault of the buyer. I guarantee to notify the buyer Lourdes Limson or her representative and get her conformity should I sell or encumber this property to a third person. This option to buy is good within ten (10) days until the absolute deed of sale is finally signed by the parties or the failure of the buyer to comply with the terms of the option to buy as herein attached.

In the interpretation of contracts, the ascertainment of the intention of the contracting parties is to be discharged by looking to the words they used to project that intention in their contract, all the words, not just a particular word or two, and words in context, not words standing alone.[17] The above Receipt readily shows that respondent spouses and petitioner only entered into a contract of option; a contract by which respondent spouses agreed with petitioner that the latter shall have the right to buy the former's property at a fixed price of P34.00 per square meter within ten (10) days from 31 July 1978. Respondent spouses did not sell their property; they did not also agree to sell it; but they sold something, i.e., the privilege to buy at the election or option of petitioner. The agreement imposed no binding obligation on petitioner, aside from the consideration for the offer.

The consideration of P20,000.00 paid by petitioner to respondent spouses was referred to as "earnest money." However, a careful examination of the words used indicates that the money is not earnest money but option money. "Earnest money" and "option money" are not the same but distinguished thus: (a) earnest money is part of the purchase price, while option money is the money given as a distinct consideration for an option contract; (b) earnest money is given only where there is already a sale, while option money applies to a sale not yet perfected; and, (c) when earnest money is given, the buyer is bound to pay the balance, while when the would-be buyer gives option money, he is not required to buy,[18] but may even forfeit it depending on the terms of the option.

There is nothing in the Receipt which indicates that the P20,000.00 was part of the purchase price. Moreover, it was not shown that there was a perfected sale between the parties where earnest money was given. Finally, when petitioner gave the "earnest money," the Receipt did not reveal that she was bound to pay the balance of the purchase price. In fact, she could even forfeit the money given if the terms of the option were not met. Thus, the P20,000.00 could only be money given as consideration for the option contract. That the contract between the parties is one of option is buttressed by the provision therein that should the transaction of the property not materialize without fault of petitioner as buyer, respondent Lorenzo de Vera obligates himself to return the full amount of P20,000.00 "earnest money" with option to buy or forfeit the same on the fault of petitioner. It is further bolstered by the provision therein that guarantees petitioner that she or her representative would be notified in case the subject property was sold or encumbered to a third person. Finally, the Receipt provided for a period within which the option to buy was to be exercised, i.e., "within ten (10) days" from 31 July 1978.

Doubtless, the agreement between respondent spouses and petitioner was an "option contract" or what is sometimes called an "unaccepted offer." During the option period the agreement was not converted into a bilateral promise to sell and to buy where both respondent spouses and petitioner were then reciprocally bound to comply with their respective undertakings as petitioner did not timely, affirmatively and clearly accept the offer of respondent spouses.

The rule is that except where a formal acceptance is not required, although the acceptance must be affirmatively and clearly made and evidenced by some acts or conduct communicated to the offeror, it may be made either in a formal or an informal manner, and may be shown by acts, conduct or words by the accepting party that clearly

manifest a present intention or determination to accept the offer to buy or sell. But there is nothing in the acts, conduct or words of petitioner that clearly manifest a present intention or determination to accept the offer to buy the property of respondent spouses within the 10-day option period. The only occasion within the option period when petitioner could have demonstrated her acceptance was on 5 August 1978 when, according to her, she agreed to meet respondent spouses and the Ramoses at the Office of the Register of Deeds of Makati. Petitioner's agreement to meet with respondent spouses presupposes an invitation from the latter, which only emphasizes their persistence in offering the property to the former. But whether that showed acceptance by petitioner of the offer is hazy and dubious.

On or before 10 August 1978, the last day of the option period, no affirmative or clear manifestation was made by petitioner to accept the offer. Certainly, there was no concurrence of private respondent spouses' offer and petitioner's acceptance thereof within the option period. Consequently, there was no perfected contract to sell between the parties.

On 11 August 1978 the option period expired and the exclusive right of petitioner to buy the property of respondent spouses ceased. The subsequent meetings and negotiations, specifically on 11 and 23 August 1978, between the parties only showed the desire of respondent spouses to sell their property to petitioner. Also, on 14 September 1978 when respondent spouses sent a telegram to petitioner demanding full payment of the purchase price on even date simply demonstrated an inclination to give her preference to buy subject property. Collectively, these instances did not indicate that petitioner still had the exclusive right to purchase subject property. Verily, the commencement of negotiations between respondent spouses and respondent SUNVAR clearly manifested that their offer to sell subject property to petitioner was no longer exclusive to her.

We cannot subscribe to the argument of petitioner that respondent spouses extended the option period when they extended the authority of their agent until 31 August 1978. The extension of the contract of agency could not operate to extend the option period between the parties in the instant case. The extension must not be implied but categorical and must show the clear intention of the parties.

As to whether respondent spouses were at fault for the non-consummation of their contract with petitioner, we agree with the appellate court that they were not to be blamed. First, within the option period, or on 4 August 1978, it was respondent spouses and not petitioner who initiated the meeting at the Office of the Register of Deeds of Makati. Second, that the Ramoses failed to appear on 4 August 1978 was beyond the control of respondent spouses. Third, the succeeding meetings that transpired to consummate the contract were all beyond the option period and, as declared by the Court of Appeals, the question of who was at fault was already immaterial. Fourth, even assuming that the meetings were within the option period, the presence of petitioner was not enough as she was not even prepared to pay the purchase price in cash as agreed upon. Finally, even without the presence of the Ramoses, petitioner could have easily made the necessary payment in cash as the price of the property was already set at P34.00 per square meter and payment of the mortgage could very well be left to respondent spouses.

Petitioner further claims that when respondent spouses sent her a telegram demanding full payment of the purchase price on 14 September 1978 it was an acknowledgment of their contract to sell, thus denying them the right to claim otherwise.

We do not agree. As explained above, there was no contract to sell between petitioner and respondent spouses to speak of. Verily, the telegram could not operate to estop them from claiming that there was such contract between them and petitioner. Neither could it mean that respondent spouses extended the option period. The telegram only showed that respondent spouses were willing to give petitioner a chance to buy subject property even if it was no longer exclusive.

The option period having expired and acceptance was not effectively made by petitioner, the purchase of subject property by respondent SUNVAR was perfectly valid and entered into in good faith. Petitioner claims that in August 1978 Hermigildo Sanchez, the son of respondent spouses' agent, Marcosa Sanchez, informed Marixi Prieto, a member of the Board of Directors of respondent SUNVAR, that the property was already sold to petitioner. Also, petitioner maintains that on 5 September 1978 respondent Cuenca met with her and offered to buy the property from her at P45.00 per square meter. Petitioner contends that these incidents, including the annotation of her Adverse Claim on the title of subject property on 15 September 1978 show that respondent SUNVAR was aware of the perfected sale between her and respondent spouses, thus making respondent SUNVAR a buyer in bad faith.

Petitioner is not correct. The dates mentioned, at least 5 and 15 September 1978, are immaterial as they were beyond the option period given to petitioner. On the other hand, the referral to sometime in August 1978 in the testimony of Hermigildo Sanchez as emphasized by petitioner in her petition is very vague. It could be within or beyond the option period. Clearly then, even assuming that the meeting with Marixi Prieto actually transpired, it could not necessarily mean that she knew of the agreement between petitioner and respondent spouses for the purchase of subject property as the meeting could have occurred beyond the option period. In which case, no bad faith could be attributed to respondent SUNVAR. If, on the other hand, the meeting was within the option period, petitioner was remiss in her duty to prove so. Necessarily, we are left with the conclusion that respondent SUNVAR bought subject property from respondent spouses in good faith, for value and without knowledge of any flaw or defect in its title.

The appellate court awarded nominal and exemplary damages plus attorney's fees to respondent spouses and respondent SUNVAR. But nominal damages are adjudicated to vindicate or recognize the right of the plaintiff that has been violated or invaded by the defendant.[19] In the instant case, the Court recognizes the rights of all the parties and finds no violation or invasion of the rights of respondents by petitioner. Petitioner, in filing her complaint, only seeks relief, in good faith, for what she believes she was entitled to and should not be made to suffer therefor. Neither should exemplary damages be awarded to respondents as they are imposed only by way of example or correction for the public good and only in addition to the moral, temperate, liquidated or compensatory damages.[20] No such kinds of damages were awarded by the Court of Appeals, only nominal, which was not justified in this case. Finally, attorney's fees could not also be recovered as the Court does not deem it just and equitable under the circumstances.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals ordering the Register of Deeds of Makati City to lift the adverse claim and such other encumbrances petitioner Lourdes Ong Limson may have filed or caused to be annotated on TCT No. S-75377 is AFFIRMED, with the MODIFICATION that the award of nominal and exemplary damages as well as attorney's fees is DELETED.

SO ORDERED.

Mendoza, Quisumbing and Buena JJ., concur.
De Leon, Jr., J., on leave.

[1] Penned by Associate Justice Jesus M. Elbinias, concurred in by Associate Justices Hector L. Hofileña and Mariano M. Umali (Special Fifth Division).

[2] Ibid.

[3] Records, pp. 13-18.

[4] Id., pp. 39-41.

[5] Id., pp. 19-23.

[6] Id., pp. 24-27.

[7] Decision penned by Sofronio G. Sato, RTC-Br. 111, Pasay City.

[8] Adelfa Properties, Inc. v. Court of Appeals, G.R. No. 111238, 25 January 1995, 240 SCRA 565, citing 77 C.J.S. Sales, Sec. 33, pp. 651-652.

[9] Id., citing 30 Words and Phrases, 15.

[10] Ibid.

[11] Ibid.

[12] Art. 1305, Civil Code.

[13] Art. 1315, id.

[14] Art. 1319, id.

[15] See Petition, pp. 9-10; Rollo, pp. 19-20.

[16] Presumably "per square meter," which does not appear disputed.

[17] Id., citing Fernandez v. Court of Appeals, G.R. No. 80231, 18 October 1988, 166 SCRA 577.

[18] Id., citing De Leon, Comments and Cases on Sales, 1986 Rev. Ed., p. 67.

[19] Art. 2221, Civil Code.

[20] Art. 2229, id.

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