

**SPOUSES EMMA H. VER REYES AND RAMON REYES, PETITIONERS,
VS. DOMINADOR SALVADOR, SR., EMILIO FUERTE, FELIZA LOZADA,
ROSALINA PADLAN, AURORA TOLENTINO, TRINIDAD L. CASTILLO,
ROSAR...***G.R. No. 139047. September 11, 2008*

Ponente: CHICO-NAZARIO, J.

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The two Petitions for Review on Certiorari[1] now before this Court seek to challenge, under Rule 45 of the Rules of Court, the Decision[2] dated 17 June 1999 of the Court of Appeals in CA-G.R. CV No. 35688, which reversed and set aside the Decision[3] dated 25 November 1991 of the Regional Trial Court (RTC) of Pasay City, Branch 119, in the consolidated cases of LRC Case No. LP-553-P (an application for registration of title to real property) and Civil Case No. 6914-P (an action to declare ownership over real property, formerly numbered Pq-8557-P). The Court of Appeals upheld the title of Rosario Bondoc to the disputed property, thus, overturning the finding of the RTC of Pasay City that Maria Q. Cristobal and Dulos Realty & Development Corporation have a registrable title to the same property.

The Contracts

At the core of the controversy in the Petitions at bar is a parcel of unregistered land located in Tungtong, Las Piñas, formerly of the Province of Rizal, now a part of Metro Manila, designated as Lot 1 of Plan Psu-205035, with an area of 19,545 square meters (subject property). It previously formed part of a bigger parcel of agricultural land[4] first declared in the name of Domingo Lozada (Domingo) in the year 1916 under Tax Declaration No. 2932.[5]

During the lifetime of Domingo, he was married twice. From his first marriage to Hisberta Guevarra in the year 1873,[6] he fathered two children, namely Bernardo and Anatalia. After the death of Hisberta, Domingo married Graciana San Jose in the year 1887[7] and their marriage produced two children, namely Nicomedes and Pablo.

Domingo and Graciana died on 27 February 1930 and 12 August 1941, respectively. On 18 March 1965, Nicomedes and the heirs of his brother Pablo entered into an Extrajudicial Settlement of the Estate[8] of their parents Domingo and Graciana. According to the settlement, the entire parcel of agricultural land declared in the name of Domingo[9] was divided into two, Lot 1 and Lot 2, in accordance with the approved subdivision plan Psu-205035. The subject property, i.e., Lot 1, was adjudicated to Nicomedes; while Lot 2 was given to the heirs of Pablo. Nicomedes then declared the subject property in his name in 1965 under Tax Declaration No. 2050.[10]

On 23 June 1965, Nicomedes executed a Deed of Conditional Sale[11] over the subject property in favor of Emma Ver Reyes (Emma), which provided:

That the Vendor [Nicomedes] is the true and lawful owner of a parcel of land situated at Tungtong, Las Pinas, Rizal, more particularly described as follows:

"A parcel of land (Lot 1 of plan Psu-205035), x x x; containing an area of NINETEEN THOUSAND FIVE HUNDRED FOURTY FIVE (19,545) SQUARE METERS, more or less, and still a portion of the land covered by Tax Declaration No. 2304 of Las Pinas, Rizal, in the name of Domingo Lozada, and with a total assessed value of P1,860.00."

That the [subject property] is a paraphernal property of the Vendor [Nicomedes], the same having been inherited by him from his deceased mother, Graciana San Jose, but was declared for taxation in the name of his deceased father, Domingo Lozada;

That for and in consideration of the sum of FOUR PESOS AND FIFTY CENTAVOS (P4.50), Philippine Currency, per square meter to be paid by the Vendee to the Vendor, the said Vendor by these presents hereby SELLS, CEDES, TRANSFERS and CONVEYS by way of CONDITIONAL SALE the above-described parcel of land together with all the improvements thereon to the said Vendee [Emma], her heirs, assigns and successors, free from all liens and encumbrances, under the following terms and conditions, to wit:

1. That the Vendee [Emma] will pay the Vendor [Nicomedes] as follows:

(a). TWENTY FIVE PERCENT (25%) of the total price on the date of the signing of this contract;

(b). The next TWENTY FIVE PERCENT (25%) of the total price upon the issuance of the title for the land described above; and

(c). The balance of FIFTY PERCENT (50%) of the total price within one (1) year from the issuance of the said title;

2. That if the Vendee [Emma] fails to pay the Vendor [Nicomedes] the sums stated in paragraphs 1(b) and 1(c) above within the period stipulated and after the grace period of one (1) month for each payment, this contract shall automatically be null and void and of no effect without the necessity of any demand, notice or filing the necessary action in court, and the Vendor [Nicomedes] shall have the full and exclusive right to sell, transfer and convey absolutely the above-described property to any person, but the said Vendor [Nicomedes] shall return to the Vendee [Emma] all the amount paid to him by reason of this contract without any interest upon the sale of the said property to another person;

3. That the total price shall be subject to adjustment in accordance with the total area of the above-described property that will be finally decreed by the court in favor of the herein Vendor [Nicomedes]; and

4. That the Vendor [Nicomedes] will execute a final deed of absolute sale covering the said property in favor of the Vendee [Emma] upon the full payment of the total consideration in accordance with the stipulations above. (Emphases ours.)

The Deed of Conditional Sale was registered in the Registry of Property for Unregistered Lands in August 1965.[12]

It would appear from the records of the case that Emma was only able to pay the first installment of the total purchase price agreed upon by the parties. Furthermore, as will be discussed later on, Nicomedes did not succeed in his attempt to have any title to the subject property issued in his name.

On 14 June 1968, Nicomedes entered into another contract involving the subject property with Rosario D. Bondoc (Rosario). Designated as an Agreement of Purchase and Sale,[13] the significant portions thereof states:

NOW, THEREFORE, for and in consideration of the foregoing premises and of the sum of ONE HUNDRED SEVENTY FIVE THOUSAND NINE HUNDRED FIVE PESOS (P175,905.00) Philippine Currency, which the BUYER [Rosario] shall pay to the SELLER [Nicomedes] in the manner and form hereinafter specified, the

SELLER [Nicomedes] by these presents hereby agreed and contracted to sell all his rights, interests, title and ownership over the parcel of land x x x unto the BUYER [Rosario], who hereby agrees and binds herself to purchase from the former, the aforesaid parcel of land, subject to the following terms and conditions:

1. Upon the execution of this Agreement, the BUYER [Rosario] shall pay the SELLER [Nicomedes], the sum of FIFTEEN THOUSAND PESOS (P15,000.00), Philippine Currency.

2. [That] upon the delivery by the SELLER [Nicomedes] to the BUYER [Rosario] of a valid title of the aforesaid parcel of land, free from any and all liens and encumbrances, and the execution of the final Deed of Sale, the BUYER [Rosario] shall pay to the SELLER [Nicomedes], the sum of THIRTY SEVEN THOUSAND SEVEN HUNDRED FIVE PESOS (P37,705.00) Philippine Currency, and the final balance of ONE HUNDRED TWENTY THREE THOUSAND AND TWO HUNDRED PESOS (P123,200.00) Philippine Currency, one year from the date of execution of the final deed of sale, all without interest.

3. That in the event the BUYER [Rosario] fails to pay any amount as specified in Section 2, Paragraph II, then this contract, shall, by the mere fact of non-payment expire itself and shall be considered automatically cancelled, of no value and effect, and immediately thereafter the SELLER [Nicomedes] shall return to the BUYER [Rosario] the sums of money he had received from the BUYER [Rosario] without any interests and whatever improvement or improvements made or introduced by the BUYER [Rosario] on the lot being sold shall accrue to the ownership and possession of the SELLER [Nicomedes].

x x x x

6. The SELLER [Nicomedes] hereby warrants the useful and peaceful possession and occupation of the lot subject matter of this agreement by the BUYER [Rosario]. (Emphasis ours.)

On 7 March 1969, Nicomedes and Rosario executed a Joint Affidavit,[14] whereby they confirmed the sale of the subject property by Nicomedes to Rosario through the Agreement of Purchase and Sale dated 14 June 1968. They likewise agreed to have the said Agreement registered with the Registry of Deeds in accordance with the provisions of Section 194 of the Revised Administrative Code, as amended by Act No. 3344. The Agreement of Purchase and Sale was thus registered on 10 March 1969.[15]

The records of this case show that, of the entire consideration stipulated upon in the Agreement, only the first installment was paid by Rosario. No title to the subject property was ever delivered to her since, at the time of the execution of the above contract, Nicomedes's application for the registration of the subject property was still pending.

Five months thereafter, Nicomedes executed on 10 August 1969 a third contract, a Deed of Absolute Sale of Unregistered Land,[16] involving a portion of the subject property measuring 2,000 square meters, in favor of Maria Q. Cristobal (Maria).[17] The relevant terms of the Deed recite:

THAT I, NICOMEDES J. LOZADA, of legal age, Filipino citizen, married and a resident of Las Piñas, Rizal, Philippines, for and in consideration of the sum of TWENTY FIVE THOUSAND (P25,000.00) PESOS, Philippine currency, receipt of which is hereby acknowledged to my full and entire satisfaction, do hereby sell, transfer and convey to MARIA Q. CRISTOBAL, likewise of legal age, Filipino citizen, married to Juan [Dulos], and a resident of 114 Real Street, Las Piñas, Rizal, Philippines, her heirs, executors, administrators and assigns, TWO THOUSAND SQUARE METERS (2,000) for an easement of way of a parcel of unregistered land situated in the Barrio of Tungtong, Municipality of Las Piñas, Province of Rizal, Philippines, exclusively belonging to and possessed by me, and more particularly described as follows:

"A parcel of land described under Tax Declaration No. 9575 (Lot No. 1, Psu 205035), situated in the Barrio of Tuntong, Municipality of Las Piñas, Province of Rizal, Philippines. xxx [C]ontaining an area of 1.9545 hectares, more or less." (Emphasis ours.)

Nicomedes passed away on 29 June 1972. The Deed of Absolute Sale of Unregistered Land between Nicomedes and Maria was registered only on 8 February 1973,[18] or more than seven months after the former's death.

On 10 August 1979, Nicomedes's heirs, namely, the four children from his first marriage,[19] the six children from his second marriage,[20] and his surviving second spouse Genoveva Pallerá Vda. De Lozada, executed a Deed of Extrajudicial Settlement of the Estate of the Late Nicomedes J. Lozada with Ratification of a Certain Deed of Absolute Sale of Unregistered Land.[21] The heirs declared in said Deed of Extrajudicial Settlement that the only property left by Nicomedes upon his death was the subject property. They also ratified therein the prior sale of a portion of the subject property made by Nicomedes in favor of Maria, but they clarified that the actual area of the portion sold as presented in the plan was 2,287 square meters, not 2,000 square meters. After excluding the portion sold to Maria, the heirs claimed equal pro indiviso shares in the remaining 17,258 square meters of the subject property.

On 30 July 1980, Nicomedes's heirs[22] collectively sold, for the sum of P414,192.00, their shares in the subject property in favor of Dulos Realty and Development Corporation (Dulos Realty), as represented by its President Juan B. Dulos, via a Deed of Absolute Sale of an Unregistered Land.[23] The said Deed of Absolute Sale dated 30 July 1980, however, was not registered.

The Cases

On 11 April 1966, after executing the Deed of Conditional Sale in favor of Emma on 23 June 1965, Nicomedes filed an application for the registration of the subject property with the then Court of First Instance (CFI) of Pasig, docketed as LRC Case No. N-6577. The grandchildren of Domingo by his former marriage[24] opposed the application for registration and Emma and her husband Ramon filed their intervention.

Sometime in 1973, following the execution in her favor of the Agreement of Purchase and Sale dated 14 June 1968 and Joint Affidavit dated 7 March 1969, Rosario filed a motion to intervene in LRC Case No. N-6577 then pending before the CFI of Pasig; however, her motion was denied by the CFI of Pasig, in an Order dated 2 June 1973.[25] Rosario no longer appealed from the order denying her motion to intervene in said case.

In view of the conflicting claims over the subject property, the CFI of Pasig dismissed without prejudice LRC Case No. N-6577 on 21 November 1975 and ordered the parties therein, namely, the applicant Nicomedes and the oppositors/intervenors, to litigate first the issues of ownership and possession.[26]

Five years later, on 27 June 1980, Domingo's grandchildren from his first marriage, Dominador, et al.,[27] filed an Application for Registration[28] of title to the subject property with the CFI of Rizal, docketed as LRC Case No. LP-553-P. In their Application, Dominador, et al., alleged, inter alia, that they were the owners of the subject property by virtue of inheritance; they were the actual occupants of the said property; and, other than Emma, they had no knowledge of any encumbrance or claim of title affecting the same.

On 6 November 1980, Rosario, assisted by her husband Mariano Bondoc, invoking the Agreement of Purchase and Sale executed in her favor by Nicomedes on 14 June 1968, filed a Complaint[29] before the CFI of Rizal for the declaration in her favor of ownership over the subject property, with an application for a temporary restraining order or preliminary injunction, against Trinidad Lozada (one of Domingo's heirs from his first marriage who applied for registration of the subject property in LRC Case No. LP-553-P) and two other persons, who allegedly trespassed into the subject property. Rosario's complaint was docketed as Civil Case No. Pq-8557-P.

On 4 August 1981, the parties agreed to have LRC Case No. LP-553-P (the application for land registration of Dominador, et al.) consolidated with Civil Case No. Pq-8557-P (the action for declaration of ownership of Rosario).[30]

By subsequent events,[31] and in consideration of the location of the subject property in Las Piñas, LRC Case No. LP-553-P and Civil Case No. PQ-8557-P, reinstated as Civil Case No. 6914-P, were finally transferred to and decided by the RTC of Pasay City.

In its Decision dated 25 November 1991, the RTC of Pasay City, Branch 119, disposed of the cases thus:

WHEREFORE, considering all the foregoing, the court denies the application of Dominador Salvador, Sr. et al, having no more right over the land applied for, dismisses Civil Case No. PQ-8557-P now 6914 for lack of merit, and hereby declares Maria Cristobal Dulos and Dulos Realty and Development Corporation to have a registrable title, confirming title and decreeing the registration of Lot 1 PSU-205035 containing a total area of 19,545 square meters, 2,287 square meters of which appertains to Maria Cristobal Dulos married to Juan Dulos and the remaining portion, in favor of Dulos Realty and Development Corporation, without pronouncement as to costs.[32] (Emphasis ours.)

In so ruling, the RTC rationalized that the subject property constituted Domingo's share in the conjugal properties of his second marriage to Graciana San Jose and, therefore, properly pertained to Nicomedes as one of his sons in said marriage. Being Domingo's heirs from his first marriage, Dominador, et al., were not entitled to the subject property.

The lower court also found that neither Emma nor Rosario acquired a better title to the subject property as against Maria and Dulos Realty. No final deed of sale over the subject property was executed in favor of Emma or Rosario, while the sales of portions of the same property in favor of Maria and of the rest to Dulos Realty were fully consummated as evidenced by the absolute deeds of sale dated 10 August 1969 and 30 July 1980, respectively.

Dominador, et al., Emma and her spouse Ramon Reyes (Ramon), and Rosario separately appealed to the Court of Appeals the foregoing Decision dated 25 November 1991 of the RTC of Pasay City.[33] Their consolidated appeals were docketed as CA-G.R. CV No. 35688.

Dominador, et al., however, moved to withdraw their appeal in light of the amicable settlement they entered into with Maria and Dulos Realty.[34] In a Resolution dated 24 September 1992,[35] the Court of Appeals granted their Motion to Withdraw Appeal. Dominador, et al., later filed a motion to withdraw their earlier Motion to Withdraw Appeal, but this was denied by the Court of Appeals in a Resolution dated 15 January 1993.[36]

In their respective Briefs before the appellate court,[37] Emma and Rosario both faulted the RTC of Pasay City for awarding the subject property to Maria and Dulos Realty. They each claimed entitlement to the subject property and asserted the superiority of their respective contracts as against those of the others.

On 17 June 1999, the Court of Appeals rendered its assailed Decision, ruling as follows:

As gathered above, both contracts [entered into with Emma and Rosario] gave Nicomedes, as vendor, the right to unilaterally rescind the contract the moment the buyer failed to pay within a fixed period (Pingol v. CA, 226 SCRA 118), after which he, as vendor, was obliged to return without interest the sums of money he had received from the buyer (under the Deed of Conditional Sale [to Emma], upon the sale of the property to another). Additionally, under the Agreement of Purchase and Sale [with Rosario], the vendor, in case of rescission, would become the owner and entitled to the possession of whatever improvements introduced by the buyer.

Under the Deed of Conditional Sale [to Emma], there was no provision that possession would be, in case of rescission, returned to the vendor, thereby implying that possession remained with him (vendor). Such being the case, it appears to be a contract to sell. Whereas under the Agreement of Purchase and Sale [with Rosario], the provision that in case of rescission, any improvements introduced by the vendee would become the

vendor's implies that possession was transferred to the vendee and, therefore, it appears to be a contract of sale.

That the Agreement of Purchase and Sale [with Rosario] was a contract of sale gains light from the Joint Affidavit subsequently executed by Rosario and Nicomedes stating that "an Agreement of Purchase and Sale wherein the former (Nicomedes J. Lozada) sold to the latter (Rosario D. Bondoc) a parcel of land" had been executed but that the lot "not having been registered under Act No. 496 nor under the Spanish Mortgage Law, the parties hereto have agreed to register the Agreement of Purchase and Sale ... under the provision of Section 194 of the Revised Administrative Code, as amended by Act No. 3344."

Rosario registered the Agreement of Purchase and Sale alright on March 10, 1969. She paid taxes on the lot from 1980 - 1985. She fenced the lot with concrete and hollow blocks. And apart from opposing the land registration case, she filed a complaint against Trinidad, et al., for declaration ownership.

Article 1371 of the Civil Code provides:

"Art. 1371. In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered."

From the provisions of the Agreement of Purchase and Sale [to Rosario] and the subsequent acts of the parties then including the execution of the Joint Affidavit by Rosario and Nicomedes stating that "an Agreement of Purchase and Sale wherein the former (Nicomedes...) sold to the latter (Rosario...) a parcel of land", had been executed, there is no mistaking that the lot was sold to Rosario xxx.

Anent the effect of Rosario's registration of the Agreement of Purchase and Sale on Emma's contract involving the same lot, Act No. 3344 (Amending Sec. 194 of the Administrative Code [Recording of instruments or deeds relating to real estate not registered under Act No. 496 or under the Spanish Mortgage Law]) provides that any registration made under Sec. 194 of the Administrative Code "shall be understood to be without prejudice to a third party who has a better right".

"Better right", however, was not defined by law.

But author Narciso Peña is inclined to concur that "better right" should refer to a "right which must have been acquired by a third party independently of the unregistered deed, such as, for instance, title by prescription, and that it has no reference to rights acquired under that unregistered deed itself", he citing *Nisce v. Milo*, G.R. No. 425016, January 17, 1936 Unrep. 62 Phil. 976 x x x.

Given the fact that the contract in Emma's favor is a mere contract to sell, as against Rosario's contract which, as demonstrated above is one of sale and, in any event, independently of Emma's contract to sell, she has no claim of a better right unlike Rosario who has, not to mention the fact that she (Rosario) registered her contract earlier than Emma's, Rosario must prevail.

The lot having been previously sold to Rosario, there was no lot or portion thereof to be later sold to Maria and to Dulos Realty in 1979 and 1980, respectively.

WHEREFORE, the appealed Joint Decision is hereby REVERSED and SET ASIDE and another is rendered confirming the title of Rosario D. Bondoc over subject lot, Lot 1, PSU-205035 containing an area of 19,545 sq.m., ordering its registration in her name, and dismissing the claims of ownership of all other claimants. Appellees Maria Cristobal and Dulos Realty and Development Corporation and all other claimants to subject land including all persons claiming under them are hereby ordered to vacate and restore possession to appellant Rosario D. Bondoc.

Upon issuance of title to subject lot, appellant Rosario D. Bondoc is ordered to pay the balance of the purchase price to the heirs of Nicomedes Lozada in accordance with the Agreement of Purchase and Sale executed by the

latter in her favor. This judgment is without prejudice to the rights which Emma Ver Reyes and Maria Cristobal and Dulos Realty and Development Corporation might have against the estate or surviving heirs of Nicomedes Lozada to the extent that the latter was/were benefitted.[38] (Emphasis ours.)

Aggrieved, Emma and her husband Ramon,[39] as well as Maria and Dulos Realty,[40] without seeking reconsideration of the appellate court's decision, filed directly before this Court separate Petitions for Review on Certiorari under Rule 45 of the Rules of Court, docketed as G.R. No. 139047 and G.R. No. 139365, respectively, assailing the 17 June 1999 Decision of the appellate court. Upon the manifestation and motion of Maria and Dulos Realty,[41] the two Petitions were ordered consolidated by this Court in a Resolution[42] dated 13 December 1999.

In their Petition, Emma and her husband Ramon raise the following issues:

I.

WHETHER OR NOT OWNERSHIP OF THE DISPUTED LOT WAS VALIDLY AND LEGALLY TRANSFERRED TO EMMA VER REYES.

II.

WHETHER OR NOT MARIA CRISTOBAL DULOS AND DULOS REALTY AND DEVELOPMENT CORPORATION ARE PURCHASERS IN BAD FAITH.

III.

WHETHER OR NOT EMMA VER REYES AND RAMON REYES ARE BARRED BY PRESCRIPTION OR LACHES.

IV.

WHETHER OR NOT THE COURT OF APPEALS PATENTLY AND GRAVELY ERRED IN CONFIRMING THE TITLE OF ROSARIO BONDOC OVER THE DISPUTED LOT, ORDERING ITS REGISTRATION IN HER NAME AND DISMISSING THE CLAIM OF EMMA VER REYES AND RAMON REYES.[43]

Maria and Dulos Realty, on the other hand, submitted in their Petition the following issues for consideration of this Court:

I.

WHETHER OR NOT BONDOC'S AGREEMENT OF PURCHASE AND SALE AND SPOUSES REYES DEED OF CONDITIONAL SALE ARE REGISTRABLE ABSOLUTE CONVEYANCES IN FEE SIMPLE TO SERVE AS BASIS FOR AN AWARD AND REGISTRATION OF THE SUBJECT LOT IN THEIR FAVOR.

II.

WHETHER OR NOT RESPONDENTS BONDOC AND THE REYESSES ARE BARRED BY LACHES AND/OR PRESCRIPTION.

III.

WHETHER OR NOT RESPONDENT BONDOC IS BARRED BY RES JUDICATA.[44]

The fundamental issue that the Court is called upon to resolve is, in consideration of all the contracts executed by Nicomedes and/or his heirs involving the subject property, which party acquired valid and registrable title to the

same.

Emma and Ramon contend that although the subject property was conditionally sold to them by Nicomedes, the "conditionality" of the sale did not suspend the transfer of ownership over the subject property from Nicomedes to Emma. Even though Nicomedes may automatically rescind the contract in case of non-payment by Emma of the balance of the purchase price, it did not bar the transfer of title to the subject property to Emma in the meantime. Emma and Reyes likewise claim that there was constructive delivery of the subject property to Emma, inasmuch as the Deed of Conditional Sale in her favor was a public instrument. Furthermore, Emma was in possession of the subject property in the concept of owner since she had been paying realty taxes for the same, albeit in the name of Nicomedes (in whose name it was declared), from the time of the sale in 1965 until 1972. Emma and Ramon also assert that Maria and Dulos Realty were in bad faith as the sales of the subject property in their favor, on 10 August 1969 and 30 July 1980, respectively, occurred only after the filing of the cases involving the property^[45] and the registration of the sale to Emma. Finally, Emma and Ramon maintain that the Court of Appeals erred in ruling that the contract in favor of Rosario was a contract of sale for the sole reason that actual possession of the property was already transferred to the latter.

For their part, Maria and Dulos Realty point out that Emma and Rosario are not holders of absolute deeds of conveyances over the subject property, which would have entitled them to register the same in their respective names. They further buttress their alleged superior right to the subject property based on the execution of two notarized documents of sale in their favor, which constituted symbolic and constructive delivery of the subject property to them. Maria and Dulos Realty likewise assert that the claims of Emma and Rosario are already barred by laches and prescription because they only decided to enforce their respective rights over the subject property after Domingo's heirs filed with the CFI of Rizal on 27 June 1980 an application for registration of the subject property, docketed as LRC Case No. LP-553-P, notwithstanding their knowledge of Nicomedes's death on 29 June 1972. Lastly, Maria and Dulos Realty aver that Rosario is already barred by *res judicata* since her motion to intervene in LRC Case No. 6577, the case instituted by Nicomedes to register the subject property, was denied by the CFI of Pasig. The dismissal of Rosario's motion to intervene in the case for registration of the subject property already became final and executory, thus, barring Rosario from pursuing her claim over the same.

This Court's Ruling

After a conscientious review of the arguments and evidence presented by the parties, the Court finds that the Deed of Conditional Sale between Nicomedes and Emma and the Agreement of Purchase and Sale between Nicomedes and Rosario were both mere contracts to sell and did not transfer ownership or title to either of the buyers in light of their failure to fully pay for the purchase price of the subject property.

In *Coronel v. Court of Appeals*,^[46] this Court effectively provided the guidelines for differentiating between a contract to sell and a contract of sale, to wit:

The Civil Code defines a contract of sale, thus:

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

Sale, by its very nature, is a consensual contract because it is perfected by mere consent. The essential elements of a contract of sale are the following:

- a) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- b) Determinate subject matter; and

c) Price certain in money or its equivalent.

Under this definition, a Contract to Sell may not be considered as a Contract of Sale because the first essential element is lacking. In a contract to sell, the prospective seller explicitly reserves the transfer of title to the prospective buyer, meaning, the prospective seller does not as yet agree or consent to transfer ownership of the property subject of the contract to sell until the happening of an event, which for present purposes we shall take as the full payment of the purchase price. What the seller agrees or obliges himself to do is to fulfill his promise to sell the subject property when the entire amount of the purchase price is delivered to him. In other words the full payment of the purchase price partakes of a suspensive condition, the non-fulfillment of which prevents the obligation to sell from arising and thus, ownership is retained by the prospective seller without further remedies by the prospective buyer. In *Roque vs. Lapuz* (96 SCRA 741 [1980]), this Court had occasion to rule:

Hence, We hold that the contract between the petitioner and the respondent was a contract to sell where the ownership or title is retained by the seller and is not to pass until the full payment of the price, such payment being a positive suspensive condition and failure of which is not a breach, casual or serious, but simply an event that prevented the obligation of the vendor to convey title from acquiring binding force.

Stated positively, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, the prospective seller's obligation to sell the subject property by entering into a contract of sale with the prospective buyer becomes demandable as provided in Article 1479 of the Civil Code which states:

Art. 1479. A promise to buy and sell a determinate thing for a price certain is reciprocally demandable.

An accepted unilateral promise to buy or to sell a determinate thing for a price certain is binding upon the promisor if the promise is supported by a consideration distinct from the price.

A contract to sell may thus be defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, that is, full payment of the purchase price.

A contract to sell as defined hereinabove, may not even be considered as a conditional contract of sale where the seller may likewise reserve title to the property subject of the sale until the fulfillment of a suspensive condition, because in a conditional contract of sale, the first element of consent is present, although it is conditioned upon the happening of a contingent event which may or may not occur. If the suspensive condition is not fulfilled, the perfection of the contract of sale is completely abated (cf. *Homesite and Housing Corp. vs. Court of Appeals*, 133 SCRA 777 [1984]). However, if the suspensive condition is fulfilled, the contract of sale is thereby perfected, such that if there had already been previous delivery of the property subject of the sale to the buyer, ownership thereto automatically transfers to the buyer by operation of law without any further act having to be performed by the seller.

In a contract to sell, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, ownership will not automatically transfer to the buyer although the property may have been previously delivered to him. The prospective seller still has to convey title to the prospective buyer by entering into a contract of absolute sale. (Emphases ours.)

Also in *Coronel v. Court of Appeals*, the Court highlighted the importance of making the distinction between a contract to sell and a contract of sale:

It is essential to distinguish between a contract to sell and a conditional contract of sale specially in cases where the subject property is sold by the owner not to the party the seller contracted with, but to a third person,

as in the case at bench. In a contract to sell, there being no previous sale of the property, a third person buying such property despite the fulfillment of the suspensive condition such as the full payment of the purchase price, for instance, cannot be deemed a buyer in bad faith and the prospective buyer cannot seek the relief of reconveyance of the property. There is no double sale in such case. Title to the property will transfer to the buyer after registration because there is no defect in the owner-seller's title per se, but the latter, of course, may be sued for damages by the intending buyer.

In a conditional contract of sale, however, upon the fulfillment of the suspensive condition, the sale becomes absolute and this will definitely affect the seller's title thereto. In fact, if there had been previous delivery of the subject property, the seller's ownership or title to the property is automatically transferred to the buyer such that, the seller will no longer have any title to transfer to any third person. Applying Article 1544 of the Civil Code, such second buyer of the property who may have had actual or constructive knowledge of such defect in the seller's title, or at least was charged with the obligation to discover such defect, cannot be a registrant in good faith. Such second buyer cannot defeat the first buyer's title. In case a title is issued to the second buyer, the first buyer may seek reconveyance of the property subject of the sale.[47]

Even in the absence of an express stipulation to such effect, the intention of the parties to execute a contract to sell may be implied from the provisions of the contract. While Article 1478[48] of the Civil Code recognizes the right of the parties to agree that the ownership of the thing shall not pass to the purchaser until he has fully paid the price therefore, the same statutory provision does not require that such be expressly stipulated in the contract.

In *Adelfa Properties, Inc. v. Court of Appeals*,[49] the Court ruled that since the contract between the parties therein did not contain a stipulation on reversion or reconveyance of the property to the seller in the event that the buyer did not comply with its obligation, it may legally be inferred that the parties never intended to transfer ownership to the buyer prior to the completion of the payment of the purchase price. Consequently, the contract involved in the aforementioned case was a mere contract to sell.

An agreement is also considered a contract to sell if there is a stipulation therein giving the vendor the rights to unilaterally rescind the contract the moment the vendee fails to pay within a fixed period and to consequently open the subject property anew to purchase offers.[50] In the same vein, where the seller promises to execute a deed of absolute sale upon the completion by the buyer of the payment of the price, the contract is only a contract to sell.[51]

Viewed in light of the foregoing pronouncements, the Deed of Conditional Sale executed by Nicomedes in favor of Emma on 23 June 1965 is unmistakably a mere contract to sell. The Court looks beyond the title of said document, since the denomination or title given by the parties in their contract is not conclusive of the nature of its contents.[52] In the construction or interpretation of an instrument, the intention of the parties is primordial and is to be pursued.[53] If the terms of the contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control. If the words appear to be contrary to the evident intention of the parties, the latter shall prevail over the former.[54]

A simple reading of the terms of the 23 June 1965 Deed of Conditional Sale readily discloses that it contains stipulations characteristic of a contract to sell. It provides for the automatic cancellation of the contract should Emma fail to pay the purchase price as required therein; and, in such an event, it grants Nicomedes the exclusive right to thereafter sell the subject property to a third person. As in *Adelfa Properties*, the contract between Nicomedes and Emma does not provide for reversion or reconveyance of the subject property to Nicomedes in the event of nonpayment by Emma of the purchase price. More importantly, the Deed in question clearly states that Nicomedes will issue a final deed of absolute sale only upon the full payment of the purchase price for the subject property. Taken together, the terms of the Deeds reveal the evident intention of the parties to reserve ownership over the subject property to Nicomedes pending payment by Emma of the full purchase price for the same.

While the Deed of Conditional Sale dated 23 June 1965 was indeed contained in a public instrument, it did not constitute constructive delivery of the subject property to Emma in view of the contrary inference in the Deed itself that the ownership over the subject property was reserved by Nicomedes.[55] Moreover, other than her claim that she paid the realty taxes on the subject property, Emma did not present any evidence that she took actual and physical possession of the subject property at any given time.

This Court also finds that, contrary to the ruling of the Court of Appeals, the Agreement of Purchase and Sale executed by Nicomedes in favor of Rosario on 14 June 1968 is likewise a mere contract to sell.

The Agreement itself categorically states that Nicomedes only undertakes to sell the subject property to Rosario upon the payment of the stipulated purchase price and that an absolute deed of sale is yet to be executed between the parties. Thus:

NOW, THEREFORE, for and in consideration of the foregoing premises and of the sum of ONE HUNDRED SEVENTY FIVE THOUSAND NINE HUNDRED FIVE PESOS (P175,905.00) Philippine Currency, which the BUYER shall pay to the SELLER in the manner and form hereinafter specified, the SELLER by these presents hereby agreed and contracted to sell all his rights, interests, title and ownership over the parcel of land xxx unto the BUYER, who hereby agrees and binds herself to purchase from the former, the aforesaid parcel of land, subject to the following terms and conditions:

1. Upon the execution of this Agreement, the BUYER shall pay the SELLER, the sum of FIFTEEN THOUSAND PESOS (P15,000.00), Philippine Currency.
2. That upon the delivery by the SELLER to the BUYER of a valid title of the aforesaid parcel of land, free from any and all liens and encumbrances, and the execution of the final Deed of Sale, the BUYER shall pay to the SELLER, the sum of THIRTY SEVEN THOUSAND SEVEN HUNDRED FIVE PESOS (P37,705.00) Philippine Currency, and the final balance of ONE HUNDRED TWENTY THREE THOUSAND AND TWO HUNDRED PESOS (P123,200.00) Philippine Currency, one year from the date of the execution of the final deed of sale, all without interest.[56] (Emphases ours.)

The Agreement additionally grants Nicomedes the right to automatically cancel the same in the event of nonpayment by Rosario of any of the specified sums therein and any improvement introduced in the subject property shall thereby accrue to Nicomedes, viz:

3. That in the event the BUYER fails to pay any amount as specified in Section 2, Paragraph II, then this contract, shall, by the mere fact of non-payment expire itself and shall be considered automatically cancelled, of no value and effect, and immediately thereafter the SELLER shall return to the buyer the sums of money he had received from the BUYER without any interests and whatever improvement or improvements made or introduced by the BUYER on the lot being sold shall accrue to the ownership and possession of the SELLER.[57]

As can be clearly read above, only the rights to possess the property and construct improvements thereon have been evidently given to Rosario. The provisions of the Agreement do not in any way indicate that the ownership of the subject property has likewise been transferred to Rosario. That Nicomedes shall appropriate the improvements as his own should Rosario default in her payment of the purchase price only further supports the conclusion that title to the subject property itself still remained with Nicomedes.

The Court concludes that the Deed of Conditional Sale in favor of Emma and the Agreement of Purchase and Sale in favor of Rosario were mere contracts to sell. As both contracts remained unperfected by reason of the non-compliance with conditions thereof by all of the parties thereto, Nicomedes can still validly convey the subject property to another buyer. This fact, however, is without prejudice to the rights of Emma and Rosario to

seek relief by way of damages against the estate and heirs of Nicomedes to the extent that the latter were benefited by the sale to succeeding buyers.[58]

Thus, the Deeds of Absolute Sale in favor of Maria and Dulos Realty were the only conveyances of the subject property in this case that can be the source of a valid and registrable title. Both contracts were designated as absolute sales and the provisions thereof leave no doubt that the same were true contracts of sale. The total considerations for the respective portions of the subject property were fully paid by the buyers and no conditions whatsoever were stipulated upon by the parties as regards the transmission of the ownership of the said property to the said buyers.

The fact that Rosario was the first among the parties to register her contract in the Registry of Property for Unregistered Lands on 10 March 1969 is of no moment.

Act No. 3344,[59] which amended Section 194 of the Administrative Code, enunciates that any registration made under Section 194 of the Administrative Code "shall be understood to be without prejudice to a third party who has a better right."

In this case, Maria and Dulos Realty acquired their title to the property in separate deeds of absolute sale executed in their favor by Nicomedes and his heirs. Upon the execution of these deeds, the ownership of the subject property was vested unto the said buyers instantly, unlike the contracts to sell executed in favor of Emma and Rosario. Consequently, the rights to the subject property of Maria and Dulos Realty, acquired through the contracts of sale in their favor, are undeniably better or superior to those of Emma or Rosario, and can thus be confirmed by registration.

In sum, this Court recognizes the valid and registrable rights of Maria and Dulos Realty to the subject property, but without prejudice to the rights of Emma and Rosario to seek damages against the estate and heirs of Nicomedes.

WHEREFORE, premises considered, the Petition in G.R. No. 139047 is DENIED, while the Petition in G.R. No. 139365 is GRANTED. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 35688 dated 17 June 1999 is SET ASIDE and the Decision dated 25 November 1991 of the Regional Trial Court of Pasay City, Branch 119, is REINSTATED. No costs.

SO ORDERED.

Tinga[*], Velasco, Jr.[*], Nachura, and Reyes, JJ., concur.

[*] Per Special Order No. 517, dated 27 August 2008, signed by Chief Justice Reynato S. Puno, designating Associate Justices Dante O. Tinga and Presbitero J. Velasco, Jr. to replace Associate Justices Consuelo Ynares-Santiago and Ma. Alicia Austria-Martinez, who are on official leave.

[1] Rollo (G.R. No. 139047), pp. 33-57; rollo (G.R. No. 139365), pp. 14-36.

[2] Penned by Associate Justice Conchita Carpio-Morales (now an Associate Justice of this Court) with Associate Justices Artemon D. Luna and Bernardo P. Abesamis, concurring; rollo (G.R. No. 139047), pp. 11-29.

[3] Penned by Judge Aurora P. Navarrete-Reciña; rollo (G.R. No. 139047), pp. 124-129.

[4] There appears to be a discrepancy between the statement of the Court of Appeals and some relevant documents forming part of the records of this case with respect to the total land area of the parcel of land declared in the name of Domingo. The appellate court declared that the said property had a total area of 39,091 square

meters [Rollo (G.R. No. 139047), p. 12], while in the Deed of Extra-judicial Settlement of Estates filed by the heirs of Domingo by his second marriage, i.e., Nicomedes and the heirs of Pablo, the said property contained a total area of 46,387 square meters (Records, Vol. 1, p. 351).

[5] Exhibit "G" for Applicants Salvador, et al., Records, Vol. 1, p. 162.

[6] Exhibit "F," id. at 161.

[7] Exhibit "8" for Oppositors Dulos, Records, Vol. 1, p. 349.

[8] Exhibit "10," id. at 351-353.

[9] Exhibits "G and H" for Applicants Salvador, et al., Records, Vol. 1, pp. 162-163.

[10] Exhibit "K" for Reyes, Records, Vol. 2.

[11] Rollo (G.R. No. 139047), pp. 107-108.

[12] The Court of Appeals cites the specific date as 12 August 1969 (Rollo, G.R. No. 139047, p. 13), while the RTC states the date as 13 August 1969 (Rollo, G.R. No. 139047, p. 128). The Memorandum of the Spouses Reyes, however, claim that the date of registration was 14 August 1969 (Rollo, G.R. No. 139365, p. 99).

[13] Records, Vol. 1, pp. 257-258.

[14] Rollo (G.R. No. 139047), p. 262.

[15] Id. at 261.

[16] Id. at 268-269.

[17] Maria Q. Cristobal is married to Juan B. Dulos, President of Dulos Realty and Development Corporation, and is sometimes referred to as Maria Q. Cristobal Dulos.

[18] Rollo (G.R. No. 139047), p. 269.

[19] Adrilina Lozada Vda. De Baltasar, Servando Lozada, Presentacion Lozada Pagtalunan, and Lolita Lozada Feliciano.

[20] Teresita Lozada, Danilo Lozada, Evelyn Lozada, Josephine Lozada, Maria Victoria Lozada and Grace Lozada.

[21] Exhibit "2" for Oppositors Dulos, Records, Vol. 1, pp. 334-338.

[22] With the exception of Danilo Lozada.

[23] Rollo (G.R. No. 139047), pp. 270-274.

[24] Dominador Salvador, Emilio Fuerte, Trinidad Lozada Castillo, Rosalina Padlan and Aurora Tolentino

[25] Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, p. 20.

[26] Records, Vol. 1, pp. 217-218.

[27] Dominador Salvador, Emilio Fuerte, Trinidad Lozada Castillo, Rosalina Padlan and Aurora Tolentino

[28] Rollo (G.R. No. 139047), pp. 109-110.

[29] Id. at 111-114.

[30] Records, Vol. 1, p. 65.

[31] The CFI of Rizal dismissed Civil Case No. Pq-8557-P on 11 January 1984 in view of Rosario's alleged failure to exert the proper efforts in prosecuting her case (Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, p. 60). However, the CFI of Rizal later on, on 29 February 1984, ordered that the case be referred instead to the RTC of Makati, as the subject property was located in Las Piñas (Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, p. 61). The case was docketed as Civil Case No. 6914 before the RTC of Makati. The RTC of Makati likewise dismissed without prejudice Civil Case No. 6914 on 29 May 1985 as Rosario supposedly failed to prosecute her case despite the lapse of four years since the institution thereof (Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, p. 62). Rosario filed with the RTC of Makati a Manifestation (Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, pp. 63-64) explaining that she did not pursue her case before the said court since she already received an Order from the RTC of Pasay City setting her case for hearing. Pursuant to Rosario's Manifestation, the RTC of Makati ordered on 1 July 1985 that the records of the case be forwarded to the RTC of Pasay City, Branch 112 (Exhibit "10" for Oppositor Bondoc, Records, Vol. 2, p. 68). The cases were re-raffled to Branch 119 of the same court.

[32] Rollo (G.R. No. 139047), p. 129.

[33] CA rollo, p. 160; Records, Vol. 1, pp. 472-473, 482-483.

[34] CA rollo, pp. 17-18.

[35] Id. at 128-129.

[36] Id. at 47.

[37] Rollo (G.R. No. 139047), pp. 132-152, 159-169.

[38] Id. at 26-29.

[39] Id. at 33-57.

[40] Rollo, (G.R. No. 139365), pp. 14-36.

[41] Rollo (G.R. No. 139047), pp. 226-228.

[42] Id. at 229-230.

[43] Rollo (G.R. No. 139365), p. 101.

[44] Id. at 148-149.

[45] LRC Case No. N-6577, which was filed on 11 April 1966, and LRC Case No. LP-553-P, which was filed on 27 June 1980.

[46] 331 Phil. 294, 308-311 (1996).

[47] Id. at 311.

[48] Art. 1478. The parties may stipulate that ownership in the thing shall not pass to the purchaser until he has fully paid the price.

[49] 310 Phil. 623 (1995).

[50] Philippine National Bank v. Court of Appeals, 330 Phil. 1048, 1070-1071 (1996).

[51] Id.

[52] *Ayala Life Assurance, Inc. v. Ray Burton Development Corporation*, G.R. No. 163075, 23 January 2006, 479 SCRA 462, 467-468.

[53] Id.

[54] NEW CIVIL CODE, Article 1370.

[55] See *Philippine Suburban Development Corporation v. Auditor General*, 159 Phil. 998, 1007-1008 (1975).

[56] Records, Vol. 1, p. 257.

[57] Id.

[58] See *Coronel v. Court of Appeals*, *supra* note 46.

[59] An Act to amend section one hundred and ninety-four of the Administrative Code, as amended by Act Numbered Two thousand eight hundred and thirty-seven, concerning the recording of instruments relating to land not registered under Act Numbered four hundred and ninety-six, entitled "The Land Registration Act," and fixing the fees to be collected by the register of deeds for instruments recorded under said Act.

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