

EVADEL REALTY AND DEVELOPMENT CORPORATION, PETITIONERS, VS. SPOUSES ANTERO AND VIRGINIA SORIANO, RESPONDENTS.

G.R. No. 144291. April 20, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal by certiorari under Rule 45 of the Rules of Court of the decision of the Court of Appeals dated August 3, 2000 in CA-G.R. CV No. 60292 affirming the summary judgment rendered by the Regional Trial Court, Branch 88, Cavite City, in the case for accion reivindicatoria filed by herein respondents Antero and Virginia Soriano against petitioner Evadel Realty and Development Corporation.

The pertinent facts from which the present petition proceeds are as follows:

On April 12, 1996, the spouses Antero and Virginia Soriano (respondent spouses), as sellers, entered into a "Contract to Sell " with Evadel Realty and Development Corporation (petitioner), as buyer, over a parcel of land denominated as Lot 5536-C of the Subdivision Plan of Lot 5536 covered by Transfer Certificate of Title No. 125062 which was part of a huge tract of land known as the Imus Estate.

The pertinent portions of the Contract read:

xxx

WHEREAS : It is the desire of Party "B" to purchase a portion of a parcel of land owned by Party "A" and which portion consist of 28,958 sq.m. and specifically described as lot 5536-C of the Subdivision Plan of Lot 5536 of Imus Estate as surveyed for Antero Q. Soriano and covered by TCT 125062 issued by the Register of Deeds of the Province of Cavite and which portion is shown in Annex "A" hereof.

xxx

I. SUBJECT

The subject of this agreement is the intended sale of 28,958 sq.m. which is a portion of TCT No. 125062 in the name of Party "A" to Party "B" and which portion is herewith shown in Annex "A" hereof.

xxx

III. Conditions to Govern "Contract to Sell"

1] The amount of Twenty Eight Million Nine Hundred Fifty Eight Thousand Pesos (P28,958,000.00) representing the first installment of the purchase price of the property shall be delivered by Party "B" to Party "A" upon the signing of this agreement.

2] The second and last installment of Twenty Eight Million Nine Hundred Fifty Eight Thousand Pesos (P28,958,000.00) shall be delivered by Party "B" to Party "A" simultaneously with the delivery of Party "A" to

Party "B" of the Torrens Title to the lot specifically described as Lot No. 5536-C containing an area of 28,958 sq. m. and herewith shown in Annex "A" hereof; still in the name of Party "A" and the delivery of Party "A" to Party "B" of the "Deed of Absolute Sale" to the property in favor of Party "B". Responsibility of the transfer of the Torrens Title from the name of Party "A" to Party "B" shall be the sole responsibility of Party "B". Moreover, the balance in the amount of Twenty Eight Million Nine Hundred Fifty Eight Thousand Pesos(P28,958,000.00) shall be due and demandable immediately from the time Party "B", thru its President or Vice-President receives either verbal or written notice that the Torrens Title to the segregated property and the "Deed of Absolute Sale" are already available for delivery to Party "B". In the event of delay, however, Party "B" shall be charged with interest and penalty in the amount of 6% per month, compounded, for every month of delay or a fraction thereof in the event the delay does not exceed one month.

xxx[1]

Upon payment of the first installment, petitioner introduced improvements thereon and fenced off the property with concrete walls. Later, respondent spouses discovered that the area fenced off by petitioner exceeded the area subject of the contract to sell by 2,450 square meters. Upon verification by representatives of both parties, the area encroached upon was denominated as Lot 5536-D-1 of the subdivision plan of Lot 5536-D of Psd-04-092419 and was later on segregated from the mother title and issued a new transfer certificate of title, TCT No. 769166, in the name of respondent spouses.

Respondent spouses successively sent demand letters to petitioner on February 14, March 7, and April 24, 1997, to vacate the encroached area. Petitioner admitted receiving the demand letters but refused to vacate the said area.

Thus, on May 23, 1997, a complaint for accion reivindicatoria was filed by respondent spouses against petitioner with the Regional Trial Court, Branch 88 of Cavite City.

In its Answer, petitioner admitted the encroachment but claimed that it was a builder in good faith since it merely relied on the boundaries pointed out by the representatives of respondent spouses. Petitioner also argued that there was a novation of contract because of the encroachment made by the national road on the property subject of the contract by 1,647 square meters.

On March 19, 1998, respondents filed a Motion for Summary Judgment, alleging that there existed no genuine issue as to the material facts of the case due to the admissions made by petitioner in its Answer.

The trial court granted the motion on June 11, 1998 and rendered judgment in favor of respondent spouses, the dispositive portion of which reads:

WHEREFORE, in the light of the foregoing, this court hereby orders the defendant to remove without right of indemnity and at its expense, any or all improvements that it has introduced on the parcel of land covered by TCT No. T-769166 issued by the Register of Deeds of the Province of Cavite with an area of 2,450 square meters, more or less, in the name of plaintiffs spouses and to return to the plaintiffs the physical possession of the above-described parcel of land.

Plaintiffs' and defendant's claim and counter-claim for damages and attorney's fees are dismissed. No pronouncement as to costs.

SO ORDERED.[2]

This prompted petitioner to appeal the matter to the Court of Appeals. On August 3, 2000, the Court of Appeals affirmed the order for summary judgment of the trial court. Hence, this petition ascribing the following errors:

I. XXX, THE HON. COURT OF APPEALS COMMITTED AN ERROR OF LAW IN AFFIRMING THAT UNDER THE FACTUAL CIRCUMSTANCES, A SUMMARY JUDGMENT COULD BE RENDERED BY

THE COURT A QUO.

II. XXX, THE HON. COURT OF APPEALS COMMITTED AN ERROR OF LAW IN ITS APPLICATION OF THE JURISPRUDENCE LAID DOWN IN THE CASE OF TERNATE *v.* COURT OF APPEALS (241 SCRA 254) AND NATIONAL IRRIGATION ADMINISTRATION *v.* GAMIT (215 SCRA 436) UNDER THE FACTUAL CONTENT OF THE CASE AT BAR.

III. XXX, THE HON. COURT OF APPEALS COMMITTED AN ERROR OF LAW IN ITS APPLICATION OF THE JURISPRUDENCE LAID DOWN IN THE CASE OF J.M. TUASON & CO. INC. *v.* VDA. DE LUMANLAN (23 SCRA 230) UNDER THE FACTUAL CONTENT OF THE CASE AT BAR.

IV. XXX, THE HON. COURT OF APPEALS COMMITTED AN ERROR OF LAW IN ITS APPLICATION OF THE JURISPRUDENCE LAID DOWN IN THE CASES OF MANILA BAY CLUB CORPORATION *v.* COURT OF APPEALS (245 SCRA 715) AND THE MARINE CULTURE INC. *v.* COURT OF APPEALS (219 SCRA 148) UNDER THE FACTUAL CONTENT OF THE CASE AT BAR.

V. XXX, THE HON. COURT OF APPEALS COMMITTED AN ERROR OF LAW IN AFFIRMING THE DECISION OF THE COURT A QUO, THUS DEPRIVING THE PETITIONER OF ITS DAY IN COURT AND ITS CONSTITUTIONAL RIGHT TO DUE PROCESS OF LAW.

Summarizing the aforecited issues, the basic issue posed for resolution is whether or not the trial court was in error in rendering summary judgment on the case.

Petitioner claims that a summary judgment cannot be rendered on the case as there are genuine issues of fact which have to be threshed out during trial. It is alleged that in the original and amended complaint, private respondent spouses sought recovery of two thousand four hundred sixty two (2,462) square meters of land. This was, however, changed to 2,450 square meters in the second amended complaint. It is also argued that when petitioner entered upon the property in 1996, it relied on the metes and boundaries pointed out by respondents themselves and their surveyors. Moreover, title over the said area was obtained only after the commencement of the complaint so petitioner could not have possibly disputed such title earlier. Therefore, petitioner maintains, the question of the exact area of the land allegedly encroached, whether 2,462 or 2,450 square meters; and the determination of whether its possession of the subject property was in good or bad faith, are genuine triable issues.

Respondent spouses, on the other hand, maintain that there are no genuine issues of fact in the present case in view of the admission by petitioner of (1) the existence of the title over the subject property in the name of respondent spouses; and (2) its encroachment on the northern side of sold Lot 5536-C which is the area in dispute. It is claimed that such admissions are tantamount to an admission that respondents have a rightful claim of ownership to the subject property warranting a summary judgment in their favor.

Prompt and expeditious resolution of cases have always been an underlying policy of the Court. For this reason, certain rules under the Rules of Court are designed to shorten the procedure in order to allow the speedy disposition of a case. Some of these are Rule 33 on Demurrer to Evidence, Rule 34 on Judgment on the Pleadings and Rule 35 on Summary Judgments. In all these instances, full-blown trial of a case is dispensed with and judgment is rendered on the basis of the pleadings, supporting affidavits, depositions and admissions of the parties.

Under Rule 35 of the 1997 Rules of Civil Procedure, except as to the amount of damages, when there is no genuine issue as to any material fact and the moving party is entitled to a judgment as a matter of law, summary judgment may be allowed.^[3] Summary or accelerated judgment is a procedural technique aimed at weeding out sham claims or defenses at an early stage of the litigation thereby avoiding the expense and loss of time involved

in a trial.[4] The law itself determines when a summary judgment is proper. Under the rules, summary judgment is appropriate when there are no genuine issues of fact which call for the presentation of evidence in a full-blown trial. Even if on their face the pleadings appear to raise issues, when the affidavits, depositions and admissions show that such issues are not genuine, then summary judgment as prescribed by the rules must ensue as a matter of law. What is crucial for determination, therefore, is the presence or absence of a genuine issue as to any material fact.[5] A "genuine issue" is an issue of fact which require the presentation of evidence as distinguished from a sham, fictitious, contrived or false claim. When the facts as pleaded appear uncontested or undisputed, then there is no real or genuine issue or question as to the facts, and summary judgment is called for. The party who moves for summary judgment has the burden of demonstrating clearly the absence of any genuine issue of fact, or that the issue posed in the complaint is patently unsubstantial so as not to constitute a genuine issue for trial.[6] Trial courts have limited authority to render summary judgments and may do so only when there is clearly no genuine issue as to any material fact. When the facts as pleaded by the parties are disputed or contested, proceedings for summary judgment cannot take the place of trial.[7] Applying these principles to the present case, we hold that the CA did not commit any reversible error in affirming the summary judgment rendered by the trial court. Hence, the instant petition must be denied.

The case at bar is one for accion reivindicatoria which is an action to recover ownership over real property. Respondent spouses (plaintiffs below) seek to recover a certain portion of land with a total area of 2,450 square meters from petitioner which portion was allegedly in excess of the total area of the property actually sold by them to the latter. In a reivindicatory action, the basic issue for resolution is that of ownership and in the present case, the determination of ownership of the subject property is hinged on the following questions of fact - first, what was the total area of the lot sold to petitioner by respondent spouses as agreed upon and embodied in the contract to sell; and second, whether or not the area being occupied by the petitioner is in excess of the land which it actually bought from respondent spouses under the said contract.

In its Answer to the Amended Complaint, petitioner admitted the existence and due execution of the Contract to Sell which contained the specific description of the property it bought from respondent spouses, to wit:

xxx

WHEREAS : It is the desire of Party "B" to purchase a portion of a parcel of land owned by Party "A" and which portion consist of 28,958 sq.m. and specifically described as lot 5536-C of the Subdivision Plan of Lot 5536 of Imus Estate as surveyed for Antero Q. Soriano and covered by TCT 125062 issued by the Register of Deeds of the Province of Cavite and which portion is shown in Annex "A" hereof.

xxx

Equally significant is the fact that in the same Answer, petitioner likewise admitted that the relocation survey conducted by geodetic engineers of both parties disclosed that indeed there were two encroachments, i.e.

- 1) encroachment at the eastern frontage of Lot 5536-C by the national road; and
- 2) encroachment by defendant (petitioner) EVADEL on the northern side of sold Lot 5536-C. [8]

and that the second area encroached upon was denominated as Lot 5536-D-1 of the subdivision plan of Lot 5536-D of Psd-04-092419 and later on segregated from the mother title and issued a new transfer certificate of title, TCT No. 769166, during the pendency of the case before the trial court.

With the foregoing admissions by petitioner, clearly, there is no genuine issue of fact as to ownership of the subject property because the said admissions made by petitioner in its Answer are tantamount to an admission that respondent spouses owned the property in question. The CA thus correctly affirmed the trial court as it summarily

resolved the issue of ownership of the subject property in favor of respondent spouses.

Petitioner, however, maintains that the issue of whether or not it was a builder in good faith should not have been peremptorily disposed of by the trial court. Petitioner decries the fact that it was not given an opportunity to submit evidence to establish good faith as regards the improvements it introduced on respondent spouses' property.

Petitioner's contention is untenable. As correctly pointed out by the trial court and the CA, petitioner already admitted in its Amended Answer that the lot in dispute is covered by TCT No. T-769166 of respondent spouses. With this admission, petitioner can no longer claim that it was a builder in good faith. Good faith consists in the belief of the builder that the land he is building on is his and his ignorance of any defect or flaw in his title.[9] In this case, since petitioner, by its own admission, had knowledge of respondent spouses' title over the subject lot, it was clearly in bad faith when it introduced improvements thereon.

Further, the contract to sell[10] between petitioner and respondent spouses, the genuineness and due execution thereof was admitted by petitioner, clearly delineated the metes and bounds of the lot subject thereof. Attached to the said contract was a graphic illustration of the lot purchased by petitioner including a technical description thereof. Petitioner, as a real estate developer, is presumed to be experienced in its business and ought to have sufficient technical expertise to correctly determine the metes and bounds of the lands it acquires. Despite this, petitioner still introduced improvements on the lot not covered by the contract to sell. Petitioner's bad faith had been duly established by the pleadings and there was thus no need to further conduct any trial on the matter. Our ruling in *Congregation of the Religious of the Virgin Mary vs. Court of Appeals*[11] is particularly instructive:

x x x As discussed earlier, petitioner has no right whatsoever to possess and construct permanent structures on the questioned land owned by respondents-spouses. Petitioner admits in its answer to the complaint that it introduced improvements on the subject lot without the consent and knowledge of respondents-spouses. It is thus a builder in bad faith. Again, we find no reversible error in the following ruling of the respondent court:

"Which leads us to a discussion of whether or not appellant was in bad faith in introducing improvements on the subject land. It cannot be denied that appellant never gained title to the subject land as it admits to not having purchased the said lot (TSN, p. 81, November 9, 1992). Neither has appellant successfully shown any right to introduce improvements on the said land (its claim of grant of perpetual use of the same as a road lot and its right to build on a right of way both having been rejected above). This being so, it follows that appellant was a builder in bad faith in that, knowing that the land did not belong to it and that it had no right to build thereon, it nevertheless caused the improvements in question to be erected." [12]

Finally, petitioner's claim that there was a novation of contract because there was a "second" agreement between the parties due to the encroachment made by the national road on the property subject of the contract by 1,647 square meters, is unavailing. Novation, one of the modes of extinguishing an obligation, requires the concurrence of the following: (1) there is a valid previous obligation; (2) the parties concerned agree to a new contract; (3) the old contract is extinguished; and (4) there is valid new contract.[13] Novation may be express or implied. In order that an obligation may be extinguished by another which substitutes the same, it is imperative that it be so declared in unequivocal terms (express novation) or that the old and the new obligations be on every point incompatible with each other (implied novation).[14]

In the instant case, there was no express novation because the "second" agreement was not even put in writing.[15] Neither was there implied novation since it was not shown that the two agreements were materially and substantially incompatible with each other. We quote with approval the following findings of the trial court:

Since the alleged agreement between the plaintiffs [herein respondents] and defendant [herein petitioner] is not

in writing and the alleged agreement pertains to the novation of the conditions of the contract to sell of the parcel of land subject of the instant litigation, ipso facto, novation is not applicable in this case since, as stated above, novation must be clearly proven by the proponent thereof and the defendant in this case is clearly barred by the Statute of Frauds from proving its claim.[16]

In fine, the CA correctly affirmed the summary judgment rendered by the trial court. Considering the parties' allegations and admissions in their respective pleadings filed with the court a quo, there existed no genuine issue as to any material fact so that respondent spouses as movants therein were entitled to a judgment as a matter of law.

WHEREFORE, premises considered, the instant Petition is hereby DENIED for lack of merit. The assailed Decision, dated August 3, 2000, of the Court of Appeals is AFFIRMED in toto.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Ynares-Santiago, JJ., concur.
Pardo, J., on sick leave.

[1] Rollo, pp. 63-65.

[2] Id., at 62.

[3] Tarnate vs. CA, 241 SCRA 254 (1975); Northwest Airlines vs. Court of Appeals, 284 SCRA 408 (1998).

[4] Excelsa Industries, Inc. vs. CA, 247 SCRA 560 (1995).

[5] Go vs. CA, 252 SCRA 564 (1996).

[6] Ibid.

[7] Concrete Aggregates Corp. vs. CA, 266 SCRA 88 (1997); Archipelago Builders vs. IAC, 194 SCRA 207 (1991).

[8] Rollo, pp. 90-95.

[9] Pleasantville Development Corp. vs. CA, 253 SCRA 10, 18 (1996).

[10] Annexes "A," "A-1" to "A-4" to Amended Complaint.

[11] 291 SCRA 385 (1998).

[12] Id., at 394-395.

[13] Cruz vs. CA, 293 SCRA 239, 249-250 (1998).

[14] Id., at 250.

[15] See RTC Decision, p. 9; Rollo, p. 62.

[16] Id.

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