DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS. SPOUSES FRANCISCO ONG AND LETICIA ONG, RESPONDENTS.

G.R. NO. 144661 and 144797. June 15, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Appealed to this Court by way of a petition for review on certiorari are the Decision[1] dated March 5, 1999 and Resolution dated July 19, 2000 of the Court of Appeals in CA-G.R. CV No. 54919, affirming in toto an earlier decision of the Regional Trial Court at Cagayan de Oro City, Branch 23, which ruled in favor of herein respondents, the Spouses Francisco Ong and Leticia Ong, in a suit for breach of contract and/or specific performance with prayer for writ of preliminary injunction and damages thereat commenced by them against petitioner Development Bank of the Philippines (DBP).

Petitioner filed by registered mail a motion for extension time to submit petition, paying the corresponding docket fees therefor by money order. Upon receipt of the motion, the Court docketed the case as G.R. No. 144797. Before actual receipt of said motion, however, petitioner personally filed its petition, which was docketed with a lower number as G.R. No. 144661. What then appears to be two (2) cases before us are actually just one, now the subject of this decision.

The facts are simple and undisputed:

Petitioner's foreclosed asset, formerly owned by one Enrique Abada under TCT No. T-4786 and located at Corrales Extension, Cagayan de Oro City is the subject of this controversy. On May 25, 1988, respondent Francisco Ong with the conformity of his wife Leticia Ong, addressed a written offer to petitioner thru its branch manager at Cagayan de Oro City to buy the subject property on a negotiated sale basis and submitted his "best and last offer" to purchase[2] under the following terms:

PURCHASE PRICE..... P136,000.00

DOWNPAYMENT..... 14,000.00

BALANCE P122,000.00

TERM: C A S H MODE OF PAYMENT: Payable upon ejection of occupants on the property subject of my offer.

> I/We am/are depositing the amount of P14,000.00 in cash/check to accompany my/our offer, it being expressly understood, however, that the same does not bind the DBP to the offer until after my/our receipt of its approval by the higher authorities of the bank. Should the bank receive an offer from a third-party buyer higher by more than 5% or at more advantageous term accompanied by a deposit of at least 10% of the offered price, or a higher offer from the former-owner for at least the updated Total Claim of the Bank accompanied by a minimum deposit of 20% of the purchase price, the Bank may favorably consider the higher offer and thereafter refund my/our deposit within three (3) working days after the determination of the most

advantageous offer.

The foregoing offer was duly "NOTED" by petitioner's branch head at its Cagayan de Oro City Branch, Jose Z. Lagrito (Lagrito, for brevity), and Official Receipt No. 3081947 was issued for the amount of P14,000.00 as respondents' deposit.

In a letter dated October 21, 1988[3], sent to respondents via registered mail, Lagrito informed the spouses that the bank recently received an offer from another interested third-party-buyer of the same property at the same price and term, "but better and more advantageous to the Bank considering that the buyer will assume the responsibility at her expense for the ejectment of present occupants in the said property". Nonetheless, respondents were given in the same letter three (3) days within which "to match the said offer", failing in which the Bank "will immediately award the said property to the other buyer", in which event respondents' deposit of P14,000.00 shall be refunded to them upon surrender of O.R. No. 3081947.

In yet another written offer dated October 28, 1988[4], respondents matched the said offer of the second interested buyer by assuming the responsibility "at my/our own expense for the ejection of squatters/occupants, if any, on the property".

On April 7, 1989, there was a conference between respondents, together with their counsel, and the bank whereat respondents were informed why the sale could not be awarded to them. Thereafter, in a letter dated September 6, 1990[5], respondents were notified that the property would instead be offered for public bidding on September 24, 1990 at ten 10:00 o'clock in the morning.

Feeling aggrieved by such turn of events, respondents filed with the Regional Trial Court at Cagayan de Oro City a complaint for breach of contract and/or specific performance against petitioner. Thereat, the complaint was docketed as Civil Case No. 90-422 which was raffled to Branch 23 of the court.

After pre-trial, the parties agreed to submit the case for judgment based on the pleadings. Accordingly, the trial court required them to submit simultaneously their respective memoranda within thirty (30) days. Only petitioner filed its memorandum.

In a decision[6] dated April 25, 1995, the trial court dismissed the complaint finding that there was "no perfected contract of sale" between the parties, hence, "there is no breach to speak of since there was no contract from the very beginning". However, upon respondents' motion for reconsideration, the trial court vacated its judgment and set the case for the reception of evidence. This time, only the respondents adduced their evidence consisting of the lone testimony of respondent Francisco Ong and the documents identified by him in the course thereof.

In his testimony, Ong gave the respondents' version of what supposedly transpired in their transaction with petitioner. According to him, he and his wife went to the bank branch at Cabayan de Oro City and looked for Roy Palasan, a bank clerk thereat and told the latter that they were interested to buy two (2) lots. Palasan went to talk to Lagrito, the branch manager. Palasan returned to the spouses and informed them that the branch manager agreed to sell the property to them. Palasan further told them that they will be required to pay ten (10%) percent of the purchase price as downpayment, adding that if they were to pay the purchase price in cash, they would be entitled to a ten (10%) percent discount. After some computations, respondents rounded up the purchase price at P136,000.00 and pegged the downpayment therefor at P14,000.00. They were then required by Palasan to sign a bank form supposedly to express their firm offer to purchase the subject property. But since the form signed by them contains the statement that the approval of higher authorities of the bank is required to close the deal, respondents queried Palasan about it. Palasan, however, told them that the documents were only for formality purposes, and further assured them that the branch manager has already agreed to sell the subject property to

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them.

Having completed the presentation of their evidence, respondents rested their case. For its part, petitioner no longer adduced any evidence but merely opted to formally offer its documentary exhibits. Thereafter, the case was submitted for resolution.

On September 26, 1996, the trial court came out with a new decision,[7] this time rendering judgment for the respondents, as follows:

> WHEREFORE, by reason of preponderance of evidence, the Court hereby finds in favor of the plaintiffs as against the defendant and hereby orders the defendant:
>
> - To execute a final sale of the lot subject matter of the contract of sale at the original agreed price of P136,000.00;
>
> - Defendant to accept the balance of the purchase price from the plaintiffs;
>
> - Defendant to pay moral damages in the amount of P30,000.00;
>
> - Defendant to refund the amount of P10,000.00 actual litigation expenses; and to pay attorney's fees in the amount of P20,000.00.
>
> SO ORDERED.

Therefrom, petitioner went on appeal to the Court of Appeals in CA-G.R. CV No. 54919, and, on March 5, 1999, the appellate court rendered the herein assailed decision[8] affirming in toto that of the trial court, thus:

> ACCORDINGLY, the foregoing premises considered, the appealed decision is hereby AFFIRMED in toto.
>
> SO ORDERED.

With its motion for reconsideration of the same decision having been denied by the Court of Appeals in its equally challenged resolution of July 19, 2000,[9] petitioner is now with us thru the present recourse on the following grounds:

> A.
>
> THAT THE RESPONDENTS' INTRODUCTION OF PAROL EVIDENCE TO PROVE THE ALLEGED MEETING OF MINDS BETWEEN THE PARTIES WAS NOT SANCTIONED BY RULE 130, SEC. 9, RULES OF COURT, CONTRARY TO THE FINDINGS OF THE LOWER COURTS, CONSIDERING THAT THERE WAS NO WRITTEN CONTRACT THAT WAS EVER EXECUTED BY THE PARTIES IN THIS CASE, BUT MERELY UNILATERAL WRITTEN COMMUNICATIONS, AT BEST CONSTITUTING OFFERS AND COUNTER-OFFERS.
>
> B.
>
> THAT THE QUANTUM OF PROOF IS WANTING TO PROVE THE ALLEGED PERFECTION OF CONTRACT OF SALE BETWEEN THE PARTIES BASED ON THE SOLE, UNCORROBORATED, ORAL TESTIMONY THUS FAR PRESENTED BY THE RESPONDENTS.
>
> C.
>
> THAT THE BURDEN OF PROOF THAT THERE WAS PERFECTION OF THE CONTRACT OF SALE BETWEEN THE PARTIES BASICALLY REST WITH THE RESPONDENTS, NOTWITHSTANDING THE NON-OBJECTION ON THE PART OF HEREIN PETITIONER DURING THE INTRODUCTION OF THAT "PAROL EVIDENCE"; THE ADMISSIBILITY OF PETITIONER'S (sic.) PAROL EVIDENCE

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DOES NOT AUTOMATICALLY RIPEN THE TESTIMONY AS A TRUTH RESPECTING A MATTER OF FACT AS ITS CREDIBILITY AND TRUSTWORTHINESS AND WEIGHT ARE STILL SUBJECT TO JUDICIAL SCRUTINY AND APPRECIATION.

D.

THAT THERE WAS ACTUALLY OPPOSITION ON THE PART OF THE PETITIONER TO THE CONTENTS OF THE ORAL TESTIMONY OF THE RESPONDENT REGARDING THE ALLEGED PERFECTION OF CONTRACT OF SALE BECAUSE THE PETITIONER HAD ALREADY INTERPOSED THEIR DEFENSES WHEN IT FILED A MEMORANDUM ATTACHING THEREIN THE DOCUMENTARY AS WELL AS DECLARATIONS IN ITS PLEADINGS ON THE NON-PERFECTION OF SUCH CONTRACT WHEN THE CASE WAS THEN SUBMITTED FOR JUDGMENT ON THE PLEADINGS, AS AGREED BY THE PARTIES DURING THE PRE-TRIAL, AND SUCH EVIDENCES WERE ALREADY PASSED UPON BY THE COURT WHEN IT RENDERED A JUDGMENT DATED APRIL 25, 1995.

We GRANT the petition.

At the very core of the controversy is the question of whether or not there actually was a perfected contract of sale between petitioner and respondents, for which the Court may compel petitioner to issue a board resolution approving the sale and to execute the final deed of sale in respondents' favor, and/or hold petitioner liable for a breach thereof. Needless to state, without a perfected contract of sale, there could be no cause of action for specific performance or breach thereof.

The trial court went on one direction by ruling in its earlier decision of April 25, 1995 that there was no perfected contract, but upon respondents' motion for reconsideration, went exactly the opposite path by completely reversing itself in its herein challenged decision of September 26, 1996.

Apparently, the trial court's ruling that there was already a perfected contract of sale was premised on its following factual findings:

- That plaintiff [respondents] made a downpayment in a check that was subsequently encashed by the defendant [petitioner] bank;

- That the sister-in-law of plaintiff [respondents] entered into the same arrangement and was able to buy the property she wanted to buy from defendant [petitioner] bank;

- That defendant [petitioner] never presented any witness to rebut the positive and clear testimony of plaintiff [respondents] that it was a perfected contract of sale entered into by the former with the defendant [petitioner] bank.[10]

Sustaining the foregoing factual findings of the trial court, the appellate court wrote in its assailed decision of March 5, 1999:

This positive and clear testimony of [respondent] Ong was not objected to nor rebutted by the [petiotioner]. Notably, the bank personnel involved in the transaction, namely, Roy Palasan and the Branch Manager of the [petitioner's] Cagayan de Oro Branch, Joe Lagrito, were never presented to refute the testimony of the [respondents] that the bank has agreed to sell the property to the [respondents]. Suffice it to state that [respondents] were entitled to rely on the representation of Lagrito who, after all, is the bank's manager. Under the premise that a bank is bound by the obligation contracted by its officers, the contract of sale between [petitioner] and the [respondents] was perfected when Palasan and Lagrito communicated the approval of the sale of the lot to the [respondents].

Significantly, the unrebutted testimony of Francisco Ong reveals that Norma Silfavan, [respondents'] sister,

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> made a similar offer to the [petitioner] under the same terms and conditions as to that of the [respondents], and was likewise assured by the same bank personnel that her offer, along with the [respondents'] offer was already approved. Eventually, the transaction resulted in a consummated sale between Silfavan and DBP. Under these premises, We can not see any reason why the [petitioner] did not accord the same treatment to the [respondents] who were similarly situated.

Evidently, the two (2) courts below were convinced that the actuation of Palasan, a mere bank clerk, upon which respondents relied in believing that their offer to purchase was already approved by the bank manager, would bind the bank to a perfected contract of sale between the parties in this case. The Court of Appeals further added that the acceptance of the offer to purchase was sufficiently established from the parol evidence adduced by respondents during the trial.

We do not agree.

Concededly, in petitions for review on certiorari, our task is not to review once again the factual findings of the Court of Appeals and the trial court, but to determine if, on the basis of the facts thus found, the conclusions of law reached are correct or not.

Judging from the findings of the two (2) courts below and the testimony of respondent Francisco Ong himself, it appears clear to us that the transaction between the respondents and the petitioner was limited to Palasan, one of the clerks of petitioner's branch in Cagayan de Oro City. Lagrito, the branch manager, had no personal or direct communication with respondents to express his alleged consent to the sale transaction. Thus, the undisputed evidence showed that it was Palasan, a mere bank clerk, and not the branch manager himself who assured respondents that theirs was a closed deal.

We are very much aware of our pronouncement in Rural Bank of Milaor vs. Ocfemia,[11] involving a mandamus suit where the supposed buyer of a foreclosed property from a bank sought a court order to compel the bank to issue the required board resolution confirming the sale between the parties therein. There, this Court, speaking thru Mr. Justice Artemio Panganiban, stated:

> Notwithstanding the putative authority of the manager to bind the bank in the Deed of Sale, petitioner has failed to file an answer to the Petition below within the reglementary period, let alone present evidence controverting such authority. Indeed, when one of herein respondents, Marife S. Niño, went to the bank to ask for the board resolution, she was merely told to bring the receipts. The bank failed to categorically declare that Tena had no authority. This Court stresses the following:
> ". . . Corporate transactions would speedily come to a standstill were every person dealing with a corporation held duty-bound to disbelieve every act of its responsible officers, no matter how regular they should appear on their face. This Court has observed in Ramirez vs. Orientalist Co., 38 Phil. 634, 654-655, that —
> 'In passing upon the liability of a corporation in cases of this kind it is always well to keep in mind the situation as it presents itself to the third party with whom the contract is made. Naturally he can have little or no information as to what occurs in corporate meetings; and he must necessarily rely upon the external manifestation of corporate consent. The integrity of commercial transactions can only be maintained by holding the corporation strictly to the liability fixed upon it by its agents in accordance with law; and we would be sorry to announce a doctrine which would permit the property of man in the city of Paris to be whisked out of his hands and carried into a remote quarter of the earth without recourse against the corporation whose name and authority had been used in the manner disclosed in this case. As already observed, it is familiar doctrine that if a corporation knowingly permits one of its officers, or any other agent, to do acts within the scope of an apparent authority, and thus holds him out to the public as possessing power to do those acts, the corporation will, as against any one who has in good faith dealt with the corporation through such agent, be estopped from denying his authority; and where it is said 'if the corporation permits this means the same as 'if the thing is permitted by the directing power of the corporation.'"[12]

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In this light, the bank is estopped from questioning the authority of the bank manager to enter into the contract of sale. If a corporation knowingly permits one of its officers or any other agent to act within the scope of an apparent authority, it holds the agent out to the public as possessing the power to do those acts; thus, the corporation will, as against anyone who has in good faith dealt with it through such agent, be estopped from denying the agent's authority.[13]

Unquestionably, petitioner has authorized Tena to enter into the Deed of Sale. Accordingly, it has a clear legal duty to issue the board resolution sought by respondents. Having authorized her to sell the property, it behooves the bank to confirm the Deed of Sale so that the buyers may enjoy its full use.

There is, however, a striking and very material difference between the aforecited case and the one at bar. For, unlike in Milaor where it was the branch manager who approved the sale for and in behalf of the bank, here, there is absolutely no approval whatsoever by any responsible bank officer of the petitioner. True it is that the signature of branch manager Lagrito appears below the typewritten word “NOTED” at the bottom of respondents’ offer to purchase dated May 25, 1988.[14] By no stretch of imagination, however, can the mere “NOTING” of such an offer be taken to mean an approval of the supposed sale. Quite the contrary, the very circumstance that the offer to purchase was merely “NOTED” by the branch manager and not “approved”, is a clear indication that there is no perfected contract of sale to speak of.

The representation of Roy Palasan, a mere clerk at petitioner’s Cagayan de Oro City branch, that the manager had already approved the sale, even if true, cannot bind the petitioner bank to a contract of sale with respondents, it being obvious to us that such a clerk is not among the bank officers upon whom such putative authority may be reposed by a third party. There is, thus, no legal basis to bind petitioner into any valid contract of sale with the respondents, given the absolute absence of any approval or consent by any responsible officer of petitioner bank.

And because there is here no perfected contract of sale between the parties, respondents’ action for breach of contract and/or specific performance is simply without any leg to stand on and must therefore fall.

We also disagree with the Court of Appeals that the encashment of the check representing the P14,000.00 deposit in relation to respondents’ offer to purchase is an indication or proof of perfection of a contract of sale. It must be noted that the very documents[15] signed by the respondents as their offer to purchase unmistakably state that the deposit shall only form part of the purchase price if the offer to purchase is approved, “it being expressly understood xxx that the same (i.e., the deposit) does not bind DBP to the offer until my/our receipt of its approval by higher authorities of the bank”. It may be so that the official receipt issued therefor by the petitioner termed such deposit as a “downpayment”. But the very written offers of the respondents unequivocably and invariably speak of such amount as “deposit”, “above deposit”, “we are depositing the amount of P14,000.00”. Since there never was any approval or acceptance by the higher authorities of petitioner of respondents’ offer to purchase, the encashment of the check can not in any way represent partial payment of any purchase price.

With the hard reality that no approval or acceptance of respondents’ offer to buy exists in this case, any independent transaction between petitioner and another third-party, like the one involving respondents’ sister, would be irrelevant and immaterial insofar as respondents’ own transaction with the petitioner is concerned. Besides, apart from saying that respondents’ sister “made a similar offer to the [petitioner] under the same terms and conditions as to that of the [respondents], and was likewise assured by the same bank personnel that her offer xxx was already approved”, which eventually resulted into a “consummated sale between (the sister) and DBP”, the Court of Appeals made no finding that the sister’s transaction with the petitioner was made exactly under the same circumstances obtaining in the present case. In any event, petitioner’s favorable action on the offer of respondents’ sister is hardly, if ever, relevant and determinative in the resolution of the legal issue presented in

this case.

In sum, we cannot, in law, sustain the herein challenged issuances of the Court of Appeals.

WHEREFORE, the instant petition is GRANTED and the assailed decision and resolution of the Court of Appeals REVERSED and SET ASIDE. The complaint filed in this case is accordingly DISMISSED.

No pronouncement as to costs.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and Carpio-Morales, JJ., concur.

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[1] Penned by Associate Justice Candido V. Rivera, with Associate Justices Quirino D. Abad Santos, Jr. and Bernardo Ll. Salas, all retired, concurring.

[2] Rollo, p. 89.

[3] Rollo, p. 90.

[4] Rollo, p. 91.

[5] Exhibit “H” and “8”, CA decision, p. 3; Rollo, p. 28.

[6] Rollo, pp. 36-38.

[7] Rollo, pp. 108-115.

[8] Rollo, pp. 26-34.

[9] Rollo, p. 35.

[10] RTC decision dated September 26, 1996, p. 7; Rollo, p. 114.

[11] 325 SCRA 99 [2000].

[12] Citing Francisco v. GSIS, 7 SCRA 577; 583-584, March 30, 1963, per Reyes, J.B.L., J.

[13] First International Bank vs. CA, 252 SCRA 259, January 24, 1996; People’s Aircargo and Warehousing Co., Inc. vs. CA, 297 SCRA 170, 184-185, October 7, 1998.

[14] Rollo, p. 89.

[15] Exhibits “B” and “F” for respondents, same as Exhibits “2” and “6” for petitioner.

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