

SPOUSES ABELARDO BORBE AND ROSITA LAJARCA-BORBE, PETITIONERS, VS. VIOLETA CALALO, RESPONDENT.

G.R. NO. 152572. October 05, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] and Resolution of the Court of Appeals dated December 21, 2001 and March 13, 2002, respectively, in CA-G.R. CV No. 66359.

Records show that the late Jose Palo, during his lifetime, inherited from his parents a 400-square meter portion of Lot 8, Pcs-4A-0000101 situated in San Carlos, Lipa City.

On September 28, 1981, Rosita Lajarca-Borbe, petitioner, and Violeta Calalo, the surviving spouse of Jose Palo, respondent, executed an agreement or “Kasunduan.” The agreement provides that petitioner has purchased the 400-square meter lot inherited by respondent from her late husband, covered by Transfer Certificate of Title (TCT) No. 24370 of the Registry of Deeds of Lipa City; that petitioner shall pay respondent P3,000.00 as down payment; and that she shall pay the balance of P3,000.00 the moment a new TCT shall have been issued in the name of respondent.

The Kasunduan was also signed by respondent’s children, namely: Mercedes, Aguida and Vivencio, all surnamed Palo. On the same day, petitioner paid respondent the agreed down payment of P3,000.00. Petitioner later paid respondent in various amounts totaling P2,500.00, leaving an unpaid balance of P500.00.

On September 22, 1982, or one year after the parties executed the Kasunduan, TCT No. T-51153 was issued by the Register of Deeds of Lipa City in respondent’s name.

After 13 years or in April 1995, petitioner spouses presented a prepared deed of sale in Filipino indicating that respondent is selling to petitioners the subject lot covered by TCT No. T-51153 in her name. However, respondent and her children refused to sign the document, asking a higher price for the lot.

Despite demand, respondent and her children still refused to execute a new deed of absolute sale.

As efforts to settle the dispute before the barangay authorities failed, petitioners, on August 15, 1995, filed with the Regional Trial Court, Branch 13, Lipa City, a complaint for specific performance against respondent, docketed as Civil Case No. 95-556.

In its Decision dated October 22, 1999, the trial court ruled in favor of petitioners, thus:

WHEREFORE, in view of the foregoing, the Court finds for the plaintiffs as against the defendant and hereby orders the latter as follows:

- to execute a deed of sale over the property covered by TCT No. T-51153 in favor of the plaintiffs upon payment by the latter of the amount of P500.00 to the defendant;

- to pay plaintiff attorney's fees and appearance fees in the fixed amount of P25, 000.00; and
- to pay the costs of the suit.

SO ORDERED.[2]

On appeal by respondent, the Court of Appeals rendered its Decision dated December 21, 2001, reversing the trial court's judgment and dismissing the complaint, thus:

WHEREFORE, premises considered, the present appeal is hereby GRANTED. The decision appealed from in Civil Case No. 95-556 is hereby REVERSED and SET ASIDE and a new judgment is hereby rendered DISMISSING the complaint as well as defendant-appellant's counterclaim.

No pronouncement as to costs.

SO ORDERED.[3]

In reversing the Decision of the trial court, the appellate court held:

However, despite the validity and enforceability of the "KASUNDUAN," the trial court erred in not considering that the present action was filed beyond the ten-year prescriptive period under Art. 1144(1) of the Civil Code, a ground which has been raised and invoked by the appellant in her Answer. Art. 1144 provides that an action upon a written contract must be brought within ten (10) years from the time the right of action accrues. In cases where there is no special provision for such computation, recourse must be had to the rule that the period must be counted from the day on which the corresponding action could have been instituted, or the legal possibility of bringing the action. In the present case, that period should be computed from the date of the issuance of the certificate of title covering the subject property in the name of appellant which was on September 22, 1982. This is consistent with the agreement of the parties under the "KASUNDUAN" that the balance of P3, 000.00 of the purchase price will be paid by the buyers (appellees) once the land sold will be separately titled. As the complaint was filed only on August 15, 1995, or almost thirteen (13) years later, it is clear that appellees' action had already prescribed.

Petitioners filed a motion for reconsideration but it was denied by the Court of Appeals in its Resolution[4] dated March 13, 2002.

Hence, the present petition.

The sole issue for our resolution is whether petitioners' action has prescribed.

Petitioners contend that their cause of action accrued only in 1995, when they tendered the remaining balance of P500.00 to respondent which the latter refused to accept. Thus, the Court of Appeals erred when it dismissed their complaint by reason of prescription.

Respondent, for her part, maintains that the petition should be denied for lack of merit.

Article 1144 of the Civil Code provides:

Article 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

In *Multi-Realty Development Corporation v. The Makati Tuscany Condominium Corporation*,[5] we held that the term "right of action" is the right to commence and maintain an action. The right of action springs from the cause

of action, but does not accrue until all the facts which constitute the cause of action have occurred.

Under the terms of the “Kasunduan,” petitioners would pay the balance of P3,000.00 once the land sold will be titled in the name of respondent. TCT No. T-51153 covering the subject lot was issued in respondent’s name on September 22, 1982. From this day, petitioners could have asked respondent to accept the remaining balance of P500.00 and execute a new deed of sale in their favor.

Unfortunately, it was only in 1995 when petitioners attempted to pay the remaining balance of P500.00. And it was only on August 15, 1995, or 13 years after the lot was registered in respondent’s name, that petitioners filed the complaint for specific performance. Clearly by then, petitioners’ cause of action had prescribed.

Petitioners contend that they filed the action only in 1995 because respondent did not inform them of the issuance of TCT No. T-51153 in her name. We are not convinced. The issuance of TCT No. T-51153 on September 22, 1982 was a constructive notice to the whole world that respondent has become the owner of the lot described therein. Petitioners are thus barred from claiming that they were not notified thereof.

WHEREFORE, we DENY the petition. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 66359 are AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

[1] Penned by Associate Justice Martin S. Villarama, Jr. and concurred in by Associate Justice Conchita Carpio-Morales (now a member of this Court) and Associate Justice Sergio L. Pestaño (deceased).

[2] Annex “A” of the petition, rollo, pp. 25-31.

[3] Annex “B” of the petition, id., pp. 32-38.

[4] Annex “C” of the petition, id., pp. 39-40.

[5] G.R. No. 146726, June 16, 2006, 491 SCRA 9, 26.

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