

MIGUELITO B. LIMACO, ROGELIO LIMACO, JR., AND ISIDRO LIMACO, PETITIONERS, VS. SHONAN GAKUEN CHILDREN'S HOUSE PHILIPPINES, INC., RESPONDENT.

G.R. No. 158245. June 30, 2005

Ponente: PUNO, J.

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PUNO, J.:

Petitioners Miguelito, Rogelio, Jr., and Isidro, all surnamed Limaco, are the registered owners of three (3) parcels of agricultural land situated in Bay, Laguna, covered by Transfer Certificates of Title Nos. 22709 and 22710 of the land records of Laguna, with a total area of 313,293 square meters. On May 19, 1988, petitioners, as vendors, entered into a Contract of Sale with respondent Shonan Gakuen Children's House Philippines, Inc., a domestic corporation represented by its Chairman Tsutomu Masamura and General Manager and Treasurer Jose P. Catindig, as vendee, over the subject lots, for the consideration of P12,531,720.00. The parties agreed that respondent corporation shall pay P1,200,000.00 upon the signing of the contract and the balance of P11,331,720.00 in seven (7) equal installments. They further stipulated, "in the event that the parties herein are unable to effect the transfer and sale of the said properties in whole or in part in favor of the VENDEES, all the paid-in amounts shall be applied to another similar property also owned by the VENDORS in substitution of the above-described properties."

Pursuant to the contract, respondent corporation paid the down payment of P1,200,000.00. However, it refused to remit any monthly installment due to petitioners' failure to obtain a clearance and/or approval of the sale of the subject land from the Department of Agrarian Reform (DAR). Respondent demanded that petitioners either solve the problem with the land tenants or substitute the lots with another acceptable, suitable and untenanted land, pursuant to their agreement.[1]

Petitioners responded by informing respondent that they were ready to finalize the transaction in accordance with the legal opinion of the DAR[2] which stated that the subject properties should first be donated by the tenant farmers to the municipality of Bay, Laguna, which, in turn, would donate them to respondent. Thereafter, the DAR will order the Registry of Deeds of Laguna to register the subject land in the name of respondent corporation.

In a letter dated December 21, 1988,[3] respondent informed petitioners that the scheme proposed in the DAR Opinion was "far from acceptable." Respondent offered to purchase the property for the agreed price of P13,000,000.00 on a direct sale basis. Respondent expressed its concern that in a donation, the present and future administrations of the municipality might feel that the foundation would always be " beholden to it." Moreover, the supporters of the project in Japan might question what happened to the P13,000,000.00 allotted for the acquisition of the property. Hence, respondent proposed that "[s]ince it is now clear that the property cannot be conveyed to the foundation (respondent) in the manner specified ... due to a possible violation of existing law, we (respondent) now request you (petitioners) to substitute the same with another [land] which is untenanted and the

size, location and type of terrain of which [are] acceptable and suitable for the purpose of the foundation."

Petitioners did not respond to respondent's reply. Hence, respondent corporation, through counsel, requested the return of its P1,200,000.00 down payment. As petitioners did not acquiesce, respondent, on January 19, 1989, filed a complaint for rescission with damages with the Regional Trial Court (RTC) of Makati. The case was docketed as Civil Case No. 89-2939 and raffled to Branch 132.[4]

As a countermove, on February 1, 1989, petitioners and the tenant farmers of the property, as plaintiffs, filed the instant case for specific performance with the RTC of Laguna, Branch 25, docketed as Civil Case No. 25.[5]

Respondent filed a motion to dismiss[6] Civil Case No. 25 on the ground of *litis pendentia*. Petitioners opposed,[7] contending that the instant complaint for specific performance was served on respondent ahead of the service of the complaint for rescission on petitioners. Later, however, respondent withdrew its motion to dismiss in view of the order of the RTC of Makati dismissing the complaint for rescission.[8]

In its Answer with Counterclaim,[9] respondent alleged by way of affirmative defense that "[s]pecific performance is not possible because the defendant (respondent) had already bought another property which is untenanted, devoid of any legal complications and now converted from agricultural to non-agricultural purpose in accordance with DAR Administrative Order No. 15." By way of counterclaim, respondent alleged as follows:

- That in view of the failure of the plaintiff-landowners to comply with the Contract of Sale, the same should be rescinded, and they should be ordered to refund the sum of P1,200,000.00 paid by the defendant under the Contract of Sale with bank rate of interest per annum from date of receipt until fully repaid;
- That also by reason thereof, the project of the defendant has been delayed for seven months for which reason said plaintiff-landowners should be liable for damages amounting to P500,000.00 to the defendant, with the same rate of interest;
- That because of the plaintiffs' refusal to comply with the demand to refund the amount paid by the defendant, it was constrained to engage the services of the undersigned counsel not only to recover the amount paid but to defend itself against the vexatious, malicious, unfounded, and unjustified complaint of the plaintiff, for which it agreed to pay attorney's fees in the sum of P75,000.00 of which P30,000.00 had already been paid, plus P1,000.00 appearance fee for each day he is in attendance in this case.[10]

It appears that sometime during trial on the merits, the parties were able to agree on a compromise in which petitioners were to return only fifty percent (50%) of the down payment amounting to P600,000.00. Unfortunately, petitioners only remitted P487,000.00 to respondent, leaving a balance of P113,000.00 which petitioners failed to settle. Thus, the trial of the case proceeded.

On July 9, 1996, petitioners filed a Motion to Withdraw Complaint[11] considering respondent's special defense that specific performance was no longer possible. They prayed that their complaint and respondent's counterclaim be ordered withdrawn or dismissed, arguing that respondent's counterclaim would have no leg to stand on as it was compulsory in nature.

Respondent objected. It argued that under the Rules of Court, "[i]f a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court." Moreover, it contended that the dismissal of the counterclaim would operate to its "extreme prejudice" considering that: (a) its complaint for rescission with the RTC of Makati involving the same subject matter and relief was dismissed to give way to the instant case; (b) petitioners were already about to present their second

witness and dismissing the complaint would result in the starting all over again of the case; and (c) respondent had spent considerable expenses for attorney's fees, acceptance fees and litigation expenses for the past six (6) years that the case was pending.

In its Order dated July 30, 1996, the trial court denied petitioners' motion.[12] On January 23, 1997, petitioners' counsel, Atty. Santos V. Pampolina, Jr., prayed that he be allowed to withdraw as counsel for the tenant farmers.[13] In response, respondent suggested that the names of the tenant farmers be removed from the list of plaintiffs, considering that they were not privy to the contract between petitioners and respondent.

On February 25, 1997, the trial court dismissed "the complaint of said plaintiffs-tenants farmers and the counterclaim of defendant (respondent) against them." Trial proceeded with respect to petitioners. Petitioners, through counsel, manifested that they were no longer presenting evidence, hence, respondent began its presentation of evidence.[14] After presenting its last witness, respondent submitted its formal Offer of Evidence,[15] and petitioners filed their comment thereto.[16] Thereafter, both parties filed their respective memoranda.[17]

On January 26, 1998, the trial court rendered a decision, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered ordering plaintiffs-landowners to pay defendant the aforesaid sum of P113,000.00 with legal interests thereon from the filing of the Complaint.

SO ORDERED.[18]

The trial court ruled that the conveyance of private agricultural land is null and void pursuant to Section 21, Article II of the 1987 Constitution declaring as a state policy the promotion of a comprehensive agrarian reform program. Section 6 of the Comprehensive Agrarian Reform Law (CARL) which took effect after the subject contract of sale was executed, decrees that any sale of private agricultural lands prior to its effectivity shall be valid only when registered with the Register of Deeds within a period of three (3) months after the law's effectivity. As the subject contract was not so registered, it is null and void by express provision of law. It also held that the provision of the contract for an alternative recourse was not legally demandable under Article 1479 of the Civil Code as the substitute property was not ascertained by the parties. Since the contract of sale was void, the trial court found both parties in *pari delicto*. Be that as it may, the trial court recognized that the parties have made an "equitable arrangement" under which petitioners are to return to respondent the amount of P600,000.00. Hence, the trial court ruled that both are "in estoppel to assert contrary stances." Petitioners were therefore obliged to remit to respondent the balance of P113,000.00 from the P600,000.00 demanded by respondent but cannot demand more than said balance.[19] Respondent's Motion for Reconsideration[20] for the return of the balance of the entire down payment in the amount of P717,000.00,[21] with interest, and to pay exemplary damages and/or attorney's fees proved futile.[22]

Respondent appealed to the Court of Appeals (CA), which found the appeal partially meritorious. The CA held that the trial court erred in declaring the contract void under Section 21, Article II of the Constitution as such provision is merely a statement of state principle and is not self-executing. Nevertheless, the CA upheld the trial court's ruling that the subject contract was void under Section 6 of the CARL for lack of proof that the contract was registered within the period provided by law. Since the contract was void, its provision on substitution for another suitable land cannot be enforced. The CA, however, disagreed with the ruling of the trial court that the parties were in *pari delicto*. It held that the fault on both sides is not, more or less, equivalent. Petitioner pointed out that the Limacos belonged to a family of lawyers and are more knowledgeable of the law than the respondent, a Japanese group seeking to establish an orphanage in the country. The CA further held that pursuant to the principle against unjust enrichment, petitioners should return to respondent the balance of the P1,200,000.00

down payment in the amount of P713,000.00, with legal interest. It reasoned that the compromise agreement between the parties was cancelled when petitioners reneged on their obligation to remit the full balance of the agreed amount. It also noted that the compromise agreement submitted to the court was not binding for not having been signed by the petitioners. The CA, however, denied respondent's prayer for the payment of exemplary damages and attorney's fees.

Petitioners filed a Motion for Reconsideration,[23] arguing that the tenant farmers received the down payment of P1,200,000.00, hence, should be the ones made to return the sum of P713,000.00. They also revived their argument that respondent's compulsory counterclaim should have been dismissed in view of the dismissal of their complaint. The CA denied petitioners' motion.[24]

Hence, this petition where petitioners contend:

- THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AKIN TO EXCESS OF JURISDICTION WHEN IT WILLFULLY AND PATENTLY DISREGARDED THE EVIDENCE ON RECORD CONCERNING [DOWN PAYMENT].[25]

- THE COURT OF APPEALS COMMITTED A REVERSIBLE LEGAL ERROR IN HOLDING PETITIONERS LIABLE TO PRIVATE RESPONDENT FOR P713,000.00.

- THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN NOT DISMISSING PRIVATE RESPONDENT'S COMPULSORY COUNTERCLAIM AS IT ARISES OUT OF OR IS NECESSARILY CONNECTED WITH THE TRANSACTION THAT IS THE SUBJECT MATTER OF PETITIONERS' COMPLAINT.[26]

The issues to be resolved are: (a) whether respondent's counterclaim should be dismissed; (b) whether petitioners are liable to respondent; and (c) in the affirmative, the extent of their liability.

We shall first resolve the procedural issue.

Petitioners submit that the CA erred in not dismissing respondent's compulsory counterclaim. They point out that on July 9, 1996, they filed a Motion to Withdraw Complaint. They contend that with the withdrawal of their complaint, respondent's compulsory counterclaim for the return of P1,200,000.00 had no leg to stand on pursuant to Section 2, Rule 17, of the Rules of Court. They maintain that respondent's counterclaim is "inextricably linked and utterly dependent upon petitioners' complaint and from its very nature, it cannot 'remain pending for independent adjudication by the court.'"[27]

Petitioners' arguments fail to impress.

The applicable provisions are Sections 1 and 2, Rule 17, of the old Rules of Court, viz:

Sec. 1. Dismissal by the plaintiff.-- An action may be dismissed by the plaintiff without order of court by filing a notice of dismissal at any time before service of the answer or of a motion for summary judgment. x x x

Sec. 2. Dismissal by order of the court.-- Except as provided in the preceding section, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice.

Thus, there are two ways by which an action may be dismissed upon the instance of the plaintiff. First, dismissal is a matter of right when a notice of dismissal is filed by the plaintiff before an answer or a motion for summary

judgment has been served on him by the defendant. Second, dismissal is discretionary on the court when the motion for the dismissal of the action is filed by the plaintiff at any stage of the proceedings other than before service of an answer or a motion for summary judgment. While the dismissal in the first mode takes effect upon the mere notice of plaintiff without need of a judicial order,[28] the second mode requires the authority of the court before dismissal of the case may be effected. This is so because in the dismissal of an action, the effect of the dismissal upon the rights of the defendant should always be taken into consideration.[29]

In the case at bar, it is undisputed that petitioners filed a Motion to Withdraw Complaint after respondent already filed its answer with counterclaim. In fact, the reason for their motion for withdrawal was the special defense of respondent in its answer that substitution was no longer possible as it already bought another property in lieu of the subject lots under the contract. It is, therefore, inexplicable how petitioners could argue that their complaint was successfully withdrawn upon the mere filing of a Motion to Withdraw Complaint when they themselves alleged in this petition that "[p]rivate respondent objected to [the] withdrawal and the Trial Court sustained the objection." [30]

More important, the old Rules of Court provided that "[i]f a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court" (emphasis supplied). What may invariably remain for independent adjudication are permissive counterclaims as compared to compulsory counterclaims which generally necessitate a simultaneous adjudication with the complaint itself.[31] In the case at bar, respondent's counterclaim is compulsory in nature, hence, cannot remain for independent adjudication.

We shall now proceed to the substantive issue: whether petitioners are liable to respondent; in the affirmative, the extent of their liability.

Petitioners contend that the decision of the CA "lacked legal and factual basis when it ordered petitioners to pay private respondent the sum of P713,000.00 considering that the plaintiff-tenants were the ones who actually received and took hold of the down payment of P1,200,000.00." Allegedly, respondent's own evidence, particularly the testimony of its adverse witness, petitioner Rogelio, Jr., shows that the down payment of P1,200,000.00 was given to the tenant farmers, hence, the tenant farmers should be the ones made to return the down payment. They argue that "it would be the height of injustice and inequity to require petitioners to pay P713,000.00 to the private respondent when they (petitioners) did not receive even a centavo of the down payment." They further contend that "respondent should suffer the inevitable consequences of its own lapses" when it "untimely and unseasonably withdrew its counterclaim against the plaintiff-tenants," thus, preventing it from retrieving the money from the latter.[32]

We reject petitioners' submission.

Both the trial court and the appellate court found that "[u]pon the execution of the contract of sale, defendant (respondent) remitted to plaintiffs-landowners (petitioners) a downpayment of P1,200,000.00"[33] (emphasis supplied). This factual finding is amply supported by the evidence on record. The contract itself provides that the P1,200,000.00 forms part of the purchase price of the described properties. The contract states that said amount shall be paid "simultaneous[ly] with the signing of [the] Contract corresponding to the full payment of an area equivalent to three (3) hectares of the aforesaid property" (emphasis supplied). Also, the stipulation in the contract that in the event that the sale of the described lots does not push through, "all the paid-in amounts shall be applied to another similar property also owned by the VENDORS" is incompatible with petitioners' claim that the P1,200,000.00 down payment was actually for the benefit of the tenant farmers of the described lots.

Petitioners' attempt to shift the liability to the tenant farmers is based solely on the testimony of petitioner Rogelio, Jr., who was presented by respondent as an adverse witness.

To be sure, the transcript of stenographic notes reveals that the claim that petitioners "did not receive even a single centavo" from respondent's down payment of P1,200,000.00 did not come straight from the horse's mouth, so to speak, but from the misleading question of petitioners' counsel on cross-examination, to wit:

q - So, the one million two as initial down payment went all to the tenants in consideration of their cession of work over the land which was the subject matter of [the] sale?

a - Nearly all the money went to the expenses in arranging the meeting of the tenants because that was only an initial down payment.

q - Now according to you the tenants were requested to stop working. Did they stop working?

a - Yes, sir.

q - In consideration for stopping planting the land was there any agreement as to money between Shonan and the tenants?

a - Shonan said that they will push through with the purchase provided the tenants will stop planting, sir.

q - So the Limacos plaintiffs as landowners did not receive even a single centavo of that one million two because according to you all went to the tenants so that they will stop planting?

x x x

a - Yes, sir. That was given to the tenants.[34] (emphases supplied)

When asked during direct examination if he had receipts to show that the tenant farmers actually received money from petitioners, Rogelio, Jr., declared that petitioners had none.[35] The absence of receipts lays serious doubt on petitioners' claim. If they really gave the money to the tenant farmers as they claim, it is hard to believe that a family of lawyers would be less than zealous in protecting their interests by not demanding proof of payment, especially since the amount at stake is quite substantial.

In ruling for the return of the amount of P713,000.00, we quote with approval the decision of the CA, viz:

With respect to the amount paid by the appellant as [down payment] for the subject land, its return must be decreed. This is in view of the rule that no one should enrich himself at the expense of another. Although the appellant agreed to the restitution of only a half of said [down payment], payable in monthly installments during the course of the trial, this agreement was cancelled because the Limacos reneged on their obligation to remit the balance. Besides, the agreement has no binding effect on both parties due to the failure of the Limacos to affix their signatures to the compromise agreement. (citation omitted)

However, the appellant admits receipt of the amount of P487,000.00 from the Limacos resulting from the amicable settlement. This amount should be deducted from the [down payment] of P1,200,000.00 appellant seeks as a refund. To rule otherwise would result in the unjust enrichment of appellant. Thus, the Limacos are obliged to return the sum of P713,000.00.[36]

IN VIEW WHEREOF, the petition is denied. The Decision and Resolution of the Court of Appeals dated January 23, 2003 and May 5, 2003, respectively, in CA-G.R. CV No. 63017, are affirmed.

Costs against petitioners.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] See Decision dated January 26, 1998; Rollo, pp. 45-47.

[2] Original Records, p. 12.

[3] Id. at 73.

[4] Id. at 33-37.

[5] Id. at 1-6.

[6] Id. at 29-32.

[7] Id. at 38-40.

[8] Id. at 62, 298.

[9] Id. at 63-72.

[10] Id. at 70.

[11] Id. at 292-293.

[12] Id. at 302.

[13] Id. at 328-329.

[14] Order dated October 4, 1996; Id. at 307.

[15] Id. at 365-366.

[16] Id. at 370.

[17] Memorandum for Plaintiff-Landowners and Memorandum for the Defendant; Id. at 389-399, 400-420.

[18] Rollo, pp. 57-58.

[19] Id. at 54-57.

[20] O.R., pp. 435-438.

[21] Should be P713,000.00.

[22] Order dated November 20, 1998; O.R., p. 449.

[23] CA Rollo, p.105.

[24] Id. at 127.

[25] Pursuant to the Manifestation and Motion of Petitioners dated July 12, 2004, the word "damages" is deleted and replaced by "down payment"; Rollo, p. 209.

[26] Id. at 14.

[27] Memorandum for the Petitioners; Id. at 172, 180-182.

[28] The 1997 Rules of Civil Procedure now provides, in part, that "[u]pon notice [of dismissal] being filed [by the plaintiff], the court shall issue an order confirming the dismissal."

[29] *City of Manila vs. Ruymann*, 37 Phil. 421 (1918).

[30] *Rollo*, p. 21.

[31] See Paras, Edgardo L., *Rules of Court Annotated* (1989 edition), p. 464.

[32] Memorandum for the Petitioners; *Rollo*, pp. 172, 176-180.

[33] Decision of the trial court dated January 26, 1998; *Rollo*, p. 45. The Court of Appeals stated that the P1,200,000 was "given as [down payment] for the subject property."

[34] TSN dated May 28, 1997, pp. 17-19.

[35] *Id.* at 24.

[36] *Rollo*, pp. 105-106.

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