

**NAVOTAS INDUSTRIAL CORPORATION, REPRESENTED HEREIN BY
ITS ACTING PRESIDENT DANIEL L. BAUTISTA, PETITIONER, VS.
GERMAN D. CRUZ, MARCELO D. CRUZ, ROSALINA CRUZ-LAIZ,
MARIANO A. CR...**

G.R. No. 159212. September 12, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 69818, reversing the Decision of the Regional Trial Court (RTC) in Civil Case No. 2427-MN.

The Antecedents

Carmen Vda. De Cruz was the owner of a parcel of land located in Navotas, Rizal, with an area of 13,999 square meters, covered by Transfer Certificate of Title (TCT) No. 81574.[2]

On October 5, 1966, Carmen Cruz, as lessor, and the Navotas Industrial Corporation (NIC), through its president, Cipriano C. Bautista, as lessee, executed a contract of lease over one-half portion of the said property, shown in the sketch appended thereto as Annex "A." The lease was for the period of October 1, 1966 to midnight of October 1, 1990. The property was to be used for shipyard slipways and the lessee's other allied businesses. The NIC obliged itself to construct two slipways, with all its accessories, within the first 10 years of the lease with a total value of not less than P450,000.00.[3]

On March 14, 1973, the property was mortgaged to the China Banking Corporation (CBC) as security for a loan by two of Carmen Cruz's children, Mariano and Gabriel.[4] The owner's duplicate of the title was delivered to and kept by the CBC as mortgagee.

On December 31, 1974, Carmen Cruz executed a Deed of Absolute Sale of Realty with Assumption of Mortgage in which she, as vendor, sold and conveyed the property to her children, namely, Serafin D. Cruz (married to Adelaida Cruz), Mariano Cruz, Rogelio Cruz, Sr. Carmencita Cruz and Sr. Mary Carmela Cruz, for the purchase price of P350,000.00 which the vendor acknowledged to have received from the vendees.[5]

In a Letter[6] dated November 22, 1976, Mariano Cruz, in his behalf and in behalf of the other vendees, requested CBC to conform to the sale of the property, a copy of which was attached to the said letter. The CBC refused.

In the meantime, relations between Carmen Cruz and her children became strained. She believed that her children had ignored her and failed to take care of her.

On June 27, 1977, Mariano Cruz, for himself and in behalf of the other vendees, presented the said deed of sale to the Register of Deeds for registration purposes.[7] In the same letter, they requested the Register of Deeds to request the CBC for the transmittal of the owner's TCT No. 81574 for the annotation of the Deed of Sale with Assumption of Mortgage. However, on June 28, 1977, the CBC, through counsel, wrote Mariano Cruz, informing

him that Carmen Cruz had instructed it not to conform to the Deed of Sale with Assumption of Mortgage, and not to surrender the owner's duplicate of the said title.

In the meantime, the balance of the loan account secured by the mortgage was paid to the CBC. Thus, on June 29, 1977, the CBC executed a Cancellation of Real Estate Mortgage over the property.[8] However, the deed was not presented to the Register of Deeds for registration.

On the same day, Mariano Cruz executed an Affidavit of Adverse Claim[9] stating, inter alia, that he and the others named therein were the vendees of the property as evidenced by a Deed of Sale with Assumption of Mortgage appended thereto, and that, to protect their rights and interests, the said affidavit of adverse claim was being executed as a cautionary notice to third persons and the world that the property had been sold to them. It was, likewise, stated that Carmen Cruz had ordered the CBC not to surrender the owner's duplicate of TCT No. 81574. The aforesaid affidavit of adverse claim was inscribed at the dorsal portion of the title[10] on June 30, 1977 as Entry No. 22178.

In a Letter[11] dated July 1, 1977, the Register of Deeds requested CBC to surrender the owner's duplicate of TCT No. 81574, pursuant to Section 72 of Act 496, in order that proper memorandum be made thereon. The Register of Deeds was obviously unaware that the CBC had already executed the cancellation of real estate mortgage on June 29, 1977.

On July 30, 1977, Carmen Cruz, as lessor, and the NIC, as lessee, executed a Supplementary Lease Agreement[12] the October 5, 1966 Contract of Lease earlier executed by the parties was modified, in that the terms of the lease was extended for another 15 years to expire on October 1, 2005. The lessee was, likewise, given up to October 1, 1982 within which to construct the two slipways at a cost of not less than P600,000.00 and increasing the lease rental for the property. The lessee was granted the option to buy the property for the price of P1,600,000.00. On the same day, the parties executed a Contract of Lease[13] over an additional portion of the property, with an area of 590.58 square meters, as shown in the sketch appended thereto. However, the said contracts were not presented for registration to the Register of Deeds.

On September 14, 1977, the aforesaid Cancellation of Real Estate Mortgage the CBC had earlier executed (on June 29, 1977) was presented to the Register of Deeds and annotated at the dorsal portion of TCT No. 81574 as Entry No. 27796. The following were, likewise, presented to the Register of Deeds for registration, and, thereafter, annotated at the dorsal portion of the said title: the Contract of Lease dated October 5, 1966 (Entry No. 27797), the July 30, 1977 Contract of Lease (Entry No. 27798), and the Supplementary Lease Agreement (Entry No. 27799).[14]

In the meantime, Mariano Cruz and the other vendees presented the Deed of Sale with Assumption of Mortgage to the Register of Deeds for registration. On December 19, 1977, the Register of Deeds cancelled the said title and issued TCT No. 11272 in the names of the new owners. TCT No. 11272 was later cancelled by TCT No. R-11830.

In a Letter[15] dated October 20, 1978, Mariano Cruz, et al. informed the NIC that the property had been sold to them, and gave it 30 days from receipt of the letter to vacate the property and return possession to them. The vendees, likewise, informed the NIC that since the October 5, 1966 Contracts of Lease and the July 30, 1977 Supplementary Lease Agreement were annotated at the back of TCT No. 81574 only on September 14, 1977, after the affidavit of adverse claim of Mariano Cruz, et al. was annotated on June 29, 1977, such contracts were null and void. However, the NIC refused to vacate the property.

In the meantime, the property was subdivided into three lots: Lots 1-A, 1-B and 1-C. Lot 1-A had an area of 6,307

square meters, covered by TCT No. 85099[16] issued on July 5, 1982.

Carmen Cruz filed a complaint with the RTC of Navotas against Cipriano Bautista, in his capacity as president of the NIC, for the declaration of nullity of the July 30, 1977 Supplementary Lease Agreement and Contract of Lease, and for the cancellation of the annotation at the back of TCT No. 81574 referring to the said contracts. The complaint was amended to implead the NIC as party-defendant. Carmen Cruz alleged therein that she was the owner-lessor of the property subject of the said contract; the NIC failed to construct the two slipways within the period stated in the lease contract; it took advantage of the animosity between her and her children, and caused the preparation of the July 30, 1977 Supplementary Lease Agreement and Contract of Lease; the NIC was able to insert therein blatantly erroneous, one-sided and highly unfair provisions; and that the said contracts were even extended for a period long beyond her life expectancy (the plaintiff was then almost 80 years old). She further alleged that the provisions in the Contract of Lease and Supplementary Lease Agreement which granted NIC the exclusive option to buy the property, was a sham. She prayed that, after due proceedings, judgment be rendered in her favor:

WHEREFORE, it is respectfully prayed that judgment be rendered declaring the Supplementary Contract of Lease dated July 30, 1977 as null and void ab initio; ordering the defendant and all persons claiming possession of the premises under it to vacate and turn over the premises to the plaintiffs; ordering the defendant to pay the reasonable monthly rental of P10,000.00 for the occupancy of the premises, beginning October 1, 1990, until it vacates the premises; ordering the defendant to pay the plaintiffs the sum of P30,000.00 as moral damages; the sum of P50,000.00 as attorney's fees, and the sum of P1,000.00 as appearance fee of the undersigned counsel; to pay the sum of P5,000.00 as litigation expenses; plus costs of suit.

Plaintiffs further pray for such other relief and remedies they are entitled to in the premises.[17]

Mariano Cruz and his siblings filed a complaint-in-intervention in the said case, alleging that they were the co-owners of the property, and praying that judgment be rendered in their favor, as follows:

WHEREFORE, it is respectfully prayed that judgment be rendered rescinding the Contract of Lease dated October 5, 1966, (Annex "B"), declaring as null and void the Supplementary Lease Agreement (Annex "C"), and the Contract of Lease (Annex "D"), both dated July 30, 1977, for having been entered into by the plaintiff who had long ceased to be the owner of the property in question, awarding the sum of P450,000.00, actual damages, representing the value of the improvements which the defendants bound themselves to introduce in the premises; awarding the plaintiffs-intervenors the sum of P100,000.00 as exemplary damages; the sum of P150,000.00 as moral damages; P50,000.00 as attorney's fees and P10,000.00 as litigation expenses.

Plaintiffs-intervenors further pray for such other relief and remedies they are entitled to in the premises.[18]

However, Carmen Cruz filed a motion to dismiss the amended complaint. On February 6, 1984, the trial court issued an Order[19] granting the motion and dismissing the amended complaint and the complaint-in-intervention. The order became final and executory.

On June 23, 1990, Mariano Cruz, et al. wrote the NIC that they would no longer renew the October 5, 1966 contract of lease which was to expire on October 1, 1990; as far as they were concerned, the July 30, 1977 Supplementary Lease Agreement and Contract of Lease were null and void, the same having been executed and annotated on September 14, 1977 at the back of TCT No. 81574 long after the annotation of the affidavit of the adverse claim of Mariano Cruz, et al. on June 30, 1977.[20]

In a Letter[21] dated January 11, 1991, Mariano Cruz, et al. wrote the NIC, demanding that it vacate the property within 30 days from notice thereof, otherwise, a complaint for unlawful detainer would be filed against it. However, the NIC refused to vacate the property.

On April 18, 1991, Mariano Cruz and his siblings filed a Complaint[22] against the NIC with the Municipal Trial Court (MTC) of Navotas for ejectment. However, on June 11, 1992, the trial court issued an Order[23] dismissing the complaint, on the ground that it had no jurisdiction over the case, it appearing that the validity of the July 30, 1977 Supplementary Lease Agreement and the Contract of Lease, in relation to the deed of absolute sale with assumption of mortgage executed by Carmen Cruz, were intertwined with the issue of NIC's right of possession. The plaintiffs sought a motion for reconsideration of the decision, which the MTC denied on September 15, 1992. The plaintiffs appealed to the RTC, which rendered a decision granting the appealed decision.[24] The plaintiffs-appellants filed a petition for review with the CA. On July 13, 1993, the CA affirmed the decision of the RTC and dismissed the petition.[25] The decision became final and executory.

In the meantime, Mariano Cruz died intestate and was survived by his son Mariano Cruz, Jr.; Rogelio Cruz, likewise, died and was survived by his children Sylvia, Rosyl, Rogelio, Jr., Sergio and Estrella, all surnamed Cruz; Serafin Cruz also died and was survived by his wife Adelaida, and his children Merceditas and Gabriel. TCT No. 81574 was reconstituted and TCT No. R-85099 was issued.

On January 24, 1995, German and Marcelo Cruz, Rosalina Cruz-Laiz, Mariano Cruz, Jr. and the said heirs filed a Complaint against Carmen Cruz, as unwilling plaintiff, and the NIC with the RTC of Malabon for the nullification of the July 30, 1977 Supplementary Lease Agreement and Contract of Lease. The complaint was amended to allege that they were the co-owners of the property covered by TCT No. 85099 based on the Deed of Sale with Assumption of Mortgage executed by Carmen Cruz on December 31, 1974; an affidavit of adverse claim was annotated at the dorsal portion of TCT No. 81574 on June 30, 1977, despite which NIC caused Carmen Cruz to execute, on July 30, 1977, a Supplementary Lease Agreement and Contract of Lease by taking advantage of her age, mental weakness and lack of will; and that NIC failed to pay rentals for the property. The plaintiffs prayed that:

WHEREFORE, it is respectfully prayed that, after trial on the merits, judgment be rendered in favor of the plaintiffs as follows:

- Under the First Alternative Cause of Action, declaring the Contract of Lease dated 30 July 1977 and the Supplementary Lease Contract dated 30 July 1977, Annex "D" hereof, as null and void ab initio; or, alternatively,

Under the Second Alternative Cause of Action, annulling the said Contract of Lease and Supplementary Lease Contract.

Under the Third Alternative Cause of Action, rescinding and canceling the Contract of Lease and Supplementary Lease Agreement, ordering the defendants to vacate the leased premises and to pay plaintiffs all unpaid rentals from 1 October 1991 until defendants vacate the premises.

- Under the Second Cause of Action, ordering defendants NAVOTAS and Bautista to vacate and surrender the possession of the subject property and all improvements thereon to the plaintiffs;

- Under the Third Cause of Action, ordering defendants NAVOTAS and Bautista, jointly and severally, to pay plaintiffs the reasonable compensation for the use of the premises in the amount of at least P10,000.00 a month from October 1990 up to the filing of this Complaint, totalling P500,000.00, as well as P10,000.00 every month thereafter until defendants shall have vacated and surrendered the premises to the plaintiffs.

- Under the Fourth Cause of Action, ordering defendants NAVOTAS and Bautista, jointly and severally, to pay the plaintiffs exemplary damages of at least P50,000.00 or such amount as the Honorable Court may deem just and equitable in the premises; and

- Under the Fifth Cause of Action, ordering defendants NAVOTAS and Bautista to pay plaintiff attorney's fees

and expenses of litigation in such amount as may be established during the trial, but not less than P35,000.00.

Plaintiffs pray for such other reliefs just and equitable in the premises.[26]

In her answer with cross-claim, Carmen Cruz alleged, inter alia, that she was willing to be made a party-plaintiff, although she was initially reluctant to become one because of the burden of a court hearing; she admitted that the plaintiffs were the co-owners of the property; Bautista was granted an "exclusive option to buy" the leased property at the ridiculously low fixed price of P1,600,000.00, which, according to Carmen Cruz, was an option unsupported by any consideration; hence, null and void.[27]

Carmen Cruz prayed that, after due proceedings, judgment be rendered in her favor:

WHEREFORE, it is most respectfully prayed that the complaint as against answering defendant be dismissed, and that:

AS TO THE CROSS-CLAIM

- a) The Contract of Lease and the Supplemental Lease Contract be declared null and void due to vitiated consent;
- b) In the event that monetary judgment be rendered by this Honorable Court against answering defendant in favor of the plaintiffs, her co-defendants, Navotas Industrial Corporation and Bautista, be made to reimburse her for all or part of the said judgment;
- c) Co-defendants be ordered to pay her moral as well as exemplary damages in the amount which this Honorable Court may deem just and proper;
- d) Co-defendants, instead of answering defendants, be, likewise, ordered to pay the plaintiffs, the rentals in arrears over the premises which now amounts to P147,000.00.

BOTH AS TO COUNTERCLAIM AND CROSS-CLAIM

- a) Plaintiffs and co-defendants be ordered, jointly and severally, to reimburse answering defendant the sum of P30,000.00 which the latter paid her counsel as and for attorney's fees for unnecessarily dragging her into this suit including the amount of P1,000.00 which she will pay her lawyer for every appearance;
- b) Likewise, the costs of suit and other litigation expenses.

Other reliefs and remedies reasonable under the premises are similarly prayed for.[28]

In its amended answer, NIC alleged that its July 30, 1977 Supplementary Lease Agreement and Contract of Lease were valid, whereas the deed of absolute sale with assumption of mortgage executed by Carmen Cruz in favor of the plaintiffs was null and void for being simulated and fraudulent. NIC and Bautista further alleged that it was exercising its option to buy the subject property now covered by TCT No. 85099;[29] it, likewise, offered P1,600,000.00 as consideration for the sale to be paid upon the execution of a deed of transfer.[30]

NIC and Bautista prayed that, after due proceeding, judgment be rendered in their favor, thus:

WHEREFORE, premises considered, herein answering defendants respectfully prayed that the complaint be dismissed for lack of merit.

On the Counterclaim: (a) that the "Contract of Lease" and the "Supplementary Lease Agreement" be declared valid, legal and binding between Carmen Vda. de Cruz and defendants Navotas and Bautista, as well as their respective heirs, successors or assigns, while the "Deed of Absolute Sale with Assumption of Mortgage" be declared null and void so far as it prejudiced and adversely affected the rights of defendants Navotas and Bautista on the portion of the property leased to it; (b) that the plaintiffs and Carmen Vda. de Cruz be ordered

to accept the sum of P1,600,000.00 representing the option money for the purchase of the property subject of the lease contract specifically that which is now covered by TRANSFER CERTIFICATE OF TITLE NO. R-85099 and to execute and sign the necessary deed of conveyance therefore in favor of defendant Navotas and/or Bautista; and (c) that plaintiffs and Carmen Vda. de Cruz be ordered and condemned, jointly and severally, to pay defendants Navotas and Bautista moral and exemplary damages of not less than P80,000.00, attorney's fees and litigation expenses of not less than P50,000.00, and the costs of suit.

Herein answering defendants further pray for such other reliefs and remedies available in the premises.[31]

In the meantime, Carmen Cruz died intestate on November 20, 1995 at the age of 97. She was survived by the plaintiffs as her heirs.[32]

On March 7, 2000, the trial court rendered judgment in favor of the NIC and Bautista. The fallo of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered:

- a) Affirming the validity of the Contract of Lease and the Supplementary Lease Agreement, both dated 30 July 1977, including the provision granting defendants exclusive option to buy the subject property.
- b) Affirming the full rental payments made by defendants Navotas and Bautista for the lease of the subject property until the expiration thereof.
- c) Denying the claims for actual and compensatory, moral and exemplary damages as well as attorney's fees interposed by plaintiffs against defendants.
- d) Denying the claims for moral and exemplary damages interposed by defendants Navotas and Bautista against plaintiffs.
- e) The Deed of Absolute Sale with Assumption of Mortgage is hereby declared null and void as far as it prejudiced and is adversely affecting the rights of defendants Navotas and Bautista on the portion thereof leased to them. The plaintiffs, as heirs of defendant Cruz, are hereby ordered to accept the sum of P1,600,000.00 representing the option money for the purchase of the subject property subject of the lease contract specifically that which is now covered by Transfer Certificate of Title No. R-85099 and to execute and sign the necessary deed of conveyance therefor in favor of defendants Navotas and/or Bautista.
- f) Ordering plaintiffs to pay defendants Navotas and Bautista P20,000.00 by way of reasonable attorney's fees.

Costs against the plaintiffs.[33]

The trial court declared that when defendant Carmen Cruz executed the July 30, 1977 Supplementary Lease Agreement and Contract of Lease, she was still the owner of the property; as such, NIC was not bound by the deed of sale with assumption of mortgage executed by Carmen Cruz because it was not a party thereto; and that such deed was not registered with the Office of the Register of Deeds. The trial court ruled that the plaintiffs failed to prove fraud and undue influence on Carmen Cruz and/or that NIC took advantage of her mental weakness. The RTC ruled that only Carmen Cruz had the right to rescind the contracts of lease and supplementary lease agreement. The option to buy the property granted to NIC was supported by a consideration, more specifically the P42,000.00 rental payment it made upon the execution of the said contracts.

The plaintiffs appealed the decision to the CA wherein they alleged that:

I

THE TRIAL COURT ERRED IN HOLDING THAT APPELLEES WERE NOT BOUND BY THE DEED OF ABSOLUTE SALE OF REALTY WITH ASSUMPTION OF MORTGAGE WHICH APPELLANTS

ANNOTATED AS AN ADVERSE CLAIM ON THE CERTIFICATE OF TITLE OF THE PROPERTY AS EARLY AS 30 JUNE 1977 BEFORE APPELLEES REGISTERED THE QUESTIONED LEASE CONTRACTS ON 14 SEPTEMBER 1977.

II

THE TRIAL COURT ERRED IN COMPLETELY IGNORING THE OVERWHELMING EVIDENCE ON RECORD SHOWING THAT APPELLEES HAD ACTUAL AND CONSTRUCTIVE NOTICE OF THE SALE OF THE SUBJECT PROPERTY TO THE CRUZ CHILDREN IN 1974, AND THUS KNEW OR OUGHT TO HAVE KNOWN THAT IN EXECUTING THE QUESTIONED LEASE CONTRACTS WITH MRS. CRUZ IN 1977, THEY WERE DEALING WITH ONE WHO WAS NO LONGER THE OWNER OF THE PROPERTY WHO CAN BIND THE SAME UNDER THE QUESTIONED LEASE CONTRACTS.

III

THE TRIAL COURT ERRED IN HOLDING THAT THE CONSENT OF MRS. CRUZ TO THE SUBJECT LEASE CONTRACTS HAD NOT BEEN VITIATED BY UNDUE AND IMPROPER PRESSURE AND INFLUENCE ON THE PART OF APPELLEES CONSIDERING THAT:

- THE UNDISPUTED EVIDENCE ON RECORD READILY BEARS OUT THE UNDUE AND IMPROPER PRESSURE AND INFLUENCE EXERTED BY APPELLEES ON MRS. CRUZ TO OBTAIN HER CONSENT TO THE SUBJECT LEASE CONTRACTS;
- THE VERY TERMS AND CONDITIONS OF THE LEASE CONTRACTS, WHICH ARE GROSSLY DISADVANTAGEOUS TO MRS. CRUZ, POINT TO APPELLEES' USE OF UNDUE PRESSURE AND INFLUENCE ON HER TO OBTAIN HER CONSENT TO THE SUBJECT LEASE CONTRACTS.

IV

THE TRIAL COURT ERRED IN NOT HOLDING, IN THE ALTERNATIVE, THAT THE SUBJECT LEASE CONTRACTS WERE RENDERED RESCINDED BY REASON OF APPELLEES' MATERIAL BREACHES OF THE TERMS AND CONDITIONS CONSIDERING THAT:

- APPELLEES HAD ADMITTEDLY FAILED TO CONSTRUCT THE SLIPWAYS AS REQUIRED UNDER THE LEASE CONTRACT;
- THE EVIDENCE FULLY ESTABLISHES THAT APPELLEES HAVE NOT PAID THE RENTALS DUE ON THE PROPERTY SINCE 1991.

V

THE TRIAL COURT ERRED IN DECLARING THE DEED OF ABSOLUTE SALE WITH ASSUMPTION OF MORTGAGE AS NULL AND VOID AS AGAINST APPELLEES CONSIDERING THAT THE SAME HAS BEEN CONFIRMED AND RECOGNIZED IN SUBJECT TRANSFERS AFFECTING THE SAME PROPERTY.

VI

THE TRIAL COURT ERRED IN HOLDING THAT THE OPTION CONTRACT FOR APPELLEES' PURCHASE OF THE SUBJECT PROPERTY WAS SUPPORTED BY A SEPARATE CONSIDERATION AND THUS VALID AND BINDING ON APPELLANTS.

VII

THE TRIAL COURT ERRED IN NOT HOLDING APPELLEES LIABLE TO APPELLANTS FOR ACTUAL AND COMPENSATORY DAMAGES CONSISTING OF THE REASONABLE RENTALS ON THE PROPERTY FROM 2 OCTOBER 1990 UNTIL THE RETURN THEREOF TO APPELLANTS.

VIII

THE TRIAL COURT ERRED IN ABSOLVING APPELLEES OF LIABILITY TO APPELLANTS FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES.[34]

On July 18, 2003, the CA rendered judgment granting the appeal, and reversing the decision of the RTC. The CA ruled that the appellees had constructive notice of the Deed of Sale with Assumption of Mortgage, which Carmen Cruz executed in favor of the appellants, based on the affidavit of adverse claim annotated on June 29, 1977 at the dorsal portion of TCT No. 81574. The CA declared that the adverse claim annotated at the dorsal portion of the said title continued to be effective and remained a lien until cancelled. The CA held that the option granted to the appellee NIC to purchase the property was not effective because there was no consideration therefor, apart from NIC's rental payments. Besides, the CA emphasized, when Carmen Cruz executed the July 30, 1977 Supplementary Lease Agreement and Contract of Lease, she was no longer the owner of the property.

The CA denied NIC's motion for reconsideration of the said decision; hence, it filed the instant petition for review on certiorari, alleging that:

A.

THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT DECLARED THAT THE QUESTIONED LEASE CONTRACTS WERE NULL AND VOID, IT APPEARING IN AN ADVERSE CLAIM ANNOTATED ON THE CERTIFICATE OF TITLE OF CARMEN VDA. DE CRUZ THAT SHE WAS NO LONGER THE OWNER OF THE PROPERTY SUBJECT MATTER THEREOF WHEN THE LEASE WAS EXECUTED ON JULY 30, 1977.

B.

THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT RULED THAT THE OPTION TO BUY THE LEASED PROPERTY CONTAINED IN THE SUPPLEMENTARY LEASE CONTRACT IS NOT VALID AND BINDING FOR LACK OF CONSIDERATION AND CAPACITY OF CARMEN VDA. DE CRUZ TO CONVEY THE SAME.

C.

THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT FAILED TO RECOGNIZE A PRIOR JUDGMENT BASED ON A COMPROMISE AS A BAR TO THE PROCEEDINGS IN THIS INSTANT CASE.[35]

On the first issue, the petitioner avers that the adverse claim annotated at the dorsal portion of TCT No. 81574 was ineffective because the respondents failed to submit to the Register of Deeds the owner's duplicate of TCT No. 81574, as mandated by Section 110 of Act No. 496. The annotation of the adverse claim in the Office of the Register of Deeds on June 29, 1977 on TCT No. 81574 despite such failure to present the owner's duplicate of the said title rendered such inscription ineffectual, not binding on it and Carmen Cruz. Hence, the petitioner posits, Carmen Cruz remained the lawful owner of the property. Even Carmen Cruz maintained that she was the owner of the property in her complaint in Civil Case No. C-7040 filed after the execution of the deed of absolute sale with assumption of real estate mortgage; she even executed the July 30, 1977 Supplementary Lease Agreement

and Contract of Lease in its favor. According to the petitioner, the said deed of sale was fictitious as, in fact, it was rejected by Carmen Cruz.

For their part, the respondents aver that the petitioner had constructive notice of the said sale, based on the inscription of the affidavit of adverse claim on June 29, 1977 at the dorsal portion of TCT No. 81574. Besides, the respondents posit, Cipriano Bautista even admitted having known of the said adverse claim before the July 30, 1977 Contract of Lease and Supplementary Lease Agreement were registered in the Office of the Register of Deeds. The respondents cited the ruling of this Court in *Sajonas v. Court of Appeals*[36] to support their claim.

On the second issue, the petitioner avers that the exclusive option granted to it by Carmen Cruz under the Supplementary Lease Agreement was essentially a mutual promise to buy and sell, equivalent to a reciprocal contract under the first paragraph of Article 1479 of the New Civil Code. But in the same breath, the petitioner argues that its exclusive option to buy the property for P1,600,000.00 was supported by a consideration apart from the said amount. The petitioner insists that the P42,000.00 which it paid to Carmen Cruz as rental upon the execution of the Supplementary Lease Agreement was "advance money," which motivated Carmen Cruz to grant the option to the petitioner.

On the third issue, the petitioner argues that the respondents' action was barred by the order of the RTC in Civil Case No. C-7040 dismissing the complaint and complaint-in-intervention therein, based on a compromise agreement of Carmen Cruz and petitioner NIC.

The Ruling of the Court

The annotation of an adverse claim is a measure designed to protect the interest of a person over a part of real property, and serves as a notice and warning to third parties dealing with the said property that someone is claiming an interest over it or has a better right than the registered owner thereof.[37]

On the first issue, we agree with the ruling of the CA that the petitioner had constructive notice of the Deed of Sale with Assumption of Mortgage executed by Carmen Cruz in favor of the respondents. The affidavit of adverse claim the respondents executed on June 29, 1977 was annotated at the dorsal portion of TCT No. 81574 on June 30, 1977, to wit:

A review of the facts and circumstances in the case at bar reveals that at the time the Supplementary Lease Agreement and Contract of Lease both dated July 30, 1977 were executed by and between CARMEN and herein appellees, CARMEN was apparently no longer the owner of the land covered by TCT No. 81574 subject of this controversy. Obviously, appellees cannot turn a blind eye on the inscription found on CARMEN's certificate of title at the time the Supplementary Lease Agreement and Contract of Lease were signed on July 30, 1977. Basic is the rule that the annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property and serves as a notice and warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than the registered owner thereof. A subsequent transaction involving the property cannot prevail over the adverse claim which was previously annotated in the certificate of title of the property. Here, the records are obvious, the notice of adverse claim executed on June 29, 1977 was annotated on the title on June 30, 1977, that is, one month prior to the signing of the disputed lease contracts on July 30, 1977. Said contracts of lease were belatedly annotated two months after its execution or on September 14, 1977 only, after appellees were allegedly warned by CARMEN that her children are desirous of the property leased in their favor. To say the least, this warning from CARMEN should have aroused appellees' suspicion regarding the status of the prime property they intend to lease for another fifteen (15) years. ...[38]

Section 110 of Act No. 496 was the law in force when Carmen Cruz executed the Deed of Sale with Assumption of Mortgage, and when the respondents executed the affidavit of adverse claim and presented it to the Register of

Deeds on June 30, 1977. The petitioner's reliance on the said provision is misplaced. Indeed, the Register of Deeds acted in accord with Section 110 of Act No. 496 when he inscribed the affidavit of adverse claim at the dorsal portion of TCT No. 81574, despite the non-production of the owner's duplicate of TCT No. 81574 simultaneously with the presentation of the affidavit of adverse claim. The law reads:

SEC. 110. Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party-in-interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case the court, after notice and hearing, shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion.

Irrefragably, the Deed of Sale with Assumption of Mortgage which Carmen Cruz executed on December 31, 1974 was a voluntary act; and under Section 50 of the law, the act of registration shall be the operative act to convey and affect the land. Indeed, Section 55 of Act No. 496 provides that the presentation of the owner's duplicate certificate of title for the registration of any voluntary instrument is required:

SEC. 55. No new certificate of title shall be entered, no memorandum shall be made upon any certificate of title by the register of deeds, in pursuance of any deed or other voluntary instrument, unless the owner's duplicate certificate is presented for such indorsement, except in cases expressly provided for in this Act, or upon the order of the court for cause shown; and whenever such order is made, a memorandum thereof shall be entered upon the new certificate of title and upon the owner's duplicate: Provided, however, That in case the mortgagee refuses or fails to deliver within a reasonable time to the register of deeds the duplicate or copy of the certificate of title surrendered by the owner, after advice by said officer, in order to enable him to register or annotate thereon another real right acquired by said owner, the record or annotation made on the certificate in the register book shall be valid for all legal purposes.

The production of the owner's duplicate certificate whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the register of deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument, and the new certificate or memorandum shall be binding upon the registered owner and upon all persons claiming under him, in favor of every purchaser for value and in good faith: Provided, however, That in all cases of registration procured by fraud the owner may pursue all his legal and equitable remedies against the parties to such fraud, without prejudice, however, to the rights of any innocent holder for value of a certificate of title: And provided, further, That after the transcription of the decree of registration under this Act procured by the presentation of a forged duplicate certificate, or of a forged deed or other instrument, shall be null and void. In case of the loss or theft of an owner's duplicate certificate, notice shall be sent by the owner or by someone in his behalf to the register of deeds of the province in which the land lies as soon as the loss or theft is discovered.

This Court explained the rationale of the requirement in *L.P. Leviste & Company, Inc. v. Noblejas*:^[39]

The basis of respondent Villanueva's adverse claim was an agreement to sell executed in her favor by Garcia Realty. An agreement to sell is a voluntary instrument as it is a willful act of the registered owner. As such voluntary instrument, Section 50 of Act No. 496 expressly provides that the act of registration shall be the

operative act to convey and affect the land. And Section 55 of the same Act requires the presentation of the owner's duplicate certificate of title for the registration of any deed or voluntary instrument. As the agreement to sell involves an interest less than an estate in fee simple, the same should have been registered by filing it with the Register of Deeds who, in turn, makes a brief memorandum thereof upon the original and owner's duplicate certificate of title. The reason for requiring the production of the owner's duplicate certificate in the registration of a voluntary instrument is that, being a willful act of the registered owner, it is to be presumed that he is interested in registering the instrument and would willingly surrender, present or produce his duplicate certificate of title to the Register of Deeds in order to accomplish such registration. ...[40]

However, in this case, Carmen Cruz had ordered the CBC, the mortgagee and custodian of the owner's duplicate of TCT No. 81574, not to surrender the owner's duplicate of the said title to the Register of Deeds. The latter thus acted in accord with law when the affidavit of adverse claim was inscribed at the dorsal portion of TCT No. 81574 on June 30, 1977. Indeed, this Court ruled in *L.P. Leviste & Company, Inc. v. Noblejas*[41] that:

... However, where the owner refuses to surrender the duplicate certificate for the annotation of the voluntary instrument, the grantee may file with the Register of Deeds a statement setting forth his adverse claim, as provided for in Section 110 of Act No. 496. In such a case, the annotation of the instrument upon the entry book is sufficient to affect the real estate to which it relates, although Section 72 of Act No. 496 imposes upon the Register of Deeds the duty to require the production by the Registered owner of his duplicate certificate for the inscription of the adverse claim. The annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property where the registration of such interest or right is not, otherwise, provided for by the Land Registration Act, and serves as a notice and warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than the registered owner thereof.[42]

Moreover, on June 29, 1977, the balance of Mariano Cruz and Gabriel Cruz's account with the CBC had already been paid, presumably by Mariano Cruz; and the CBC had executed a cancellation of real estate mortgage. However, the said deed was inexplicably not presented to the Register of Deeds for registration.

The general rule is that a person dealing with registered land is not required to go behind the register to determine the condition of the property. However, such person is charged with notice of the burden on the property which is noted on the face of the register or certificate of title.[43] A person who deals with registered land is bound by the liens and encumbrances including adverse claim annotated therein.[44]

In the present action, the petitioner caused the annotation of the July 30, 1977 Supplementary Lease Agreement and Contract of Sale only on September 14, 1977, long after the annotation of the respondents' adverse claim at the dorsal portion of TCT No. 81574 on June 30, 1977. Thus, as of that date, the petitioner had constructive knowledge of the Deed of Sale with Assumption of Mortgage Carmen Cruz executed on December 31, 1974 in favor of her children. Even before July 30, 1977, the petitioner had knowledge that Carmen Cruz was no longer the owner of the property, and had no more right to execute the July 30, 1977 Supplementary Lease Agreement and Contract of Lease. The registration of the said lease contracts was of no moment, since it is understood to be without prejudice to the better rights of third parties.[45]

While it is true that in the complaint and amended complaint in Civil Case No. C-7040, Carmen Cruz alleged that she was the owner-lessor of the property, such allegation cannot detract from the fact that the property had already been registered under the names of the respondents under TCT No. 11272, later cancelled by TCT No. R-11830. The petitioner was informed by the respondents that they were the registered owners of the property. Moreover, the already aging Carmen Cruz and her children had a domestic quarrel, and animosity that caused her to go into seclusion; she thought then that her children had abandoned her. The attendant circumstances must have influenced Carmen Cruz to erroneously allege in her complaint that she was the owner of the property.[46]

Even then, on February 23, 1988, Carmen Cruz executed an Affidavit in which she swore that she had sold the property to her children:

- That among the parcels of land which I have sold was that parcel located in Barrio Almacen, Navotas, Rizal, then covered by Transfer Certificate of Title No. 81574 of the Register of Deeds of Rizal in favor of my children Serafin D. Cruz, Mariano D. Cruz, Rogelio D. Cruz, Sr. Carmencita Cruz and Sr. Mary Carmellas as vendees, with the agreement that the then existing mortgage with the China Banking Corporation shall be assumed and settled by said vendees, as embodied in a document entitled "Deed of Absolute Sale of Realty with Assumption of Mortgage," which I executed on December 31, 1974 and entered in the notarial register of Notary Public P. Dario Guevarra, Jr. as Doc. No. 198, Page No. 41, Book No. 198, Series of 1975.[47]

...

- That in view of these developments and considering my advanced age and present physical condition and now realizing that I may have been unduly taken advantage of by some parties to promote their own selfish interests, I now hereby execute this sworn statement and hereby affirm the validity of the sale of said parcel of land covered by TCT No. 81574 of the Register of Deeds of Rizal and hereby state that said sale was entered into by me of my own free will and for valuable consideration.[48]

In her answer to the respondents' amended complaint in the trial court, Carmen Cruz reiterated that she had sold the property to her children:

2.5. On 31 December 1974, she sold the subject property to the plaintiffs for valuable consideration, free from all liens and encumbrances and claim of third parties, except that pertaining to a real estate mortgage with China Banking Corporation as evidenced by a notarized "Deed of Absolute Sale of Realty with Assumption of Mortgage" dated 31 December 1974, a photocopy of which is hereto attached and made an integral part hereof as Annex "B";

2.6. After she sold the subject lot to the plaintiffs herein, the latter tried to effect the registration and annotation of the said transfer with the Registry of Deeds of Rizal sometime in 28 June 1977 but China Banking Corporation, the mortgagee, through its legal counsel, Atty. Arsenio Sy Santos, refused to release the title thus the delay in the registration of the said "Deed of Sale with Assumption of Mortgage" which she executed in favor of the plaintiffs involving the subject parcel of land with the Registry of Deeds;

2.7. In order to protect their rights and interests over the subject property, the plaintiffs, through their appointed attorney-in-fact, Mariano A. Cruz, annotated an adverse claim on the title which was then still under answering defendant's name, as a cautionary notice to third persons and the whole world that said title has been transferred by answering defendant in favor of the plaintiffs herein and that any voluntary dealing thereon shall be considered subject to the said adverse claim.[49]

Carmen Cruz also alleged, in her amended complaint in Civil Case No. C-7040, that the July 30, 1977 Contract of Lease and Supplementary Lease Agreement she executed in favor of the petitioner were fraudulent.[50]

In her answer to the amended complaint in the court a quo, Carmen Cruz alleged that the defendant therein (now the petitioner) was granted an "exclusive option to buy the leased property at the ridiculously low price of P1,600,000.00, payable over an unspecified period - an option unsupported by any consideration - hence, null and void." [51] She elaborated that:

- That the above-quoted provision is not only a foolery, trickery and a product of deception because the exercise of the "option" is not fixed – the same maybe conveniently exercised by the defendant at anytime up to the year 2005. Even the fixing of the sum worded as "flat sum" of One Million Six Hundred Thousand - the valuation fifteen (15) years, hence, (2005) without providing for the "inflation and deflation" of the currency is grossly prejudicial and unfair. Moreover, the provision which states that if and when defendants finally decides

to exercise their option during the lifetime of the Lessor, the lessee will continue paying the rentals is not only illogical, untrue and deceptive, the same being used mainly as a ploy to win the sympathy and titillate the ego of the old woman. It is rather unbelievable that being already the owner, defendants will still pay the rentals. This, to our mind, is the height of hypocrisy.[52]

On the second issue, we reject the petitioner's contention that the exclusive option granted to it by Carmen Cruz under the Supplementary Lease Agreement is essentially a mutual promise to buy and sell, equivalent to a reciprocal contract under the first paragraph of Article 1479 of the New Civil Code, which reads:

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.

In the first place, the petitioner insisted in its pleadings in the court a quo that under the Supplementary Lease Agreement and Contract of Lease, it was granted the exclusive option to purchase the property leased. The petitioner maintained its theory of the case in the CA. The petitioner cannot change its theory, and claim this time that it and Carmen Cruz entered into a promise to buy and sell the property leased.[53]

Considering that Carmen Cruz was no longer the owner of the property when she executed the July 30, 1977 Supplementary Lease Agreement and Contract of Lease, and that the respondents had acquired ownership over the property as of December 31, 1974 (which the petitioner had constructive knowledge of since June 30, 1977), the petitioner's claim that it had the option to buy the property or to compel the respondents to sell the property to it has no legal and factual basis.

Even after a careful study of the merits of the petition, the Court finds that the petitioner's claim is untenable. The relevant portions of the Supplementary Lease Agreement read:

- The LESSEE is hereby granted an exclusive option to buy the property including all improvements already made by the LESSEE (slipways and camarines) subject matter of this contract comprising SIX THOUSAND NINE HUNDRED FORTY-NINE Point FIVE Square Meters (6,949.5) which is one-half portion of the area covered by TCT No. 81574 and same property subject matter of this contract should also be equally divided with one-half frontage along M. Naval Street and along the Navotas River Bank shoreline during the period of the lease. The price of the property is agreed to be fixed for the duration of the Option to Buy at a flat sum of ONE MILLION SIX HUNDRED THOUSAND PESOS (P1,600,000.00), Philippine Currency, payable over a period to be mutually agreed upon. Should the LESSEE exercise the option to buy during the lifetime of the LESSOR, the LESSEE will continue to pay the monthly rental to the LESSOR during her lifetime.

- The LESSEE shall pay to the LESSOR the sum of FORTY-TWO THOUSAND (P42,000.00) PESOS upon signing of this contract as consideration thereof, to be applied as against the rental for the period from October 1, 1990 to September 30, 1991.[54]

It must be stressed that an option contract is a contract granting a privilege to buy or sell within an agreed time and at a determined price. Such a contract is a separate and distinct contract from the time the parties may enter into upon the construction of the option.[55] In *Carceller v. Court of Appeals*,^[56] the Court held that an option contract is a preparatory contract in which one party grants to the other, for a fixed period and under specified conditions, the power to decide, whether or not to enter into a principal contract. The Court further stated that:

... It binds the party who has given the option, not to enter into the principal contract with any other person during the period designated, and, within that period, to enter into such contract with the one to whom the option was granted, if the latter should decide to use the option. It is a separate agreement distinct from the contract which the parties may enter into upon the consummation of the option.[57]

It is only when the option is exercised may a sale be perfected.[58] An option contract needs to be supported by a separate consideration. The Court defined consideration for an option in *Bible Baptist Church v. Court of Appeals*,[59] as follows:

... The consideration need not be monetary but could consist of other things or undertakings. However, if the consideration is not monetary, these must be things or undertakings of value, in view of the onerous nature of the contract of option. Furthermore, when a consideration for an option contract is not monetary, said consideration must be clearly specified as such in the option contract or clause.

In the present case, there was no given period for the petitioner to exercise its option; it had yet to be determined and fixed at a future time by the parties, subsequent to the execution of the Supplementary Lease Agreement. There was, likewise, no consideration for the option. The amount of P42,000.00 paid by the petitioner to Carmen Cruz on July 30, 1977 was payment for rentals from October 1, 1990 to September 30, 1991, and not as a consideration for the option granted to the petitioner.

On the third issue, the respondents' action in the court a quo was not barred by the order of the RTC dismissing the complaint of Carmen Cruz, and the respondents' complaint-in-intervention in Civil Case No. 5114. Contrary to the petitioner's claim, Carmen Cruz (the plaintiff therein) and the petitioner (the defendant therein) did not enter into any compromise agreement in the said case. Moreover, the dismissal of the complaint, and, consequently, the respondents' complaint-in-intervention was upon motion of plaintiff Carmen Cruz and without prejudice.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit. The Decision of the Court of Appeals in CA-G.R. CV No. 69818 is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Conrado M. Vasquez, Jr. and Rosmari D. Carandang, concurring; Rollo, pp. 44-59.

[2] Exhibit "A."

[3] Exhibit "B."

[4] Exhibit "A."

[5] Exhibit "C."

[6] Exhibit "I."

[7] Exhibit "J."

[8] Records, p. 997.

[9] Exhibit "M."

[10] Exhibit "A."

[11] Records, p. 69.

[12] Exhibit "1."

[13] Exhibit "2."

- [14] Records, p. 997.
- [15] Exhibit "P."
- [16] Exhibit "H."
- [17] Records, p. 102.
- [18] Records, pp. 84-85.
- [19] Id. at 88-89.
- [20] Exhibit "Y."
- [21] Exhibit "AA."
- [22] Exhibit "BB."
- [23] Exhibit "DD."
- [24] Exhibit "FF."
- [25] Exhibit "GG."
- [26] Records, pp. 145-147.
- [27] Id. at 184-185.
- [28] Records, pp. 189-190.
- [29] Id. at 209-219.
- [30] Records, p. 216.
- [31] Records, p. 217.
- [32] Id. at 311-313.
- [33] Records, p. 994.
- [34] CA Rollo, pp. 129-131.
- [35] Rollo, pp. 20-21.
- [36] G.R. No. 102377, 5 July 1996, 258 SCRA 79.
- [37] Sajonas v. Court of Appeals, *supra*, p. 93.
- [38] Rollo, pp. 55-56.
- [39] No. L-28529, 30 April 1979, 89 SCRA 520.
- [40] L.P. Leviste & Company, Inc. v. Noblejas, *supra*, p. 528.
- [41] Ibid.
- [42] Id. at 528-529.
- [43] Sajonas v. Court of Appeals, *supra*.
- [44] Section 55 of Act 496.

- [45] *Dela Merced v. Government Service Insurance System*, G.R. No. 140398, 11 September 2001, 365 SCRA 1.
- [46] Records, p. 75.
- [47] Id. at 90.
- [48] Id. at 91.
- [49] Records, pp. 182-183.
- [50] Id. at 76-77.
- [51] Id. at 185.
- [52] Records, p. 77.
- [53] *Toledo v. People*, G.R. No. 158057, 24 September 2004, 439 SCRA 94; *Bank of the Philippine Islands v. Leobrera*, G.R. No. 137148, 18 November 2003, 416 SCRA 15.
- [54] Records, pp. 1177-1178.
- [55] *Laforteza v. Machuca*, G.R. No. 137552, 16 June 2000, 333 SCRA 643.
- [56] G.R. No. 124791, 10 February 1999, 302 SCRA 718.
- [57] Id. at 724.
- [58] *Cavite Development Bank v. Lim*, G.R. No. 131679, 1 February 2000, 324 SCRA 346.
- [59] G.R. No. 126454, 26 November 2004, 444 SCRA 399.

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