

ABACUS REAL ESTATE DEVELOPMENT CENTER, INC., PETITIONER, VS. THE MANILA BANKING CORPORATION, RESPONDENT.

G.R. NO. 162270. April 06, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Thru this appeal by way of a petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Abacus Real Estate Development Center, Inc. seeks to set aside the following issuances of the Court of Appeals in CA-G.R. CV No. 64877, to wit:

- Decision dated May 26, 2003,[1] reversing an earlier decision of the Regional Trial Court at Makati City, Branch 59, in an action for specific performance and damages thereat commenced by the petitioner against the herein respondent Manila Banking Corporation; and
- Resolution of February 17, 2004,[2] denying petitioner's motion for reconsideration.

The petition is casts against the following factual backdrop:

Respondent Manila Banking Corporation (Manila Bank, for brevity), owns a 1,435-square meter parcel of land located along Gil Puyat Avenue Extension, Makati City and covered by Transfer Certificate of Title (TCT) No. 132935 of the Registry of Deeds of Makati. Prior to 1984, the bank began constructing on said land a 14-storey building. Not long after, however, the bank encountered financial difficulties that rendered it unable to finish construction of the building.

On May 22, 1987, the Central Bank of the Philippines, now Bangko Sentral ng Pilipinas, ordered the closure of Manila Bank and placed it under receivership, with Feliciano Miranda, Jr. being initially appointed as Receiver. The legality of the closure was contested by the bank before the proper court.

On November 11, 1988, the Central Bank, by virtue of Monetary Board (MB) Resolution No. 505, ordered the liquidation of Manila Bank and designated Atty. Renan V. Santos as Liquidator. The liquidation, however, was held in abeyance pending the outcome of the earlier suit filed by Manila Bank regarding the legality of its closure. Consequently, the designation of Atty. Renan V. Santos as Liquidator was amended by the Central Bank on December 22, 1988 to that of Statutory Receiver.

In the interim, Manila Bank's then acting president, the late Vicente G. Puyat, in a bid to save the bank's investment, started scouting for possible investors who could finance the completion of the building earlier mentioned. On August 18, 1989, a group of investors, represented by Calixto Y. Laureano (hereafter referred to as Laureano group), wrote Vicente G. Puyat offering to lease the building for ten (10) years and to advance the cost to complete the same, with the advanced cost to be amortized and offset against rental payments during the term of the lease. Likewise, the letter-offer stated that in consideration of advancing the construction cost, the group wanted to be given the "exclusive option to purchase" the building and the lot on which it was constructed.

Since no disposition of assets could be made due to the litigation concerning Manila Bank's closure, an

arrangement was thought of whereby the property would first be leased to Manila Equities Corporation (MEQCO, for brevity), a wholly-owned subsidiary of Manila Bank, with MEQCO thereafter subleasing the property to the Laureano group.

In a letter dated August 30, 1989, Vicente G. Puyat accepted the Laureano group's offer and granted it an "exclusive option to purchase" the lot and building for One Hundred Fifty Million Pesos (P150,000,000.00). Later, on October 31, 1989, the building was leased to MEQCO for a period of ten (10) years pursuant to a contract of lease bearing that date. On March 1, 1990, MEQCO subleased the property to petitioner Abacus Real Estate Development Center, Inc. (Abacus, for short), a corporation formed by the Laureano group for the purpose, under identical provisions as that of the October 31, 1989 lease contract between Manila Bank and MEQCO.

The Laureano group was, however, unable to finish the building due to the economic crisis brought about by the failed December 1989 coup attempt. On account thereof, the Laureano group offered its rights in Abacus and its "exclusive option to purchase" to Benjamin Bitanga (Bitanga hereinafter), for Twenty Million Five Hundred Thousand Pesos (P20,500,000.00). Bitanga would later allege that because of the substantial amount involved, he first had to talk with Atty. Renan Santos, the Receiver appointed by the Central Bank, to discuss Abacus' offer. Bitanga further alleged that, over lunch, Atty. Santos then verbally approved his entry into Abacus and his take-over of the sublease and option to purchase.

On March 30, 1990, the Laureano group transferred and assigned to Bitanga all of its rights in Abacus and the "exclusive option to purchase" the subject land and building.

On September 16, 1994, Abacus sent a letter to Manila Bank informing the latter of its desire to exercise its "exclusive option to purchase". However, Manila Bank refused to honor the same.

Such was the state of things when, on November 10, 1995, in the Regional Trial Court (RTC) at Makati, Abacus Real Estate Development Center, Inc. filed a complaint^[3] for specific performance and damages against Manila Bank and/or the Estate of Vicente G. Puyat. In its complaint, docketed as Civil Case No. 96-1638 and raffled to Branch 59 of the court, plaintiff Abacus prayed for a judgment ordering Manila Bank, inter alia, to sell, transfer and convey unto it for P150,000,000.00 the land and building in dispute "free from all liens and encumbrances", plus payment of damages and attorney's fees.

Subsequently, defendant Manila Bank, followed a month later by its co-defendant Estate of Vicente G. Puyat, filed separate motions to dismiss the complaint.

In an Order dated April 15, 1996, the trial court granted the motion to dismiss filed by the Estate of Vicente G. Puyat, but denied that of Manila Bank and directed the latter to file its answer.

Before plaintiff Abacus could adduce evidence but after pre-trial, defendant Manila Bank filed a Motion for Partial Summary Judgment, followed by a Supplement to Motion for Partial Summary Judgment. While initially opposed, Abacus would later join Manila Bank in submitting the case for summary judgment.

Eventually, in a decision dated May 27, 1999,^[4] the trial court rendered judgment for Abacus in accordance with the latter's prayer in its complaint, thus:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff as follows:

- Ordering the defendant [Manila Bank] to immediately sell to plaintiff the parcel of land and building, with an area of 1,435 square meters and covered by TCT No. 132935 of the Makati Registry of Deeds, situated along Sen. Gil J. Puyat Ave. in Makati City, at the price of One Hundred Fifty Million (P150,000,000.00) Pesos in accordance with the said exclusive option to purchase, and to execute the appropriate deed of sale therefor in

favor of plaintiff;

- Ordering the defendant [Manila Bank] to pay plaintiff the amount of Two Million (P2,000,000.00) Pesos representing reasonable attorney's fees;
- Ordering the DISMISSAL of defendant's counterclaim, for lack of merit; and
- With costs against the defendant.

SO ORDERED.

Its motion for reconsideration of the aforementioned decision having been denied by the trial court in its Order of August 17, 1999,[5] Manila Bank then went on to the Court of Appeals whereat its appellate recourse was docketed as CA-G.R. CV No. 64877.

As stated at the threshold hereof, the Court of Appeals, in a decision dated May 26, 2003,[6] reversed and set aside the appealed decision of the trial court, thus:

WHEREFORE, finding serious reversible error, the appeal is GRANTED.

The Decision dated May 27, 1999 of the Regional Trial Court of Makati City, Branch 59 is REVERSED and SET ASIDE.

Cost of the appeal to be paid by the appellee.

SO ORDERED.

On June 25, 2003, Abacus filed a Motion for Reconsideration, followed, with leave of court, by an Amended Motion for Reconsideration. Pending resolution of its motion for reconsideration, as amended, Abacus filed a Motion to Dismiss Appeal,[7] therein praying for the dismissal of Manila Bank's appeal from the RTC decision of May 27, 1999, contending that said appeal was filed out of time.

In its Resolution of February 17, 2004,[8] the appellate court denied Abacus' aforementioned motion for reconsideration.

Hence, this recourse by petitioner Abacus Real Estate Development Center, Inc.

As we see it, two (2) issues commend themselves for the resolution of the Court, namely:

WHETHER OR NOT RESPONDENT BANK'S APPEAL TO THE COURT OF APPEALS WAS FILED ON TIME; and

WHETHER OR NOT PETITIONER ABACUS HAS ACQUIRED THE RIGHT TO PURCHASE THE LOT AND BUILDING IN QUESTION.

We rule for respondent Manila Bank on both issues.

Addressing the first issue, petitioner submits that respondent bank's appeal to the Court of Appeals from the adverse decision of the trial court was belatedly filed. Elaborating thereon, petitioner alleges that respondent bank received a copy of the May 27, 1999 RTC decision on June 22, 1999, hence, petitioner had 15 days, or only up to July 7, 1999 within which to take an appeal from the same decision or move for a reconsideration thereof. Petitioner alleges that respondent furnished the trial court with a copy of its Motion for Reconsideration only on July 7, 1999, the last day for filing an appeal. Under Section 3, Rule 41 of the 1997 Rules of Civil Procedure, "the period of appeal shall be interrupted by a timely motion for new trial or reconsideration". Since, according to petitioner, respondent filed its Motion for Reconsideration on the last day of the period to appeal, it only had one

(1) more day within which to file an appeal, so much so that when it received on August 23, 1999 a copy of the trial court's order denying its Motion for Reconsideration, respondent bank had only up to August 24, 1999 within which to file the corresponding appeal. As respondent bank appealed the decision of the trial court only on August 25, 1999, petitioner thus argues that respondent's appeal was filed out of time.

As a counterpoint, respondent alleges that it sent the trial court a copy of its Motion for Reconsideration on July 6, 1999, through registered mail. Having sent a copy of its Motion for Reconsideration to the trial court with still two (2) days left to appeal, respondent then claims that its filing of an appeal on August 25, 1999, two (2) days after receiving the Order of the trial court denying its Motion for Reconsideration, was within the reglementary period.

Agreeing with respondent, the appellate court declared that respondent's appeal was filed on time. Explained that court in its Resolution of February 17, 2004, denying petitioner's motion for reconsideration:

Firstly, the file copy of the motion for reconsideration contains the written annotations "Registry Receipt No. 1633 Makati P.O. 7-6-99" in its page 13. The presence of the annotations proves that the motion for reconsideration was truly filed by registered mail on July 6, 1999 through registry receipt no. 1633.

Secondly, the appellant's manifestation filed in the RTC personally on July 7, 1999 contains the following self-explanatory statements, to wit:

- Defendant [Manila Bank] also filed with this Honorable Court a Motion for Reconsideration of the Decision dated 27 May 1999 promulgated by this Honorable Court in this case, and served a copy thereof to the plaintiff, by registered mail yesterday, 6 July 1999, due to lack of material time and messenger to effect personal service and filing.

- In order for this Honorable Court to be able to review defendant [Manila Bank's] Motion for Reconsideration without awaiting the mailed copy, defendant [Manila Bank] is now furnishing this Honorable Court with a copy of said motion, as well as the entry of appearance, by personal service.

The aforecited reference in the manifestation to the mailing of the motion for reconsideration on July 6, 1999, in light of the handwritten annotations adverted to herein, renders beyond doubt the appellant's insistence of filing through registered mail on July 6, 1999.

Thirdly, the registry return cards attached to the envelopes separately addressed and mailed to the RTC and the appellee's counsel, found in pages 728 and 729 of the rollo, indicate that the contents were the motion for reconsideration and the formal entry of appearance. Although the appellee argues that the handwritten annotations of what were contained by the envelopes at the time of mailing was easily self-serving, the fact remains that the envelope addressed to the appellee's counsel appears thereon to have been received on July 6, 1999 ("7/6/99"), which enhances the probability of the motion for reconsideration being mailed, hence filed, on July 6, 1999, as claimed by the appellant.

Fourthly, the certification issued on October 2, 2003 by Atty. Jayme M. Luy, Branch Clerk of Court, Branch 59, RTC in Makati City, has no consequence because Atty. Luy based his data only on page 3 of the 1995 Civil Case Docket Book without reference to the original records which were already with the Court of Appeals.

Fifthly, since the appellant received the denial of the motion for reconsideration on August 23, 1999, it had until August 25, 1999 within which to perfect its appeal from the decision of the RTC because 2 days remained in its reglementary period to appeal. It is not disputed that the appellant filed its notice of appeal and paid the appellate court docket fees on August 25, 1999.

These circumstances preponderantly demonstrate that the appellant's appeal was not late by one day. (Emphasis in the original)

Petitioner would, however, contest the above findings of the appellate court, stating, among other things, that if it were true that respondent filed its Motion for Reconsideration by registered mail and then furnished the trial court with a copy of said Motion the very next day, then the rollo should have had two copies of the Motion for Reconsideration in question. Respondent, on the other hand, insists that it indeed filed a Motion for Reconsideration on July 6, 1999 through registered mail.

It is evident that the issue raised by petitioner relates to the correctness of the factual finding of the Court of Appeals as to the precise date when respondent filed its motion for reconsideration before the trial court. Such issue, however, is beyond the province of this Court to review. It is not the function of the Court to analyze or weigh all over again the evidence or premises supportive of such factual determination.[9] The Court has consistently held that the findings of the Court of Appeals and other lower courts are, as a rule, accorded great weight, if not binding upon it,[10] save for the most compelling and cogent reasons.[11] As nothing in the record indicates any of such exceptions, the factual conclusion of the appellate court that respondent filed its appeal on time, supported as it is by substantial evidence, must be affirmed.

Going to the second issue, petitioner insists that the option to purchase the lot and building in question granted to it by the late Vicente G. Puyat, then acting president of Manila Bank, was binding upon the latter. On the other hand, respondent has consistently maintained that the late Vicente G. Puyat had no authority to act for and represent Manila Bank, the latter having been placed under receivership by the Central Bank at the time of the granting of the "exclusive option to purchase."

There can be no quibbling that respondent Manila Bank was under receivership, pursuant to Central Bank's MB Resolution No. 505 dated May 22, 1987, at the time the late Vicente G. Puyat granted the "exclusive option to purchase" to the Laureano group of investors. Owing to this defining reality, the appellate court was correct in declaring that Vicente G. Puyat was without authority to grant the exclusive option to purchase the lot and building in question. The invocation by the appellate court of the following pronouncement in Villanueva vs. Court of Appeals[12] was apropos, to say the least:

... the assets of the bank pass beyond its control into the possession and control of the receiver whose duty it is to administer the assets for the benefit of the creditors of the bank. Thus, the appointment of a receiver operates to suspend the authority of the bank and of its directors and officers over its property and effects, such authority being reposed in the receiver, and in this respect, the receivership is equivalent to an injunction to restrain the bank officers from intermeddling with the property of the bank in any way.

With respondent bank having been already placed under receivership, its officers, inclusive of its acting president, Vicente G. Puyat, were no longer authorized to transact business in connection with the bank's assets and property. Clearly then, the "exclusive option to purchase" granted by Vicente G. Puyat was and still is unenforceable against Manila Bank.[13]

Petitioner, however, asseverates that the "exclusive option to purchase" was ratified by Manila Bank's receiver, Atty. Renan Santos, during a lunch meeting held with Benjamin Bitanga in March 1990.

Petitioner's argument is tenuous at best. Concededly, a contract unenforceable for lack of authority by one of the parties may be ratified by the person in whose name the contract was executed. However, even assuming, in gratia argumenti, that Atty. Renan Santos, Manila Bank's receiver, approved the "exclusive option to purchase" granted by Vicente G. Puyat, the same would still be of no force and effect.

Section 29 of the Central Bank Act, as amended,[14] pertinently provides:

Sec. 29. Proceedings upon insolvency. - Whenever, upon examination by the head of the appropriate supervising and examining department or his examiners or agents into the condition of any banking institution,

it shall be disclosed that the condition of the same is one of insolvency, or that its continuance in business would involve probable loss to its depositors or creditors, it shall be the duty of the department head concerned forthwith, in writing, to inform the Monetary Board of the facts, and the Board may, upon finding the statements of the department head to be true, forbid the institution to do business in the Philippines and shall designate an official of the Central Bank as receiver to immediately take charge of its assets and liabilities, as expeditiously as possible collect and gather all the assets and administer the same for the benefit of its creditors, exercising all the powers necessary for these purposes including, but not limited to, bringing suits and foreclosing mortgages in the name of the banking institution. (Emphasis supplied)

Clearly, the receiver appointed by the Central Bank to take charge of the properties of Manila Bank only had authority to administer the same for the benefit of its creditors. Granting or approving an "exclusive option to purchase" is not an act of administration, but an act of strict ownership, involving, as it does, the disposition of property of the bank. Not being an act of administration, the so-called "approval" by Atty. Renan Santos amounts to no approval at all, a bank receiver not being authorized to do so on his own.

For sure, Congress itself has recognized that a bank receiver only has powers of administration. Section 30 of the New Central Bank Act^[15] expressly provides that "[t]he receiver shall immediately gather and take charge of all the assets and liabilities of the institution, administer the same for the benefit of its creditors, and exercise the general powers of a receiver under the Revised Rules of Court but shall not, with the exception of administrative expenditures, pay or commit any act that will involve the transfer or disposition of any asset of the institution.."

In all, respondent bank's receiver was without any power to approve or ratify the "exclusive option to purchase" granted by the late Vicente G. Puyat, who, in the first place, was himself bereft of any authority, to bind the bank under such exclusive option. Respondent Manila Bank may not thus be compelled to sell the land and building in question to petitioner Abacus under the terms of the latter's "exclusive option to purchase".

WHEREFORE, the instant petition is DENIED and the challenged issuances of the Court of Appeals AFFIRMED.

Costs against petitioner.

SO ORDERED.

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

[1] Penned by Associate Justice Lucas B. Bersamin, with Associate Justices Ruben T. Reyes and Elvi John S. Asuncion, concurring.

[2] Rollo, pp. 93-99.

[3] Rollo, pp. 138-146.

[4] Rollo, pp. 101-125.

[5] Rollo, pp. 126-137.

[6] Rollo, pp. 83-91.

[7] Rollo, pp. 1102-1112.

[8] See Note 2, *supra*.

[9] *PT&T vs. Court of Appeals*, 412 SCRA 263 [2003].

[10] Ibay vs. Court of Appeals, 212 SCRA 160 [1992],

[11] Republic vs. Court of Appeals, 349 SCRA 451 [2001].

[12] 244 SCRA 395 [1995].

[13] Article 1317, Civil Code; Yao Ka Sin Trading vs. CA, 209 SCRA 763 [1992].

[14] R.A. No. 265, as amended by PD 72 and PD 1007, the law applicable at that time.

[15] R.A. No. 7653.

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