

PROVINCE OF CEBU, Petitioner, vs. HEIRS OF RUFINA MORALES, NAMELY: FELOMINA V. PANOPIO, NENITA VILLANUEVA, ERLINDA V. ADRIANO and CATALINA V. QUESADA, Respondents.

G.R. No. 170115. February 19, 2008

Ponente: YNARES-SATIAGO, J.

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YNARES-SATIAGO, J.:

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals dated March 29, 2005 in CA-G.R. CV No. 53632, which affirmed in toto the Decision[2] of the Regional Trial Court of Cebu City, Branch 6, in Civil Case No. CEB-11140 for specific performance and reconveyance of property. Also assailed is the Resolution[3] dated August 31, 2005 denying the motion for reconsideration.

On September 27, 1961, petitioner Province of Cebu leased[4] in favor of Rufina Morales a 210-square meter lot which formed part of Lot No. 646-A of the Banilad Estate. Subsequently or sometime in 1964, petitioner donated several parcels of land to the City of Cebu. Among those donated was Lot No. 646-A which the City of Cebu divided into sub-lots. The area occupied by Morales was thereafter denominated as Lot No. 646-A-3, for which Transfer Certificate of Title (TCT) No. 30883[5] was issued in favor of the City of Cebu.

On July 19, 1965, the city sold Lot No. 646-A-3 as well as the other donated lots at public auction in order to raise money for infrastructure projects. The highest bidder for Lot No. 646-A-3 was Hever Bascon but Morales was allowed to match the highest bid since she had a preferential right to the lot as actual occupant thereof.[6] Morales thus paid the required deposit and partial payment for the lot.[7]

In the meantime, petitioner filed an action for reversion of donation against the City of Cebu docketed as Civil Case No. 238-BC before Branch 7 of the then Court of First Instance of Cebu. On May 7, 1974, petitioner and the City of Cebu entered into a compromise agreement which the court approved on July 17, 1974.[8] The agreement provided for the return of the donated lots to petitioner except those that have already been utilized by the City of Cebu. Pursuant thereto, Lot No. 646-A-3 was returned to petitioner and registered in its name under TCT No. 104310.[9]

Morales died on February 20, 1969 during the pendency of Civil Case No. 238-BC.[10] Apart from the deposit and down payment, she was not able to make any other payments on the balance of the purchase price for the lot.

On March 11, 1983, one of the nieces of Morales, respondent Catalina V. Quesada, wrote to then Cebu Governor Eduardo R. Gullas asking for the formal conveyance of Lot No. 646-A-3 to Morales' surviving heirs, in accordance with the award earlier made by the City of Cebu.[11] This was followed by another letter of the same tenor dated October 10, 1986 addressed to Governor Osmundo G. Rama.[12]

The requests remained unheeded thus, Quesada, together with the other nieces of Morales namely, respondents Nenita Villanueva and Erlinda V. Adriano, as well as Morales' sister, Felomina V. Panopio, filed an action for specific performance and reconveyance of property against petitioner, which was docketed as Civil Case No.

CEB-11140 before Branch 6 of the Regional Trial Court of Cebu City.[13] They also consigned with the court the amount of P13,450.00 representing the balance of the purchase price which petitioner allegedly refused to accept.[14]

Panopio died shortly after the complaint was filed.[15]

Respondents averred that the award at public auction of the lot to Morales was a valid and binding contract entered into by the City of Cebu and that the lot was inadvertently returned to petitioner under the compromise judgment in Civil Case No. 238-BC. They alleged that they could not pay the balance of the purchase price during the pendency of said case due to confusion as to whom and where payment should be made. They thus prayed that judgment be rendered ordering petitioner to execute a final deed of absolute sale in their favor, and that TCT No. 104310 in the name of petitioner be cancelled.[16]

Petitioner filed its answer but failed to present evidence despite several opportunities given thus, it was deemed to have waived its right to present evidence.[17]

On March 6, 1996, the trial court rendered judgment, the dispositive part of which reads:

WHEREFORE, judgment is rendered in favor of the plaintiffs and against the defendant Province of Cebu, hereby directing the latter to convey Lot 646-A-3 to the plaintiffs as heirs of Rufina Morales, and in this connection, to execute the necessary deed in favor of said plaintiffs.

No pronouncement as to costs.

SO ORDERED.[18]

In ruling for the respondents, the trial court held thus:

[T]he Court is convinced that there was already a consummated sale between the City of Cebu and Rufina Morales. There was the offer to sell in that public auction sale. It was accepted by Rufina Morales with her bid and was granted the award for which she paid the agreed downpayment. It cannot be gainsaid that at that time the owner of the property was the City of Cebu. It has the absolute right to dispose of it thru that public auction sale. The donation by the defendant Province of Cebu to Cebu City was not voided in that Civil Case No. 238-BC. The compromise agreement between the parties therein on the basis of which judgment was rendered did not provide nullification of the sales or disposition made by the City of Cebu. Being virtually successor-in-interest of City of Cebu, the defendant is bound by the contract lawfully entered into by the former. Defendant did not initiate any move to invalidate the sale for one reason or another. Hence, it stands as a perfectly valid contract which defendant must respect. Rufina Morales had a vested right over the property. The plaintiffs being the heirs or successors-in-interest of Rufina Morales, have the right to ask for the conveyance of the property to them. While it may be true that the title of the property still remained in the name of the City of Cebu until full payment is made, and this could be the reason why the lot in question was among those reverted to the Province, the seller's obligation under the contract was, for all legal purposes, transferred to, and assumed by, the defendant Province of Cebu. It is then bound by such contract.[19]

Petitioner appealed to the Court of Appeals which affirmed the decision of the trial court in toto. Upon denial of its motion for reconsideration, petitioner filed the instant petition under Rule 45 of the Rules of Court, alleging that the appellate court erred in:

FINDING THAT RUFINA MORALES AND RESPONDENTS, AS HER HEIRS, HAVE THE RIGHT TO EQUAL THE BID OF THE HIGHEST BIDDER OF THE SUBJECT PROPERTY AS LESSEES THEREOF;

FINDING THAT WITH THE DEPOSIT AND PARTIAL PAYMENT MADE BY RUFINA MORALES, THE SALE WAS IN EFFECT CLOSED FOR ALL LEGAL PURPOSES, AND THAT THE

TRANSACTION WAS PERFECTED AND CONSUMMATED;

FINDING THAT LACHES AND/OR PRESCRIPTION ARE NOT APPLICABLE AGAINST RESPONDENTS;

FINDING THAT DUE TO THE PENDENCY OF CIVIL CASE NO. 238-BC, PLAINTIFFS WERE NOT ABLE TO PAY THE AGREED INSTALLMENTS;

AFFIRMING THE DECISION OF THE TRIAL COURT IN FAVOR OF THE RESPONDENTS AND AGAINST THE PETITIONERS.[20]

The petition lacks merit.

The appellate court correctly ruled that petitioner, as successor-in-interest of the City of Cebu, is bound to respect the contract of sale entered into by the latter pertaining to Lot No. 646-A-3. The City of Cebu was the owner of the lot when it awarded the same to respondents' predecessor-in-interest, Morales, who later became its owner before the same was erroneously returned to petitioner under the compromise judgment. The award is tantamount to a perfected contract of sale between Morales and the City of Cebu, while partial payment of the purchase price and actual occupation of the property by Morales and respondents effectively transferred ownership of the lot to the latter. This is true notwithstanding the failure of Morales and respondents to pay the balance of the purchase price.

Petitioner can no longer assail the award of the lot to Morales on the ground that she had no right to match the highest bid during the public auction. Whether Morales, as actual occupant and/or lessee of the lot, was qualified and had the right to match the highest bid is a foregone matter that could have been questioned when the award was made. When the City of Cebu awarded the lot to Morales, it is assumed that she met all qualifications to match the highest bid. The subject lot was auctioned in 1965 or more than four decades ago and was never questioned. Thus, it is safe to assume, as the appellate court did, that all requirements for a valid public auction sale were complied with.

A sale by public auction is perfected "when the auctioneer announces its perfection by the fall of the hammer or in other customary manner".[21] It does not matter that Morales merely matched the bid of the highest bidder at the said auction sale. The contract of sale was nevertheless perfected as to Morales, since she merely stepped into the shoes of the highest bidder.

Consequently, there was a meeting of minds between the City of Cebu and Morales as to the lot sold and its price, such that each party could reciprocally demand performance of the contract from the other.[22] A contract of sale is a consensual contract and is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price. From that moment, the parties may reciprocally demand performance subject to the provisions of the law governing the form of contracts. The elements of a valid contract of sale under Article 1458 of the Civil Code are: (1) consent or meeting of the minds; (2) determinate subject matter; and (3) price certain in money or its equivalent.[23] All these elements were present in the transaction between the City of Cebu and Morales.

There is no merit in petitioner's assertion that there was no perfected contract of sale because no "Contract of Purchase and Sale" was ever executed by the parties. As previously stated, a contract of sale is a consensual contract that is perfected upon a meeting of minds as to the object of the contract and its price. Subject to the provisions of the Statute of Frauds, a formal document is not necessary for the sale transaction to acquire binding effect.[24] For as long as the essential elements of a contract of sale are proved to exist in a given transaction, the contract is deemed perfected regardless of the absence of a formal deed evidencing the same.

Similarly, petitioner erroneously contends that the failure of Morales to pay the balance of the purchase price is evidence that there was really no contract of sale over the lot between Morales and the City of Cebu. On the contrary, the fact that there was an agreed price for the lot proves that a contract of sale was indeed perfected between the parties. Failure to pay the balance of the purchase price did not render the sale inexistent or invalid, but merely gave rise to a right in favor of the vendor to either demand specific performance or rescission of the contract of sale.[25] It did not abolish the contract of sale or result in its automatic invalidation.

As correctly found by the appellate court, the contract of sale between the City of Cebu and Morales was also partially consummated. The latter had paid the deposit and downpayment for the lot in accordance with the terms of the bid award. She first occupied the property as a lessee in 1961, built a house thereon and was continuously in possession of the lot as its owner until her death in 1969. Respondents, on the other hand, who are all surviving heirs of Morales, likewise occupied the property during the latter's lifetime and continue to reside on the property to this day.[26]

The stages of a contract of sale are as follows: (1) negotiation, covering the period from the time the prospective contracting parties indicate interest in the contract to the time the contract is perfected; (2) perfection, which takes place upon the concurrence of the essential elements of the sale which are the meeting of the minds of the parties as to the object of the contract and upon the price; and (3) consummation, which begins when the parties perform their respective undertakings under the contract of sale, culminating in the extinguishment thereof.[27] In this case, respondents' predecessor had undoubtedly commenced performing her obligation by making a down payment on the purchase price. Unfortunately, however, she was not able to complete the payments due to legal complications between petitioner and the city.

Thus, the City of Cebu could no longer dispose of the lot in question when it was included as among those returned to petitioner pursuant to the compromise agreement in Civil Case No. 238-BC. The City of Cebu had sold the property to Morales even though there remained a balance on the purchase price and a formal contract of sale had yet to be executed. Incidentally, the failure of respondents to pay the balance on the purchase price and the non-execution of a formal agreement was sufficiently explained by the fact that the trial court, in Civil Case No. 238-BC, issued a writ of preliminary injunction enjoining the city from further disposing the donated lots. According to respondents, there was confusion as to the circumstances of payment considering that both the city and petitioner had refused to accept payment by virtue of the injunction.[28] It appears that the parties simply mistook Lot 646-A-3 as among those not yet sold by the city.

The City of Cebu was no longer the owner of Lot 646-A-3 when it ceded the same to petitioner under the compromise agreement in Civil Case No. 238-BC. At that time, the city merely retained rights as an unpaid seller but had effectively transferred ownership of the lot to Morales. As successor-in-interest of the city, petitioner could only acquire rights that its predecessor had over the lot. These rights include the right to seek rescission or fulfillment of the terms of the contract and the right to damages in either case.[29]

In this regard, the records show that respondent Quesada wrote to then Cebu Governor Eduardo R. Gullas on March 11, 1983, asking for the formal conveyance of Lot 646-A-3 pursuant to the award and sale earlier made by the City of Cebu. On October 10, 1986, she again wrote to Governor Osmundo G. Rama reiterating her previous request. This means that petitioner had known, at least as far back as 1983, that the city sold the lot to respondents' predecessor and that the latter had paid the deposit and the required down payment. Despite this knowledge, however, petitioner did not avail of any rightful recourse to resolve the matter.

Article 1592 of the Civil Code pertinently provides:

Article 1592. In the sale of immovable property, even though it may have been stipulated that upon failure to

pay the price at the time agreed upon the rescission of the contract shall of right take place, the vendee may pay, even after the expiration of the period, as long as no demand for rescission of the contract has been made upon him either judicially or by notarial act. After the demand, the court may not grant him a new term. (Underscoring supplied)

Thus, respondents could still tender payment of the full purchase price as no demand for rescission had been made upon them, either judicially or through notarial act. While it is true that it took a long time for respondents to bring suit for specific performance and consign the balance of the purchase price, it is equally true that petitioner or its predecessor did not take any action to have the contract of sale rescinded. Article 1592 allows the vendee to pay as long as no demand for rescission has been made.[30] The consignment of the balance of the purchase price before the trial court thus operated as full payment, which resulted in the extinguishment of respondents' obligation under the contract of sale.

Finally, petitioner cannot raise the issue of prescription and laches at this stage of the proceedings. Contrary to petitioner's assignment of errors, the appellate court made no findings on the issue because petitioner never raised the matter of prescription and laches either before the trial court or Court of Appeals. It is basic that defenses and issues not raised below cannot be considered on appeal.[31] Thus, petitioner cannot plead the matter for the first time before this Court.

WHEREFORE, in view of the foregoing, the petition is hereby DENIED and the decision and resolution of the Court of Appeals in CA-G.R. CV No. 53632 are AFFIRMED.

SO ORDERED.

Austria-Martinez, Corona, Nachura, and Reyes, JJ., concur.

* In lieu of Justice Minita V. Chico-Nazario, per Special Order No. 484 dated January 11, 2008.

[1] Rollo, pp. 26-32.

[2] Id. at 33-36.

[3] Id. at 37-38.

[4] Id. at 39-41.

[5] RTC Records, pp. 8-9.

[6] Id. at 119.

[7] Id. at 12.

[8] Id. at 134-141.

[9] Id. at 15.

[10] Id. at 105.

[11] Id. at 130.

[12] Id. at 131.

[13] Id. at 1-6.

[14] Id. at 125.

[15] Id. at 133.

[16] Id. at 4-5.

[17] Id. at 143.

[18] Rollo, p. 36.

[19] Id. at 35-36.

[20] Id. at 17-18.

[21] CIVIL CODE, Art. 1476(2).

[22] Id., Art. 1475.

[23] *City of Cebu v. Heirs of Candido Rubi*, 366 Phil. 70, 78 (1999).

[24] Article 1483 of the Civil Code states:

Art. 1483. Subject to the provisions of the Statute of Frauds and of any other applicable statute, a contract of sale may be made in writing, or by word of mouth, or partly in writing and partly by word of mouth, or may be inferred from the conduct of the parties.

[25] *Buenaventura v. Court of Appeals*, 461 Phil. 761, 772 (2003).

[26] TSN, August 12, 1994, pp. 11 and 36.

[27] *San Miguel Properties Phils., Inc. v. Spouses Huang*, 391 Phil. 636, 645 (2000).

[28] TSN, August 12, 1994, p. 32.

[29] Article 1191 of the Civil Code states:

Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

[30] See note 23 at 83.

[31] *Ramos v. Sarao*, G.R. No. 149756, February 11, 2005, 451 SCRA 103, 122.

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