

VALENTIN MOVIDO, SUBSTITUTED BY MARGINITO MOVIDO, PETITIONER, VS. LUIS REYES PASTOR, RESPONDENT.

G.R. No. 172279. February 11, 2010

Ponente: CORONA, J.

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CORONA, J.:

Respondent Luis Reyes Pastor filed a complaint for specific performance in the Regional Trial Court (RTC) of Imus, Cavite, praying that petitioner Valentin Movido[1] be compelled to cause the survey of a parcel of land subject of their contract to sell.

In his complaint, respondent alleged that he and petitioner executed a kasunduan sa bilihan ng lupa where the latter agreed to sell a parcel of land located in Paliparan, Dasmariñas, Cavite with an area of some 21,000 sq. m. out of the 22,731 sq. m. covered by Transfer Certificate of Title (TCT) No. 362995 at P400/sq. m. The agreement read:

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1. Na si MOVIDO ang tunay at ganap na may-ari ng isang (1) parselang lupa sa Paliparan, Dasmariñas, Cavite, na ang nasabing lupa sakop ng TRANSFER CERTIFICATE OF TITLE No. T-362995, na ito ay lalong mailalarawan ng tulad ng sumusunod:

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2. Na ipinagkakasundo ni MOVIDO na ipagbili kay PASTOR ang 21,000 metro cuadrado humigit-kumulang, ng lupang nakalarawan sa dakong taas sa halagang APAT NA RAANG PISO (P400.00) bawat metro cuadrado o sa kabuuang halaga na WALONG MILYON AT APAT NA RAANG LIBONG PISO (P8,400,000.00), na ang nasabing halaga ay babayaran ni PASTOR kay MOVIDO ng gaya ng sumusunod:

P500,000.00 - babayaran sa paglagda ng kasulatang ito;

P500,000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng unang bayad;

P1,000, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikalawang bayad;

P1,000, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikatlong bayad;

P1,000, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikaapat na bayad;

P1,000, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikalimang bayad;

P1,000, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikaanim na bayad;

P2,400, 000.00 - babayaran sa loob ng tatlong (3) buwan mula sa petsa ng ikapitong bayad;

P8,400, 000.00 - Kabuuan.

3. Na ang 1,731 metro cuadrado, humigit-kumulang, na hindi kasama sa bilingang ito ay nasasakop ni Leonardo Cuevas, na ito ay ipapasukat at ipapahiwalay ni MOVIDO sa kabuuan ng nasabing lupa bago matapos ang huling bayad ng bilingang ito;

4. Na si MOVIDO ang magbabayad ng lahat ng gastos tungkol sa bilihang ito tulad ng capital gains tax, selyo dokumentaryo, transfer tax, registration fees, bayad sa nagsasaka ng nasabing lupa, sampu ng komisyon ng mga ahente. Ang babayaran ni MOVIDO na capital gains tax ay hanggang sa ISANG DAANG PISO (P100.00) lamang;
5. Na kung si PASTOR ay hindi makabayad sa balance sa takdang panahon, ang kalahati ng lahat ng kanyang naibayad ay mapopornada sa kapakanan ni MOVIDO at ang kasulatang ito ay mawawalan ng bisa;
6. Na kasabay ng pagbabayad ng huling bayad, si MOVIDO ay lagda sa kaukulang kasulatan ng ganap na bilihan (Deed of Absolute Sale) ng lupang dito ay tinutukoy.[2]

Respondent further alleged that another kasunduan was later executed supplementing the kasunduan sa bilihan ng lupa. It provided that, if a Napocor power line traversed the subject lot, the purchase price would be lowered to P200/sq. m. beyond the distance of 15 meters on both sides from the center of the power line while the portion within a distance of 15 meters on both sides from the center of the power line would not be paid. In particular, the kasunduan provided:

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- Na ipinagkasundo ni MOVIDO na ipagbili kay PASTOR ang kanyang lupa sa Paliparan, Dasmariñas, Cavite na may sukat na 22731 metro kwadrado at sakop ng Transfer Certificate of Title No. T-362995.
- Na kanilang napagkasunduan na kung sakali na ang lupang tinutukoy ay pumailalim sa linya ng kuryente ng NAPOCOR, ang bahagi ng lupa na hindi hihigit sa layo ng LABING LIMANG (15) METRO mula sa kailaliman ng linya ng kuryente ay hindi pababayaran ni MOVIDO kay PASTOR, at ang bahagi ng lupa na pumakabila sa linya ng kuryente mula sa Paliparan Road at hihigit ng LABING LIMANG (15) METRO mula sa kailaliman ng linya ng kuryente ay pababayaran ni MOVIDO kay PASTOR sa halagang DALAWANG DAANG PISO bawat metro kwadrado.[3] (*italics supplied*)

Respondent likewise claimed that petitioner undertook to cause the survey of the property in order to determine the portion affected by the Napocor power line.

Lastly, respondent alleged that he already paid petitioner P5 million out of the original purchase price of P8.4 million stated in the kasunduan sa bilihan ng lupa. He was willing and ready to pay the balance of the purchase price but due to petitioner's refusal to have the property surveyed despite incessant demands, his unpaid balance could not be determined with certainty.

In his answer, petitioner alleged that the original negotiation for the sale of his property involved the entire area of 22,731 sq. m. However, as respondent was not sure whether a Napocor power line traversed the property, they then executed the kasunduan. After respondent personally inspected the property, a final agreement--the kasunduan sa bilihan ng lupa--was executed where the area to be sold was 21,000 sq. m. for P400/sq. m. for a total sum of P8.4 million. The final agreement also listed a schedule of payments of the purchase price and included a penalty clause in case of default.

Petitioner also charged respondent with delay in paying several installments due and did not pay the 7th installment in the amount of P1 million. This was allegedly a material breach because they agreed that the survey of the property would only be done after respondent would have paid the 7th installment. Due to respondent's failure to fulfill his obligations, petitioner claimed that he had no choice except to rescind the kasunduan sa bilihan ng lupa. He, however, was willing to reimburse 50% of whatever respondent had paid him so far.

After hearing, the RTC[4] ruled in favor of petitioner and held that the kasunduan preceded the kasunduan sa bilihan ng lupa. Thus, the RTC dismissed the complaint of respondent for lack of merit and/or cause of action. It

also ordered the rescission of the kasunduan sa bilihan ng lupa as well as the forfeiture of 50% of the amount already paid by respondent (but ordered petitioner to return to respondent 50% of the amount already paid). The RTC also directed respondent to pay petitioner P50,000 attorney's fees and costs of suit.

On appeal, the Court of Appeals (CA)[5] reversed the RTC and held that the kasunduan sa bilihan ng lupa was the first document executed by the parties, not the kasunduan. Thus, the CA ordered respondent to pay the heirs of petitioner the balance of the purchase price in the amount of P2,796,400. The CA also ordered that, upon complete payment by respondent, Marginito Movido (the substitute of petitioner) should execute the necessary deed of absolute sale in favor of respondent and comply with petitioner's other obligations under the kasunduan sa bilihan ng lupa.

Marginito Movido's motion for reconsideration did not have its desired result.[6] Hence, this petition for review on certiorari,[7] where he insists that it was the kasunduan, not the kasunduan sa bilihan ng lupa, which was first executed by the parties. He likewise claims that the failure of respondent to pay the 7[th] and 8[th] installments of the purchase price gave petitioner the right to rescind the contract.

Misguided Search For Priority In Time

The issue of which of the two contracts was first executed by the parties is immaterial to the resolution of this case. In the first place, both contracts were executed and notarized on the same day, December 6, 1993. More importantly, both contracts, even independent of the time of their execution but, taken together, clearly spell out in full the respective rights and obligations of the parties.

Indeed, a reading of the kasunduan sa bilihan ng lupa and the kasunduan would readily reveal that payment of the purchase price does not depend on the survey of the property. In other words, the purchase price should be paid whether or not the property is surveyed. The survey of the property is important only insofar as the right of respondent to the reduction of the purchase price is concerned.

On the other hand, the survey of the property to determine the metes and bounds of the 1,731 sq. m. portion that is excluded from the contract as well as the portions covered by the kasunduan which will be subject to reduction of the purchase price, is also not conditioned on the payment of any installment. Petitioner simply has to do it. In fact, under the kasunduan sa bilihan ng lupa, the survey should be done before the date of the last installment. Hence, the survey could have been done anytime after the execution of the agreement.

If respondent pays a higher amount without the property being surveyed first (compared to what he is liable to pay after the survey of the property) it will not be a problem because the excess of the amount paid can easily be refunded to him. Such would be the plain application of the provisions of the kasunduan. On the other hand, petitioner cannot successfully reject respondent's demand for petitioner to perform his obligation to have the property surveyed. Under the kasunduan sa bilihan ng lupa, petitioner is obligated to conduct the survey on or before the due date of the last installment.

Corollary to this, the CA erred when it proceeded to determine the remaining balance of respondent by applying a reduced rate on certain portions of the property. In effect, the CA disregarded the agreement of the parties that petitioner should first cause the survey of the subject property in order to determine the area excluded from the sale and the portion traversed by the Napocor power line. Petitioner himself admitted that he had this obligation. Thus, the CA's application of a reduced price in the absence of a survey was without factual or legal basis. It unduly infringed on the parties' liberty to contract.

There are two options to resolve this impasse. First, respondent may be ordered to pay his remaining balance in the kasunduan sa bilihan ng lupa representing the 7[th] and 8[th] installments or the amount of P3.4 million in

which case Marginito will be ordered to immediately conduct the survey of the property and thereafter to refund to respondent the excess of the amount paid. Second, Marginito may be ordered to have the property surveyed first within a reasonable period and thereafter respondent will have to pay his corresponding balance (which, naturally, will be less than P3.4 million).

Prudence dictates that the second option is better as it will prevent further conflict between the parties. Thus, we adopt the second option.

Impropriety Of Rescission

Rescission is only allowed when the breach is so substantial and fundamental as to defeat the object of the parties in entering into the contract.[8] We find no such substantial or material breach.

It is true that respondent failed to pay the 7[th] and 8[th] installments of the purchase price. However, considering the circumstances of the instant case, particularly the provisions of the kasunduan, respondent cannot be deemed to have committed a serious breach. In the first place, respondent was not in default as petitioner never made a demand for payment.

Moreover, the kasunduan sa bilihan ng lupa and the kasunduan should both be given effect rather than be declared conflicting, if there is a way of reconciling them. Petitioner and respondent would not have entered into either of the agreements if they did not intend to be bound or governed by them. Indeed, taken together, the two agreements actually constitute a single contract pertaining to the sale of a land to respondent by petitioner. Their stipulations must therefore be interpreted together, attributing to the doubtful ones that sense that may result from all of them taken jointly.[9] Their proper construction must be one that gives effect to all.[10]

In this connection, the kasunduan sa bilihan ng lupa contains the general terms and conditions of the agreement of the parties. On the other hand, the kasunduan refers to a particular or specific matter, i.e., that portion of the land that is traversed by a Napocor power line. As the kasunduan pertains to a special area of the agreement, it constitutes an exception to the general provisions of the kasunduan sa bilihan ng lupa, particularly on the purchase price for that portion. *Specialibus derogat generalibus*.

Under both the kasunduan sa bilihan ng lupa and the kasunduan, petitioner undertook to cause the survey of the property in order to determine the portion excluded from the sale, as well as the portion traversed by the Napocor power line. Despite repeated demands by respondent, however, petitioner failed to perform his obligation. Thus, considering that there was a breach on the part of petitioner (and no material breach on the part of respondent), he cannot properly invoke his right to rescind the contract.

WHEREFORE, the petition is hereby DENIED. The July 18, 2005 decision of the Court of Appeals in CA-G.R. CV No. 67207 is AFFIRMED with the MODIFICATION that Marginito Movido is ordered to cause the survey of the subject lot within a period of three months in order to determine the excluded portion of the sale and the portion traversed by the Napocor power line. If he fails to do so, Luis Reyes Pastor is hereby authorized to have it done with the cost of the ---survey charged to Marginito Movido.

Luis Reyes Pastor should thereafter pay the balance of the purchase price, after which, Marginito should execute the kasulatan ng ganap na bilihan ng lupa (deed of absolute sale) in favor of Luis Reyes Pastor, reflecting as purchase price the amount actually paid by the latter.

Costs against petitioner.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and Mendoza, JJ., concur.

[1] Valentin Movido died on March 30, 2001 and was substituted by his son Marginito Movido. For purposes of this case, however, Valentin will be referred to as petitioner.

[2] Rollo, pp. 60-61.

[3] Id., p. 59.

[4] Decision dated December 16, 1999, penned by Judge Cesar A. Mangrobang. Rollo, pp. 62-74.

[5] Decision dated July 18, 2005, penned by Associate Justice Lucas P. Bersamin (now a member of the Supreme Court) and concurred in by Associate Justices Mariano C. del Castillo (now also a member of this Court) and Celia C. Librea-Leagogo of the Special Fourteenth Division of the Court of Appeals. Id., pp. 33-53.

[6] Id., pp. 56-57.

[7] Under Rule 45 of the Rules of Court. Id., pp. 10-31.

[8] *Song Fo & Co. v. Hawaiian-Philippine Co.*, 47 Phil. 821 (1925).

[9] Article 1374, Civil Code.

[10] Section 12, Rule 130, Rules of Court.

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