

HERMINIA GODUCO, PETITIONER, VS. THE COURT OF APPEALS AND MARIA B. CASTRO, RESPONDENTS.*G.R. No. 17647. February 28, 1964*

Ponente: PAREDES, J.

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On April 14, 1955, Herminia Goduco instituted in the Court of First Instance of Manila, a complaint for the recovery of various sums of money allegedly due her, against Maria B. Castro. In the complaint, among others, petitioner claimed that it was thru her that respondent Castro came to know of a piece of land in San Dionisio, Parañaque, Rizal, with an area of about 100 hectares, and which Castro later bought for P150,000.00; that when respondent paid the purchase price of the land, she supposedly deducted therefrom the amount of P7,500.00, which was appellant's commission; that the information regarding this deduction was communicated to her (Goduco) by Dr. Francisco, son of the owner of the property; that although the deed of sale was in the name of Sostenes Campillo, the true buyer was respondent Castro, Campillo being a mere dummy; that for the refusal of respondent Castro to give her the commission and with the treatment dispensed her by said respondent when she tried to collect said amount, Goduco claims to have been embarrassed, for which she asked the sums of P5,000.00 for moral damages; and P2,000.00 for counsel's fees.

Respondent Maria B. Castro, answering, alleged that petitioner, for a number of times, tried to convince her to buy the property, but she (appellant) was repeatedly informed by respondent that she was not buying anything, just then, since her properties were under levy. The rest of the allegations in the complaint were specifically denied for being false or for lack of knowledge. As special defenses, respondent Castro averred that (1) the complaint states no cause of action; (2) assuming that petitioner was authorized to sell the property, the claim should be directed against the person who authorized the sale and who promised the commission, not the respondent with whom plaintiff had no privity of contract, express or implied; (3) the supposed authority to sell given to petitioner was a nullity, having been given by a mere son-in-law of the owner, not the owner herself; and (4) the claim on which the action is founded is unenforceable under the Statute of Frauds. A counter claim of P100,000.00 for moral damages, P50,000.00 for exemplary damages and P5,000.00 by way of attorney's fees was prayed for by respondent.

After hearing, with petitioner Goduco as the only witness, wherein she tried to prove her allegations in the complaint, the trial court rendered judgment dismissing the complaint, without costs. On appeal, the Court of Appeals, on August 26, 1960, handed down a confirmatory J decision, the relevant portions of which read:

"The evidence for the plaintiff shows that the deed of sale on which she seeks to recover her commission was executed by the owner of the property Mauricia Antonio, not in favor of the defendant, but in favor of one Sostones Campillo, and that the defendant signed the same merely as one of two witnesses to its execution (Exh. 'E') It also appears from the same evidence that the plaintiff's commission of 5% on the selling price was to be paid by the seller, as shown by the authority given by the latter's son-in-law and attorney-in-fact, Donato Ciriaco (Exh. 'D'). The plaintiff claims, however, that it was to the defendant that she offered the

property; that the two of them in fact when there one day to inspect it; that in the course of their negotiations the plaintiff unintentionally disclosed the identity and residence of the owner to the defendant, together with the fact that the latter's son-in-law was acting in her behalf; that the defendant then went to see a Donato Ciriaco personally and concluded the understanding directly with him; that in order to have the fact that she was the real buyer she caused the deed of sale to be made out to and signed by Sostenes Campillo, an employee of hers in the Shollborne Hotel; and that she deducted from the purchase price the sum of P7,500.00, equivalent to 5% thereof, alleging that no agent had intervened in the transaction,

The defendant denied categorically the truth of the foregoing claim of the plaintiff and on her part testified that while indeed the former tried to interest her in the property sometime in the year 1954, importuning her by means of telephone calls for that purpose, she invariably answered that she was not interested, particularly because her properties were being distrained by the government resulting in the paralyzation of her business; that Sostenes Campillo was not her employee but was the lessee of the Shellborne Hotel building of which she was the owner, for which he was paying her a rental of P8,000.00 a month; and that Campillo was, not her dummy at all and was financially capable of making the purchase of the property in question for himself.

The deed of sale itself, Exhibit E', is a strong evidence against the plaintiff's claim. Her testimony that the defendant, after preliminary negotiations between them, went directly to the owner of the property, Mauricia Antonio, and to her son-in-law and attorney-in-fact, Donato Ciriaco, to conclude the transaction with them, is entirely hearsay in nature, since it is based on information which the plaintiff said was given to her by a Dr. Francisco, a son of the said owner. Likewise hearsay, and for the same reason, is the testimony of the plaintiff that after the deed of sale was executed, the defendant deducted from the purchase price the sum of P7,500.00 corresponding to the broker's commission. The plaintiff did not testify on these points from her own personal knowledge, and did not present Dr. Francisco as witness, nor Mauricia Antonio and Donato Ciriaco, who are the only persons in a position to know the truth about the matter other than the defendant herself. * * *.

After going over the evidence as a whole, we agree with the trial court that the evidence is insufficient to show that the defendant was the real purchaser of the property described in the deed of sale Exh. 'E'. The plaintiff's case rests largely on a surmise and conjectures, and cannot prevail against the plain import of the deed of sale itself and the categorical declarations of the defendant.

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The above judgment is now before Us on appeal by certiorari on a singular assignment of error, to wit:

"The respondent Court of Appeals erred in not properly appreciating the evidence presented, together with the accompanying circumstances, thereby departing from its usual course of judicial proceeding, which is contrary to law * * *."

We gather from the discussions on the assigned error that the "accompanying circumstances" which appellant Goduco wanted the Court of Appeals to appreciate, is the case of Marvel Bldg. Corporation, et al. vs. Saturnine David, C. I. Revenue, 94 Phil. 376, wherein this Court found that appellee Maria B. Castro was the sole and exclusive owner of the shares in said corporation and that the other subscribers were merely dummies. Predicated upon this pronouncement, herein petitioner now urges a conclusion that Sostenes Campillo was Castro's dummy in connection with the purchase of the land in Parañaque. The contention necessarily involves the examination of the evidence and its subsequent re-evaluation. Only questions of law are subject to review by this Court, and a question of law has been declared as one which does not call for an examination of the probative value of the evidence presented by the parties. The Court of Appeals in its decision had made findings of facts which We are

not authorized to alter. When the Court of Appeals found that the purchaser of the property in question was Sostenes Campillo who was financially capable of making the purchase, and not the appellee Maria B. Castro, We are bound by such conclusion, more so when the evidence on record, as elicited by the Court of Appeals unmistakably show the fact. There is no parallelism between the facts obtaining in the Marvel case and those of the one at bar. In the Marvel case, there must have been evidence showing that the other stockholders were mere dummies, but which the trial court therein had failed to consider. In the case at bar, both the CFI of Manila and the Court of Appeals found that the evidence on record does not sustain the cause of action of appellant Goduco, much less her assertion of Campillo being a dummy. Appellant's cause of action is based on the alleged transaction she had with appellee, which transaction supposedly consisted in having offered a certain parcel of land for sale and which appellee bought but placed the property in the name of another. Appellant claims further that for the sale of the property, she should be entitled to a commission, which, according to her, as related by one Dr. Francisco, was taken by appellee Castro, by deducting the amount from the purchase price. All these matters were testified to by plaintiff-appellant but finds no corroboration at all from any other evidence, testimonial or documentary. On the contrary, the documents submitted were against the assertions of appellant, for they categorically disclose that appellee was not the purchaser. The written authority (Exh. B), allegedly given by the son-in-law of the property owner, Mauricia Antonio, did not make mention of the appellant whatsoever. In other words, granting that appellant had the authority to sell the property, the same did not make the buyer liable for the commission she claimed. At most, the owner of the property and the one who promised to give her a commission should be the one liable to pay the same and to whom, the claim should have been directed. And even if We concede, for purposes of argument, that appellee was, in fact, the buyer and that she deducted the supposed commission from the purchase price, the claim accrued against the person who promised to pay the commission, but who gave it to another, instead.

The Court of Appeals was correct when it concluded that "plaintiff's case rests largely on surmise and conjectures * * * ". There is not an iota of evidence to prove plaintiff's claim, even only to the minimal measure of preponderance. Of course, appellant tried to impress the Court by presenting some evidence of her patriotic achievements as a musical composer. We find, however, that these matters have no relevancy to the merits of her case.

The record reveals that the heirs of Maria B. Castro, who died in January, 1963, have registered an adverse claim on the property in question. Such adverse claim, however, does not affect our conclusion in the appealed case, since the same is not germane thereto and it is not one of the issues ventilated in this action.

Conformably with all the foregoing, the decision appealed from is hereby affirmed, with costs against plaintiff-appellant Herminia Goduco.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepción, Reyes J. B. L., Barrera, Dizon and Regala, JJ., concur.

[G.R. L-17647. June 16, 1965]

RESOLUTION

PAREDES, J.:

On February 28, 1964, this Court rendered judgment in the above entitled case affirming the findings and conclusions of the Court of First Instance of Manila and the Court of Appeals. The Motion for Reconsideration and or New Trial filed by appellant thru counsel on March 20, 1964 was denied in a Resolution dated March 30,

1964.

Thereafter a Second Motion for Reconsideration and/or New Trial was presented and other pleadings by appellant herself. Because of the nature of the allegations contained in the second motion for reconsideration, respondents were required to answer the same on April 15, 1964. This resolution of the Court evinced a manifestation from Atty. Rosendo Tansinsin, former counsel of Maria B. Castro (now deceased) to the effect that he was not the counsel of the administratrix of the Intestate Estate of Maria B. Castro, but Senator Ambrosio Padilla; that Atty. Padilla had already instituted a Complaint for Reconveyance against Scstenes Campillo, involving the land, the sale of which was the cause of appellant's claim for commission, subject of the present controversy; and that he (Tansinsin) was of the opinion that the claim of appellant should be presented in the CFI of Manila where the Intestate Proceedings of the estate of Maria B. Castro is pending (Sp. Proc. No. 52975).

The manifestation of Atty. Rosendo Tansinsin was referred to the Padilla Law Offices for comment. In their comment, they stated, among others, that they have no objection to the suggestion of Atty. Tansinsin, but prayed that the motion for reconsideration should not be denied, but should be held in abeyance to await the result of the claim.

Both the first and second motion for reconsideration and/or New Trial are based on "newly discovered evidence," consisting of a receipt purportedly thumb-marked by Mauricia Dionisio, owner of the lot in question, stating that she received from the late Maria B. Castro the sum of FIFTY THOUSAND (P50,000.00) PESOS, in full payment of said land.

The Second Motion for Reconsideration and/or New Trial and the prayer of counsel for the Administratrix of the Intestate Estate of Maria B. Castro, should be, as they are hereby DENIED, for being predicated on allegedly newly discovered evidence which this Court is not now authorized to entertain.

"The judgment of the Court of Appeals is conclusive as to the facts, and cannot be reviewed by the Supreme Court. Accordingly, in an appeal by certiorari to the Supreme Court, the latter has no jurisdiction to entertain a motion for new trial on the ground of newly discovered evidence, for only questions of fact are involved therein." (Vol. II, Moran's Comments on the Rules of Court, 1963 Ed., p. 413, citing cases in support thereof, *Italics supplied.*)

In the decision sought to be reconsidered, We AFFIRMED the findings of fact and conclusions of both the CFI and the Court of Appeals.

Moreover, in a manifestation submitted by Atty. Tansinsin, former counsel of private-party respondent Maria B. Castro, dated December 10, 1964, it was shown that petitioner herein Herminia Goduco has already presented a motion in said Sp. Proc. No. 52975, for the recognition of her money claim against the estate of Maria B. Castro, which claim has been admitted by the probate court and for which claim, the administratrix therein was required to file her answer. On April 28, 1965, the claimant herself, made a similar manifestation assisted by her new lawyer Mrs. Agustina Rosete Navarro. Counsel for the administration does not deny the assertion of Atty. Tansinsin, that a reconveyance case has been presented by the estate against Sostenes Campillo, which renders the issues raised in the motion for reconsideration and/or new trial, also moot or academic. Motion denied.

Bengzon, C. J., Bautista Angelo, Concepción, Reyes, J. B. L., Dizon, Regala, Bengzon, J. P., and Zaldivar, JJ., concur.

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