

TRINIDAD J. FRANCISCO, PLAINTIFF AND APPELLEE, VS. GOVERNMENT SERVICE INSURANCE SYSTEM, DEFENDANT AND APPELLANT.

G.R. No. 18287. March 30, 1963

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Appeal by the Government Service Insurance System from the decision of the Court of First Instance of Rizal (Hon. Angel H. Mojica, presiding), in its Civil Case No. 2088-P, entitled "Trinidad J. Francisco, plaintiff, vs. Government Service Insurance System, defendant", the dispositive part of which reads as follows:

"Wherefore, judgment is hereby rendered: (a) Declaring null and void the consolidation in the name of the defendant, Government Service Insurance System, of the title of the VIC-MAKI compound; said title shall be restored to the plaintiff; and all payments made by the plaintiff; after her offer had been accepted by the defendant, must be credited as amortizations on her loans; and (b) Ordering the defendant to abide by the terms of the contract created by plaintiff's offer and its unconditional acceptance, with costs against the defendant."

The plaintiff, Trinidad J. Francisco, likewise appealed separately. (L-18155), because the trial court did not award the P535,000.00 damages and attorney's fees she claimed. Both appeals are, therefore, jointly treated in this decision.

The following facts are admitted by the parties. On 10 October 1956, the plaintiff, Trinidad J. Francisco, in consideration of a loan in the amount of T400,000.00 out of which the sum of P336,100.00 was released to her, mortgaged in favor of the defendant, Government Service Insurance System (hereinafter referred to as the System), a parcel of land containing an area of 18,232 square meters, with twenty-one (21) bungalows, known as Vic-Mari Compound, located at Baesa, Quezon City, payable within ten (10) years in monthly installments: of P3,902.41, and with interest of 7% per annum compounded monthly..

On 6 January 1959, the System extrajudicially foreclosed the mortgage on the ground that up to that date the plaintiff-mortgagor: was in arrears on her monthly installments in the amount of P52,000.00. Payments made by the plaintiff at the time of foreclosure, amounted to P130,000.00. The System itself : was the buyer of the property in the foreclosure sale.

On 20 February 1959, the plaintiff's father, Atty. Vicente J. Francisco, sent a letter to the general manager of the defendant corporation, Mr. Rodolfo P. Andal, the material portion of which recited as follows:

"Yesterday, I was finally able to collect what the Government owed me and I now propose to pay said amount of P30,000 to the GSIS if it would agree that after such payment the foreclosure of my daughter's mortgage would be set aside. I am aware that the amount of P30,000 which I offer to pay will not cover the total arrearage of P52,000 but as regards the balance, I propose this arrangement: for the GSIS to take over the administration of the mortgaged property and to collect the monthly installments, amounting to about P5,000, due on the unpaid

purchase price of more than / 31 lots' and houses therein and the monthly installments collected phail, be applied to the payment of Miss Ff aneifeo's arrearage until the sams is fully covered. It is requested, however, that from the amount of the monthly installments, collected, the .sum of P350.00 be deducted for necessary expenses, such ag to pay the' security guard, the street caretaker, the "Meraleo" Bill for the street lights and sundry items. .

It will be noted that the .collectible income each month from ths mortgaged property, which as I said consists of installments.amounting to about P5.000, is more than enough, to cover the monthly amortization on Miss Francisco!s loan. Indeed, had she not encountered difficulties, due to unforscen circumstances, in collecting the said installments, she could have paid.the amortizations as they fell due and there would have been really no need for the GSIS to resort to foreclosure.

The proposed administration by the GSIS of the mortgaged property "will continue even after Miss Francisco's account shall have been kept up to date. However, once the arrears shall have been paid, whatever amount of the monthly installments collected in excess of the amortization due on the loan will be turned over to Miss Francisco.

I make the foregoing proposal to show Miss Francisco's sincere desire to work out any fair arrangement for the settlement of her obligation. I trust that the GSIS, nnder the broad-minded policies of your administration, would give it serious consideration.

Sincerely,

s/Vieente J. FRANCISCO

t/VICENTE Ji FBANCISCO"

On the same date, 20 February 1959, Atty. Francisco received the following telegram:

"VICENTE FRANCISCO
SAMANILLO BLDG. ESCOLTA .

GSIS BOARD APPROVE, YOUR REQUEST RE REDEMPTION OF FORECLOSED PROPERTY OF
YOUR DAUGHTER, ANDAL'

On 28 February 1959, Atty. Francisco remitted to the System, through Andal, a check for P30.000.00, with an accompanying letter, which reads:

"I am sending you herein BPI Check No. B-299484 for Thirty thousand pesos (F30,00|>.00) in accordance with my letter of February 20th and your reply thereto of the same date, which reads:

'GSIS BOARD APPROVED YOUR REQUEST RE REDEMPTION OF FORECLOSED PROPERTY OF
YOUR DAUGHTER'

The defendant received the amount of P30,000.00, and issued, therefor its official receipt No. 1209874, dated 4 March 1959. It did not, however, take over the administration of the compound. In the meantime, the plaintiff received the monthly payments of some of the occupants thereat; then, on 4 March 1960, she remitted, through her father1, the amount of P44.121.29, representing the total monthly installments that she received from the occupants for the period from March to December 1959 and January to February 1960, minus expenses and real estate taxes. The defendant; also received this amount, and issued the corresponding official receipt.

Remittances, all accompanied by letters, corresponding to the months of March, April, May, and June, 1960 and totalling P24,604.81 were also sent by the plaintiff to the defendant from time to time, all of which were received and duly receipted for.

Then the System sent three (3) letters, one dated 29 January 1960, which was signed by its assistant general manager, and the other two letters, dated 19 and 26 February 1960, respectively, which were signed by Andal, asking the plaintiff for a proposal for the payment of her indebtedness, since according to the System the one year period for redemption had expired.

In reply, Atty. Francisco sent a letter, dated 11 March 1960, protesting, against the System's request for proposal of payment and inviting its attention to the concluded contract generated by his offer of 20 February 1959; and its acceptance by telegram of the same date, the compliance of the terms of the offer already commenced by the plaintiff", and the misapplication by the System of the remittances she had made, and requesting the proper corrections.

By letter, dated 31 May 1960, the defendant countered the preceding protest that, by all means, the plaintiff should pay attorney's fees of P35,644.14, publication expenses, filing fee of P301.00, and surcharge of P23.64 for the foreclosure work done; that the telegram should be disregarded in view of its failure to express the contents of the board resolution due to the error of its minor employees in couching the correct wording of the telegram, A copy of the excerpts of the resolution of the Board of Directors (No. 380, February 20, 1959) was attached to the letter, showing the approval of Francisco's offer—

"* * * subject to the condition that Mr. Vicente J. Francisco shall pay all expenses incurred by the GSIS in the foreclosure of, the' mortgage.

Inasmuch as, according to the defendant, the remittances previously made by Atty. Francisco were allegedly hot sufficient to pay off her daughter's arrears, including attorney's fees incurred by the defendant in foreclosing the mortgage, and the one-year period for redemption has expired, said defendant, on 5 July 1960, consolidated the title to the compound in its name, and gave notice thereof to the plaintiff on 26 July 1960 and to each occupant of the compound,

Hence, the plaintiff instituted the present suit, for specific performance and damages. The defendant answered, pleading that the binding acceptance of Francisco's offer was the resolution of the Board, and that Andal's telegram, being erroneous, should be disregarded. After trial, the court below found that the offer of Atty. Francisco, dated 20 February 1959, made on behalf of his daughter, had been unqualifiedly accepted, and was binding, and rendered judgment as noted at the start of his opinion.

The defendant-appellant corporation assigns, six (6) errors allegedly committed by the lower court, all of which, however, are resolvable on the single issue as to whether or not the telegram generated a contract that is valid and binding upon the parties.

We find no reason for altering the conclusion reached by the court below that the offer of compromise made by plaintiff in the letter, Exhibit "A", had been validly accepted, and was binding on the defendant. The terms of the offer were clear, and' over the signature of defendant's general manager, Rodolfo Andal, plaintiff was informed telegraphically that her proposal had been accepted. There, was nothing in the telegram that hinted at any Anomaly, or gave ground to suspect its veracity, and the plaintiff, therefore, can not be blamed for relying upon it. There is no denying that the telegram wast within Andal's apparent authority, but the defense is that he did not sign it, but that it was sent by, the Board Secretary in his name and without his knowledge. Assuming this to be true, how was aopellee to know it? Corporate transactions would speedily come to a standstill were every person dealing with a corporation held duty-bound' to disbelieve every act of its responsible officers, no matter how

regular they should appear on their face. This Court has observed in *Ramirez vs. Orientalist Co.*, 38 Phil. 634, 654-655, that—

"In passing upon the liability of a corporation in cases of this kind it is always well to keep in mind the situation as it presents itself to the third party with whom the contract is made. Naturally he can have little or no information as to what occurs in corporate meetings; and he must necessarily rely upon the external manifestations of corporate consent. The integrity of commercial transactions can only be maintained by holding the corporation strictly to the liability fixed upon it by its agents in accordance with law; and we would be sorry to announce a doctrine which would permit the property of a man in the city of Paris to be whisked out of his hands and carried into a remote quarter of the earth without recourse against the corporation whose name and authority had been used in the manner disclosed in this case. As already observed, it is familiar doctrine that if a corporation knowingly permits one of its officers, or any other agent, to do acts within the scope of an apparent authority, and thus holds him out to the public as possessing power to do those acts, the corporation will, as against any one who has in good faith dealt with the corporation through such agent, be estopped from denying his authority; and where it is said "if the corporation permits" his-, means the same as "if the thing is permitted by the directing power of the corporation."

It has also been decided, that—

"A very large part of the business of the country is carried on by corporations. It certainly is not the practice of persons dealing with officers or agents who assume to act for such entities to insist on being shown the resolution of the board of directors authorizing the particular officer or agent to transact the particular business which he assumes to conduct. A person who knows that the officer or agent of the corporation habitually transacts certain kinds of business for such corporation under circumstances which necessarily show knowledge on the part of those charged with the conduct of the corporate business assumes, as he has the right to assume, that such agent or officer is acting within the scope of his authority." (*Curtis Land & Loan Co. vs. Interior Land Co.*, 137 Wis. 341, 118 N. W. 853, 129 Am. St. Rep. 1068; as cited in 2 *Fletcher's Encyclopedia, Priv. Corp.* 263, Perm. Ed.)

Indeed, it is well-settled that—

"If a private corporation intentionally or negligently clothes its officers or agents with apparent power to perform acts for it, the corporation will be estopped to deny that such apparent authority is real, as to innocent third persons dealing in good faith with such officers or agents." (2 *Fletcher's Encyclopedia, Priv. Corp.* 258, Perm. Ed.)

Hence, even if it were the board secretary who sent the telegram, the corporation could not evade the binding effect produced by the telegram.

The defendant-appellant does not disown the telegram, and even asserts that it came from its offices, as may be gleaned from the letter, dated 31 May 1960, to Atty. Francisco, and signed "R. P. Andal, general manager by Leovigildo Monasterial, legal counsel", wherein these phrases occur: "the telegram sent * * * by this office" and "the telegram we sent you" (emphasis supplied), but it alleges mistake in couching the correct wording. This alleged mistake cannot be taken seriously, because while the telegram is dated 20 February 1959, the defendant informed Atty. Francisco of the alleged mistake only on 31 May 1960, and all the while it accepted the various other remittances, starting on 28 February 1959, sent by the plaintiff to it in compliance with her performance of her part of the new contract.

The inequity of permitting the System to deny its acceptance becomes more patent when account is taken of the fact that in remitting the payment of P30,000 advanced by her father, plaintiff's letter to Mr. Andal quoted verbatim the telegram of acceptance. This was in itself notice to the corporation of the terms of the allegedly unauthorized telegram, for as Ballentine says:

"Knowledge of facts acquired or possessed by an officer or agent of a corporation in the course of his employment, and in relation to matters within the scope of his authority, is notice to the corporation, whether he communicates such knowledge or not." (Ballentine, Law on Corporations, section- 112) since a corporation cannot see, or know, anything except through its officers.

Yet, notwithstanding this notice, the defendant System pocketed the amount, and kept silent about the telegram not being' in accordance with the true facts, as it now alleges. This silence, taken together with the unconditional acceptance of three other subsequent remittances from plaintiff, constitutes in itself a binding ratification of the original agreement (Civil Code, Art. 1393).

"Art. 1393, Ratification may be effected expressly or tacitly. It is understood that there is a tacit ratification if, with knowledge of the reason which renders the contract voidable and such reason having ceased, the person who has a right to invoke it should execute an act which necessarily implies an intention to waive his right."

Nowhere else do the circumstances call more insistently for the application of the equitable maxim that between two innocent parties, the one who made it possible for the wrong to be done should be the one to bear the resulting loss. .

The defendant's assertion that the telegram came from it but that it was incorrectly worded renders unnecessary to resolve the other point in controversy as to whether the said telegram constitutes an actionable document.

Since the terms offered by the plaintiff in the letter of 30 February 1959 (Exhibit "A") provided for the setting aside of the foreclosure affected by the defendant System, the acceptance of the offer left the account of plaintiff in the same condition as if no foreclosure had taken place. It follows, as the lower court has correctly held, that the right of the System to collect attorney's fees equivalent to 10% of the sum due (P35,694.14) and the expenses and charges of P3,000.00 may no longer be enforced, since by the express terms of the mortgage contract, these sums were collectible only "in the event of foreclosure".

The court a quo also called attention to the unconscionability of the defendant's charging the attorney's fees, totalling over P35,000.00; and this point appears well-taken, considering that the foreclosure was merely extra-judicial, and the attorney's work was limited to requiring the sheriff to effectuate the foreclosure. However, in view of the parties' agreement to set the same aside, with the consequential elimination of such incidental charges, the matter of unreasonableness of the counsel fees need not be labored further. .

Turning now to the plaintiff's separate appeal (Case G. R. No. L-18155): Her prayer for an award of actual or compensatory damages for P83,333.33 is predicated on her alleged unrealized profits due to her inability to sell the compound for the price of P750,000.00 offered by one Vicente Alunan, which sale was allegedly blocked because the System consolidated the title to the property in its name. Plaintiff reckons the amount of P83,333.38 by placing the actual value of the property, at P666,666.67, a figure arrived at by assuming that the System's loan of P400,000.00 constitutes 60% of the actual value of the security. The court a quo correctly refused to award such actual or compensatory damages because it could not determine with reasonable certainty the difference between the offered price and the actual value of the property, for lack of competent evidence. Without proof we cannot assume, or take judicial notice, as suggested by the plaintiff, that the practice of lending institutions in the country is to give out as loan 60% of the actual value of the collateral. Nor should we lose sight of the fact that the price offered by Alunan was payable in installments covering five years, so that it may not actually represent true market values.

Nor was there error in the appealed decision denying moral damages, not only on account of the plaintiff's failure to take the witness stand and testify to her social humiliation, wounded feelings, anxiety, etc., as the decision holds, but primarily because a breach of contract like that of defendant, not being malicious or

fraudulent, does not warrant the award of moral damages under Article 2220 of the Civil Code (Ventanilla vs. Centeno, 110 Phil., 811; Fores vs. Miranda, 105 Phil., 266).

There is no basis for awarding exemplary damages either, because this species of damages is only allowed in addition to moral, temperate, liquidated, or compensatory damages, none of which have been allowed in this case, for reasons hereinbefore discussed (Art. 2234, Civil Code; Velayo vs. Shell Co. of P.I., 100 Phil., 186; Singson, et al vs. Aragon and Lorza, 92 Phil., 514; 49 Off. Gaz.No. .2, 515).

As to attorney's fees, we agree with the trial court's stand that in view of the absence of gross and evident bad faith in defendant's refusal to satisfy the plaintiff's claim, and there being none of the other grounds enumerated in/ Article 2208 of the Civil Code, such absence precludes a recovery. The award of attorney's fees is essentially discretionary in the trial court, and no abuse of discretion has been shown.

For the foregoing reasons, the appealed decision is hereby affirmed, with costs against, the defendant Government Service Insurance System in G. R. No. L-18287.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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