

## ROMAN MIRASOL, PETITIONER, VS. MANUEL R. YUSAY, ET AL., RESPONDENTS.

*G.R. No. 18862. June 30, 1964*

Ponente: BAUTISTA ANGELO, J.

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### BAUTISTA ANGELO, J.:

Manuel R. Yusay was the owner of Hacienda Retiro with an area of 58 hectares situated in Binalbagan, Occidental Negros. He leased in 1957 a 10-hectare portion, thereof to Roman Mirasol for two agricultural years (1958- 1959 and 1959-1960). In the contract of lease, Mirasol was given an option to purchase the property of the following tenor:

"3. Que en caso que la parte de la PRIMERA PARTE desee vender esta su propiedad denominada Hacienda Retiro en donde estan situadas las diez (x) Hectares objeto del presente arrendamiento, en iguales condiciones, la parte de la PRIMERA PARTE dara opcion a la parte de la SEGUNDA PARTE en la oferta de la venta, en igualdad de precio y condiciones; x x x."

On June 23, 1958, Yusay sent a letter to Mirasol which reads as follows:

"I wish to inform you that after a keen deliberation I now definitely decided to sell my Hacienda Retiro."

"My price of the Hacienda Retiro is One Hundred Thousand (P100,000.00) Pesos, Philippine Currency in Cash.

"I'm now therefore giving you first opportunity to purchase the same and if you feel interested and willing to purchase or acquire the said Hacienda Retiro, kindly please let me know on or before June 30, 1958 otherwise much to my regret I'll be constrained to dispose and encumber the same in the sense that there many interested parties to purchase the aforesaid Hacienda Retiro.

"Expecting your reply on or before the date designated, I remain" "

On June 27, 1958, Mirasol sent a reply of the following tenor:

"I acknowledge receipt of your letter dated June 23, 1958, today, informing me that you are definitely decided to sell your Hacienda Retiro.

"For your information, I am very much interested to buy and acquire Hacienda of yours in the same PRICE, MANNER, CONDITIONS, AND CONSIDERATIONS other buyers will offer.

"And for further information, I have knowledge that you sold this said Hacienda particularly to Miss Maria Yulo. And this information is confirmed by my actual observation that Miss Maria Yulo is her right to dominion present owner of the Hacienda.

"Here's thanking you for your late offer, I remain"

On July 2, 1958, Mirasol sent to Yusay another letter which reads:

"This is a follow-up to my answer to your letter of June 23, 1958 which I had only received on June 27, 1958.

" Your said letter was giving me the option or the preferential right granted me both law and by virtue, of our contract purchase your Hacienda Relito in the sum of P100,000. In spite of the fact that you were giving hardly week to make up my mind since I only received your letter on June 27 or about 3 days before June 30, I did not hesitate to accept your offer at once.

"As I have stated in my previous letter dated June 27, 1958, I am ready anytime to buy your said property under the same conditions which any other prospective buyers of yours may offer as you have stated in your June 23, 1958 letter which was only received by me on June 27, there are many interested parties who want to purchase your said property.

"Please, to prove your sincerity, send me over at once your concrete tentative contract or cite the time and place when and where are we going to talk matters over in order to consummate the contract.

"Awaiting most anxiously your answer, let me remain."

Both letters were received by Yusay on July 5, 1958 but he did not reply to any of them. On July 16, 1958, Yusay executed a deed of sale on the Hacienda Retiro in favor of Maria L. Yulo in consideration of the sum of P35,000.00 and other good, valuable and legal consideration. As found by the Court of Appeals, although the figure stated in the deed of sale is only P35,000.00.

On August 9, 1958, Mirasol commenced the present action in the Court of First Instance of Occidental Negros against Yusay and Yulo praying that he be declared as having the preferential right to buy the Hacienda Retiro for the price of P35,000.00; that Yusay be ordered to execute the corresponding deed of sale in his favor; and that both defendants be held solidarily liable to pay him the sum of P40,000.00 as damages and P35,000.00 as attorney's fees. Defendants filed their respective answers with a counterclaim for damages and attorney's fees. On June 17, 1959, after due trial the court rendered judgment dismissing the complaint, without pronouncement as to costs. Defendants' counterclaims were also dismissed.

The Court of Appeals to which the case was appealed, affirmed the lower court's decision, having concluded that (1) the offer made by Yusay to Mirasol was in accordance with the option given him in the contract of lease; and (2) Mirasol's two letters dated June 27, 1958 and July 2, 1958 did not constitute an acceptance of said offer. Seasonably, Mirasol came to us for review.

The issues posed in this appeal are: (1) whether the offer contained in Yusay's letter dated June 23, 1958 was in accordance with the option given to Mirasol in the contract of lease Exhibit A; and (2) whether the two letters of Mirasol dated June 27, 1958 and July 2, 1958 constitute a valid acceptance of said offer.

Anent the first issue, Mirasol contends that the option given to him by Yusay necessarily implies the existence of a prospective sale in favor of a person other than petitioner at a price and under conditions mutually acceptable to both parties. This is untenable. According to this theory, before Yusay can offer to sell the hacienda to Mirasol the former must first look for a prospective buyer other than the latter. Yusay and the prospective buyer must first agree on the price, terms and conditions of the sale, and after they had so agreed, Yusay, before proceeding with the sale, must first give to Mirasol the opportunity to pay the hacienda at the same price, terms and conditions he had agreed with the prospective buyer. Should Mirasol decide to buy the hacienda, he is given the preferential right to buy it; should he refuse to buy, only then can Yusay sell it to the prospective buyer. This theory is novel indeed for it means that Yusay may never sell the hacienda if he first offers to sell it to Mirasol even at a low price and at terms and conditions that are easy and reasonable simply because they were not the result of an agreement previously concluded with a prospective buyer other than Mirasol. Apart from its being novel, it also places Yusay in the circuitous position of having first to look for a buyer and get an offer from him before he could in

turn sell it to Mirasol. This is against the law which provides that the usage and customs of the place should be observed in the interpretation of a contract whose terms appear to be ambiguous (Article 1376, new Civil Code).

On the other hand, the wording of the option in question does not warrant petitioner's theory. Said option states that "la parte de la primera PARTE dara opcion a la parte de la segunda parte en la oferta de la venta, en igualdad de precio y condiciones," This clearly means that Yusay shall give Mirasol the first opportunity to buy the hacienda should the former finally desire to sell it at the same price and under the same conditions he would be willing to sell to others, or in the event that there be someone willing to buy it, Mirasol should be given the option to buy the land as offered before he could close the sale with the offeror. This is precisely what Yusay did in the instant case. He made up his mind to sell the hacienda to Maria Yulo for the sum of P100,000.00, and, true to the option, he gave Mirasol the first opportunity to buy it at that price, but Mirasol did not come across as offered, and so Yusay sold the hacienda to Maria L. Yulo for the same price of P100,000.00. Yusay, therefore, complied with the option in letter and spirit. The fear of Mirasol that if the price of the sale should be fixed by Yusay alone he may defeat the purpose of the option because he may fix a price which Mirasol could not afford to accept just to enable him to sell it to another party at a lesser amount may come within the realm of possibility. Had Yusay done so he would have reason to complain. The fact, however, is that the hacienda was sold to Yulo for the same price that was previously offered to Mirasol, a fact which belies any insinuation of bad faith on the part of Yusay. This brings us to the determination of whether the two letters of Mirasol above referred to can be considered as a valid acceptance of the offer of Yusay which generated a binding agreement. In this connection, it should be stated that Yusay offered Mirasol to sell his hacienda for the sum of P100,000.00 in compliance with the option given him, closing his offer with the following clause: "kindly please let me know on or before June 30, 1958, otherwise much to my regret I'll be constrained to dispose and encumber the same in the sense that there are many interested parties to purchase the aforementioned Hacienda Retiro." To this offer Mirasol merely replied: "I am very much interested to buy and acquire this Hacienda of yours in the same price, manner, conditions, and considerations, other buyers will offer." This is not an acceptance of the offer. Rather, it is an indication that Mirasol would await the offer of any prospective buyer. This intention he reiterated in a subsequent letter of July 2, 1958. And considering this attitude as a waiver of the option given him, Yusay sold the hacienda to Maria L. Yulo for the same price of P100,000.00. In this connection, the Court of Appeals stated: "the evidence shows that although the figures stated in the deed of sale executed in favor of Maria L. Yulo is only P35,000.00, the other good, valuable and legal considerations' referred to actually consisted of Council of Hinabangan, Samar, et al. three loans previously received from her by the seller", totalling the sum of P100,000.00. Since Mirasol did not avail himself of the opportunity given him by Yusay to purchase the hacienda in line with the option, he alone, therefore, is to blame for his failure to buy the property.

The contention that the period given Mirasol to exercise the option is unreasonably short for he was only given time to do so up to June 30, 1958, which hardly gave him a period of three days to consider the matter, may be justified if considered alone. But the fact remains that the hacienda was sold by Yusay to Maria L. Yulo only on July 16, 1958, which shows that he had nearly one month within which to press for his right to buy the hacienda were he in a position to accept the terms offered him by Yusay in his letter of June 23, 1958. But this he failed to do despite the fact that he already knew before hand that Yusay had previously offered to Yulo to sell the hacienda for the same price.

The best proof that Mirasol was not in a position to buy the hacienda at a price of P100,000.00 is the instant case where he asked that he be allowed to buy it only for P35,000.00.

Wherefore, the decision appealed from is affirmed, with costs against petitioner.

Bengzon, C.J., Padilla, Labrador, Paredes, and Regala, JJ., concur.

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