

DOMINGO CARABEO, PETITIONER, VS.SPOUSES NORBERTO AND SUSAN DINGCO, RESPONDENTS.

G.R. No. 190823. April 04, 2011

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

On July 10, 1990, Domingo Carabeo (petitioner) entered into a contract denominated as "Kasunduan sa Bilihan ng Karapatan sa Lupa"[1] (kasunduan) with Spouses Norberto and Susan Dingco (respondents) whereby petitioner agreed to sell his rights over a 648 square meter parcel of unregistered land situated in Purok III, Tugatog, Orani, Bataan to respondents for P38,000.

Respondents tendered their initial payment of P10,000 upon signing of the contract, the remaining balance to be paid on September 1990.

Respondents were later to claim that when they were about to hand in the balance of the purchase price, petitioner requested them to keep it first as he was yet to settle an on-going "squabble" over the land.

Nevertheless, respondents gave petitioner small sums of money from time to time which totaled P9,100, on petitioner's request according to them; due to respondents' inability to pay the amount of the remaining balance in full, according to petitioner.

By respondents' claim, despite the alleged problem over the land, they insisted on petitioner's acceptance of the remaining balance of P18,900 but petitioner remained firm in his refusal, proffering as reason therefor that he would register the land first.

Sometime in 1994, respondents learned that the alleged problem over the land had been settled and that petitioner had caused its registration in his name on December 21, 1993 under Transfer Certificate of Title No. 161806. They thereupon offered to pay the balance but petitioner declined, drawing them to file a complaint before the Katarungan Pambarangay. No settlement was reached, however, hence, respondent filed a complaint for specific performance before the Regional Trial Court (RTC) of Balanga, Bataan.

Petitioner countered in his Answer to the Complaint that the sale was void for lack of object certain, the kasunduan not having specified the metes and bounds of the land. In any event, petitioner alleged that if the validity of the kasunduan is upheld, respondents' failure to comply with their reciprocal obligation to pay the balance of the purchase price would render the action premature. For, contrary to respondents' claim, petitioner maintained that they failed to pay the balance of P28,000 on September 1990 to thus constrain him to accept installment payments totaling P9,100.

After the case was submitted for decision or on January 31, 2001,[2] petitioner passed away. The records do not show that petitioner's counsel informed Branch 1 of the Bataan RTC, where the complaint was lodged, of his death and that proper substitution was effected in accordance with Section 16, Rule 3, Rules of Court.[3]

By Decision of February 25, 2001,[4] the trial court ruled in favor of respondents, disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering:

- The defendant to sell his right over 648 square meters of land pursuant to the contract dated July 10, 1990 by executing a Deed of Sale thereof after the payment of P18,900 by the plaintiffs;
- The defendant to pay the costs of the suit.

SO ORDERED.[5]

Petitioner's counsel filed a Notice of Appeal on March 20, 2001.

By the herein challenged Decision dated July 20, 2009,[6] the Court of Appeals affirmed that of the trial court.

Petitioner's motion for reconsideration having been denied by Resolution of January 8, 2010, the present petition for review was filed by Antonio Carabeo, petitioner's son,[7] faulting the appellate court:

(A)

... in holding that the element of a contract, i.e., an object certain is present in this case.

(B)

... in considering it unfair to expect respondents who are not lawyers to make judicial consignation after herein petitioner allegedly refused to accept payment of the balance of the purchase price.

(C)

... in upholding the validity of the contract, "Kasunduan sa Bilihan ng Karapatan sa Lupa," despite the lack of spousal consent, (underscoring supplied)

and proffering that

(D)

[t]he death of herein petitioner causes the dismissal of the action filed by respondents; respondents' cause of action being an action in personam. (underscoring supplied)

The petition fails.

The pertinent portion of the kasunduan reads:[8]

x x x x

Na ako ay may isang partial na lupa na matatagpuan sa Purok 111, Tugatog, Orani Bataan, na may sukat na 27 x 24 metro kuwadrado, ang nasabing lupa ay may sakop na dalawang punong santol at isang punong mangga, kaya't ako ay nakipagkasundo sa mag-asawang Norby Dingco at Susan Dingco na ipagbili sa kanila ang karapatan ng nasabing lupa sa halagang P38,000.00.

x x x x (underscoring supplied)

That the kasunduan did not specify the technical boundaries of the property did not render the sale a nullity. The requirement that a sale must have for its object a determinate thing is satisfied as long as, at the time the contract is entered into, the object of the sale is capable of being made determinate without the necessity of a new or further agreement between the parties.[9] As the above-quoted portion of the kasunduan shows, there is no doubt that the object of the sale is determinate.

Clutching at straws, petitioner proffers lack of spousal consent. This was raised only on appeal, hence, will not be considered, in the present case, in the interest of fair play, justice and due process.[10]

Respecting the argument that petitioner's death rendered respondents' complaint against him dismissible, *Bonilla v. Barcena*[11] enlightens:

The question as to whether an action survives or not depends on the nature of the action and the damage sued for. In the causes of action which survive, the wrong complained [of] affects primarily and principally property and property rights, the injuries to the person being merely incidental, while in the causes of action which do not survive, the injury complained of is to the person, the property and rights of property affected being incidental. (emphasis and underscoring supplied)

In the present case, respondents are pursuing a property right arising from the kasunduan, whereas petitioner is invoking nullity of the kasunduan to protect his proprietary interest. Assuming *arguendo*, however, that the kasunduan is deemed void, there is a corollary obligation of petitioner to return the money paid by respondents, and since the action involves property rights,[12] it survives.

It bears noting that trial on the merits was already concluded before petitioner died. Since the trial court was not informed of petitioner's death, it may not be faulted for proceeding to render judgment without ordering his substitution. Its judgment is thus valid and binding upon petitioner's legal representatives or successors-in-interest, insofar as his interest in the property subject of the action is concerned.[13]

In another vein, the death of a client immediately divests the counsel of authority.[14] Thus, in filing a Notice of Appeal, petitioner's counsel of record had no personality to act on behalf of the already deceased client who, it bears reiteration, had not been substituted as a party after his death. The trial court's decision had thereby become final and executory, no appeal having been perfected.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Carpio,[*] Brion, Bersamin, and Sereno, JJ., concur.

[*] Designated member per Raffle dated March 10, 2010.

[1] Records, p. 6.

[2] Petitioner's Death Certificate is appended as Annex "M" to the petition for review, rollo, p. 105

[3] Section 16. Death of party; duty of counsel. -- Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with his duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian ad litem for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time to procure the

appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs. (16a, 17a)

[4] Rollo, pp. 71-79.

[5] Id. at 78-79.

[6] Penned by Associate Justice Jose C. Reyes, with the concurrence of Associate Justices Martin S. Villarama, Jr. (now Supreme Court Associate Justice) and Normandie B. Pizzaro, id. at 28-36.

[7] Rosita's Death Certificate appended to the petition for review as Annex "M-1", id. at 106.

[8] Heirs of Romana Ingjug-Tiro, et. al., v. Spouses Casal, et.al., G.R. No. 134718, August 20, 2001.

[9] Civil Code, Article 1460.

[10] Philippine Commercial and International Bank v. Custodio, G.R. No. 173207, February 14, 2008, 545 SCRA 367.

[11] G.R. No. L-41715, June 18, 1976.

[12] Sumaljag v. Spouses Literato, et.al., G.R. No. 149787, June 18, 2008.

[13] Saligumba et.al., v. Palanog, G.R. No. 143365, December 4, 2008.

[14] Active Realty and Development Corporation v. Fernandez, G.R. No. 157186, October 19, 2007.

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