

REPUBLIC OF THE PHILIPPINES, (NEDA), PETITIONER, VS. HON. COURT OF APPEALS, AND LAUREANO BROTHERS CO., INC., RESPONDENTS, SYLLABUS

G.R. No. 52774. November 29, 1984

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Before us is a Petition for Review on Certiorari of the then Court of Appeals' Decision in CA-G.R. No. 07105-SP, entitled "Laureano Bros. Co., Inc. vs. Hon. Guillermo Villasor, et al.," upholding the sale of a real estate property made by private respondent LAUREANO Bros. Co., Inc. (LAUREANO, for brevity) in favor of a third party.

In Civil Case No. 44566 of the Court of First Instance of Manila, petitioner National Economic Council (NEC, now the NEDA), instituted an action for damages for breach of contract against LAUREANO. Under that contract, LAUREANO undertook to supply NEDA with plumbing materials for the use of the National Waterworks and Sewerage Authority (NAWASA), a NEDA project financed by the U.S. Government through the International Cooperation Administration (ICA). Letters of Credit had been opened in favor of foreign suppliers of LAUREANO which were paid for by the U.S. Government in dollars. However, upon delivery of the plumbing materials by LAUREANO to NEDA, the latter rejected them for non-compliance with agreed specifications.

For non-implementation of the project, the U.S. Government demanded from the Philippine Government the refund of the dollars released, pursuant to the terms of their agreement. In turn, NEDA made a demand upon LAUREANO, but as the latter made no payment, this suit was instituted.

Decision was rendered by the Trial Court based on a Compromise Agreement whereby LAUREANO agreed to pay NEDA the sum of US\$358,885.02. Disagreement as to the rate of exchange for the conversion of dollars to pesos was settled by this Court in G.R. No. L-25055, which fixed the rate of exchange at P3.91 to US\$1.00 as at the time when the parties entered into a compromise agreement in 1965 (23 SCRA 214 [1968]).

The Trial Court, upon NEDA's Motion, issued a Writ of Preliminary Attachment against LAUREANO's properties, specifically, a lot of 5,000 sq. ms., with a two-story building, located at Pasong Tamo Extension, Makati, Rizal. Subsequently, NEDA also prayed for the issuance of a Writ of Execution.

La the meantime, NEDA gave authority to LAUREANO to "look and negotiate for buyers of the attached properties in order to get a better price than what may be obtained in an execution sale" upon the issuance by the Trial Court of an Order that proceeds of the sale shall be applied to LAUREANO's obligations.

Upon receipt of a formal offer to purchase the Pasong Tamo property from the Filtrust Insurance Agencies, Inc., LAUREANO submitted the same to NEDA. The latter was urged by the Presidential Investigation and Recovery Commission (PIRC) to conclude the sale. The earnest money of P1 0,000.00 received by LAUREANO from the buyer was remitted to NEDA.

Thereafter, LAUREANO filed a "Motion for an Order Authorizing Sale of Defendant's Real Property Under

Attachment." The authorization was granted, without objection from NEDA, subject to the following terms and conditions:

"I. That the writ of preliminary attachment on the property shall not be lifted and shall continue to be in force and effect;

2. That the net proceeds of the sale (P1,000,000.00 less 5% agents commission) shall be paid to the NEC (now NEDA) and applied to defendant's obligations; and.

3. That this authority to sell shall be good only under June 2, 1973 which is the date for hearing of plaintiff's Motion for Issuance of Writ of Execution."

Upon LAUREANO's Motion, which bore the conformity of NEDA, the first paragraph of the above Order was amended to read as follows:

" 1. That the writ of preliminary attachment on the property shall not be lifted and shall continue to remain in full force and effect, but shall be automatically lifted upon receipt of the net proceeds of the sale through the NEC (now NEDA);"

A subsequent Motion for Amendment filed by LAUREANO for the deduction of the taxes due on the property from the PIM peso purchase price was denied by the Trial Court.

On May 31, 1973, the sale was consummated between LAUREANO and Firma Techno Machineries, with Filtrust Insurance Agencies acting as broker. The sale was duly registered and annotated on TCT No. 58844 covering the property.

On June 1, 1973, one day before the authority to sell expired on June 2, 1973, LAUREANO remitted to NEDA the P871,004.01 net cash proceeds of the sale which, added to the P10,000.00 previously remitted, totaled P881,004.01. Deducted by LAUREANO was the amount of P68,995.99 representing taxes on the property, which would otherwise have resulted in the net cash proceeds being P950,000.00 (PIM less 5% commission).

On December 10, 1973, or about seven (7) months later, NEDA disapproved the sale due to its low price and at the same time returned the two (2) checks which LAUREANO had previously remitted to it.

Thereafter, NEDA moved for the cancellation of the annotation of sale on TCT No. 58844 and for the issuance of a Writ of Execution on the ground that LAUREANO had violated the terms and conditions for the sale. The Trial Court denied the Motion by an Order, dated April 3, 1975, upheld the validity of the sale, and granted execution only with respect to the balance of LAUREANO's indebtedness. In the same Order, the Court required LAUREANO to turn over the withheld amount of P68,995.99 corresponding to taxes, together with the sum of P881,004.01, to NEDA within a period of fifteen (15) days from receipt of the Order.

On May 29, 1975, NEDA moved for reconsideration of said Order claiming:

"1. That the terms and conditions in the authority to sell were not complied with;

2. That there was no Court approval of the sale made by Laureano Bros, to Firma Techno Machineries, Inc.;

3. That it would be advantageous to both parties if the sale was nullified and the property sold at public auction;"

On June 10, 1975, the 15th day from receipt of the Order of April 3, 1975, LAUREANO moved for an extension of time within which to deliver to NEDA the sum of P68,995.99, representing the withheld taxes plus the sum of P881,004.01, or a total of P950,000.00, until such time as NEDA's Motion for Reconsideration shall have been resolved.

On June 20, 1975, the Court issued its first questioned Order finding that there had been undue delay by LAUREANO in delivering the net proceeds of the sale to NEDA and that LAUREANO's Motion for extension was unjustified by reason thereof. In effect, said Order reconsidered that of April 3, 1975, and nullified the sale. LAUREANO moved for reconsideration but the same was denied on November 20, 1975. A second Motion for Reconsideration fared no better and met the same fate in an Order dated August 12, 1975.

LAUREANO appealed to the then Court of Appeals assailing the aforesaid three Orders. In a Decision promulgated on November 6, 1979, respondent Court held that "there was no undue delay in the delivery of the proceeds of the sale to the NEDA. If there was any delay, the same occurred because of NEDA's procrastination in accepting the same."

Challenging the aforesaid judgment in this instance, NEDA submits that the delay in the delivery of the proceeds of the sale was caused, not by its procrastination but by LAUREANO "when it (LAUREANO) persisted in delivering an amount less than the amount prescribed in the authorization." NEDA prays that the sale between LAUREANO and Firma Techno Machineries, Inc. be annulled, and that the Pasong Tamo property be sold at public auction and the proceeds applied to the payment of LAUREANO's outstanding obligation.

The evidence on record constrains us to deny those pleas.

The Trial Court issued the authority to sell the real estate property on April 16, 1973 subject to the terms and conditions set forth by respondent NEDA. The sale was consummated on May 31, 1973. On June 1, 1973, one day after the execution of the sale, LAUREANO remitted the net proceeds by issuing two checks in favor of NEDA. The checks remained in NEDA's possession for seven (7) months, without action one way or another. After that period, NEDA returned the checks on the ground that "the price was low."

We cannot be oblivious of the fact that NEDA had authorized LAUREANO to "look and negotiate for buyers of the attached properties in order to get a better price than what may be obtained in an execution sale," a view that was also shared by the Presidential Investigation and Recovery Commission when first consulted by NEDA. Having given such authorization, NEDA should be held estopped from asserting an inconsistent position that "it would be advantageous to both parties if the sale was nullified and the property sold at public auction," as it did in its Motion for Reconsideration before the Trial Court. If NEDA, in fact, felt that the price was "too low," it should have said so within a reasonable time after receipt of the checks in payment, but certainly not after seven months. LAUREANO's "Motion for Order Authorizing Sale of its Real Property Under Attachment," granted by the Trial Court in an Order dated April 16, 1973, and "Motion for Amendment" of the terms and conditions of the sale, granted in an Order, dated May 4, 1973, were all with the conformity of NEDA as it never opposed the same.

It was inaccurate for the Trial Court, in reversing itself, to have concluded that there was undue delay on LAUREANO's part to make payment since the authority to sell was granted on April 16, 1973, as amended by the Order of May 4, 1973, and yet no payment had been effected as of June 20, 1975. As the developments evolved, the delay was not of LAUREANO's doing but was, in fact, caused by NEDA.

True, in the Trial Court Order of April 3, 1975, LAUREANO was given 15 days from receipt thereof within which to turn over the total sum of P950,000.00 to NEDA. But if LAUREANO did not do so within the specified period it was because it had asked for extension within which to deliver to NEDA the sums required prompted by the Motion for Reconsideration that NEDA had filed on May 29, 1975. The Trial Court refused to grant the extension. The request for extension, however, was justified inasmuch as because of the reconsideration sought, NEDA, in all probability, would have refused to accept payment anyway.

NEDA's contention that LAUREANO had violated the terms and conditions of the sale, by persisting in

delivering an amount less than the amount prescribed in the authorization, contradicts the reason that it (NEDA) gave in returning the checks that "the price was low." LAUREANO had bound itself to pay the amount of the withheld taxes as soon as its finances improved. It was ready to remit that amount plus P888,004.01 but the Trial Court hindered it by denying its request for extension of time within which to do so. LAUREANO's good faith was evident. It was anxious to settle its obligation. But NEDA refused to accept the proffered checks because of a change of mind. Its retention of the checks for seven months without expressing any protest or objection was clear procrastination and indecision. The justice and equity of the situation is clearly with LAUREANO.'

WHEREFORE, the judgment under review is hereby affirmed in toto. No costs.

SO ORDERED.

Teehankee (Chairman), Plana, Gutierrez, Jr., and De la Fuente, JJ., concur.

Relova, J., on sick leave.

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