

ST. DOMINIC CORPORATION, PETITIONER, VS. INTERMEDIATE APPELLATE COURT, HON. AMANTE P. PURISIMA, PRE-SIDING JUDGE, BRANCH VII, REGIONAL TRIAL COURT OF MANILA, HON. ARSENIO M. GON...

G.R. No. 67207. August 26, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

Two decisions of the appellate court are involved in this case. The first one was rendered by the then Court of Appeals on October 21, 1981 in an action for specific performance filed by the private respondents against the St. Dominic Corporation. The second decision was promulgated by the respondent Intermediate Appellate Court on March 19, 1984 in an action to set aside an order of the Regional Trial Court directing receipt in consignment of the amount ordered to be paid by the Court of Appeals in its 1981 decision.

This petition for review seeks to set aside the decision of the Intermediate Appellate Court which dismissed the petition filed by St. Dominic Corporation after it held that the private respondents made a timely consignment of the balance of the purchase price of the disputed lot which originally belonged to the petitioner.

The facts of the case as found by the Intermediate Appellate Court are stated as follows:

“Private respondents Constantino B. Acosta and Eva Acosta signed on February 27, 1967 a Land Purchase Agreement wherein herein Petitioner St. Dominic Corporation sold to the former Lot No. 1-A, S-2, Block 8, covered by T.C.T. No. 842,00, Quezon City, for P15,400.00, P4,000.00 of which was paid upon the execution of the contract and the remaining balance of P11,400.00 was to be paid in 120 equal monthly installments of P150.75 a month.

Stipulated in said contract are: "(1) that if such payments shall continue in arrears for more than 60 days, or if the purchaser shall violate the conditions therein, the entire balance shall at once be due and demandable; (2) that in case the purchaser failed to comply with any of the condition of the contracts and/or fails to pay any monthly installments or any payments therein as agreed upon, the purchaser was granted a grace period which shall not exceed 60 days to be counted from the time the condition breached ought to have been complied, otherwise, the contract shall be automatically cancelled and rescinded and of no force and effect.

From March 24, 1967 to April 8, 1969, the Acostas made a total monthly payment of P2,458.25, covering a period of 17 months, more or less. The Acostas were, however, about 7 months in arrears of the corresponding monthly payments due, when they sent to the St. Dominic Corp. the amount of P300.00 in two separate money orders on April 8, 1969. These payments were rejected by the St. Dominic Corporation in a letter sent to the Acostas by its Corporate Secretary, expressing regret that said corporation could not accept their (Acostas') payments, because their contract had been cancelled on March 24, 1969; that as early as July 29, 1968, said Corporate Secretary had sent to the Private Respondents herein a letter informing the latter that their contract had been cancelled on July 15, 1968, exactly one month after their final notice, and that postal money order Nos. 683713, 603930, 603939, sent by the Acostas were sent back to them.

As a consequence, Private Respondents Acostas instituted in the then Court of First Instance of Manila an action against the St. Dominic Corporation to compel the latter to accept payment of the lot in question. This case was docketed as Civil Case No. 62370 of said Court, Branch VIII. Later a decision was rendered in said case adverse to the Acostas. In said decision it was decreed:

"FOR ALL THE FOREGOING, plaintiffs' complaint and defendant's counterclaim are both ordered DISMISSED for lack of merit; the contract, Exhibit 'E' is ordered cancelled and defendant is declared the owner of said lot described in paragraph 2 of the plaintiff's complaint; and the installments that plaintiffs have paid to defendant are declared 'rents paid for the use and occupation of the aforementioned premises.'" (Pars. 7, Exh. 'E')." (Petition, par. 7).

Dissatisfied with the above decision the Acostas appealed the same to the then Court of Appeals. Their appeal was docketed therein as CA-G.R. No. 55698-R. On October 21, 1981, the Court of Appeals rendered its decision, setting aside the decision of the Court of First Instance of Manila, the dispositive portion of which reads as follows:

"WHEREFORE, the decision appealed from is hereby set aside and a new one entered declaring that the contract Exhibit 'E' has not yet been rescinded and ordering plaintiffs-appellants to pay the defendant corporation within sixty (60) days from receipt hereof the remaining balance of the contract in the total amount of P8,942.00 together with interest thereon at 12% p.a. from April, 1968, the date of default, attorney's fees in the sum of P3,000.00 and the costs of the suit. Upon payment of same, the defendant-corporation is ordered to execute in favor of the plaintiffs-appellants the necessary deed of transfer to the plaintiffs-appellants the title to the lot in question, free from all liens and encumbrances except those provided for in the contract, all expenses which may be incurred in said transfer of title to be paid by the plaintiffs-appellants."

On November 9, 1981, Plaintiffs-Appellants Acostas filed with the Court of Appeals a "Manifestation and Motion for Reconsideration" of the above decision which according to them, they received on November 2, 1981 from their daughter who received the registered letter containing said decision on October 30, 1981.

Appellant Constantino Acosta alleged in this pleading that he went to see the Corporate Secretary of the St. Dominic Corporation, Atty. Lydia Geraldez and offered to pay the balance of the purchase price of the land in question but the said Attorney stated that she could do nothing with the Appellants' request; that upon verification from the Office of the Register of Deed of Quezon City, Appellant Constantino Acosta found out that the lot in question had been already sold by Defendant-Appellee St. Dominic Corporation to one Angel N. Panajon, on August 24, 1981, barely two months before the decision of the Court of Appeals in this case was promulgated on October 23, 1981, and a corresponding Transfer Certificate of Title No. 280087 dated August 24, 1981 had already been issued in favor of this second buyer Angel N. Panajon, upon payment by the latter to the Corporation the sum of P18,480.00; that TCT No. 125104 previously registered in the name of St. Dominic Corporation, covering the subject lot had been, therefore cancelled; that upon ocular inspection of the lot in question, Appellant Constantino Acosta saw, for the first time, a newly erected residential house that had been erected therein.

Appellant Acostas therefore prayed that the Court of Appeals, in the light of the matters above mentioned, reconsider said portions of its decision."

The petitioner corporation, on the other hand, also sought reconsideration of the appellate court's decision'

Both the motions of the petitioner and the private respondents were denied. On March 11, 1982, the petitioner filed a second motion for reconsideration. At the same time, it moved that a conference with the private respondents be held in the hope of arriving at a happy resolution of the case. The petitioner expressed its desire to give as a replacement for the lot in question, another lot in the same subdivision for the benefit of the respondents because it had already sold the disputed lot in the ordinary course of business to a third person prior to the

decision of the Court of Appeals.

On May 6, 1982, the appellate court denied the petitioner's motion but granted its request to have a conference with the private respondents. The court set the same on May 28, 1982. The Appellate Court, however, emphasized the fact that such conference would not prejudice the finality of the decision of the main case.

The scheduled conference was postponed and reset thrice by the Intermediate Appellate Court. On August 26, 1982, after the last conference when the negotiations finally bogged down, the private respondent's secured a copy of the entry of judgment of the appealed decision. On August 30, 1982, the respondents filed a motion for execution of judgment with Branch VII of the Court of First Instance of Manila and on September 15, 1982 they filed their first motion for consignation with the same court, depositing with the Clerk of Court the amount of P27,800.17 which was the balance of the purchase price of the questioned lot.

It was ascertained later that the first motion for consignation was not in the records and could not be found. Thus, the Clerk of Court directed the respondents to immediately file another motion for consignation which the latter did on October 25, 1982. This was furnished the petitioner but receipt was not acknowledged.

On October 25, 1982, the trial court, granted the respondents' motion for consignation.

The petitioner filed a motion for reconsideration of the order but it was denied. Hence, the petitioner went to the appellate court and raised the following issues:

- the consignation was late under the terms of the October 21, 1981 decision of the Court of Appeals;
- the order dated October 25, 1982 modified the decision of the Court of Appeals;
- the consignation was not made in accordance with law;
- the very "Motion for Consignation" violated elementary rules of procedure and deprived petitioner of its day in court; and
- the implications of consignation are far-reaching.

In dismissing the petition filed by the petitioner, the Intermediate Appellate Court held:

The decision of the Court of Appeals dated October 21, 1981 which was received by Private Respondents Acostas on October 30, 1981, as of that date has yet no binding effect, there being no entry yet of the said judgment. Thus it has been held:

"In a case decided by the court on appeal, the true judgment of legal effect is that entered by the clerk of said court pursuant to the dispositive part of its decision, and from the date of said judgment entered by the clerk the period of five years mentioned in Section 443 of the Code of Civil Procedure must be computed, within which execution can be issued the judgment. "(Gutierrez Hermanos vs. De la Riva, 46 Phil. 827, underlining supplied)

Indeed, Petitioner Corporation, through its counsel, knew all along that said decision Of the Court of Appeals on October 30, 1981 or even for a period thereafter, cannot be deemed final or executory. Petitioner corporation filed its Motion for Reconsideration of the stated decision on November 19, 1981. This was denied by the Court of Appeals for lack of merit on February 19, 1982.

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When Petitioner filed a Petition in the Court of Appeals for a conference to work out a happy resolution of the case, which conference was set on May 6, 1982, the Court of Appeals reset the same to May 28, 1982. This conference appears to have been postponed by the Appellate Court and was thereafter reset for three times.

When the negotiations of the parties bogged down on the last day of the conference, then on the following day or on August 26, 1982, Atty. Constantino Acosta, one of the herein Private Respondents, was able to receive the Entry of Judgment of the Decision of said Appellate Court, indicating therein August 26, 1982 as the date of the Entry of Judgment. The 60-day period for these Spouses to pay the amounts stated in said decision should begin from August 26, 1982.x x x."

As regards the validity of the respondents' consignation, the appellate court held that "the amount they (respondents) are bound to pay under the Judgment to Petitioner Corporation is not the same as the tender of payment of a contractual debt and consignation of the money due from a debtor to a creditor. Thus, the requirements of previous and later notices, as provided in the Civil Code do not apply (Articles 1257 and 1258).

The following issues are raised in the instant petition:

I

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT THE SIXTY (60) DAY PERIOD WITHIN WHICH THE ACOSTAS OUGHT TO PAY THE PETITIONER AS DECREED BY THE COURT OF APPEALS SHOULD BE RECKONED WITH FROM THE ENTRY OF JUDGMENT.

II

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT "THE MANNER THE CONSIGNATION WAS EFFECTED WAS OF NO MOMENT INASMUCH AS THERE WAS ALREADY BEFORE RESPONDENT JUDGE AMANTE P. PURISIMA THE ENTRY OF JUDGMENT OF THE COURT OF APPEALS AND THIS JUDGMENT BEING ALREADY ENTERED, HAS TO BE IMPLEMENTED, IT WAS NO MORE THAN THE MINISTERIAL DUTY OF RESPONDENT JUDGE AMANTE P. PURISIMA TO ORDER ITS EXECUTION. THE PENDING INCIDENTS IN HIS COURT NO LONGER ASSUMED RELEVANT IMPORTANCE.

III

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT "THE OTHER CHALLENGES TO THE CONSIGNATION ON THE SUPPOSED DEFECTS OF THE STEPS TAKEN IN CONNECTION THEREWITH, ARE WITHOUT MERIT.

IV

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT FINDING THAT IT IS LEGALLY IMPOSSIBLE FOR THE PETITIONER, WITHOUT ITS FAULT, TO TRANSFER TO THE ACOSTAS THE TITLE TO LAND IN QUESTION, IT HAVING BEEN TRANSFERRED TO A THIRD PARTY.

The merit of the above assigned errors are all anchored on the first issue of whether or not the respondents made a timely consignation as ordered by the Court of Appeals of the remaining balance of the purchase price for the disputed lot.

It is contended by the petitioner that the 60-day period given by the Court of Appeals should be reckoned from the receipt of the decision and not from the date of entry of the judgment as found by the Intermediate Appellate Court. Petitioner further maintains that even if the 60-day period is to be reckoned from the finality of the decision, still the consignation by the respondents was made out of time.

There is merit in the above contentions.

First of all, the decision of the then Court of Appeals which was promulgated on October 21, 1981, is quite clear when it ordered the payment of the balance of the purchase price for the disputed lot within 60 days "from receipt hereof," meaning from the receipt of the decision by the respondents. It is an admitted fact that the respondents received a copy of the decision on October 30, 1981. Hence, they had up to December 29, 1981 to make the

payment. Upon refusal by the petitioner to receive such payment, the proper procedure was for the respondent to consign the same with the court also within the 60-day period or within a reasonable time thereafter. The fact that efforts were made by the petitioner to reach an agreement with the respondents after the promulgation of the decision did not in anyway affect the finality of the judgment. This was clearly emphasized in the order of the appellate court on May 6, 1982.

Secondly, even if we reckon the 60-day period from the date of the finality of the decision as interpreted by the appellate court, such finality should be counted from March 5, 1982, which was the date the decision became final as indicated in the entry of judgment and not from August 26, 1982 which is the date the entry was made. The date of a finality of a decision is entirely distinct from the date of its entry and the delay in the latter does not affect the effectivity of the former as such is counted from the expiration of the period to appeal. We made this clear in the case of *Pfleider v. Victoriano* (98 SCRA 497) wherein we ruled:

Clearly, the fifteen day period within which to appeal to this Court a judgment of the Court of Appeals commences either from notice of said judgment or from notice of the denial of a motion for reconsideration provided that said motion for reconsideration has been "filed in due time". The reason is obvious. After the lapse of fifteen (15) days from notice of judgement, the same becomes final and the Court of Appeals loses jurisdiction over the case. And the subsequent filing of a motion for reconsideration cannot disturb the finality of the judgment nor restore jurisdiction which had already been lost.

Furthermore, as also argued by the petitioner, it is now too late and legally impossible to enforce the original contract between the parties by allowing the consignment of the balance of the purchase price and thereafter, ordering the transfer to the private respondents of the title of the lot in question. The disputed lot is now in the hands of an innocent third person who has secured for himself a title. In the case of *Heirs of Mariano v. Tajonera v. Court of Appeals* (103 SCRA 473-474) we have ruled that:

"Section 39 of the Land Registration Act, as amended, is explicit that 'every person receiving a certificate of title in pursuance of a decree of registration, and every subsequent purchaser of registered land who takes certificate of title for value in good faith shall hold the same free of all encumbrance except those noted on said certificate, x x x.'"

It has been held:

"Every person dealing with registered land may safely rely on the correctness of the certificate of title issued there for and the law will in no way oblige him to go behind the certificate to determine the condition of the property."

Thus, in order that a purchaser may be considered a purchaser in good faith, it is enough that he examine the latest certificate of title. (Citing *Tiongco v. de la Merced*, L-24426, July 25, 1974).

The purchaser Angel M. Panajon is an innocent purchaser for value of the lot in question. Not only did he pay a valuable consideration for a subdivision lot in the amount of P18,480.00 but the records do not show anything which might have put him in a position to be aware of the impending dispute over the same.

The respondents did not have a notice of *lis pendens* annotated on the title of the property during the whole time that said property was in litigation. A notice of *lis pendens* is an announcement to the whole world that a particular piece of real property is in litigation and serves as a warning that one who acquires an interest over said property does so on his own risk or that he gambles on the result of the litigation over said property. (See *Constantino v. Espiritu*, 45 SCRA 563).

Since the private respondents failed to file such notice, the subsequent purchaser for value cannot be prejudiced

by the outcome of the litigation and in the absence of proof of any fraud on his part, such purchaser is presumed to have acquired his title in good faith and for a valuable consideration. The rule is elementary that fraud is not presumed. (See *De Roda v. Lalk and Michael & Co.*, 48 Phil. 107). The Court reiterated this rule in the case of *Dia v. Finance & Mining Investment Corp.* (83 Phil. 677) when it stated:

"But as innocent purchasers for value (Dr. Valencia, Valentin Manguerra, Ramon Bartolazo and Constanca Coronel) have come in, the contention of Generosa loses its point. Said purchasers are entitled to the benefit and protection afforded by the Torrens System. Article 1308 of the Civil Code providing for the mutual return by the contracting parties of what they respectively received under the contract, has reference to the immediate participants in the contract, but certainly not to an innocent third party. It is true that a notice of *lis pendens* was presented by Soledad Gonzales Vda. de Carteciano, but this took place after the sale to Dr. Valencia and it was not one presented by Generosa A. Dia."

However, the same rule cannot apply to the petitioner. The petitioner may have sold the lot to Angel M. Panajon in the "ordinary course of business" of a subdivision owner offering various lots for sale to customers who visit its offices. But it should have been more careful as regards this particular lot because it was in litigation. The fact that the Court of First Instance ordered the contract between the parties cancelled and declared the petitioner as owner was of little moment. The case was on appeal. As it later turned out, the Court of Appeals reversed the lower court.

The private respondents are entitled to damages. Since the respondents themselves are also responsible for the situation in which the parties now find themselves the damages are necessarily mitigated.

We take note of the following considerations:

- 1) The sales price of the lot was P15,400.00. The respondents made a downpayment of P4,000.00. On the P150.75 monthly installments, the respondents had paid a total of P1,356.75 when they were given notice that they had not paid six (6) months installments and were behind by P904.50. They were given until June 15, 1968 to either pay the arrears or have the contract cancelled. On July 29, 1968, the respondents were informed that the contract had been cancelled exactly one month after final notice.
- 2) The petitioner's corporate secretary, however, later acceded to the pleas of the private respondents and accepted P600.00 in money orders. Subsequently, the private respondents again failed to pay arrearages in the amount of P1,206.00 corresponding to eight months installments or P1,206.00. They were again given the option to either pay or have the contract cancelled.
- 3) In spite of the notice, the corporation allowed the private respondents to pay P452.25. Eventually, the petitioner sent the April 16, 1969 letter informing the respondents of the cancellation of the contract which led to the filing of the complaint for specific performance.

The records do not bear out the private respondents' contention that the petitioner acted with greed, opportunism, and bad faith. The petitioner may have been un-pardonably reckless in selling a subdivision lot under litigation but it tried its best to remedy the situation and offered all kinds of reasonable alternatives.

As mentioned by the petitioner:

- 1) When they (respondents) failed to pay the monthly installments, they were notified by numerous letters and telegrams. They ignored these notices.
- 2) Grace periods were accorded to them. They did not take advantage of them.
- 3) Petitioner exercised its right to consider the sale agreement automatically cancelled and rescinded pursuant to paragraph 7 of the "Land Purchase Agreement," Annex of the petition.

4) Private respondents finally awoke from their deep slumber and Offered to pay a part of the defaulted payments.

5) Naturally, petitioner refused.

6) Realizing the difficulty being encountered by private respondents in paying installments for two lots, petitioner suggested that they give up one lot; continue paying for only one and petitioner offered to credit all payments already made for the two lots as payment for the remaining lot.

7) In other words, even after the automatic cancellation and rescission of the sale agreement, petitioner still tried to save the payments made by the private respondents which, by the way, amounted to P6,458.25.

8) The suggestion was spurned.

9) Instead of exploiting petitioner's willingness to compromise, Atty. Constantino B. Acosta (private respondent), instituted Civil Case No. 82570 before the Court of First Instance of Manila to compel petitioner to accept the defaulted payments.

10) The Court of First Instance of Manila rendered judgement adverse to the Acostas, the dispositive part being reproduced under par. II of the petition.

11) The Acostas appealed to the Court of Appeals which set aside the judgment of the Court of First Instance of Manila, the dispositive part of the decision being likewise reproduced under par. 12 of the petition.

12) In the Court of Appeals, even after the judgment had become final, conferences were had at the instance of the petitioner to bring about a happy solution to the case.

13) Thus, petitioner offered to return the entire amount paid to it by the Acostas, with interest. This was refused.

14) Petitioner offered to give them another lot of their choice in another subdivision owned by petitioner Quezon City without their having to pay a centavo more than what they already paid. This was also refused. They even refused persistent requests for them to view the lot being offered.

15) The Acostas insisted, as they still insist, upon the lot they originally purchased — something which is now legally impossible to do because the land is already titled and in the possession of a third party who has built a house of strong materials in it.

Moreover, the private respondents were given by the Court of Appeals only until December 29, 1981 to pay the remaining balance of unpaid installments. Actual consignment was made on October 25, 1982 or almost ten (10) months late.

Considering all the foregoing, law and equity dictate that the innocent third party who has the title to the land and who has built a residence on it should be respected and protected in his possession and ownership. The petitioner should, however, pay damages to the private respondents after returning all amounts it has received from them.

WHEREFORE, the decision appealed from is SET ASIDE and a new one entered declaring the contract executed by and between petitioner and private respondents entitled "Land Purchase Agreement" rescinded, The petitioner is hereby ordered to pay the private respondents all amounts received from the latter in payment of the disputed lot, with interest at the legal rate from April, 1968 and to pay moral and exemplary damages in the amount of P6,000.00.

SO ORDERED.

Melencio-Herrera, Plana, Relova, and Patajo, JJ., concur.

Teehankee, (Chairman), J., in the result.

De la Fuente, J., no part.

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