

TOMAS TRINIDAD, PETITIONER, VS. THE COURT OF APPEALS, RESPONDENT.

G.R. No. 75579. September 30, 1991

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking the reversal of 1) the decision[*] dated February 14, 1986 of the then Intermediate Appellate Court (now Court of Appeals) in AC-G.R. No. 01483 entitled: "People of the Philippines v. Atty. Tomas Trinidad," affirming the decision of the Regional Trial Court of Manila dated January 5, 1984, which convicted herein petitioner of violation of Section 25 in relation to Section 39 of PD 957 sentencing him to pay a fine of P20,000.00 and to suffer the accessory penalties provided by law and to pay the costs, and 2) the resolution of said appellate court dated May 9, 1986, denying the motion for reconsideration of herein petitioner.

In an information that was filed in the then Court of First Instance of Manila (now Regional Trial Court), herein petitioner, Atty. Tomas Trinidad, was charged with violation of PD 957 for non-delivery of title allegedly committed in this manner:

"That on or about February 20, 1978 and continuously up to the present, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused, being the administrator of the estate of the late NICOLAI DREPIN, President and General Manager of the Mother Earth Realty Development Corporation, owner-developer of the Munting Baguio Village Subdivision, located at Antipolo, Rizal, and having knowledge of the sale of Lot No. 19, Block No. 51 of the said Subdivision to FRANCISCA T. DIMABUYO for the purchase price of P14,000.00, did then and there wilfully, unlawfully and feloniously fail to deliver the title of said subdivision lot to the said lot buyer upon full payment thereof in violation of the aforementioned P.D. No. 957." (Rollo, p. 25)

After the accused had been arraigned, pleading not guilty, the prosecution presented only one witness namely Francisca T. Dimabuyu, who is 49 years old, married, public school teacher, residing at 311 Poblacion, Mabalacat, Pampanga. In her direct and cross examination she testified to the following: that she filed a case against the accused Tomas Trinidad with the Task Force of the Ministry (now Department) of Justice for Violation of P.D. No. 957 for non-delivery of title and she executed an affidavit in support of her complaint before the Task Force of the Ministry (now Department) of Justice. She identified the Affidavit, Exhibit A in her complaint. She filed this complaint against Tomas Trinidad for the non-issuance of title wherein there was a contract executed by her with the Mother Earth Realty Development Corporation, and that the accused Tomas Trinidad was the administrator of the estate of the late Nicolai Drepin. She identified the contract executed by her presented and marked as Exhibit B and the total price of the lot bought by her was FOUR THOUSAND PESOS (P4,000.00). She was paying Thirty Eight Pesos and Sixty Eight Centavos (P38.68) monthly until she made the full payment. She was given receipts and entered in her booklet presented and marked as Exhibit C. She was able to pay SEVEN THOUSAND (P7,000.00) PESOS including amortization, and this lot which she bought is located

at Antipolo, Rizal. She had visited the place before she bought the same. She identified Exhibit D, which is the certification of the secretary of the accused. She has also receipts to prove her payments to the Mother Earth Realty Development Corporation, of which the accused is the President and General Manager and owner developer of the Munting Baguio Village Subdivision located at Antipolo, Rizal. She identified these receipts of payment paid by her, Exhibits E, E-1 to E-3 inclusive. She also identified a passbook wherein the payments made by her were posted by the employee of the said corporation, Exhibits F to F-1. She further stated that she never met the accused in his office. She called him by phone and he promised her to deliver the title after she had made the full payment. She waited for several months but no title was issued to her. She dropped in the office of the accused and she never saw him there, only a clerk told her that he is busy. Two months after she paid the last payment she made inquiries of her title. She was able to talk with the accused in 1978, and the accused told her that she should be patient for her title would arrive. She went to the office of the accused for so many, many times and inquired about her title and the office of the accused is situated at Escolta, Regina Building, Manila. She was able to talk with the accused two times using the telephone in his office and the accused told her that she must not worry for her title would be forthcoming. Her son was able to talk with the accused but the accused told her son that her title was coming. She went to the National Housing Authority and inquired if the corporation of the accused is fake. Atty. Lagunsag of the National Housing Authority set a hearing between her and the accused but the accused did not appear. She received the notification (marked as Exhibit G) from the National Housing Authority about the hearing. The hearing was about the title she was claiming from the accused. A hearing was also held at the Ministry (now Department) of Justice on March 7, 1981 but the accused did not appear. The Ministry (now Department) of Justice handled the case to help her and it was Fiscal Rodrigo Cosico, State Prosecutor of the Ministry (now Department) of Justice who handled the case. There was a resolution of the Ministry (now Department) of Justice in her favor, marked and presented as Exhibit H and H-1. She did not approach any lawyer for she could not afford to pay a lawyer. Whenever she comes to Manila to claim her title and confront Tomas Trinidad she used to spend FIFTY PESOS (P50.00) per day. She felt frustrated and was mad with the accused.

In the cross-examination of this witness she said she had been teaching Grade IV at Pampanga for 20 years then. She admitted that she is a signatory to the contract, Exhibit B. She admitted that she did not pay the real estate taxes of this land. She admitted that she did not go to the Probate Court.

In the re-direct, she said that she has not paid the taxes because she was not notified about the demand of payment. She paid the installment as evidenced by receipts Exhibits E, E-1 to E-30 of Lots Nos. 19 and 51 of said subdivision managed by the accused. She said that the accused was the administrator of the land wherein the portion was bought by her.

After the testimony of the complainant Francisca Dimabuyu, the prosecution rested its case and offered Exhibits A, B, C, D, E, E-1 to E-30, inclusive, F, F-1 to F-5, inclusive, and H, and H-1, which were all admitted by the court. (Ibid., pp. 27-29).

On the other hand, herein petitioner, in his direct testimony and cross, testified to the fact that in the Intestate Proceedings of the estate of the late Nicolai Drepin, he became the Judicial Administrator appointed in the year 1976, and he presented his appointment and marked as Exhibit 3. He testified that he took hold of the property of the deceased including the Mother Earth Realty Development Corporation, and also the unregistered property situated at Antipolo, Rizal. The whole lot is titled in the name of testator. He admitted that he is the administrator of the Mother Earth Realty Development Corporation, and that said corporation has lots for sale. He continued to receive payments of lots for sale in installment. In 1978 the National Housing Authority stopped the sale of lots, and his corporation was told to stop operating the property now the place being under control of the Ministry of

Human Settlements. According to him the complainant (Ms. Francisca T. Dimabuyu) had not complied with all the requirements for the complainant had not paid the taxes. He asked the Probate Court as administrator to allow him to execute a Deed of Sale to his lot buyers and he was allowed in November 1982, the authority was presented and marked as Exhibit 5. The Mother Earth Realty Development Corporation, according to him, is not in business now, and he is not the administrator. He was appointed by the Court as administrator in place of Atty. Guico, and he has letters of administration presented and marked as Exhibit 3. His duties as administrator are with the full authority to take possession of all properties of the deceased.

In the cross examination of this witness he admitted that he was not able to deliver any title to the complainant for according to him the complainant had not actually paid all her obligations because there is no adjustment considering the value of the peso which has declined these days. The complainant has not even paid the taxes of the land so that the contract has not been duly complied with.

On January 5, 1984, the Regional Trial Court of Manila rendered judgment, the dispositive portion of which reads:

"WHEREFORE, IN VIEW OF THE FOREGOING CONSIDERATION, the guilt of the accused having been proven beyond reasonable doubt for violation of Sec. 25 in relation to Section 39 of P.D. 957 hereby sentences him to pay a fine of TWENTY THOUSAND PESOS (P20,000.) and to suffer the accessory penalties provided by law and to pay the costs." (Ibid., p. 62)

Not satisfied with the foregoing decision, herein petitioner elevated the case to the then Intermediate Appellate Court, which rendered judgment, the dispositive portion of which reads:

"WHEREFORE, the decision appealed from is AFFIRMED in toto with costs against accused-appellant." (Ibid., p. 34)

The motion for reconsideration having been denied (Ibid., p. 39), herein petitioner filed the instant petition, raising the following issues:

I

IT IS AN ABUSE OF JUDICIAL DISCRETION AMOUNTING TO LACK OF JURISDICTION TO EXPAND THE TERM IN A PENAL PROVISION OF PD 957 TO INCLUDE THAT WHICH IS NOT SPECIFICALLY PROVIDED FOR THEREIN. (Ibid., p. 10)

II

THE CONCLUSION OF THE I.A.C. THAT THE ADMINISTRATOR OF THE MOTHER REALTY DEV. CORP. (sic) FINDS NO SANCTION IN REASON AND LOGIC AND A GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION. (Ibid., p. 13)

III

IT IS A SERIOUS ERROR OF THE I.A.C. NOT TO COUNTENANCE THE SPECIFIC PROVISION OF LAW ON THE EXCLUSIVE JURISDICTION OF THE PROBATE COURT IN REFERENCE TO THE SETTLEMENT OF THE ESTATE OF A DECEDENT OF WHICH A DELIVERY OF TITLE TO A LOT IS ONE SUCH. (Ibid., p. 15)

IV

ENFORCING PD 957 TO RETROACT TO A CONTRACT LONG BEFORE ESTABLISHED VALID AND LEGAL THEN, VIOLATES THE BILL OF RIGHTS IN THE 1973 CONSTITUTION, HENCE IT IS REVERSIBLE ERROR. (Ibid., p. 17)

V

YOUR PETITIONER, JUDICIAL ADMINISTRATOR OF THE ESTATE OF NICOLAI DREPIN IS CAUGHT IN THE HORNS OF A DILEMMA AND A NO WIN POSITION AT THAT. (Ibid., p. 18)

Under the first two assigned errors, herein petitioner assails the judgment of the respondent appellate court for having expanded the term in a penal provision of PD 957, i.e., Section 39, to include that which is not specifically provided for therein. Moreover, he assails respondent appellate court's finding that he is also the administrator of Mother Earth Realty Development Corporation as non-sequitur.

The contentions are without merit.

Sections 25 and 39 of Presidential Decree 957 provide, thus:

"Sec. 25. Issuance of Title. — The owner or developer shall deliver the title of the lot or unit to the buyer upon full payment of the lot or unit. No fee, except those required for the registration of the deed of sale in the Registry of Deeds, shall be collected for the issuance of such title. In the event a mortgage over the lot or unit is outstanding at the time of the issuance of the title to the buyer, the owner or developer shall redeem the mortgage or the corresponding portion thereof within six months from such issuance in order that the title over fully paid lot or unit may be secured and delivered to the buyer in accordance herewith."

"Sec. 39. Penalties. — Any person who shall violate any of the provision of this decree and/or any rule or regulation that may be issued pursuant to this Decree shall upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: Provided, that in the case of corporations, partnerships, cooperatives, or associations, the President, Manager or Administrator or the person who has charge with the administration of the business shall be criminally responsible for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto."

From the foregoing, it is clear that any person who violates Section 25 thereof by non-delivery of the title upon full payment of the lot or in case of a corporation, partnership, cooperative, or association, the president, manager or administrator or the person who has charge of the administration of the business shall be criminally responsible.

In the case at bar, Mother Earth Realty Development Corporation is the developer of the property in question which belongs to the deceased, Nicolai Drepin. As administrator of the estate of the said decedent, herein petitioner took over the administration of all the properties of said deceased including the property in question. Thus undeniably he is also the administrator of the Mother Earth Realty Development Corporation which is handling the development and disposition of said property. This is demonstrated by the fact that when said corporation was sued by Ms. Dimabuyu before the National Housing Authority (NHA) for non-issuance of title, herein petitioner appeared as the administrator of said corporation and appealed to the Minister (now Secretary) of Justice from the resolution of the Task Force Division of said Ministry (now Department) in the same capacity. In his appeal he did not deny that he is the administrator of the said corporation and property in behalf of the deceased. What he claims is that the title was not issued due to the failure of the proper government agency to approve the technical description of the lot preparatory to the issuance of the corresponding torrens title and that PD 957 cannot be given retroactive effect to apply to contracts entered into ten years before its passage. Again, in his letter of December 7, 1982 to Ms. Dimabuyu delineating the procedure to secure the title of ownership of the property in question, herein petitioner signed as administrator not only of the testate estate of Nicolai Drepin but also of the Mother Earth Realty Development Corporation. (Ibid., pp. 31-32)

Under the third assigned error, herein petitioner contends that the trial court and the respondent appellate court had exceeded their jurisdiction by totally disregarding the law and penalizing an act when the law shows the

manner of performing the same.

The contention is without merit.

Section 41 of Presidential Decree 957 provides, thus:

"Section 41. Other Remedies. — The rights and remedies provided in this Decree shall be in addition to any and all other rights and remedies that may be available under existing laws."

From the foregoing, it is apparent that whatever rights or remedies accruing to a lot buyer, Ms. Dimabuyu in this case, under other laws do not foreclose the application of PD 957.

In the case at bar, it is uncontroverted that Ms. Dimabuyu has fully paid in monthly installments the agreed purchase price for the lot. Notwithstanding full payment, herein petitioner has failed and refused to deliver to Ms. Dimabuyu the certificate of title corresponding to the lot despite numerous demands.

Under the fourth assigned error, herein petitioner maintains that PD 957 impairs the obligations of the vendee (Ms. Dimabuyu) in the contract to sell and that it is an ex post facto law as the provision thereof provides retroactive effect.

The contention is likewise without merit.

Quoting the Solicitor General, the respondent appellate court aptly rebutted this argument, thus:

"Under P.D. 957, after the complainant had fully paid for the lot in question, appellant (herein petitioner) as administrator of the Mother Earth Realty Development Corporation, was legally bound to cause the issuance of the corresponding transfer certificate of title in the name of the buyer. The failure of appellant (herein petitioner) to do so is punishable under the penal provisions of Section 39 of said decree.

Likewise, under P.D. 957, it is not required that the buyer should pay the taxes. The buyer is only required to pay for the registration of the Deed of Sale with the Register of Deeds for the issuance of the title but it does not mention the payment of taxes. With respect to the alleged devaluation of the peso, suffice it to state that at the time the contract was executed, the full price of the lot was already agreed upon by the complainant and the corporation.

Lastly, appellant (herein petitioner) asserts that P.D. 957 is an ex post facto law as the penal provision thereof provides retroactive effect.

P.D. 957 cannot be assailed as an ex post facto law. The act made punishable thereunder is the failure of the owner-developer or administrator to deliver the title of the lot or unit to the buyer upon full payment, not the execution of a deed of sale or contract to sell over such lot or unit before the passage of the law. In the instant case, although the contract to sell was executed long before the enactment of P.D. 957, the failure of appellant (herein petitioner) to deliver the title over the lot upon full payment transpired when the decree was already in effect. Such law is not ex post facto for the simple reason that what is being punished is the failure to deliver such title after the enactment of the Decree on July 12, 1976." (Ibid., pp. 33-34)

We however find that the fifth or last issue to be meritorious and the same deserves Our careful consideration.

In said issue, herein petitioner maintains that to proceed to execute the deed of absolute sale without the go-signal of the Probate Court is to be recreant to his sworn duty as administrator, as well as to render void his actuations done without the permission of the Probate Court.

This contention is correct and is impressed with merit. Inasmuch as the owner-seller of the property was already deceased and there were proceedings in the Probate Court, it was incumbent for the Probate Court to first give authorization to the administrator of the estate to deliver titles of lots which had previously been sold. The

decedent after all, might be considered the alter ego of the Mother Earth Realty Development Corporation. The private complainant had been duly instructed by the accused herein to file the proper petition or motion with the Probate Court for delivery of said title but said complainant for one reason or another, disregarded said instructions. If at all anybody should be blamed, it should be private complainant herself for her failure to obtain the needed authorization from the court. Indeed, questions of title to any property apparently still belonging to estate of the deceased may be passed upon in the Probate Court, with consent of all the parties, without prejudice to third persons such as the herein private complainant. In fact, third persons may even intervene in the testate or intestate proceedings to protect their interest [See *Cunanan vs. Amparo*, 45 O.G. (No. 9), 3796]. Just as ordinary claimants against the estate of the deceased are duty bound to present a claim before the Probate Court so was private complainant herein required to file her claim for redress in said Probate Court. This is so because in the ascertainment of claims against the estate of the decedent, the Probate Court must weigh the extent of the liability of the estate when compared vis-a-vis its solvency. We uphold petitioner's contention therefore that if he had proceeded to immediately cause the delivery of the title of private complainant herein, he could have been held liable for a blatant disregard of the jurisdiction and functions of the Probate Court. Truly, he was caught between the horns of a dilemma which was not of his own making. We therefore see no criminal intent whatsoever on his part and accordingly the judgment of the appellate court is hereby REVERSED and SET ASIDE, with costs de oficio.

If the probate proceedings referred to in this case are still going on, the proper remedy of the private complainant herein is to file before said Probate Court her claim for the delivery of the title of the lot she has purchased. If on the other hand, said probate proceedings are already closed and terminated, the Mother Earth Realty Development Corporation through its present President or General Manager is hereby ordered to cause the delivery of said title to Ms. Dimabuyu, within the shortest possible time, as soon as all the requirements therefore have been complied with. We are giving this remedy to prevent Ms. Dimabuyu from being prejudiced.

SO ORDERED.

Sarmiento and Regalado, JJ., concur.

Melencio-Herrera, J. (Chairman) , see attached dissent.

Padilla, JJ., see dissenting opinion.

[*] Penned by Associate Justice Emilio A. Gancayco, and concurred in by Associate Justices Lorna S. Lombos de la Fuente and Manuel T. Reyes.

DISSENTING OPINION

MELENCIO-HERRERA, J.:

I join Justice Padilla in his dissent.

It should not be the obligation of the buyer to file before the Probate Court her claim for delivery of the title against the estate of the decedent. That was petitioner's obligation as the administrator not only of the estate of the decedent but also as administrator/manager of the development corporation. Article 1495 of the Civil Code mandates that the vendor is bound to transfer the ownership of and deliver, as well as warrant the thing which is the object of the sale. The vendee has the right to receive, and the vendor the corresponding obligation to transfer to the former, not only the possession and enjoyment of the land but also the certificate of title (*Gabila v. Perez*, G.R. No. 29541, 27 January 1989, 169 SCRA 517).

Moreover, petitioner was not devoid of criminal intent in not immediately delivering the certificate of title to the buyer as held by the majority (p. 15, Decision). He had reasons of his own for not delivering. During his cross examination as a defense witness, he testified that the buyer had not actually paid all her obligations when in fact, she had already fully paid, on the pretext that said buyer had not paid taxes and that no adjustments had been made for the devaluation of the peso (p. 7, *ibid.*). The payment of taxes by the buyer, however, is not required by Pres. Decree No. 957; nor was there any contractual provision for price escalation.

DISSENTING OPINION

PADILLA, J.:

I am constrained to dissent.

The majority opinion states:

“x x x. We uphold petitioner’s contention therefore that if he had proceeded to immediately cause the delivery of the title of private complainant herein, he could have been held liable for a blatant disregard of the jurisdiction and functions of the Probate Court. Truly, he was caught between the horns of a dilemma which was not of his own making. We therefore see no criminal intent whatsoever on his part and accordingly the judgment of the appellate court is hereby REVERSED and SET ASIDE, with costs de officio.” (p. 15)

It seems ironical that after private complainant, Francisca T. Dimabuyu a public school teacher who must have invested her life-time savings in the small lot in question, by paying religiously the installments due, in turn, received by the petitioner in his capacity as manager or administrator of the Mother Earth Realty Development Corporation and administrator of the estate of Nicolai Drepin, owner of the subdivision, should still get the blame from this Court for not having asked the probate court to authorize the petitioner to execute the deed of sale in her favor.

We seem to overlook the fact that the gravamen of the offense — a special offense — under P.D. 957 is that the petitioner, as manager of the subdivision developer, accepted the installment payments until the purchase price had been fully paid without being able to deliver the title to the private complainant-buyer.

Besides, if there was any one required or dutybound to seek and obtain the authority of the probate court to execute the deed of sale in favor of private complainant, it was the petitioner and none other. And if, for any reason, he had no authority forthcoming from the probate court to execute the deed of sale, he certainly had no right or business to continue collecting or receiving payments from the private complainant.

I vote, therefore, to affirm the judgment of the Court of Appeals rendered against the petitioner for violating P.D. 957.

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