

**REBECCA C. YOUNG, ASSISTED BY HER HUSBAND ANTONIO GO,
PETITIONER, VS. COURT OF APPEALS, PH CREDIT CORP., PHIL.
HOLDING, INC. FRANCISCO VILLAROMAN, FONG YOOK LU, ELLEN
YEE FONG A...**

G.R. No. 79518. January 13, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seek-ing to set aside the decision of the Court of Appeals[1] in CA-G.R. No. 1002, entitled Spouses Chui Wan and Felisa Tan Yu and Rebecca Young vs. PH Credit Corporation et al., which affirmed the decision of the Regional Trial Court of Manila, Branch XXXII, earlier dis-missing the complaint of petitioners for Annulment of Sale, Specific Performance and Damages, against respondents.

The facts of the case are as follows:

Defendant Philippine Holding, Inc. is the former owner of a piece of land located at Soler St., Sta. Cruz, Manila, and a two storey building erected thereon, consisting of six units; Unit 1350 which is vacant, Unit 1352 occupied by Antonio Young, Unit 1354 by Rebecca C. Young, Unit 1356 by Chui Wan and Felisa Tan Yu, Unit 1358 by Fong Yook Lu and Ellen Yee Fong and Unit 1360 by the Guan Heng Hardware (Rollo, pp. 14-15).

The owner, Philippine Holding, Inc. secured an order from the City Engineer of Manila to demolish the building. Antonio Young, then a tenant of Unit 1352, filed an action to annul the City Engineer's demolition Order (Civil Case No. 123883) entitled Antonio S. Young vs. Philippine Holding, Inc. before the then Court of First Instance of Manila, Branch XXX. As an incident in said case, the parties submit-ted a Compromise Agreement to the Court on September 24, 1981. Paragraph 3 of said agreement provides that plaintiff (Antonio S. Young) and Rebecca Young and all persons claiming rights under them bind themselves to voluntarily and peacefully vacate the pre-mises which they were occupying as lessees (Units 1352 and 1354, respectively) which are the subject of the condemnation and demolition order and to surren-der possession thereof to the defendant Philippine Holding, Inc. within sixty (60) days from written notice, subject to the proviso that should defendant decide to sell the subject property or portion thereof, "plaintiff and Rebecca C. Young have the right of first refusal thereof." (Rollo, p. 49).

On September 17, 1981, Philippine Holding, Inc. had previously sold the above said property described in the compromise agreement by way of dacion in payment to PH Credit Corporation (Rollo, p. 49).

On November 9, 1982, the property was subdivided into two parcels, one 244.09 sq.m. in area covering Units 1350, 1352 and 1354 (TCT No. 152439) and the other 241.71 sq.m. in area covering Units 1356, 1358 and 1360 (TCT No. 152440) and both titles were placed in the name of PH Credit Corporation.

On December 8, 1982, PH Credit Corporation sold the property covered by TCT 152439 to the Blessed Land Development Corporation represented by its President Antonio T.S. Young; and on September 16, 1983, PH

Credit Corporation sold the property covered by TCT 152440 embracing Units 1356, 1358 and 1360 to spouses Fong Yook Lu and Ellen Yee Fong (Rollo, p. 15).

Thereafter, petitioner Rebecca C. Young and her co-plaintiffs, the spouses Chui Wan and Felisa Tan Yu filed in the Regional Trial Court of Manila, Civil Case No. 84-22676 for the annulment of the sale in favor of herein respondent spouses, Fong look Lu and Ellen Yee Fong and for specific performance and damages against the PH Credit Corporation and Philippine Hold-ing, Incorporated.

Plaintiff spouses Chui Wan and Felisa Tan Yu alleged that defendant corporation and Francisco Villaroman, sold the property without affording them (the plaintiffs-spouses) the right of first refusal to purchase that portion of the property which they are renting.

Plaintiff Rebecca C. Young, now petitioner, also claimed the right of first refusal purportedly granted to her under the aforestated proviso of the above-said compromise agreement and prayed that the sale be annulled and that they be allowed to exercise her right of first refusal to purchase subject property (Rollo, p. 50).

The lower court decided in favor of the defendants and against the plaintiffs, thus dismissing the com-plaint together with defendants' counterclaims (Rollo, p. 15).

On the other hand, the claim of Rebecca C. Young was similarly rejected by the trial court on the fol-lowing grounds: (1) that she was not a party in the Civil Case No. 123883, wherein subject compromise agreement was submitted and approved by the trial court apart from the fact that she did not even affix her signature to the said compromise agreement; (2) that Rebecca Young had failed to present any evidence to show that she had demanded from the defendants-owners, observance of her right of first refusal before the said owners sold Units 1356, 1358 and 1360; (3) that even assuming that her supposed right of first refusal is a stipulation for the benefit of a third person, she did not inform the obligor of her accept-ance as required by the second paragraph of Article 1311 of the Civil Code.

Chui Wan and Felisa Tan Yu and Rebecca C. Young, assisted by her husband, appealed to the Court of Appeals which dismissed the same on August 7, 1987, for lack of merit.

Hence this petition, which was brought to this Court only by Rebecca Young, assisted by her husband Antonio Go.

On October 2, 1987, respondents Fong Yook Lu, moved to strike out or dismiss outright the instant petition (Rollo, p. 35). In the resolution of November 4, 1987, the Second Division of this Court required the petitioner to comment on said motion (Rollo, p. 37), which comment was filed on December 17, 1987 (Rollo, p. 38). Thereafter, in the resolution of January 20, 1988, respondents were required to file a reply thereto (Rollo, p. 42) which was filed on January 11, 1988 (Rollo, p. 43). On March 24, 1988, petitioner filed a rejoinder to reply (Rollo, p. 46) in compliance with the resolution of February 29, 1988 (Rollo, p. 45).

In the resolution of May 11, 1988, the petition was given due course and the parties were required to submit simultaneously their respective memoranda (Rollo, p. 47). Respondents filed their memorandum on June 29, 1988 (Rollo, p. 48), while petitioner's memorandum was filed on July 14, 1988 (Rollo, p. 64).

Petitioner raised the following assignments of error:

1.

The lower court erred in holding that Rebecca C. Young cannot enforce the stipulation in her favor in the compromise agreement as she is not party therein.

2.

The lower court erred in holding that even if par. 3 of the compromise agreement is construed as a stipulation pour autrui Rebecca Young cannot enforce it because she did not communicate her acceptance thereof to the obligor. (Rollo, p. 7)

The petition is devoid of merit.

The main issue in this case is whether or not petitioner can enforce a compromise agreement to which she was not a party.

This issue has already been squarely settled by this Court in the negative in *J.M. Tuason & Co., Inc. v. Cadampog* (7 SCRA 808 [1963]) where it was ruled that appellant is not entitled to enforce a compromise agreement to which he was not a party and that as to its effect and scope, it has been determined in the sense that its effectivity if at all, is limited to the parties thereto and those mentioned in the exhibits (*J.M. Tuason & Co., Inc. v. Aguirre*, 7 SCRA 112 [1963]). It was reiterated later that a compromise agreement cannot bind persons who are not parties thereto (*Guerrero v. C.A.*, 29 SCRA 791 [1969]).

The pertinent portion of the Compromise Agreement reads:

"Plaintiff Antonio T.S. Young and the Defendant HOLDING hereby agree to implead in this action as necessary party-plaintiff, plaintiff's daughter Rebecca C. Young who is the recognized lawful lessee of the premises known and identified as 1354 Soler St., Sta. Cruz, Manila and whose written conformity appears hereunder." (Rollo, p. 18)

From the terms of this agreement, the conditions are very clear, such as: (1) that Rebecca C. Young shall be impleaded in the action and (2) that she shall signify her written conformity thereto.

For unknown reasons, the above conditions were not complied with. The parties did not make any move to implead Rebecca as necessary party in the case. Neither did her written conformity appear in said agreement. While there is the printed name of Rebecca C. Young appearing at the end of the joint motion for approval of the Compromise Agreement, she did not affix her signature above her printed name, nor on the left margin of each and every page thereof.

In fact, on cross-examination, she admitted that she was not a party to the case and that she did not sign the aforesaid joint motion because it was not presented to her (Rollo, p. 18).

More than that, by the aforesaid actuations of the parties and petitioner's apparent lack of interest, the intention is evident, not to include the latter either in the onerous, or in the beneficial provisions of said agreement.

Petitioner further argued that the stipulation giving her the right of first refusal is a stipulation pour autrui or a stipulation in favor of a third person under Article 1311 of the Civil Code.

The requisites of a stipulation pour autrui or a stipulation in favor of a third person are the following:

(1) there must be a stipulation in favor of a third person.

(2) the stipulation must be a part, not the whole of the contract.

(3)

the contracting parties must have clearly and deliberately conferred a favor upon a third person, not a mere incidental benefit or interest.

(4)

the third person must have communicated his acceptance to the obligor before its revocation.

(5)

neither of the contracting parties bears the legal representation or authorization of the third party. (Florentino v. Encarnacion, Sr., 79 SCRA 193 [1977]).

Assuming that petitioner is correct in claiming that this is a stipulation pour autrui, it is un rebutted that she did not communicate her acceptance whether expressly or impliedly. She insists, however, that the stipulation has not yet been revoked, so that her present claim or demand is still timely.

As correctly observed by the Court of Appeals, the above argument is pointless, considering that the sale of subject property to some other person or entity constitutes in effect a revocation of the grant of the right of first refusal to Rebecca C. Young.

PREMISES CONSIDERED, the petition is DENIED for lack of merit, and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Melemcio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

[1] Penned by CA Justices Lorna S. Lombos-De la Fuente (ponente), Ricardo J. Francisco and Alfredo L. Benipayo.

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