

MARIA P. VDA. DE JOMOC, ET AL., PETITIONERS, VS. THE COURT OF APPEALS, REGIONAL TRIAL COURT OF MISAMIS ORIENTAL, 10TH JUDICIAL REGION, BR. 25, RESPONDENTS.

G.R. No. 92871. August 02, 1991

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

The main issue raised in these consolidated petitions is whether or not private respondent Maura So abandoned or backed out from the agreement for the purchase of a lot belonging to the heirs of Pantaleon Jomoc, so that the subsequent sale to petitioner spouses Lim is null and void.

The subject lot in Cagayan de Oro City forms part of the estate of the late Pantaleon Jomoc. Because it was fictitiously sold and transferred to third persons, petitioner Maria P. Vda. Jomoc, as administratrix of the estate and in behalf of all the heirs, filed suit to recover the property before the trial court of Misamis Oriental in Civil Case No. 4750. Mariano So, the last of the transferees and the husband of Maria So, intervened. The case was decided in favor of Jomoc and was accordingly appealed by Mariano So and one Gaw Sur Cheng to the Court of Appeals. In February 1979, pending the appeal, Jomoc executed a Deed of Extrajudicial Settlement and Sale of Land (Exhibit "A") with private respondent for P300,000.00. The document was not yet signed by all the parties nor notarized but in the meantime, Maura So had made partial payments amounting to P49,000.00.

In 1983, Mariano So, the appellant in the recovery proceeding, agreed to settle the case by executing a Deed of Reconveyance of the land in favor of the heirs of Pantaleon Jomoc. The reconveyance was in compliance with the decision in the recovery case and resulted in the dismissal of his appeal. On February 28, 1983, the heirs of Jomoc executed another extra-judicial settlement with absolute sale in favor of intervenors Lim Leong Kang and Lim Pue King. Later, Maura So demanded from the Jomoc family the execution of a final deed of conveyance. They ignored the demand.

Thus, private respondent Maria So sued petitioners-heirs for specific performance to compel them to execute and deliver the proper registrable deed of sale over the lot. The case was docketed as Civil Case No. 8983. So then filed a notice of lis pendens with the Register of Deeds on February 28, 1983. It was on the same date, February 28, 1983, allegedly upon the Jomocs' belief that Maura So had backed out from the transaction, that the Jomocs executed the other extrajudicial settlement with sale of registered land in favor of the spouses Lim for a consideration of P200,000.00 part of which amount was allegedly intended to be returned to Maura So as reimbursement. The spouses Lim, however, registered their settlement and sale only on April 27, 1983.

The Jomocs as defendants, and the spouses Lim as intervenors alleged that complainant Maura So backed out as evidenced by an oral testimony that she did so in a conference with the Jomocs' lawyers where she expressed frustration in evicting squatters who demanded large sums as a condition for vacating. They alleged the lack of signatures of four of the heirs of Jomoc and Maura So herself as well as the lack of notarization.

The lower court, finding that there was no sufficient evidence to show complainant-respondents' withdrawal from

the sale, concluded that: (1) the case is one of double sale; (2) the spouses-intervenors are registrants in bad faith who registered their questioned deed of sale long after the notice of lis pendens of Civil Case No. 8983 was recorded.

On appeal, the trial court decision was affirmed except for the award of moral and exemplary damages and attorney's fees and expenses for litigation. Hence, these petitions.

The petitioners' allegation that the contract of sale by Maria P. Jomoc with private respondent is unenforceable under the Statute of Frauds, is without merit. The petitioners-heirs, in their brief before the appellate court, admitted that the extrajudicial settlement with sale in favor of Maura So is valid and enforceable under the Statute of Frauds.

Of importance to the Court is the fact that the petitioners do not deny the existence of Exhibit "A", including its terms and contents, notwithstanding the incompleteness in form. The meeting of the minds and the delivery of sums as partial payment is clear and this is admitted by both parties to the agreement. Hence, there was already a valid and existing contract, not merely perfected as the trial court saw it, but partly executed. It is of no moment whether or not it is enforceable under the Statute of Frauds, which rule we do not find to be applicable because of partial payment of the vendee's obligation and its acceptance by the vendors-heirs. The contract of sale of real property even if not complete in form, so long as the essential requisites of consent of the contracting parties, object, and cause of the obligation concur and they were clearly established to be present, is valid and effective as between the parties. Under Article 1357 of the Civil Code, its enforceability is recognized as each contracting party is granted the right to compel the other to execute the proper public instrument so that the valid contract of sale of registered land can be duly registered and can bind third persons. The complainant-respondent correctly exercised such right simultaneously with a prayer for the enforcement of the contract in one complaint.

The Court finds no cogent reason to reverse the factual finding of the Regional Trial Court and the Court of Appeals that private respondent did not subsequently abandon her intention of purchasing the subject lot.

The facts reveal an agreement between the contracting parties to Exhibit "A" to the effect that "the consideration of P300,000.00 or whatever balance remains after deducting the advanced payments thereon, shall be paid upon the termination of (Mariano So's) appeal in the case involving the property in question." (G.R. No. 92871, Rollo, p. 123) The finding is supported by substantial evidence. As reasoned by both courts, even if the sums paid by Maura So were allegedly intended to expedite the dismissal of the appeal of Mariano So, such payment only indicates interest in acquiring the subject lot. In addition, the claim by the defendants-petitioners that the payments were for the gathering of the several heirs from far places to sign Exhibit "A" confirms respondent Maura So's continuing interest. The terms of Exhibit "A" and the actual intention of the parties are clear and no reform requiring parole evidence is being sought to elucidate the intention further. The oral evidence offered by defendants-petitioners to show a subsequent refusal to proceed with the sale cannot be considered to reverse the express intention in the contract. Moreover, the two courts below had definite findings on this factual issue and we see no reason to reject and reverse their conclusion.

The petitioners contend that the trial court and the appellate court erred in declaring as void the subsequent deed of extrajudicial settlement with spouses Lim since specific performance and not annulment of contract due to existence of double sale, was the thrust of the complaint. This argument is untenable. The issue of double sale had to be resolved to determine whether or not complainant Maura So was entitled to the reliefs prayed for. There was no hard evidence to show that the vinculum or contractual relation between petitioners-heirs and Maura So had been cut-off. Yet, petitioners-heirs sold the same lot to spouses Lim. The case therefore requires us to discern who has the better right to the property.

Article 1544 of the Civil Code provides:

xxx xxx xxx

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property."

xxx xxx xxx

In view of this provision, the two courts below correctly ruled that the spouses Lim do not have a better right. They purchased the land with full knowledge of a previous sale to private respondent and without requiring from the vendors-heirs any proof of the prior vendee's revocation of her purchase. They should have exercised extra caution in their purchase especially if at the time of the sale, the land was still covered by TCT No. 19648 bearing the name of Mariano So and was not yet registered in the name of petitioners-heirs of Pantaleon Jomoc (Original Records, p. 80), although it had been reconveyed to said heirs. Not having done this, petitioners spouses Lim cannot be said to be buyers in good faith. When they registered the sale on April 27, 1983 after having been charged with notice of lis pendens annotated as early as February 28, 1983 (the same date of their purchase), they did so in bad faith or on the belief that a registration may improve their position being subsequent buyers of the same lot. Under Article 1544, mere registration is not enough to acquire new title. Good faith must concur. (Bergado v. Court of Appeals, 173 SCRA 497 [1989]; Concepcion v. Court of Appeals, G.R. No. 83208, February 6, 1991)

Considering the failure of the petitioners to show that the findings of the two courts below are not supported by substantial evidence or that their conclusions are contrary to law and jurisprudence, we find no reversible error in the questioned decision.

WHEREFORE, the petitions are hereby DISMISSED for lack of merit. The decision of the Court of Appeals dated September 13, 1989 and its resolution dated April 2, 1990 are AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Davide, Jr., concur.

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