

FLORENTINO C. OZAETA, DOING BUSINESS UNDER THE NAME AND STYLE OF 'GLASIK', PETITIONER, VS. THE HONORABLE COURT OF APPEALS, EARN GENERAL MERCHANDISING, INC., AND ANGELA T. CHU, ...

G.R. No. 95226. November 18, 1993

Ponente: NOCON, J.

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NOCON, J.:

Can a third party be legally bound to an agreement in which he did not take part? The answer would seem to be obvious, but the present case had to be brought before us because of the conflicting decisions of the Regional Trial Court[1] and the Court of Appeals.[2] The former says yes on the ground that said third person in the exercise of his rights and in the performance of his duties, failed to act with justice, give everyone his due and observe honesty and good faith as provided for by Article 19 of the Civil Code. But the appellate court thinks otherwise.

The facts, as summarized by the appellate court are as follows:

"Virra Realty and Development Corporation (hereinafter referred to as Virra), a corporation existing and organized under Philippine Laws, obtained from Ortigas and Co., Inc. leasehold rights over Virra Mall, a building located at Greenhills, San Juan Metro Manila.

"On June 30, 1982, Virra, thru it Vice-President and General Manager Eduardo G. Ngan Tian, wrote a letter to Florentino Ozaeta confirming its commitment to the latter for an exclusive right to display and sell glass etchings at Virra Mall Shopping Center (Exhibit 'A').

"On October 8, Ozaeta, who is doing business under the name and style of 'GLASIK,' entered into a 'Contract to Sell Unit and to Assign Leasehold Rights' with VIRRA over Unit No. A-9 (Exhibit 'B'). The provision of the contract pertinent to this controversy reads:

'2. Use of the Unit - The UNIT, as determined by VIRRA with the express consent of ORTIGAS, shall be used only as Etched Glass/Home Decor. In no case shall cars, trucks, motorcycles, motor vehicles, machinery and heavy equipment be sold or displayed from and/or in the UNIT. The BUYER-ASSIGNEE should not alter the use of the UNIT without the prior written consent of ORTIGAS, VIRRA and the Corporation or Association of Owners/Buyers-Assignee of units within the BUILDING, mentioned in Paragraph 11 hereof. Furthermore, it is understood that the use of the UNIT shall be subject to the terms and conditions of the LEASE CONTRACT, to the Articles and By-Laws and the rules and regulations to be promulgated by the aforesaid, Corporation or Association.'

"On October 3, 1983, VIRRA entered into another 'Contract to Sell Unit and to Assign Leasehold Rights' with Earn General Merchandising, Inc. (hereinafter referred to as EARNN) over Unit No. A-12 of the same building (Exhibits 'C' plaintiff; '1' defendant EARNN). This contract provides that 'the UNIT, as determined by VIRRA with the express consent of ORTIGAS, shall be used only as Artworks & Furnishings x x x x.'

"One year after, in its letter dated September 6, 1984, EARRN advised VIRRA that it had decided to change its commercial activity in Unit No. A-12 to glass etching (Exhibit 'D'). Because of its prior commitment to give GLASIK the exclusive right to sell and display glass etching at Virra Mall, VIRRA 'disapproved the request' (Exhibit 'E'). The opposition notwithstanding, EARRN proceeded with the change. It displayed and sold glass etchings in the premises.

"It was later found out that weeks prior to EARRN'S letter of September 6, 1984, Unit A-12 had already been (leased) by EARRN to a certain Angela T. Chu, doing business under the name and style of 'MIRASHL CRYSTALETCH' (Annex 'A', Records, pp. 101-103). Chu had also made use of the leased premises to sell and display glass etchings.

"Alleging that the acts of EARRN and Chu infringed his exclusive right to sell glass etchings at Virra Mall and that he suffered financial losses as a consequence, Ozaeta filed this action for injunction, specific performance and damages with a prayer for writ of preliminary prohibitory and/or mandatory injunction against EARRN and VIRRA. The complaint was later amended on November 27 to implead Angela Chu as additional defendant."[3]

After trial, the Regional Trial Court rendered its judgment ordering Earn and Angela Chu to pay damages to petitioner but dismissed the case and all other claims, counterclaims and crossclaims against Virra. The trial court said that notwithstanding its want of privity to the contract between Ozaeta and Virra, Earn is still bound by the prohibition and restriction embodied in the contract. It stressed that the provision of the contract is "crystal clear," that the owners of the units are limited or restricted to the commercial activity as stated in the agreement; in this case, "Etched Glass/Home Decor" for Glasik and "Artworks & Furnishings" for Earn.[4]

It ignored Earn's argument that it did not violate its contract with Virra as "Artworks and Furnishings" are broad enough to include etched glass or glass etching. Furthermore, the trial court opined that in pursuing the change in its commercial activity despite Virra's objections and its prior knowledge of the exclusivity rights of Glasik, Earn failed to act with justice, and observe honesty and good faith as required in Art. 19 of the New Civil Code.[5]

Reversing the decision of the trial court, the appellate court is of the view that it is immaterial whether the controversial provision of the contract is meant to control or regulate the use of the unit. Instead it construed the phrase "glass etchings or etched glass" as "used for home decoration (and) clearly (coming) under the general concepts of artworks and furnishings." [6] The appellate court further stressed that not only were Earn and Chu not privy to the agreement between Virra and Ozaeta, but that they were not aware of the supposed exclusivity in favor of petitioner to display and sell etched glass. Thus, it concluded that petitioner has no cause of action against them.

Disagreeing with the ruling, petitioner submits that the above findings of the Court of Appeals are not in accord with the evidence and the law.

We do not agree. Much as we sympathize with the cause of petitioner, we do not find any reversible error in the judgment of the appellate court.

Based on the facts presented, we find no cogent reason to deviate from the general rule that contracts take effect only between the parties[7] and cannot be binding upon nor be enforced against one who is not a party to it. Granting that Virra committed itself to give Glasik exclusive rights to display and sell etched glass within Virra Mall, Earn cannot, by any stretch of the imagination, be bound to such a commitment where it has no knowledge of it and of which it was not informed. This was made clear in the testimony of Mr. Eduardo Ngan Tian, to wit:

"Q. And the exclusivity that you mentioned, you are referring to the exclusive contract you had between Virra Realty and the plaintiff Florentino Ozaeta?

"A. Yes sir.

"Q. That was a contract only between Virra Realty and Ozaeta?

"A. Yes sir.

"Q. Nobody was involved in the contract except Virra Realty which you were the representative and the plaintiff Florentino Ozaeta?

x x x

"A. Yes sir.

x x x

"Q. And you did not inform the other occupants and buyers of commercial units with respect to this exclusivity of the contract with the plaintiff?

"A. No, sir." [8]

And even assuming the existence of a restriction on Earrn to engage only on the display and sale of "Artworks and Furnishings" as stated in provision 2 of the contract, we agree with the appellate court that etched glass could fall under the general concepts of artworks and furnishings.

Webster's Dictionary defines "Artworks" as "1a: the making of decorative or artistic objects by hand; b: the decoration of artistic objects so made 2: artistic work produced in quantity." [9] While furnishings, is defined as "1: the act or process of supplying furniture or equipment; 2a: an article or accessory of dress x x x; 3: an object of fixture that tends to increase comfort or utility x x x." [10] Petitioner contends that glass etchings or etched glass "is basically a mirror, only that a design is etched on it; but the primary purpose is not for decoration but as a mirror - a mirror with a particular design." [11]

Which ever way it is argued, however, an etched "mirror" is functional and therefore can be considered as finishing or a decorative artwork, because the making of an etched glass requires craftsmanship and application of artistic skill.

From the foregoing, we find that petitioner has no cause of action against Earrn nor against Angela Chu, who is merely a leasee of Unit A-12. Petitioner should have pursued its case against Virra, which is the real culprit, for not protecting his interest. It is however unfortunate that petitioner did not appeal the dismissal of the complaint against Virra.

WHEREFORE, judgment is hereby rendered DISMISSING the petition for lack of merit and AFFIRMING the decision of the Court of Appeals in toto.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] Civil Case No. Q-43090, Branch 85, Quezon City.

[2] CA-G.R. CV No. 16385, Justice Alfredo L. Benipayo, ponente, Justices Ricardo Pronove, Jr. and Salome A. Montoya, concurring.

[3] Rollo, pp. 32-33.

[4] Original Record, p. 227.

[5] Id, at p. 228.

[6] Rollo, p. 36.

[7] Article 1311, New Civil Code.

[8] TSN, June 26, 1986, pp. 4-5.

[9] Webster's Third New International Dictionary

[10] Id.

[11] Rollo, p. 75.

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