

SOLID HOMES, INC., PETITIONER, VS. HON. COURT OF APPEALS, INVESTCO, INC., ANGELA PEREZ STALEY, AND ANTONIO PEREZ, RESPONDENTS.

G.R. No. 97255. August 12, 1994

Ponente: VITUG, J.

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VITUG, J.:

An action for collection of sums of money, damages and attorney's fees was filed with the Regional Trial Court (Civil Case No. 40615) of Pasig by private respondents Investco, Angela Perez Staley and Antonio Perez Jr. against petitioner Solid Homes, Inc.

Private respondents averred that, on 07 September 1976, they sold, under an agreement entitled "contract to sell and to buy," to Solid Homes six (6) parcels of land in Quezon City and Marikina, with an area of 704,443 sq.m., for a total selling price of P10,211,075.00 payable (in accordance with paragraph 1 thereof), as follows:

"a) P100,000.00, Philippine Currency, as part down payment upon signing and execution of this contract receipt of which in full is hereby acknowledged;

"b) P2,042,215.00, Philippine Currency, as down payment payable on the following dates:

1. July 22, 1977 - P400,000.00
2. October 22, 1977 - 711,107.50
3. January 22, 1978 - 711,107.50

It is hereby agreed that the above down payment included the first down payment of P199,000.00. Should the FIRST PARTY obtain titles to the properties above-described after July 22, 1977, the due dates of the down payment and all subsequent payments on the balance shall be adjusted accordingly.

"c) The balance of P8,188,860.00 shall be payable in ten (10) semi-annual installments for a period of five (5) years and shall earn interest at the rate of twelve (12%) per annum, the first installment to be due on July 22, 1978. The installment due together with the Schedule of Payments attached hereto as Schedule 'A' and made an integral part of this contract (Exh. A).[1]

The second paragraph of Exhibit "A" stipulated that should Solid Homes fail to pay any of the installments on their respective due dates, an interest of one percent (1%) per month on the defaulted amount would be paid for up to two months or pro-rata thereof; thereafter, should the installment due, as well as the interest thereon, still remain unpaid, the entire balance of the purchase price would then become immediately due and demandable. Such due and demandable sum would be payable within thirty (30) days, counted from the expiration of the 2-month period, without further need for judicial action.

Private respondents asserted that Solid Homes violated the terms of the agreement by refusing to pay the balance of P4,800,282.91 and by failing to negotiate a settlement with the tenants and squatters of the property despite its

receipt from Investco of P350,000.00 for that specific purpose.

The trial court rendered judgment on 14 February 1985; the dispositive portion read:

"WHEREFORE, judgment is hereby rendered ordering the defendant to pay the plaintiffs:

"1) The amount of P4,800,282.91 with interest thereof at the rate of one percent per month from February 23, 1981, until fully paid;

"2) The amount of P99,559.00 representing cost of science and transfer taxes which defendant credited to its account with interest at the legal rate from the filing of the complaint;

"3) The amount of P250,000.00 to cover attorney's fees and litigation expenses." [2]

On appeal, the Court of Appeals (CA-G.R. CV No. 13400), modified the trial court's judgment and rendered its own decision, dated 21 January 1991, resolving thusly:

"PREMISES CONSIDERED, the judgment of the trial court is hereby modified by ordering defendant-appellant to pay plaintiff the amount of P4,800,282.91 with interest thereon at the rate of one percent per month from March 22, 1982. The amount of attorney's fees is hereby reduced from P250,000.00 to P50,000.00. The decision is AFFIRMED in all other aspects." [3]

In the instant petition for review, petitioner Solid Homes argues (a) that the Court of Appeals should not have awarded attorney's fees, there being an absence of any special finding of fact to justify such award, and (b) that it erred in declaring due and demandable the entire unpaid balance still owing to private respondents.

The Second Division of this Court required respondents to comment on the petition in its Resolution of 22 April 1991. Meanwhile, Atty. Alejandro Barin withdrew as counsel for respondents Investco, Inc., Angela Perez Staley and Antonio Perez, Jr. [4] We required private respondents to submit the name and address of their new counsel; to this day, no compliance has yet been made. In our resolution, dated 01 December 1993, we required the parties to move in the premises and to advise the Court whether "supervening events may have rendered this case moot and academic." [5]

Petitioner submitted its compliance and manifested thusly:

"In the meantime, on April 15, 1985 before judgment was rendered by the RTC in Civil Case No. 40615 Investco, Inc. (respondent herein) sold the very same parcels of land involved in said case, in favor of Armed Forces of the Philippines Mutual Benefit Association, Inc. (AFPMBAI)

"Solid Homes, Inc. (herein petitioner) filed Civil Case No. Q-46570 RTC Quezon City entitled 'Solid Homes, Inc., plaintiff versus AFPMBAI, Investco, Inc. and the Register of Deeds of Quezon City covering titles registered in Quezon City and Civil Case No. 52999 Solid Homes, Inc., plaintiff versus AFPMBAI, Investco, Inc., and Register of Deeds for Pasig covering titles registered in Pasig, Metro Manila, both for nullification of the said second deed of sale over the same properties involved in the instant case.

"Quezon City RTC Civil Case No. 46570 was decided in favor of plaintiffs, Solid Homes, Inc.; on appeal, the Court of Appeals (CA G.R. No. 22365) reversed the decision; same was elevated to the Supreme Court where it is pending in SC G.R. No. 100437.

"Pasig RTC, Civil Case No. 52999 was decided in favor of plaintiff Solid Homes, Inc.; defendants appealed to the Court of Appeals (CA G.R. No. 27398), which affirmed the RTC Decision; on the main cause of action Petition for Review by this to this Honorable Court is pending under G.R. No. 104769.

"Under the circumstances, herein petitioner, in compliance with the Resolution dated December 1, 1993, hereby manifests that supervening events since the Petition herein was filed has not rendered this case as moot

and academic, considering that the issue involved is the amount to be paid in SOLID HOMES, INC. as balance on the consideration of the original sale by Investco, Inc. to it and the concomitant transfer of titles to the latter upon payment thereof, whereas in G.R. No. 100437 and G.R. No. 104769, the issue is whether the second buyer AFPMBAI had actual or constructive notice of the prior sale by Investco, Inc. to herein Petitioner, Solid Homes, Inc."[6]

As of this late date, the Court has yet to hear from private respondents. Given the premises, and in order to permit this case to be finally resolved and terminated, the required comment on the petition for review should now be, as it is hereby, dispensed with.

Article 2208 of the Civil Code allows attorney's fees to be awarded by a court when its claimant is compelled to litigate with third persons or to incur expenses to protect his interest by reason of an unjustified act or omission of the party from whom it is sought. While judicial discretion is here extant, an award thereof demands, nevertheless, a factual, legal or equitable justification. The matter cannot and should not be left to speculation and conjecture (*Mirasol vs. De la Cruz*, 84 SCRA 337; *Stronghold Insurance Company Inc. vs. Court of Appeals*, 173 SCRA 619).

In the case at bench, the records do not show enough basis for sustaining the award for attorney's fees and to adjudge its payment by petitioner. On the contrary, the appellate court itself has found that petitioner's act of withholding payment could not be said to be all that unjustified. The disagreement of the parties on the demandability of the amount still due and the accrual date of interest has persisted largely because of supervening circumstances and the perceived inexplicitness of the contract itself. The decision of the appellate court, has, in fact, reversed that of the trial court on the imposition of interest from 23 February 1981, thus upholding, which we similarly find to be in order, the position of petitioner that the accrual date should instead start only on 28 March 1982.

Relative to the demandability of the entire unpaid balance, we agree with, and so adopt as our own that of respondent court; viz:

"The amount actually paid on account of the contract to buy and sell (Exh. A or 1) is not an area of controversy in the first cause of action. The sum of P2,042,215.00 corresponding to the downpayment, as well as P4,084,430.00 with respect to the first four semi-annual installments and a portion of the fifth installment, had been received making a total of P6,126,645.00. It is conceded that a balance of P4,800,282.91 is left unpaid. The dispute is with respect to the period when defendant had defaulted and, consequently, when payment of interest shall begin. The plaintiffs claim that said period should start on February 23, 1981; while the defendant contends that the period must be adjusted should the titles be obtained by the plaintiff corporation after July 22, 1977, as provided in Par. 1(b) of the contract to sell and to buy. Considering that titles were actually transferred to Investco, Inc. between March 21 to March 28, 1979, the defendant avers that the original schedule of payment must not be followed and the 5th installment shall only be due on March 22, 1982.

"x x x

"It is undisputed that appellant Solid Homes had made a total payment of P6,126,645.00 leaving a balance of P4,800,282.91, which refers to the 6th to the 10th installments. Of the 5th installment due on July 22, 1980, the following payments were made by appellant:

Oct. 30, 1980 to Nov. 10, 1980 P150,000.00

Nov. 18, 1980 to Dec. 10, 1980 270,000.00

Dec. 18, 1980 to Jan. 14, 1981 101,853.12

Jan. 20 to Feb. 12, 1981 95,000.00

Feb. 16 to Feb. 19, 1981 115,000.00

P731,853.12

"Thereafter, no further payment was made by appellant contending that under the provisions of paragraph 1(b) of the contract, the payment schedule should be adjusted. The said provision states as follows:

"Par. 1, sub-par. (b)

"Should the FIRST PARTY (plaintiff Investco) obtain titles to the properties above-described after July 22, 1977, the due dates of the downpayment and the subsequent payments on the balance shall be adjusted accordingly.'

"Admittedly, the subject titles were obtained during the period of March 21, to March 28, 1979, or after July 22, 1977 (Exhs. D to 1 and Exhs. 2 to 10). Thus, implementing par. 1(b) of the Contract, the due dates of payments should have been adjusted as follows:

"Due Dates

Per Contract Installment Adjusted

Schedule A Number Due Dates

Downpayment

July 22, 1977 March 28, 1979

October 22, 1977 June 08, 1979

January 22, 1978 September 28, 1979

Balance

July 22, 1978 No. 1 March 08, 1980

January 22, 1979 No. 2 September 28, 1980

July 22, 1979 No. 3 March 28, 1981

January 22, 1980 No. 4 September 28, 1981

July 22, 1980 No. 5 March 28, 1982

January 22, 1981 No. 6 September 28, 1982

July 22, 1981 No. 7 March 28, 1983

January 22, 1982 No. 8 September 28, 1983

July 22, 1982 No. 9 March 28, 1984

January 22, 1983 No. 10 September 28, 1984

"In view of the adjustment of due dates in accordance with par. 1(b) of the Contract payments made should correspond to the adjusted dates. Thus, the payment on the 4th installment which is supposed to have been made on January 22, 1980, should be credited on September 28, 1981, and the next payment on the 5th installment which should have been made on July 22, 1981 under the contract would have to be credited on March 28, 1981, the adjusted due date." [7]

It is but proper, therefore, to indeed declare 28 March 1982 to be the due date for the payment of the 5th

installment. The total amount of P731,853.12, representing payments for the 5th installment made by petitioner, should rightly be credited on 28 March 1982, the adjusted due date. Since no payment appears to have been made after 1981, petitioner should thereby be likewise held in default in the payment of the 6th to the 10th installments. Under the terms of the contract, hereinbefore recited, petitioner's default has effectively activated the acceleration clause of the contract, and we see no error on the part of the appellate court in ordering petitioner to pay the entire unpaid balance of P4,800,282.91 with interest thereon at the rate of 1% per month to be computed from 22 March 1982.

WHEREFORE, except on the award of attorney's fees which is hereby DELETED, the decision of the Court of Appeals is AFFIRMED. No costs.

SO ORDERED.

Bidin, Romero, and Melo, JJ., concur.

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

[1] Rollo, p. 38.

[2] Rollo, p. 37.

[3] Rollo, p. 44.

[4] Rollo, p. 50, Compliance and Manifestation.

[5] Rollo, p. 56.

[6] Rollo, pp. 58-59.

[7] Rollo, pp. 39-41.

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