DOLORES LIGAYA DE MESA, PETITIONER, VS. THE COURT OF APPEALS, OSSA HOUSE, INC. AND DEVELOPMENT BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 106467-68. October 19, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court questioning the Decision[1] of the Court of Appeals[2] dated March 31, 1992 in CA-G.R. Nos. 19145 and 19146, which modified the decision of Branch 138 of the Regional Trial Court of Makati in Civil Case Nos. 41059 and 42381.

The antecedent facts are as follows:

Petitioner Dolores Ligaya de Mesa owns several parcels of land in Makati, Pasay City, Cavite, and General Santos City[3] which were mortgaged to the Development Bank of the Philippines (DBP) as security for a loan she obtained from the bank. Failing to pay her mortgage debt, all her mortgaged properties were foreclosed and sold at public auction held on different days. On April 30, 1977, the Makar property was sold and the corresponding certificate of sale inscribed on March 10, 1978. On August 25, 1977, the Naic, Cavite property was sold and the certificate of sale registered on the same day. On August 30, 1977, the two (2) parcels of land in Makati were sold at public auction and the certificate of sale was inscribed on November 25, 1977. And on January 12, 1978, the three (3) parcels of land in Pasay City were also sold and the certificate of sale was recorded on the same date. In all the said auction sales, DBP was the winning bidder.

In a letter dated May 29, 1978, petitioner de Mesa requested DBP that she be allowed to repurchase her foreclosed properties.

On October 23, 1978, Mrs. de Mesa, under a “Deed of Sale with Assumption of Mortgage,”[4] sold the foreclosed properties to private respondent OSSA under the condition that the latter was to assume the payment of the mortgage debt by the repurchase of all the properties mortgaged on installment basis, with an initial payment of P90,000.00 representing 20% of the total obligation.

On October 23, 1978, private respondent OSSA remitted to DBP the initial payment of P90,000.00, in addition to the amount of P10,000.00 previously paid to the petitioner.

On February 22, 1979, DBP granted petitioner’s request to repurchase the foreclosed properties such that in March 1979 a “Deed of Conditional Sale” was executed under which DBP agreed to sell the said properties to the petitioner for the sum of P363,408.20, P90,000.00 of which was to be paid as initial payment and the balance in seven (7) years on a quarterly amortization plan, with a first quarterly installment of P15,475.17.

Private respondent OSSA paid DBP the first to eight quarterly installments from April 11, 1979 to May 8, 1991, in the total amount of P137,595.31, which installment payments were applied to petitioner’s obligation with DBP pursuant to the Deed of Conditional Sale.

On March 11, 1981, petitioner de Mesa notified private respondent OSSA that she was rescinding the Deed of Sale with Assumption of Mortgage she executed in favor of the latter on the ground that OSSA failed to comply with the terms and conditions of their agreement, particularly the payment of installments to the Development Bank of the Philippines, the discharge and cancellation of the mortgage on the property listed in item IV of the first whereas clause, and the payment of the balance of more or less P45,000.00 to petitioner, representing the difference between the purchase price of subject properties and the actual obligation to the DBP.

On April 11, 1981, OSSA offered to pay the amount of P34,363.08, which is the difference between the purchase price of P500,000.00 and the mortgage obligation to DBP of P455,636.92, after deducting the downpayment of P10,000.00 stipulated in said Deed of Sale with Assumption of Mortgage, but the petitioner refused to accept such payment. So, on April 28, 1981, OSSA brought a Complaint for Consignation against the petitioner, docketed as Civil Case No. 41059 before the then Court of First Instance of Rizal, Branch XV, and at the same time, deposited the amount of P34,363.08 with said court.

On August 5, 1981, DBP refused to accept the 9th quarterly installment paid by OSSA, prompting the latter to file against DBP and the petitioner, on August 11, 1981, Civil Case No. 42381 for specific performance and consignation, with the then Court of First Instance of Pasig, Rizal, depositing in said case the amount of P15,824.92.

On October 21, 1981, upon petitioner de Mesa's motion, Civil Case Nos. 41059 and 42381 were consolidated before the then Court of First Instance of Rizal, Branch XV, Makati, Metro Manila, now Regional Trial Court of Makati City , Branch CXXXVIII (138).

In an Order dated July 23, 1982, the lower court allowed OSSA to deposit with the Court a quo by way of consignation, all future quarterly installments without need of formal tenders of payment and service of notices of consignation. Correspondingly and over the period of time stipulated, OSSA deposited with the lower court the 10th to the 20th installments in the aggregate amount of P172, 562.11.

After trial, the lower court came out with a Decision for the private respondent OSSA, holding thus:

> 'WHEREFORE, premises considered, judgment is hereby rendered (a) declaring the consignation made by plaintiff as proper and valid and ordering defendants Dolores Ligaya de Mesa and Development Bank of the Philippines to withdraw and receive said payments due them which plaintiff has consigned with the Court;
>
> (b) Ordering defendant Development Bank of the Philippines to furnish plaintiff with a statement of payments and balance, if any, still due from defendant de Mesa after applying all payments already received, including the amounts placed under consignation;
>
> (c) Upon payment by the plaintiff of the balance if any, still due on the properties, defendant Development Bank of the Philippines shall execute a Deed of Absolute Sale in favor of the plaintiff over the properties subject matter of the Deed of Absolute Sale with Assumption of Mortgage executed by and between plaintiff and defendant de Mesa;
>
> (d) Ordering plaintiff to pay defendant de Mesa the difference, if any, between the agreed purchase price of P500,000.00 and the payments made to the defendant Development Bank of the Philippines, less the P10,000.00 down payment already paid and the P34,363.08 consigned with the Court; and
>
> (e) Ordering defendant de Mesa to pay plaintiff the sum of P10,000.00 as attorneys fees.

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SO ORDERED.' [5]

The petitioner appealed to the Court of Appeals which handed down on March 31, 1992, its decision modifying the challenged decision, as follows:

> "WHEREFORE, the decision appealed from is hereby MODIFIED:
>
> (a) declaring the consignation made by OSSA as proper and valid as far as de Mesa is concerned, and ordering de Mesa to receive the said amount consigned with the court and pay DBP with the said amount;
>
> (b) ordering DBP to furnish de Mesa with a statement of payments and the balance, if any, still due from de Mesa after applying all payments already received, including the amounts paid under consignation;
>
> (c) ordering de Mesa to furnish OSSA with a copy of the statement of payments described in the preceding paragraph, and the balance appearing therein, if any, shall be paid by OSSA for the account of de Mesa;
>
> (d) ordering DBP to execute a Deed of Absolute Sale in favor of de Mesa over the properties subject of the Deed of Conditional Sale;
>
> (e) ordering Ossa to pay de Mesa the difference, if any, between the agreed purchase price of P500,000.00 and the payments made to DBP, less the P10,000.00 down payment and the P34,363.08 consigned with the court;
>
> (f) ordering de Mesa thereafter, to execute a Deed of Absolute Sale in favor of OSSA over the properties subject of the Deed of Sale with assumption of Mortgage; and
>
> (g) ordering de Mesa to pay OSSA the sum of P10,000.00 as and for attorney's fees.

No pronouncement as to costs.

SO ORDERED."[6]

On May 5, 1992, petitioner interposed a motion for reconsideration of the aforesaid decision, theorizing that:

> "I
>
> THIS COURT ERRED WHEN IT HELD THAT WHAT WAS SOLD UNDER THE 'DEED OF SALE WITH ASSUMPTION OF MORTGAGE' WERE THE PROPERTIES LISTED THEREIN AND NOT MERELY THE RIGHT OF REDEMPTION DESPITE THE TESTIMONIES OF BOTH CONTRACTING PARTIES THAT WHAT SOLD AND BOUGHT WAS MERELY THE RIGHT OF REDEMPTION.
>
> II
>
> THIS COURT ERRED IN HOLDING THAT DE MESA'S REQUEST TO REPURCHASE THE FORECLOSED PROPERTIES FROM DBP REDOUNDED TO THE BENEFIT OF OSSA HOUSE, INC.
>
> III
>
> THIS COURT ERRED IN HOLDING DE MESA IN ESTOPPEL.
>
> IV
>
> THIS COURT ERRED IN RULING THAT THE MANDATORY REQUIREMENTS OF THE CIVIL CODE ON CONSIGNATION CAN BE WAIVED BY THE TRIAL COURT."[7]

With the denial of her aforestated motion for reconsideration, petitioner found her way to this Court via the present petition, raising the issues:

> (i) Whether or not the requirements of Articles 1256 to 1261 can be 'relaxed' or 'substantially complied

with'.

(ii) Whether or not the Court can supplant its own reading of an ambiguous contract for the actual intention of the contracting parties as testified to in open court and under oath.

(iii) Whether or not petitioner de Mesa can be held in estoppel for the acts of the DBP.

Article 1370 of the New Civil Code, reads:

"Art. 1370. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control.

x x x"

When the words of a contract are plain and readily understood, there is no room for construction. As the agreement of the parties are reduced to writing, such agreement is considered as containing all its terms and there can be, between the parties and their successors-in-interest, no evidence of the terms of the written agreement other than the contents of the writing.[8]

In the case under consideration, the terms of the "Deed of Sale with Assumption of Mortgage Debt" are clear and leave no doubt as to what were sold thereunder. It provided as follows:

"WHEREAS, the VENDOR has agreed to sell to the VENDEE (plaintiff Ossa House, Inc.), and the VENDEE has agreed to purchase form the VENDOR, all the properties described in Items I, II, and III, of the First Whereas Clause, for the price and under the terms hereinafter contained;

NOW, THEREFORE, for and in consideration of the premises and the sum of TEN THOUSAND PESOS (P10,000.00), the receipt whereof is hereby acknowledged, and the assumption by the VENDEE of the total mortgage obligation of the VENDOR has sold, transferred, and conveyed, and by these presents does sell, transfer and convey, unto the said VENDEE, its administrators and assigns, free from all liens and encumbrances except as noted herein, the parcels of land hereinabove described in Items I, II, and III, together with all the buildings and improvements thereon;

The VENDEE does hereby assume the payment of the mortgage obligations by repurchase of all the properties mortgaged on installment, with an initial payment of P90,000.00 representing payment 20% of the total obligation; and consequently, the within sale is subject to the mortgage in favor of the Development Bank of the Philippines;"

Nowhere is it provided in the aforequoted provisions, as the petitioner insists, that what she sold to respondent OSSA was merely the right to redeem the mortgaged properties and not the foreclosed properties themselves. On the contrary, the very words of the contract reveal that the subject of the sale were "all the properties described in items I, II, III of the First Whereas Clause."

Indeed, the contract under scrutiny is so explicit and unambiguous that it does not justify any attempt to read into it any supposed intention of the parties, as the said contract is to be understood literally, just as they appear on its face.[9]

Petitioner capitalizes on the following prefatory clause of the contract, to wit:

"WHEREAS, the VENDOR (defendant De Mesa) is the registered owner with a preferential right of redemption of the following mortgaged properties with the Development Bank of the Philippines, more particularly described as follows:"

However, not the slightest indication can be gleaned from the abovequoted provision that the subject of the "Deed

of Sale with Assumption of Mortgage" was petitioner's right of redemption. The said provision merely speaks of the preferential right of the latter to redeem the real properties involved.

Furthermore, the court discerns no inconsistency between the contract's recognition of the preferential right of petitioner to redeem the mortgaged properties, and the sale of the said properties to respondent OSSA. Petitioner can validly redeem subject properties and still recognize the sale thereof to the respondent corporation because nothing therein is contrary to law, morals, good customs, public order or public policy. Besides, it is a well-settled doctrine that in the construction of an instrument where there are several provisions, or particulars, such a construction is, if possible, to be adopted as will give effect to all.[10] Thus, the recognition of both the preferential right of the petitioner to redeem the mortgaged properties and the sale of the same properties to respondent OSSA is in order, as it would harmonize and give effect to all the provisions of the "Deed of Sale with Assumption of Mortgage" under controversy.

As aptly ruled by the respondent court, the grant by DBP of petitioner's request to repurchase the mortgaged properties redounded to the benefit of respondent OSSA, the sale of the said properties having been previously agreed upon by the petitioner and respondent OSSA.

Petitioner contends that she is not estopped from questioning DBP's application to her account of OSSA's initial payment of P90,000.00 as well as the first to eight quarterly installments. It bears stressing, however, that the remittance of the said payment was made in implementation of the provisions of their contract. The belated claim of the petitioner, which was not given credence by the trial court, that she objected to the application by DBP to her account of all the remittances of OSSA is tainted with bad faith as this is an attempt to renegade against her contract with respondent OSSA. Besides, the issue of whether or not petitioner objected is a question of fact that has already been settled by the trial court which best performs the matter of assigning values to the testimony of witnesses,[11] and whose findings are accorded great weight especially when affirmed by the Court of Appeals[12] , as in the case at bar.

Petitioner next argues that there was no notice to her regarding OSSA's consignation of the amounts corresponding to the 12th up to the 20th quarterly installments. The records, however, show that several tenders of payment were consistently turned down by the petitioner, so much so that the respondent OSSA found it pointless to keep on making formal tenders of payment and serving notices of consignation to petitioner. Moreover, in a motion dated May 7, 1987, OSSA prayed before the lower court that it be allowed to deposit by way of consignation all the quarterly installments, without making formal tenders of payment and serving notice of consignation, which prayer was granted by the trial court in the Order dated July 3, 1982. The motion and the subsequent court order served on the petitioner in the consignation proceedings sufficiently served as notice to petitioner of OSSA's willingness to pay the quarterly installments and the consignation of such payments with the court. For reasons of equity, the procedural requirements of consignation are deemed substantially complied with in the present case.[13]

Petitioner also insists that there was no valid tender of payment because the amount tendered was P34,363.08, not P51,243.26, and assuming ex gratia argumenti that it was the correct amount, the tender thereof was still not valid, the same having been made by check. This claim, however, does not accord with the records on hand. Thus, the Court of Appeals ratiocinated:

> "The 'Deed of Sale with Assumption of Mortgage', was for a consideration of P500,000.00, from which shall be deducted de Mesas's outstanding obligation, with the DBP pegged as of May 10, 1978, by the parties themselves, at P455,636.92. This amount of P455,636.92 owing DBP, is what OSSA agreed to assume. What remained to be paid de Mesa was P44,636.08, but OSSA made an advance payment of P10,000.00, hence the remaining amount payable to de Mesa is P34,363.08, which OSSA tendered in cash (Exhibits 'X", 'BB' and

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'CC')."[14]

It is thus beyond cavil that the respondent OSSA tendered the correct amount, the tender of which was in cash and not by check, as theorized by petitioner.

Premises studiedly considered, the Court is of the ineluctable conclusion, and so holds, that the Court of Appeals erred not in affirming the decision of the trial court of origin.

WHEREFORE, the petition is DENIED and the assailed Decision of the Court of Appeals in CA-G.R. Nos. 19145 and 19156 dated March 31, 1992 AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

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[1] Rollo, pp. 36 - 51.

[2] First Division, composed of Associate Justices: Cezar D. Francisco (ponente), Emeterio C. Cui, and Antonio M. Martinez (Acting Chairman).

> [3] I. Two (2) parcels of land situated in Makati, Metro Manila, with TCT no. (232345) S-60337 containing an area of 188 square meters and TCT No. (232344) S-50336 containing an area of 236 square meters.
>
> II. Three parcels of land situated in Pasay City, with TCT No. 14673 containing an area of 402 square meters and TCT No. 14672 containing an area of 35 square meters and 330 square meters.
>
> III. A parcel of land situated in Naic, Cavite, with TCT No. T-3993 containing an area of 39,580 square meters.
>
> IV. Two parcels of land situated in Makan, General Santos City, with TCT No. T-11067 containing an area of 837 square meters.

[4] 'x x x

> WHEREAS, the VENDOR (defendant De Mesa) is the registered owner with a preferential right of redemption of the following mortgaged properties with the Development Bank of the Philippines, more particularly described as follows:
>
> I. Two (2) parcels of land situated in Makati, Metro Manila, with TCT no. (232345) S-60337 containing an area of 188 square meters and TCT No. (232344) S-50336 containing an area of 236 square meters.
>
> II. Three parcels of land situated in Pasay City, with TCT No. 14673 containing an area of 402 square[4] Approximately, One-Half (1/2) has been taken by public works improvements.* meters and TCT No. 14672 containing an area of 35 square meters and 330 square meters.
>
> III. A parcel of land situated in Naic, Cavite, with TCT No. T-3993 containing an area of 39,580 square meters.
>
> IV. Two parcels of land situated in Makan, General Santos City, with TCT No. T-11067 containing an area of 837 square meters.

WHEREAS, the above-described parcels of land and buildings and improvements thereon were mortgaged in favor of the Development Bank of the Philippines, and the total amount of the VENDOR'S obligation amounting to P455, 636.92 as of May 10, 1978;

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WHEREAS, the VENDOR has agreed to sell to the VENDEE (plaintiff Ossa House, Inc.), and the VENDEE has agreed to purchase form the VENDOR, all the properties described in Items I, II, and III, of the First Whereas Clause, for the price and under the terms hereinafter contained;

NOW, THEREFORE, for and in consideration of the premises and the sum of TEN THOUSAND PESOS (P10,000.00), the receipt whereof is hereby acknowledged, and the assumption by the VENDEE of the total mortgage obligation of the VENDOR has sold, transferred, and conveyed, and by these presents does sell, transfer and convey, unto the said VENDEE, its administrators and assigns, free from all liens and encumbrances except as noted herein, the parcels of land hereinabove described in Items I, II, and III, together with all the buildings and improvements thereon;

The VENDEE does hereby assume the payment of the mortgage obligations by repurchase of all the properties mortgaged on installment, with an initial payment of P90,000.00 representing payment 20% of the total obligation; and consequently, the within sale is subject to the mortgage in favor of the Development Bank of the Philippines;

The VENDEE does hereby undertake to obtain from the Development Bank of the Philippines the release in favor of the VENDOR a discharge and cancellation of the mortgage on the property listed in Item IV of the First Whereas Clause;

The total purchase price of the properties listed in Items I, II, and III is P500,000.00 and should the total obligation as of even date be less than P500,000.00 as the difference be paid to the VENDOR minus the P10,000.00 representing P5,000.00 of the option money previously paid to the VENDOR, and another P5,000.00 upon the execution of this document;

It is further expressly understood and agreed that for the full transmission of rights in the properties above-mentioned in Items I, II, and III, to herein VENDEE Corporation, VENDOR shall sign any other document necessary therefor.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands at Manila, Philippines, on this 23rd day of October, 1978 "(Decision, Rollo, p. 38 - 41)

[5] Id., p. 37.

[6] Decision, Rollo, pp. 49 - 50.

[7] Petition, Rollo, p. 19.7

[8] Dihiasan vs. Court of Appeal, 153 SCRA 712, p. 717, citing: Siasat vs. Intermediate Appellate Court, 134 SCRA 238, p. 246.

[9] Tolentino, p. 559, Volume IV, Civil Code of the Philippines, 1997 Reprinting, citing: Alburo vs. Villanueva, 7 Phil. 277; Azarraga vs. Rodriguez, 9 Phil. 637; Palacios vs. Municipality of Cavite, 12 Phil. 140; Nolan vs. Majinay, 12 Phil. 559; De Lizardi vs. Yaptico, 30 Phil. 211; Escario vs. Regis, 31 Phil. 618; Chinchilla vs. Rafael, 39 Phil. 888; Kasilag vs. Rodriguez, Off. Gaz. Supp., August 16, 1941, p. 247; Jollye vs. Barcelon, Off. Gaz. Supp., July 19, 1941, p. 217; Puyat and Sons vs. Acro Amusement Company, Off. Gaz., August 16, 1941, p.1434; Gonzales Mondragon vs. Santos, 48 Off. Gaz. 560, Feb. 1952; Victorias Planters Assn. vs. Victorias Milling Co., G. R. No. L-6648, July 25, 1955; Pacific Oxygen and Acetylene Co. vs. Central Bank, 22 SCRA 917; Commission of Internal Revenue vs. Cadwallader Pacific Company, 73 SCRA 59-61; Phil. Air Lines, Inc. vs. Phil. Airlines Employees Association, 70 SCRA 180-181; Cebu Portland Cement Company vs. Dumon, 61 SCRA 218; Piczon vs. Piczon, 61 SCRA 67-68; Philippine-American General Insurance Co., Inc. vs. Mutuc, 61 SCRA

22-23; San Mauricio Mining Co. vs. Ancheta, 105 SCRA 371; Pichel vs. Alonzo, 111 SCRA 341; Ascalon vs. Court of Appeals, 158 SCRA 542; Bagadiong vs. Abundo, 165 SCRA 459; Ramos vs. Court of Appeals, 180 SCRA 635.

[10] Reparations Commission v. Northern Lines Inc., 34 SCRA 203, p. 211, citing: Mangila v. Lantin, L-24735, Oct. 31, 1969; UP Board of Regents v. Auditor General, L-19617, Oct. 31, 1969; Asturias Sugar Central, Inc. v. Commissioners of Customs, L- 19337, Sept. 30, 1969; PNB v. Court of Appeals, L-27117, July 30, 1969; Neilson & Co., Inc. v. Lepanto Cosolidated Mining Co., L-21601, Dec. 28, 1968; Rivera v. San Miguel Corp., L-26197, Aug. 30, 1968; People v. Doriquez, L-24444, July 29, 1968; Alhambra Cigar and Cigarette Co. v. Securities & Exchange Commission, L-23606, July 29, 1968; Andico vs. Judge Roan, L-26563, April 16, 1968; Le Hua Sia v. Hon. Reyes, L-21686, April 16, 1968; Bachrach Trans. Co. Inc. v. Rural Transit Employees Assn., L-21768, Aug. 23, 1966; Republic v. Reyes, L-22550, May 19, 1966.

[11] People vs. Fabro, 278 SCRA 304 p, 309, citing: People vs. Bondoc, 232 SCRA 478[1994]; People vs. Nimo, 277 SCRA 69[1993].

[12] Meneses vs. Court of Appeals 246 SCRA 162, p. 171[1995], citing Binalay vs. Manalo, 195 SCRA 374[1994].

[13] Rural Bank of Caloocan vs. Court of Appeals, 104 SCRA 151, p. 170.

[14] Decision, Rollo, p. 48.

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