

## SECOND DIVISION

[ G.R. No. 178255, November 24, 2009 ]

**RICARDO C. SILVERIO, PETITIONER, VS. EUFEMIA ALMEDA AND PONCIANO ALMEDA, SUBSTITUTED BY HIS LEGAL HEIRS EUFEMIA ALMEDA, ELENITA CERVANTES, SUSAN ALCAZAR, LAURENCE ALMEDA, FLORECITA DATOD, ROMEL ALMEDA, MARLON ALMEDA, ALAN ALMEDA, WENILDA DIAZ AND CAROLYN SANTOS, RESPONDENTS.**

### DECISION

**ABAD, J.:**

This case is about the need for parties to an agreement to comply with their respective obligations in good faith.

#### The Facts and the Case

In 1973 respondents Ponciano and Eufemia Almeda (the Almedas) sold three lots in the Meridian County of Los Angeles, California, U.S.A., to petitioner Ricardo C. Silverio (Silverio) for \$200,000.00, payable in 12 monthly installments<sup>[1]</sup> plus an additional 20 percent of the net profit but not exceeding \$100,000.00 should Silverio be able to sell the same and make a profit.<sup>[2]</sup> The pertinent provisions of their agreement read:

2) That the TRANSFEREE shall pay the TRANSFERORS the total sum of TWO HUNDRED THOUSAND (\$200,000.00) DOLLARS US Currency, in twelve (12) monthly installments without interests, either to be paid in the United States or in the Philippines at the option of the TRANSFERORS, the first installment of which shall be due after the consent of the Trustee-Sellers shall have been obtained x x x and every month thereafter until fully paid;

x x x x

4) That it being evident that this sale/assignment/transfer of the herein real estate properties is \$150,000.00 less than the actual amount including taxes and all other expenses paid by herein TRANSFERORS, it is further agreed that in the event that TRANSFEREE sells in the future the herein properties for a profit, the TRANSFERORS shall be entitled to a further payment of twenty per cent (20%) of the net profit but not to exceed ONE HUNDRED THOUSAND (\$100,000.00) US Dollars, the said amount to accrue immediately after consummation of the said future sale.

Eleven years later or on February 24, 1984 Silverio executed a grant deed transferring ownership of the three lots to Silcor USA, Inc. (Silcor),<sup>[3]</sup> a company of which he was the president,<sup>[4]</sup> "for a valuable consideration."<sup>[5]</sup> After about 10 months or in December 1984, Silcor in turn sold the property to Lancaster Properties of Oregon (Lancaster),<sup>[6]</sup> a partnership that included Silverio,<sup>[7]</sup> also "for a valuable consideration."<sup>[8]</sup> The Almedas apparently got wind of the sale of the lots and demanded payment of the additional sum due them from that sale. In a letter dated August 26, 1985 Silverio wrote the U.S. lawyer of the Almedas, admitting that he had sold the subject property conditionally and that he would pay the Almedas what he owed them as soon as he got the proceeds of the sale.<sup>[9]</sup>

In 1988, the Almedas sued Silverio and others with him for breach of contract before the Superior Court of California for the County of Los Angeles.<sup>[10]</sup> The Almedas asked the court to order Silverio to pay them \$100,000.00 with interest from the date he resold the subject lots to Silcor to the date of judgment. But the court dismissed the complaint,<sup>[11]</sup> saying that the Almedas were "non-suited" on their cause of action. It denied their request for declaratory relief regarding their agreement with Silverio since no issue involving interpretation of its resale clause existed. Indeed, said the U.S. court, Silverio admitted to the Almedas' former lawyer that he owed the Almedas "the sum of \$100,000.00 in accordance with said paragraph 4 of the Agreement." <sup>[12]</sup>

In 1990 the Almedas sued Silverio for sum of money before the Regional Trial Court (RTC) of Makati City,<sup>[13]</sup> alleging that Silverio still owed the Almedas \$150,000.00 out of the initial payment due the latter and that, although Silverio made a profit from reselling the three Meridian County lots, he did not make the second promised payment which was equivalent to 20 percent of his profit but not exceeding \$100,000.00.<sup>[14]</sup> In his defense,<sup>[15]</sup> Silverio said that he already paid the principal amount due; that the action was barred by a prior foreign judgment and by prescription; and that, at any rate, he was unable to sell the lots for a substantial profit. His attempt to sell them in December 1984 to Lancaster had been aborted by a bankruptcy court's order rescinding the sale.<sup>[16]</sup>

In its decision of July 27, 1998,<sup>[17]</sup> the RTC dismissed the Almedas' complaint. It ruled that Silverio had paid them the principal consideration due on the sale of the lots and that, as for the additional consideration, they did not have a valid claim because they had been unable to prove that Silverio sold the properties to Silcor for a profit. It also dismissed Silverio's counterclaim for moral damages for lack of evidence to support it. Finally, the RTC ordered the Almedas to pay Silverio P100,000.00 as attorney's fees for having been forced to defend against a clearly unfounded action.

On appeal,<sup>[18]</sup> the Court of Appeals (CA) reversed the RTC decision insofar as the Almedas' second claim was concerned. Citing paragraph 4 of the agreement between the parties, it ordered Silverio to pay the Almedas \$100,000.00 with legal interest from the time the amount fell due until fully paid plus P500,000.00 in attorney's fees. The court found from the "whereas clauses" of the agreement that the lots had an actual value of at least \$854,000.00. Silverio paid the Almedas only

\$291,000.00. Based on these figures, the CA concluded that the Almedas could not have intended to sell their lots to Silverio for only \$200,000.00. Thus, their agreement provided for additional compensation in the event Silverio resold the lots for a profit. The CA regarded the grant deeds transferring ownership of the properties from Silverio to Silcor and from Silcor to Lancaster, as attempts of Silverio to defraud the Almedas of what was due them from the resale.

### **The Issue Presented**

The core issue in this case is whether or not Silverio's conveyance of the subject three lots to Silcor and the latter's subsequent sale of the same to Lancaster made him liable to the Almedas for their share in whatever profits he made.

### **The Court's Ruling**

To justify its ruling against Silverio in the controversy regarding paragraph 4 of his agreement with the Almedas that involved the payment of additional compensation based on any profit he would make in case he resells the lots, the CA pointed out a) that based on the "whereas clause" of the agreement, the lots were valued at far more than the \$200,000.00 stated in its paragraph 2; b) that Silverio admitted in a letter to the Almedas' U.S. lawyer an obligation to pay more to the Almedas as soon as he had received the proceeds of the sale; c) that the U.S. court acknowledged in its order that Silverio owed the Almedas "the sum of \$100,000.00 in accordance with said paragraph 4 of the Agreement"; and d) that the subsequent sale of the lots to Silcor and later to Lancaster were Silverio's attempts to defraud the Almedas of their share of the profits from the resale.<sup>[19]</sup>

It is difficult to ascertain exactly how much the three lots were really worth at the time the Almedas sold them to Silverio.<sup>[20]</sup> This is not clear from the so-called "whereas clauses" of their agreement. But the parties themselves said in paragraph 4 that the price of \$200,000.00 stated in paragraph 2 was lower by at least \$150,000.00 than the actual value of the property.<sup>[21]</sup> And this is their reason for providing a profit sharing scheme in the event Silverio was able to resell the lots to others. From this it is clear that the parties did not contemplate for Silverio to own, take possession of, and use the lots on a long term basis. The parties would have Silverio resell them to others so the Almedas could recoup their loss in the transfer made to him.

Actually, Silverio does not deny the full import of his obligation under paragraph 4. His main defense is that he had been unable to sell the lots for a profit. But, as the CA pointed out, Silverio said in his letter of August 26, 1985 to the Almedas' U.S. lawyer that Silverio had already conditionally sold the lots and that he was going to pay the Almedas as soon as he got the proceeds of the sale.<sup>[22]</sup> If he did not make a profit in that sale, what did he have to pay the Almedas for? Further, as the CA also pointed out, although the U.S. court dismissed the Almedas' action for declaratory relief, it affirmed that Silverio admitted owing them money, specifically, "the sum of \$100,000.00."<sup>[23]</sup>

Silverio of course points out that neither the RTC nor the CA could give weight to his letter of August 26, 1985 to the Almedas' U.S. lawyer since the letter was a mere photocopy and had not been properly authenticated.<sup>[24]</sup> The RTC, Silverio adds,

merely admitted the letter as part of Ponciano Almeda's testimony in court.<sup>[25]</sup> This may be so but the record shows that Silverio never appeared in court to deny this testimony. Indeed, he has been careful not to say or even hint in his pleadings here and below that the letter was a fabrication. The CA did not, therefore, commit an error in taking cognizance of that letter in the context of Ponciano's testimony.

It is said that when the buyer enters into a contract of sale, he assumes two obligations, *first*, the payment of the consideration and, *second*, the performance of such first obligation in good faith, an implied obligation but just as binding and as important as the first.<sup>[26]</sup> Good faith is of course a matter of intent.<sup>[27]</sup> It means giving what one owes to the other without concealment and evasion. Since intent is a state of mind, however, good faith needs a face that one can see. The steps that a party takes in fulfilling his obligation usually constitute the face that expresses good faith or lack of it.<sup>[28]</sup>

Here, although paragraph 4 of their agreement did not fix a period within which Silverio must resell the lots to make a profit for the parties, it is implicit that he would do so within such a reasonable time as the ordinary course of the business of selling lands dictates. Yet, Silverio waited 11 years before he made his move.<sup>[29]</sup> Since actions based on contracts ordinarily prescribe in 10 years,<sup>[30]</sup> he probably calculated that he did not have to share any profit he would make if he resold the lots after 10 years. Indeed, part of his defense before the RTC was that the Almedas' action under paragraph 4 already prescribed.<sup>[31]</sup> The RTC, however, ruled<sup>[32]</sup> and quite correctly that the period of prescription under paragraph 4 began to run only from the time Silverio sold the lots to Silcor.<sup>[33]</sup>

And to conceal any sale of the lots that he planned to make in favor of genuine third parties, Silverio first put in two layers of sales in favor of his own firms: the first by grant deed (as a gift) to Silcor,<sup>[34]</sup> a company of which he was the president<sup>[35]</sup> and, the second, also by grant deed from Silcor to Lancaster<sup>[36]</sup> of which he was a partner.<sup>[37]</sup> Unfortunately, the Almedas somehow got wind of these transactions and hired a U.S. lawyer to run after Silverio in 1985. This forced him to write to that lawyer about his intention to pay the Almedas what was due them as soon as he could collect the proceeds from the conditional sale of the lots.

Silverio of course points out that the Almedas had been unable to prove that he made a profit out of his sale of the lots to Silcor. Indeed, he adds, that the "grant deed,"<sup>[38]</sup> the name given to the transaction, while "for a valuable consideration,"<sup>[39]</sup> included a statement that it was a "gift deed."<sup>[40]</sup> In the same way, Silcor's transfer of the lots to Lancaster was also by way of "corporation grant deed x x x for a valuable consideration"<sup>[41]</sup> with the amount of consideration unstated. Consequently, Silverio would conclude that the CA had no basis for ordering him to pay \$100,000.00 to the Almedas pursuant to paragraph 4 of their agreement.

But Silverio's theory can be faulted for the following reasons:

**First.** In transferring the titles of the lots to Silcor, a company of which he was president, Silverio actually violated what the parties clearly intended, namely, that Silverio would resell the lots to third parties for a profit. The parties did not