

## FIRST DIVISION

**[ G.R. No. 126013, February 12, 1997 ]**

**SPOUSES HEINZRICH THEIS AND BETTY THEIS, PETITIONERS,  
VS. HONORABLE COURT OF APPEALS, HONORABLE ELEUTERIO  
GUERRERO, ACTING PRESIDING JUDGE, BRANCH XVIII,  
REGIONAL TRIAL COURT, TAGAYTAY CITY, CALSONS  
DEVELOPMENT CORPORATION, RESPONDENTS.  
D E C I S I O N**

**HERMOSISIMA, JR., J.:**

In the instant petition, we shall have the occasion to apply the concept of mistake in the annulment of contracts.

Private respondent Calsons Development Corporation is the owner of three (3) adjacent parcels of land covered by Transfer Certificate of Title (TCT) Nos. 15515 (parcel no. 1 in the location map), 15516 (parcel no. 2) and 15684 (parcel no. 3), with the area of 1,000 square meters, 226 square meters and 1,000 square meters, respectively. All three parcels of land are situated along Ligaya Drive, Barangay Francisco, Tagaytay City. Adjacent to parcel no. 3, which is the lot covered by TCT No. 15684, is a vacant lot denominated as parcel no. 4.

In 1985, private respondent constructed a two-storey house on parcel no. 3. The lots covered by TCT No. 15515 and TCT No. 15516, which are parcel no. 1 and parcel no. 2, respectively, remained idle.

However, in a survey conducted in 1985, parcel no. 3, where the two-storey house stands, was erroneously indicated to be covered not by TCT No. 15684 but by TCT No. 15515, while the two idle lands (parcel nos. 1 and 2) were mistakenly surveyed to be located on parcel no. 4 instead (which was not owned by private respondent) and covered by TCT Nos. 15516 and 15684.

On October 26, 1987, unaware of the mistake by which private respondent appeared to be the owner of parcel no. 4 as indicated in the erroneous survey, and based on the erroneous information given by the surveyor that parcel no. 4 is covered by TCT No. 15516 and 15684, private respondent, through its authorized representative, one Atty. Tarcisio S. Calilung, sold said parcel no. 4 to petitioners.

Upon execution of the Deed of Sale, private respondent delivered TCT Nos. 15516 and 15684 to petitioners who, on October 28, 1987, immediately registered the same with the Registry of Deeds of Tagaytay City. Thus, TCT Nos. 17041 and 17042 in the names of the petitioners were issued.

Indicated on the Deed of Sale as purchase price was the amount of P130,000.00. The actual price agreed upon and paid, however, was P486,000.00. This amount was not immediately paid to private respondent; rather, it was deposited in escrow in an

interest-bearing account in its favor with the United Coconut Planters Bank in Makati City. The P486,000.00 in escrow was released to, and received by, private respondent on December 4, 1987.

Thereafter, petitioners did not immediately occupy and take possession of the two (2) idle parcels of land purchased from private respondent. Instead, petitioners went to Germany.

In the early part of 1990, petitioners returned to the Philippines. When they went to Tagaytay to look over the vacant lots and to plan the construction of their house thereon, they discovered that parcel no. 4 was owned by another person. They also discovered that the lots actually sold to them were parcel nos. 2 and 3 covered by TCT Nos. 15516 and 15684, respectively. Parcel no. 3, however, could not have been sold to the petitioners by the private respondents as a two-storey house, the construction cost of which far exceeded the price paid by the petitioners, had already been built thereon even prior to the execution of the contract between the disputing parties.

Petitioners insisted that they wanted parcel no. 4, which is the idle lot adjacent to parcel no. 3, and persisted in claiming that it was parcel no. 4 that private respondent sold to them. However, private respondent could not have possibly sold the same to them for it did not own parcel no. 4 in the first place.

The mistake in the identity of the lots is traceable to the erroneous survey conducted in 1985.

To remedy the mistake, private respondent offered parcel nos. 1 and 2 covered by TCT Nos. 15515 and 15516, respectively, as these two were precisely the two vacant lots which private respondent owned and intended to sell when it entered into the transaction with petitioners. Petitioners adamantly rejected the good faith offer. They refused to yield to reason and insisted on taking parcel no. 3, covered by TCT No. 155864 and upon which a two-storey house stands, in addition to parcel no. 2, covered by TCT No. 15516, on the ground that these TCTs have already been cancelled and new ones issued in their name.

Such refusal of petitioners prompted private respondent to make another offer, this time, the return of an amount double the price paid by petitioners. Petitioners still refused and stubbornly insisted in their stand.

Private respondent was then compelled to file an action for annulment of deed of sale and reconveyance of the properties subject thereof<sup>[1]</sup> in the Regional Trial Court.<sup>[2]</sup>

The trial court rendered judgment in favor of private respondent. Identifying the core issue in the instant controversy to be the voidability of the contract of sale between petitioners and private respondent on the ground of mistake, the trial court annulled said contract of sale after finding that there was indeed a mistake in the identification of the parcels of land intended to be the subject matter of said sale. The trial court ratiocinated:

"Meeting head-on the issue of alleged mistake in the object of the same, defendants in their answer averred that they relied on the technical descriptions of TCT Nos. 15516 and 15684 appearing in the deed of sale x x x

A resolution of the conflicting claims of the parties to the instant controversy calls for an inquiry on their real intent relative to the identity of the parcels which plaintiff intended to sell to defendants and which the latter in turn, intended to buy from the former. For, the Court cannot ignore the dictates of logic and common sense which, ordinarily, could not push a person to sell to another, a property which the former does not own in the first place, for fear of adverse consequences. The vendee, following the same reasoning, would not buy a thing unless he is totally certain that the seller is the real owner of the thing offered for sale. It is equally true that when one sells or buys a real property, he either sells or buys the property as he sees it, in its actual setting and by its physical metes and bounds, and not be the mere lot number assigned to the same property in the certificate of title or in any document. And, when a buyer of real property decides to purchase from his seller, he is ordinarily bound by prudence to ascertain the true nature, identity or character of the property that he intends to buy and ascertain the title of his vendor before he parts with his money. It is quite obvious that the foregoing precepts and precautions were observed by the parties in the case at bar as there is no question at all that the sale in question was consummated through the initiative of Mrs. Gloria Contreras and then Vice-Mayor Benjamin Erni x x x both brokers of the sale who, after a chance meeting with defendants at the Taal Vista Lodge Hotel prior to the sale of plaintiff's parcels, brought defendants to the vicinity where plaintiff's three (3) adjacent parcels of land are located and pointed to defendants the two (2) vacant parcels right beside plaintiff's house. It is also undisputed that when defendants intimated to the brokers their desire to buy the vacant lots pointed to them when they visited the same place, they were brought to plaintiff's representative, Tarcisio S. Calilung, at the latter's office in Makati where the parties discussed the terms of the sale.

The Court notes further from the records that defendants' desire to buy vacant lots from plaintiff is not only confirmed by the testimony of Gloria Contreras and the ocular inspection conducted by the court but by defendant Betty Theis herself when the latter testified as follows:

'COURT:

Q. Why, what was the lot that you intended to buy?

A. The right side of the house, Your Honor.' (TSN of November 8, 1991, page 19)

Similarly, in answer to a question propounded to the same defendant by their counsel, she stated that —

'ATTY. ROSALES:

Q. In other words, the titles delivered to you were not the titles covering the right side of the house?

A. No, sir.' (Ibid., page 20)

It is relevant to mention that when the defendants attempted to take possession of the parcels of land they bought from the plaintiff on which they intended to construct their house after their return from a foreign sojourn, they admittedly wanted to take that vacant area, which as herein shown, turns out to be a property not owned by plaintiff. From this act of the defendants, a clear meaning is shown. Defendants themselves, knew right from the beginning that what they intended to buy was that vacant lot, not the lot where plaintiff's house stands, covered by TCT No. 15684 which was wrongly mentioned as one of the objects of the sale. x x x

The fact that the Deed of Sale subsequently executed by plaintiff and the defendants on October 27, 1987 covers the parcel of land where plaintiff's two-storey house was constructed will clearly reflect a situation that is totally different from what defendants had intended to buy from the plaintiff viz-a-viz [sic] the latter's intention to sell its two (2) vacant lots to defendants. Notwithstanding defendants' claim that it was not possible for plaintiff's representative not to be familiar with its properties, the acts and circumstances established in this case would clearly show, and this Court is convinced, that the inclusion of the parcel where plaintiff's house is constructed is solely attributable to a mistake in the object of the sale between the parties. This mistake, obviously, was made, on the part of plaintiff's representative when the latter mistook the vacant lot situated on the right side of plaintiff's house as its vacant parcels of land when its vacant lots are actually situated on the left side of the same house. Indeed, such mistake on plaintiff's part appears to be tragic as it turned out later that the vacant lot on the right side of plaintiff's house did not belong to plaintiff. Worse, is the fact that what was conveyed to defendants under the deed of sale was the parcel where plaintiff's house already stood at the time of the sale. This, definitely, is not what the parties intended.

x x x Going by the facts established by defendants' evidence, it is clear that defendants did not intend to buy the parcel of land where plaintiff's house stood as defendant Betty Theis declared in her testimony that they wanted to buy the parcel at the right side of plaintiff's house where she and her husband would construct their house (TSN of June 4, 1991, p. 56). Neither can this Court accept the hypothesis that plaintiff intended to sell that parcel where its house was already constructed for if this was its true intention, it would not sell its two (2) lots at the price of P486,000.00 which is way below the costs of its construction of P1,500,000.00.

The law itself explicitly recognizes that consent of the parties is one of the essential elements to the validity of the contract and where consent is given through mistake, the validity of the contractual relations between the parties is legally impaired.