

SECOND DIVISION

[G.R. No. 242852, July 29, 2019]

CONSOLACION P. CHAVEZ, CONNIE P. CHAVEZ, CARLA HORTENSIA C. ADELANTAR, CARMELA P. CHAVEZ, CRESENTE P. CHAVEZ, JR., AND CECILIA C. GIBE, HEREIN REPRESENTED BY HER ATTORNEY-IN-FACT CARLA P. CHAVEZ, * PETITIONERS, VS. MAYBANK PHILIPPINES, INC., RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Assailed in this petition^[1] for review on *certiorari* are the Decision^[2] dated February 20, 2018 and the Resolution^[3] dated October 10, 2018 of the Court of Appeals (CA) in CA-G.R. CEB-SP No. 10333, which: (a) set aside the Order^[4] dated May 26, 2016 of the Regional Trial Court of Jordan, Guimaras, Branch 65 (RTC) and (b) directed it to issue a Writ of Possession in favor of respondent Maybank Philippines, Inc. (respondent).

The Facts

In December 1999, petitioner Consolacion Chavez (Consolacion) and her late husband, Cresente Chavez, Sr.^[5] (Crescente, Sr.; collectively, Spouses Chavez) obtained a loan from respondent for the construction of a commercial building.^[6] As collateral therefor, they mortgaged the land on which the building was to be erected, particularly described as Lot No. 1583-C-2-E-1 covered by Transfer Certificate of Title (TCT) No. T-177235^[7] (subject property) of the Registry of Deeds for the Province of Iloilo (RD-Iloilo).^[8]

Unfortunately, Spouses Chavez defaulted in the payment of their loan, prompting respondent to extrajudicially foreclose the mortgage on the subject property.^[9] Respondent emerged as the highest bidder at the public auction and was thereafter issued a Certificate of Sale at Public Auction^[10] dated December 18, 2002, which was registered with the RD-Iloilo subject to Spouses Chavez's right of redemption.^[11]

Meanwhile, Spouses Chavez filed an action for the nullification of the extrajudicial foreclosure proceedings before the RTC, docketed as **Civil Case No. 0236**.^[12] During its pendency, Cresente, Sr. died and was substituted by his children Connie P. Chavez, Carla Hortensia C. Adelantar, Carmela P. Chavez, Cresente P. Chavez, Jr., and Cecilia P. Gibe, represented by her attorney-in-fact, Carla P. Chavez.^[13] Thus, they were joined as plaintiffs together with their mother, Consolacion (collectively, petitioners).^[14]

During the pre-trial stage of Civil Case No. 0236, the parties entered into a Compromise Agreement^[15] dated December 13, 2012 by virtue of which respondent allowed petitioners to buy back the subject property for the consideration of forty million pesos (P40,000,000.00) payable in installments, notwithstanding the expiration of the redemption period.^[16] Pertinent portions of the Compromise Agreement state:

- (1) Notwithstanding the expiration of the redemption period allowed by law, Maybank, nevertheless allows the CHAVEZ FAMILY to buy back the property covered by Transfer Certificate of Title No. 177235 subject to the terms and conditions herein set forth;
- (2) The consideration of the buyback (the buyback price) shall be as it is hereby agreed upon to be FORTY MILLION PESOS (P40,000,000.00), payable in the following manner;

x x x x

- (3) Upon execution of this Compromise Agreement, provided that the corresponding corporate approvals and authorization on the part of Maybank have been obtained, the plaintiff [herein petitioners] agrees and undertakes to jointly submit the same to the Court for approval, praying for the dismissal with prejudice of Civil Case No. 0236, for Nullification of the Foreclosure Proceedings and Documents, entitled Sps. Cresente & Consolacion Chavez -versus- MPI, Guimaras, Register of Deeds, Iloilo Province, RTC Branch 65, San Miguel, Jordan, Guimaras Province, together with all the parties' claims and counterclaims against each other;

The former owner and children/plaintiffs shall assume the cancellation of the annotation of Notice of Lis Pendens on the TCT under Entry No. 17030 and its attendant costs.

The Compromise Agreement shall be final and executory and that no other case of the same nature shall be filed or any petition or injunction filed, arising from the same issues and by the same parties;

- (4) This buy back transaction shall on an "as-is, where-is" basis. As such, the CHAVEZ FAMILY shall be responsible, among others, as follows:

x x x x

- (5) It is hereby agreed and understood that failure of the CHAVEZ FAMILY to pay any one (1) of the quarterly amortization referred to in paragraph 2 when due and to otherwise perform strictly with any of their obligations herein provided, shall mean a breach of this agreement and shall constitute default and the same shall render the whole obligation due and

demandable; Provided that all unpaid and defaulted obligation shall be subject to a penalty at the rate of 24% per annum from the date the defaulted became due and demandable until fully paid. Said breach shall also entitle Maybank at its sole and singular option to right away secure an order for the immediate possession of the subject property from RTC San Miguel Jordan, Branch 65, in Civil Case No. 0236 of the above entitled case and that the CHAVEZ FAMILY shall agree that the court may issue a JUDICIAL CONFIRMATION of the said action of Maybank.

- (6) Anything in this Agreement to the contrary notwithstanding, Maybank reserves the right to cancel this Agreement in the event of default by the Chavez Family in the performance of any of their obligations herein stipulated. In such case, all payments made by them shall be considered as rentals for the occupancy of and/or used of the subject property and as liquidated and ascertained damages.^[17]

In view of the execution of the Compromise Agreement, the RTC dismissed Civil Case No. 0236 in an Order^[18] dated May 30, 2016.

Unfortunately, petitioners defaulted in the payment of their obligation under the Compromise Agreement.^[19] This prompted respondent to enter into a Deed of Promise to Sell^[20] with J.E. TICO Realty Corporation (J.E. TICO Realty) and to file a Petition^[21] for Issuance of a Writ of Possession before the RTC, docketed as **Cadastral Case No. 15-0608**. Respondent prayed that it be placed in possession of the subject property, being the highest bidder in the foreclosure sale and as owner thereof.^[22]

Petitioners opposed^[23] the petition, arguing that the Compromise Agreement was a contract of sale which transferred to them the ownership of the subject property.^[24] Therefore, possession thereof cannot be summarily awarded to respondent, considering that their interest is adverse to that of a mortgagor-debtor.^[25] Additionally, they filed an action to annul respondent's Deed of Promise to Sell executed with J.E. TICO Realty, docketed as **Civil Case No. 15-0527**.^[26]

The RTC Ruling

In an Order^[27] dated May 26, 2016, the RTC declined to issue a Writ of Possession in respondent's favor, finding that it was first necessary to determine the nature of the interest of petitioners over the subject property, *i. e.*, whether it is adverse to that of a mortgagor-debtor.^[28] Likewise, the RTC deemed it necessary to first look into the nature of the Compromise Agreement, *i.e.*, whether it was a deed of sale or some other contract.^[29] The resolution of these issues therefore requires the reception of evidence. Additionally, the RTC ordered the consolidation of **Cadastral Case No. 15-0608** and **Civil Case No. 15-0527**, opining that the core issues and

the parties involved in both cases are the same.^[30]

Respondent moved for reconsideration,^[31] which was denied in an Order^[32] dated July 12, 2016. Aggrieved, respondent filed a petition for *certiorari*^[33] before the CA.

The CA Ruling

In a Decision^[34] dated February 20, 2018, the CA set aside the assailed issuances of the RTC and accordingly, directed it to issue a Writ of Possession in favor of respondent in **Cadastral Case No. 15-0608**.^[35] The CA held that the RTC gravely abused its discretion in not issuing an *ex-parte* Writ of Possession, the same being the court's ministerial function pursuant to Sections 6^[36] and 7^[37] of Act No. 3135, ^[38] as amended by Act No. 4118.^[39] It further held that while the rules admit of an exception which bars the issuance of a writ of possession, such as when the subject land is held by a third party adversely to the mortgagor-debtor,^[40] such a situation does not obtain in this case. Consolacion, one of the original mortgagors, cannot claim to have possessed the subject property adverse to herself, while the children of the other mortgagor, Cresente, Sr., merely substituted him in these proceedings. Further, the CA held that the parties did not intend to extinguish their mortgagor-mortgagee relationship, as extant in paragraph 5^[41] of the Compromise Agreement where respondent reserved its right to immediately possess the subject property should petitioners default in any of their payments.

Moreover, the CA held that the consolidation of **Cadastral Case No. 15-0608** and **Civil Case No. 15-0527** was improper, considering that the former is a non-litigious proceeding which involves the ministerial function of issuing an *ex-parte* writ of possession in favor of respondent,^[42] while the latter involves the annulment of respondent's Deed of Promise to Sell in favor of J.E. TICO Realty which is litigious in nature.

Petitioners moved for reconsideration,^[43] which was denied in a Resolution^[44] dated October 10, 2018; hence, this petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in directing the issuance of an *ex-parte* Writ of Possession in favor of respondent.

The Court's Ruling

In their petition, petitioners maintain,^[45] among others, that respondent can no longer demand immediate possession of the subject property through an *ex-parte* motion for the issuance of a writ of possession, in light of the execution of the Compromise Agreement which, they aver, constitutes a "new contract" and a "new legal relationship" between the parties on the thesis that the nature of the transaction embraced therein involves a sale of the subject property. Respondent

refutes^[46] petitioners' stance, insisting that the Compromise Agreement was simply what it is – a compromise entered between the parties designed to put an end to litigation, non-compliance therewith being a ground to rescind the compromise. Moreover, the mortgagor-mortgagee regime between the parties was never extinguished, as respondent never transferred ownership of the subject property to petitioners upon the execution of the Compromise Agreement.^[47]

The petition lacks merit.

The nature of the Compromise Agreement

Article 2028^[48] of the Civil Code defines a "compromise agreement" as a contract whereby the parties make reciprocal concessions in order to avoid litigation or put an end to one already commenced. If judicially approved, it becomes more than a binding contract; it is a determination of a controversy and has the force and effect of a judgment.^[49] To have the force of law between the parties, a compromise agreement must comply with the requisites and principles of contracts. Thus, it must have the following elements: (1) the consent of the parties to the compromise; (2) an object certain that is the subject matter of the compromise; and (3) the cause of the obligation that is established. While compromise agreements are generally favored and encouraged by the courts, it must be proved that they were voluntarily, freely, and intelligently entered into by the parties, who had full knowledge of the judgment.^[50] Hence, a compromise agreement, once approved, has the effect of *res judicata* between the parties and should not be disturbed except for vices of consent, forgery, fraud, misrepresentation, and coercion.^[51]

In this case, it is undisputed that after the extrajudicial foreclosure of the subject property and the consolidation of title in the name of respondent, and during the pendency of Civil Case No. 0236^[52] for nullification of the extrajudicial foreclosure proceedings filed by petitioners against respondent, the parties entered into a Compromise Agreement whereby petitioners were given the opportunity to "buy back" the subject property despite the lapse of the one-year period for redemption. Unfortunately, petitioners defaulted in their obligations under the Compromise Agreement — an allegation that, the Court notes, petitioners never denied. Further, as the CA correctly pointed out,^[53] the terms and conditions of the Compromise Agreement are legally binding upon the parties having been executed without any vice of consent, forgery, fraud, misrepresentation, or coercion.

The stipulations of the Compromise Agreement, particularly paragraphs (5) and (6) thereof, clearly show the right of respondent to rescind the same and to immediately secure a writ of possession over the subject property. This course of action/option on the part of respondent finds support under Article 2041^[54] of the Civil Code, which recognizes the right of an aggrieved party to either (1) enforce the compromise by a writ of execution or (2) regard it as rescinded and insist upon his original demand, upon the other party's failure or refusal to abide by the compromise.^[55]

Indeed, the Court has acknowledged the option to rescind a compromise agreement due to non-compliance with its terms,^[56] as explained in *Chavez v. Court of*