

## THIRD DIVISION

[ G.R. No. 206114, June 19, 2017 ]

**DOLORES ALEJO, PETITIONER, V. SPOUSES ERNESTO CORTEZ AND PRISCILLA SAN PEDRO, SPOUSES JORGE LEONARDO AND JACINTA LEONARDO AND THE REGISTER OF DEEDS OF BULACAN, RESPONDENTS.**

### DECISION

**TIJAM, J.:**

Assailed in this Petition for Review<sup>[1]</sup> under Rule 45 are the Decision<sup>[2]</sup> dated October 3, 2012 and Resolution<sup>[3]</sup> dated February 26, 2013 of the Court of Appeals<sup>[4]</sup> (CA) in CA-G.R. CV No. 95432, which reversed the Decision<sup>[5]</sup> of the Regional Trial Court (RTC),<sup>[6]</sup> Branch 19 in the City of Malolos, Bulacan. In its assailed Decision and Resolution, the CA declared void the parties' agreement for the sale of a conjugal property for lack of written consent of the husband.

#### **The Facts and Antecedent Proceedings**

At the heart of the instant controversy is a parcel of land measuring 255 square meters located at Cut-cot, Pulilan, Bulacan and covered by Transfer Certificate of Title No. T-118170. The property belonged to the conjugal property/absolute community of property<sup>[7]</sup> of the respondent Spouses Jorge and Jacinta Leonardo (Spouses Leonardo) and upon which their residential house was built.

It appears that sometime in March 1996, Jorge's father, Ricardo, approached his sister, herein petitioner Dolores Alejo (Dolores), to negotiate the sale of the subject property.<sup>[8]</sup> Accordingly, on March 29, 1996, Jacinta executed a *Kasunduan* with Dolores for the sale of the property for a purchase price of PhP500,000. Under the *Kasunduan*, Dolores was to pay PhP70,000 as down payment, while PhP230,000 is to be paid on April 30, 1996 and the remaining balance of PhP200,000 was to be paid before the end of the year 1996.<sup>[9]</sup> The *Kasunduan* was signed by Jacinta and Ricardo as witness. Jorge, however, did not sign the agreement.

It further appears that the down payment of PhP70,000 and the PhP230,000 were paid by Dolores<sup>[10]</sup> on the dates agreed upon and thereafter, Dolores was allowed to possess the property and introduce improvements thereon.<sup>[11]</sup>

However, on July 3, 1996, Jorge wrote a letter to Dolores denying knowledge and consent to the *Kasunduan*. Jorge further informed Dolores that Jacinta was retracting her consent to the *Kasunduan* due to Dolores' failure to comply with her obligations.

This was followed by another letter dated September 29, 1996 from Jorge to Dolores demanding that the latter pay the balance of PhP200,000 on or before

October 5, 1996, otherwise the purchase price shall be increased to PhP700,000.<sup>[12]</sup> According to Dolores, she was being compelled by Jorge to sign the agreement but that she refused to do so. As a result, Jorge went to her house, destroyed its water pump and disconnected the electricity. Before the officials of the Barangay, Dolores tendered the balance of PhP200,000 but Jorge refused to accept the same. Instead, Jorge filed cases for ejectment<sup>[13]</sup> and annulment of sale, reconveyance and recovery of possession<sup>[14]</sup> against her.<sup>[15]</sup> These cases were later on dismissed by the trial court on technical grounds.

However, during the pendency of said cases, the subject property was sold by Jorge and Jacinta to respondents Spouses Ernesto Cortez and Priscilla San Pedro (Spouses Cortez) under a Deed of Absolute Sale dated September 4, 1998 for a purchase price of PhP700,000. A new transfer certificate of title was issued in the latter's names. At the time of said sale, Dolores was in possession of the subject property.<sup>[16]</sup>

Consequently, Dolores filed the case *a quo* for annulment of deed of sale and damages against the Spouses Cortez and the Spouses Leonardo.

### **The Ruling of the RTC**

In its Decision, the RTC noted that while the *Kasunduan* patently lacks the written consent of Jorge, the latter's acts reveal that he later on acquiesced and accepted the same. In particular, the RTC observed that Jorge did not seasonably and expressly repudiate the *Kasunduan* but instead demanded from Dolores compliance therewith and that he allowed Dolores to take possession of the property. Further, the RTC noted that the case for annulment of sale, reconveyance and recovery of possession filed by Jorge against Dolores had been dismissed and said dismissal attained finality. As such, *res judicata* set in preventing Jorge from further assailing the *Kasunduan*.<sup>[17]</sup>

Accordingly, the RTC declared the *Kasunduan* as a perfected contract and Dolores as the rightful owner of the property. It further ordered the cancellation of titles issued in the names of the Spouses Leonardo and the Spouses Cortez and the issuance of a new title in the name of Dolores. Finally, the RTC ordered Dolores to pay the balance of PhP200,000 and the Spouses Leonardo to pay moral damages, attorney's fees, litigation expenses and costs of suit.<sup>[18]</sup>

In disposal, the RTC pronounced:

**WHEREFORE**, judgment is hereby rendered in favor of plaintiff Dolores Alejo and against defendants [S]pouses Leonardo and Cortez, as follows:

- 1.) Declaring the "Kasunduan" dated March 29, 1996 a perfected contract, legal, binding and subsisting having been accepted by defendant Jorge Leonardo;
- 2.) Declaring the plaintiff the true, legal and rightful owner of the subject property;
- 3.) Declaring TCT No. 18170 in the names of Spouses Jorge Leonardo, Jacinta Leonardo cancelled and of no legal force and effect;
- 4.) Declaring TCT No. 121491 in the names of Spouses Ernesto Cortez and Priscilla San Pedro null and void and therefore should be ordered cancelled and of no legal force and effect;

- 5.) In lieu thereof, ordering the Register of Deeds of the Province of Bulacan to issue a new title in the name of plaintiff Dolores Alejo;
- 6.) Ordering plaintiff Dolores Alejo to pay defendants Spouses Leonardo the sum of Php200,000.00 to complete her obligation under the "Kasunduan";
- 7.) Ordering defendants Spouses Leonardo to pay plaintiff the sum of Php100,000.00 as and by way of moral damages;
- 8.) Ordering defendants Spouses Leonardo to pay plaintiff the sum of Php50,000.00, as and by way of attorney's fees and litigation expenses;
- 9.) Ordering defendants Spouses Leonardo to pay the cost of suit.

The claim of Php500,000.00 actual damages as well as Php100,000.00 as exemplary damages are denied for lack of legal as well as factual basis. All other claims and counterclaim are denied for lack of merit.

SO ORDERED.<sup>[19]</sup>

The Spouses Leonardo and the Spouses Cortez seasonably appealed.

### **The Ruling of the CA**

The CA granted the appeal.<sup>[20]</sup> Contrary to the findings of the RTC, the CA held that Jorge, by imposing a new period within which Dolores was to pay the remaining balance and by increasing the purchase price, only qualifiedly accepted the *Kasunduan*. Being a qualified acceptance, the same partakes of a counter-offer and is a rejection of the original offer. Consequently, the CA declared the *Kasunduan* as void absent Jorge's consent and acceptance. Nevertheless, the CA found Dolores to be a possessor in good faith who is entitled to reimbursement for the useful improvements introduced on the land or to the increase in the value thereof, at the option of the Spouses Leonardo.

The CA accordingly disposed:

**WHEREFORE**, the appeal is hereby **GRANTED**. The assailed 14 January 2010 Decision of the Regional Trial Court, Branch 19 of Malolos City, Bulacan is hereby **REVERSED and SET ASIDE**. The *Kasunduan* dated 29 March 1996 is hereby declared **VOID**. TCT No. 121491 in the names of Spouses Cortez and San Pedro is hereby declared **VALID and SUBSISTING**. Appellants Spouses Leonardo are **ORDERED** to reimburse Dolores Alejo the amount of Php300,000.00 that the latter paid to Jacinta Leonardo, with legal interest until fully paid. Appellants Spouses Leonardo are likewise **ORDERED**, at their option, to indemnify Dolores Alejo with her expenses for introducing useful improvements on the subject land or pay the increase in value which it may have acquired by reason of those improvements, with Alejo entitled to the right of retention of the land until the indemnity is made. Finally, the Regional Trial Court of Malolos City, Bulacan from which this case originated is **DIRECTED** to receive evidence and determine the amount of indemnity to which appellee Dolores Alejo is entitled.

**SO ORDERED.**<sup>[21]</sup>

Dolores' motion for reconsideration was denied, hence the instant petition.

## **The Issues**

Dolores argues that the Spouses Leonardo's and Spouses Cortez' appeals ought to have been outrightly dismissed for failure to comply with the requirements of Section 13, Rule 44. On the substantive issue, Dolores maintains that the *Kasunduan* is a perfected and binding contract as it was accepted by Jorge through his overt acts. She also argues that the dismissal of Jorge's complaint for annulment of sale constitutes *res judicata* thus preventing Jorge from further questioning the validity of the *Kasunduan*. Finally, she contends that the Spouses Cortez were not buyers in good faith as they knew that the property was being occupied by other persons.

## **The Ruling of this Court**

The petition is denied.

### *Dismissal of Appeal Lies within the Sound Discretion of the Appellate Court*

Technically, the CA may dismiss the appeal for failure to comply with the requirements under Sec. 13, Rule 44. Thus, Section 1, Rule 50 provides that an appeal may be dismissed by the Court of Appeals, on its own motion or on that of the appellee upon the ground, among others, of absence of specific assignment of errors in the appellant's brief, or of page references to the record.

Nevertheless, it has been consistently held that such provision confers a power, not a duty, on the appellate court.<sup>[22]</sup> The dismissal is directory, not mandatory, and as such, not a ministerial duty of the appellate court.<sup>[23]</sup> In other words, the CA enjoys ample discretion to dismiss or not to dismiss the appeal. What is more, the exercise of such discretion is presumed to have been sound and regular and it is thus incumbent upon Dolores to offset such presumption. Yet, the records before this Court do not satisfactorily show that the CA has gravely abused its discretion in not dismissing the Spouses Leonardo's and Spouses Cortez' appeals.

On the contrary, We are of the view that the ends of justice will be better served if the instant case is determined on the merits, after full opportunity to ventilate their respective claims and defenses is afforded to all parties. After all, it is far better to decide a case on the merits, as the ultimate end, rather on a technicality.

The key issue in this case is whether the *Kasunduan* for the sale of a conjugal real property between Jacinta and Dolores as a continuing offer has been converted to a perfected and binding contract. For, if Jorge has not accepted or consented to the said sale, the *Kasunduan* is considered void rendering the other issues raised herein merely academic.

### *Sale by one Spouse of Conjugal Real Property is Void Without the Written Consent of the other Spouse*

Any alienation or encumbrance of conjugal property made during the effectivity of the Family Code is governed by Article 124 thereof which provides:

Article 124. The administration and enjoyment of the conjugal partnership property shall belong to both spouses jointly. In case of disagreement, the husband's decision shall prevail, subject to recourse to