

## SECOND DIVISION

[ G.R. No. 205623, August 10, 2016 ]

**CONCHITA A. SONLEY, PETITIONER, VS. ANCHOR SAVINGS BANK/ EQUICOM SAVINGS BANK, RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> assails the Court of Appeals' August 28, 2012 Decision<sup>[2]</sup> and January 25, 2013 Resolution<sup>[3]</sup> denying herein petitioner Conchita A. Sonley's Urgent Motion for Reconsideration<sup>[4]</sup> in CA-G.R. SP No. 122409.

#### ***Factual Antecedents***

The facts, as succinctly narrated by the Court of Appeals (CA), are as follows:

The instant case arose when, on March 13, 2009, the petitioner<sup>[5]</sup> filed a Complaint<sup>[6]</sup> for declaration of nullity of rescission of contract and damages in the trial court<sup>[7]</sup> against x x x Anchor Savings Bank ("Anchor"), a thrift banking institution organized and existing under the laws of the Philippines [whose] business name xxx was [later] changed to Equicom Savings Bank x x x

In the said complaint, petitioner alleged that, on January 28, 2005, she agreed to purchase a real property from [Anchor] for the sum of x x x Php2,200,000.00 xxx. The said real property pertained to a parcel of land that had been foreclosed by [Anchor] with an area of x x x 126.50 square meters xxx located at Fairview, Quezon City ("subject property" Pursuant to the said agreement, the parties entered into a Contract to Sell<sup>[8]</sup> whereby the petitioner agreed to pay the amount of x x x Php200,000.00 x x x as downpayment xxx with the balance of x x x Php2,000,000.00 xxx payable in sixty (60) monthly installments amounting to xxxPhp47,580.00 xxx.

Petitioner, however, defaulted in paying her monthly obligations xxx which prompted [Anchor] to rescind the contract to sell xxx. In filing the complaint xxx petitioner averred that the rescission of the contract to sell was null and void because she had already substantially paid her obligation to the bank.

In its Answer<sup>[9]</sup> [Anchor] denied the allegations that were made by the petitioner in her complaint. On the contrary, it contended that the post-dated checks which were issued by the petitioner in its favor covering the

monthly installments for the purchase of the subject property were all dishonored by the drawee bank when they were presented for payment. Thus, [Anchor] averred that petitioner should not be allowed to benefit from her own fault and prevent [Anchor] from exercising its right to rescind their contact to sell.

Subsequently, after the issuance of a Pre-Trial Order by the trial court, the parties agreed to an amicable settlement and entered into a Compromise Agreement.<sup>[10]</sup> On the basis thereof, the trial court rendered a Judgment<sup>[11]</sup> xxxon August 16,2010 whereby the petitioner agreed to repurchase the subject property from [Anchor] for the amount of x x x Phpl ,469,460.66 xxx plus xxx 12% x x x interest per annum.

However, [Anchor] later on filed a Manifestation and Motion for Execution<sup>[12]</sup> in the trial court claiming that petitioner had not been paying the agreed monthly installments in accordance with the compromise agreement. Moreover, it averred that all the checks which the petitioner issued to pay her obligations were again dishonored. Thus, [Anchor] prayed that a writ of execution be issued by the trial court in its favor ordering: (1) that the contract to sell that was entered into between the parties be rescinded; (2) that [Anchor] be allowed to apply all the payments that were made to it by the petitioner as rentals; and (3) that petitioner immediately vacate the subject property,

Consequently, on September 8, 2011, the trial court issued the assailed order<sup>[13]</sup> the dispositive portion of which states:

'WHEREFORE, premises considered, the *'Manifestation and Motion for Execution'* is hereby GRANTED.

Consequently, the Judgment dated August 16, 2010 should be entered in the Book of Entries of Judgment as final and executory. Accordingly, let a writ of execution be issued and the Deputy Sheriff of this Court is hereby ordered to implement the same.

SO ORDERED;

In arriving at the said ruling, the trial court ratiocinated as follows:

'In view of the foregoing and for failure of the plaintiff to comply with the terms and conditions of the Compromise Agreement and since said Judgment itself provides that the same shall t>e immediately final and executory, the Decision dated August 16, 2010 is hereby reiterated as final and executory and should | now be entered in the Book of Entries and Judgment. Accordingly, a writ of execution should now be issued to implement the aforesaid Judgment in consonance with the Compromise Agreement and in line with Rule 39 Section 1 of the Rules of Court, to wit:

'Section 1. Execution upon judgments or final orders. - Execution shall issue as a matter of right on motion, upon a judgment or order that disposes of the action or proceeding upon the expiration of the period to appeal therefrom if no appeal has been duly perfected.'

[14]

### ***Riding of the Court of Appeals***

Petitioner filed a Petition for *Certiorari* before the CA, docketed as CA-G,R. SP No. 122409, claiming that the trial court committed grave abuse of discretion in issuing a writ of execution, since there is nothing in the trial court's August 16,2010 judgment which authorizes the issuance of such a writ in case the parties fail to perform the obligations stated under the Compromise Agreement.

In its assailed August 28,2012 Decision, however, the CA ruled against the petitioner, pronouncing thus:

In sum, the sole issue to be resolved by us in this case is whether or not the trial court may issue a writ of execution against the petitioner despite the fact that the issuance thereof was not specifically provided for in the judgment which it rendered based on compromise agreement. After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

A compromise is a contract whereby the parties, by making reciprocal concessions, avoid a litigation or put an end to one already commenced. Like any other contract, a compromise agreement must comply with the requisites in Article 1318 of the Civil Code, to wit: (a) consent of the contracting parties; (b) object certain that is the subject matter of the contract; and (c) cause of the obligation that is established. Like any other contract, the terms and conditions of a compromise agreement must not be contrary to law, morals, good customs, public policy and public order, x x x

Corollary thereto, once submitted to the court and stamped with judicial approval, a compromise agreement becomes more than a mere private contract binding upon the parties. Having the sanction of the court and entered as its determination of the controversy, it has the force and effect of any judgment.

In the case at bench, the petitioner pointed out that the issuance of a writ of execution was not warranted and had no legal basis under the judgment based on compromise agreement that was rendered by the trial court. In support of her argument, petitioner relied on paragraph (c) of the said agreement which provides as follows:

'(c) Penalty. In case of failure of the plaintiff to pay, for any reason whatsoever, the amount provided in the Schedule of Payment, the plaintiff hereby agrees to pay, in addition to, and separate from, the interest rate agreed upon, a penalty charge

of FIVE PERCENT (5%) per month or a fraction thereof, based on unpaid installments computed from due date until fully paid. This shall be without prejudice to the right of the defendant to rescind this Compromise Agreement as provided under the 'Contact to Sell' dated 21 December 2007 upon compliance with the requirements provided for under the law.'

Petitioner insisted that, pursuant to the foregoing stipulation, [Anchor] was only entitled to an additional penalty charge of five percent (5%) per month in case she failed to pay her monthly obligations. Thus, she posited that the trial court committed grave abuse of discretion when it issued a writ of execution against her when she defaulted in her payment because the terms of their compromise agreement did not provide for the said remedy.

The foregoing contentions adduced by the petitioner are untenable and devoid of merit. True, the compromise agreement between the parties stated that, in case of the petitioner's failure to pay her obligation, she agreed to pay interests and penalties [sic] charges. However, paragraph (c) of the compromise agreement likewise provided that petitioner's payment of the additional interests and charges 'shall be without prejudice to the right of the defendant to rescind this Compromise Agreement as provided under the 'Contact to Sell' dated 21 December 2007.' On this note, it bears stressing that the pertinent portions of the contact to sell read as follows:

#### 'RESCISSION OF CONTRACT

**'The failure of the BUYER to pay on due date any monthly installment** in accordance with the Schedule of Payment provided in Paragraph 2 - Manner of Payment, or if, at any time, the SELLER is of the opinion that the BUYER would be unable to pay or meet his obligations under this Contract or in case the BUYER was declared in default by any other creditor, **then the SELLER shall be entitled, as a matter of right, to rescind the Contract.'**

#### 'FORFEITURE OF PAYMENTS

**'As a consequence of the rescission of this Contract pursuant to Paragraph 5 above, any and/or all payments made by the BUYER under this Contract shall be deemed forfeited in favour of the SELLER and shall be applied as rentals for the use and occupancy of the PROPERTY** and/or as and by way of liquidated damages and indemnification for opportunity loss and/or other losses, the BUYER hereby acknowledging and confirming that the SELLER was deprived of the opportunity to offer the PROPERTY for sale to other interested parties or dispose thereof in such manner as it deems necessary or appropriate during the existence of this Contract.'

Considering the aforequoted stipulations in the compromise agreement and the contract to sell, this Court does not find any merit in the claim of the petitioner that [Anchor] could not avail of the remedy of rescission in case of default in payment by the petitioner. On the contrary, the intent of the contracting parties was clearly embodied in the compromise agreement when the said agreement stated that the petitioner should pay additional charges should she default in the payment of her obligations x x x. The payment of said additional amounts, however, shall be without prejudice to [Anchor's] right to rescind the contract to sell and consider the payments that were already made by the petitioner as rentals for her use and occupation of the subject property.

Verily, it is a settled rule that a compromise agreement, once approved by final order of the court, has the force of *res judicata* between the parties and should not be disturbed except for vices of consent or forgery. Hence, a decision on a compromise agreement is final and executory and it has the force of law and is conclusive between the parties. It transcends its identity as a mere contract binding only upon the parties thereto as it becomes a judgment that is subject to execution in accordance with the Rules of Court. In this regard, Article 2041 of the Civil Code explicitly provides that, if one of the parties fails or refuses to abide by the compromise agreement, the other party may either enforce the compromise or regard it as rescinded and insist upon his or her original demand.

At this point, it bears stressing that a petition for *certiorari* against a court which has jurisdiction over a case will prosper only if grave abuse of discretion is manifested. The burden is on the part of the petitioner to prove not merely reversible error but grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the [court] issuing the impugned order. Mere abuse of discretion is not enough; it must be grave,

Here, there is a paucity of circumstance which would persuade us to grant the instant petition. There was no hint of whimsicality nor gross and patent abuse of discretion as would amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined By law when the trial court issued the assailed order and issued a writ of execution against herein petitioner who voluntarily and freely signed the compromise agreement and thereafter became bound by the terms and conditions that were embodied therein.

**WHEREFORE**, in view of the foregoing premises, judgment is hereby rendered by us DENYING the petition filed in this case for lack of merit. The Order dated September 8,2011 issued by Branch 148 of the Regional Trial Court of the National Capital Judicial Region in Makati City dated September 8, 2011 [sic] in Civil Case No. 09-217 is **AFFIRMED**.

**SO ORDERED.**<sup>[15]</sup>

In short, the CA held that petitioner's failure to abide by the terms and conditions of the Compromise Agreement, which had the force and effect of a final and executory