

FIRST DIVISION

[G.R. No. 181664, November 14, 2012]

LAND BANK OF THE PHILIPPINES, PETITIONER, VS. CRISPIN D. RAMOS AND DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, RESPONDENT.

DECISION

VILLARAMA, JR., J.:

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeks to reverse and set aside the Resolution^[1] dated January 31, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 82916 dismissing the appeal for lack of jurisdiction.

In January 2000, the Department of Public Works and Highways (DPWH) and respondent Crispin D. Ramos (respondent) entered into a contract of sale over a portion of land affected by a bridge construction project. As per the recitals of the Deed of Absolute Sale,^[2] the property sold is co-owned but respondent was the sole vendee, thus:

WHEREAS, the PARTY OF THE FIRST PART is to construct the New Gayaman Bridge, Binmaley, Pangasinan and such construction affects and passes through a portion of the hereunto described property under Tax Declaration No. 573 still in the name of the late Maximo Diaz who is the predecessor-in-interest of the PARTY OF THE SECOND PART [Crispin D. Ramos];

WHEREAS, the PARTY OF THE SECOND PART and FLORA D. RAMOS-REYES, GOMERCINDO D. RAMOS and JOSE ADVITO D. RAMOS are the compulsory heirs of the late Matea D. Ramos, the latter, together with the Late Maximo Diaz, being the only compulsory heirs of the late Mariano Diaz;

WHEREAS, the heirs of the Late Matea Diaz-Ramos and the heirs of the Late Maximo Diaz are the co-owners of the parcel of land hereunto described property, but the latter's share was alienated, conveyed and ceded to Eduardo Concepcion by the heirs of the late Maximo Diaz;

WHEREAS, only the PARTY OF THE SECOND PART voluntarily and spontaneously agrees and assents to alienate, convey and cede such a portion from their share of inheritance in the estate of the Late Mariano Diaz as transferred to the Late Matea D. Ramos which such said portion to be affected by the construction of the New Concrete Gayaman Bridge shall be deducted from his inheritance share on the said one-half portion

of the estate of the Late Mariano Diaz as hereunto described;

WHEREAS, the PARTY OF THE SECOND PART, being a co-owner of that property hereunto described covered and embodied under Tax declaration No. 573 as declared for taxation purposes consents to cede and convey for consideration **a portion from his share in inheritance in the estate** of the Late Matea Diaz Ramos affected thereby by way of this Deed of Absolute Sale to the herein PARTY OF THE FIRST PART, such portion being more particularly described and bounded on the North, by the National Road and the property of Marcelo Senting, on the East, by the river; on the South, by the river; and on the West, by the property of Isidro Menera and Inocencio Cerezo, containing an area of One Thousand One Hundred Forty Square Meters (1,140 sq.m.)^[3] (Emphasis supplied)

Accordingly, the agreed consideration of P570,000.00 was paid by DPWH to respondent by debiting the said amount from the latter's account with petitioner Land Bank of the Philippines (LBP) which credited such fund to the deposit/account of respondent.^[4]

Respondent was able to withdraw from the aforesaid account P100,000.00 on March 26, 2001. In a letter^[5] dated April 10, 2001, DPWH requested petitioner to hold in abeyance the release of payment to respondent while it sought a legal opinion from the DPWH Central Office in Manila. It appears that earlier, Jose Advito D. Ramos, a brother of respondent, wrote the DPWH saying that as co-owner of the property bought by DPWH, he is also entitled to his share in the proceeds of the sale.

Under 1st Indorsement dated June 22, 2001, DPWH Legal Services Director Oscar D. Abundo opined that:

x x x x

It is worthy to mention that until now the property is still owned in common by the heirs, therefore, all should participate or share in the proceeds of the payment.

For equity and justice, a Deed of Partition should be submitted/demanded in order to determine the Degree of Participation for every heir.

In view of the foregoing, no release/payment should be made until such time that the issue is settled.^[6]

On March 4, 2002, respondent filed a Complaint^[7] for "Recovery of Bank Deposit With Damages" in the Regional Trial Court (RTC) of Lingayen, Pangasinan against petitioner, its Branch Manager Ms. Kathleen Fernandez, and Field Attorney Atty. Jose L. Lopez, Jr.

Petitioner filed its Answer^[8] asserting that it was forced to litigate in a baseless suit which did not implead DPWH as the real party defendant. With leave of court, it filed a Third-Party Complaint^[9] against DPWH.

In its Answer,^[10] DPWH contended that it was well within its right to request that payment to respondent be held in abeyance. Absent any actual partition, respondent cannot appropriate as his own, that portion of Lot 7382 sought to be acquired by DPWH, which is owned *pro-indiviso* by all the co-owners who are also entitled to receive their equal share of the payment. Hence, DPWH asserted that it does not incur any liability for its action, the same being legal and justifiable under the circumstances.

The parties agreed to submit the case for a judgment on the pleadings.

On November 27, 2003, the trial court rendered its decision^[11], the dispositive portion of which reads:

WHEREFORE, premises well-considered, judgment is hereby rendered as follows:

1. ordering the Land Bank of the Philippines, Dagupan City Extension Office in Caranglaan District, through its authorized officer(s) to allow the plaintiff to withdraw his deposit with interest from Saving's Account No. 2641-0235-50 with aforesaid bank;
2. ordering the Land Bank of the Philippines to pay the plaintiff litigation expenses in the amount of Ten Thousand (P10,000.00) pesos and attorney's fees in the amount of Thirty Thousand (P30,000.00) pesos;
3. dismissing the third party complaint of Land Bank of the Philippines against the third party defendant Department of Public Works and Highways.

SO ORDERED.^[12]

Petitioner filed a motion for reconsideration but it was denied by the trial court in its Order dated February 16, 2004.^[13] DPWH had separately filed a notice of appeal but subsequently filed a motion to withdraw appeal which was granted by the CA.

Before the CA, petitioner presented the following assignment of errors:

First Assignment of Error

THE LOWER COURT ERRED WHEN IT ORDERED DEFENDANT/THIRD-PARTY PLAINTIFF-APPELLANT TO ALLOW PLAINTIFF-APPELLEE TO WITHDRAW HIS DEPOSIT WITH INTEREST FROM SAVINGS ACCOUNT NO. 2641-0235-50.