

## SECOND DIVISION

[ G.R. NO. 127440, January 27, 2007 ]

**FERNANDO SANTIAGO, PETITIONER, VS. THE HONORABLE  
COURT OF APPEALS, GOVERNMENT SERVICE INSURANCE  
SYSTEM, AND SPOUSES RUSTICO AND FE SANTOS,  
RESPONDENTS.**

### DECISION

**VELASCO, JR., J.:**

Challenged in this Petition for Review on Certiorari is the June 25, 1996 Decision of the Court of Appeals (CA) in CA-G.R. CV No. 32374, entitled *Fernando Santiago v. Government Service Insurance System (GSIS), et al.*, which affirmed with modification the July 29, 1988 Decision of the Manila Regional Trial Court (RTC), Branch XXVI in Civil Case No. R-81-616 for specific performance and damages against GSIS and for ejectment and damages against spouses Santos. Likewise assailed is the December 10, 1996 CA Resolution rejecting petitioner's Motion for Reconsideration.

### The Facts

On October 8, 1959, a Contract to Sell<sup>[1]</sup> was entered into by and between petitioner Fernando Santiago, with residence at 756 Padilla St., San Miguel, Manila and respondent GSIS over Lot 15, Block 2, Leonila Hills Subdivision, Baguio City, for a consideration of Thirty-three Thousand Pesos (PhP 33,000.00), subject to the following terms and conditions, viz:

1. The PURCHASER agrees to pay the CORPORATION, upon signing this Agreement, the sum of (15% for Member and 25% for Non-Member) FOUR THOUSAND NINE HUNDRED FIFTY PESOS ONLY (P4,950.00) Pesos, and the amount of THREE HUNDRED ELEVEN PESOS & 41/100 (P311.41) Pesos, Philippine Currency, monthly thereafter until the whole or full amount of the purchase price hereinabove stipulated has been fully paid to the entire and full satisfaction of the CORPORATION, with interest at the rate of Six Percent (6%) per annum or Eight percent (8%) for Non-Member, said interest to be payable monthly. Interest at the rate of 1% per month, payable monthly, will be charged by the CORPORATION on all payments delinquent for more than thirty (30) days.

x x x x

3. Possession of the building, the improvements thereon and the parcel of land hereinby contracted to be sold will be delivered to the PURCHASER by the CORPORATION, or its duly authorized representative, after the approval of the application by the Board of Trustees, the signing

of this contract, and the payment of the down payment of (15% for Member) (25% for Non-Member) P4,950.00 in the office of the CORPORATION at Manila.

x x x x

7. No promises, verbal or written agreement, contracts or stipulations entered into by the PURCHASER with third parties, contrary to any of the contents of this agreement, shall in any way supersede, alter, modify or nullify this contract, nor shall they be valid unless authorized herein.

8. Should the PURCHASER fail to pay any of the monthly installments herein provided within ninety (90) days of the date due, this contract shall be deemed automatically cancelled and forfeited, of no force and effect, and the CORPORATION shall have the complete, absolute, and boundless power, authority, jurisdiction and discretion, and without reservation by the PURCHASER, to dispose, sell, transfer, convey, assign and encumber the herein mentioned properties to any other person or persons, natural or juridical, in the same manner as if this contract or agreement has never been made, provided, however, that extension has been authorized expressly in writing by the CORPORATION or its duly authorized representative, may be allowed the PURCHASER upon proof of extra-ordinary misfortune satisfactory to the CORPORATION.

9. In the event of the cancellation and forfeiture mentioned in the next preceding [sic] paragraph, all sums of money paid by or due from the PURCHASER under paragraphs 1 and 2 of this contract shall be considered as rental for the use of said property and the PURCHASER waives and forfeits rights to ask or demand the return thereof.

x x x x

15. Any single violation of this agreement shall be sufficient and adequate reason to consider the contract forfeited and the PURCHASER agrees to leave or vacate the property, leaving all improvements made [thereon] in good and serviceable condition, after notice in writing have been made on PURCHASER that he violated this agreement and PURCHASER failed or refused to rectify or correct said violation of the agreement.

x x x x

17. The PURCHASER shall not sell, cede, encumber, transfer in any manner [nor] assign his rights under this contract without the express consent of the CORPORATION in writing and until all the stipulations of this contract shall have been fulfilled faithfully as of the date of the transfer, assignment, conveyance or resale.

x x x x

19. The PURCHASER hereby agrees to respect and abide [by] all rules that may be promulgated by the CORPORATION or its management for

the protection of the property rights of the CORPORATION, the PURCHASERS and/or residents of the project; and for the enforcement of said rules and regulations, the CORPORATION shall have the right to bring court action which may be proper in the premises.

At the time petitioner Santiago signed the Contract to Sell, he was connected with the Law Division of the Department of Justice with office address at 756 Padilla St., San Miguel, Manila, the address he indicated in the contract. However, his home address was at 151 Cebu Avenue (now Mother Ignacia Avenue), Quezon City.

In 1963, petitioner became Chief of the Agrarian Counsel. In 1970, he was appointed Judge of the Court of First Instance of Quezon, Lucena City. He leased his Quezon City residence and he and his family resided in Lucena City.

With regard to the Baguio City property, petitioner took possession of it, undertook valuable improvements on the house, furnished it, and had it repainted twice.

Sometime in 1961, petitioner requested Mrs. Lydia B. Salonga, his first cousin and immediate neighbor in Quezon City, to take physical custody and care of the disputed property in Baguio City. Mrs. Salonga is married to Sen. Jovito Salonga. The property is situated near the house and lot of Mr. Fernando Busuego, uncle of petitioner.<sup>[2]</sup>

Likewise, petitioner asked Mrs. Salonga to lease or sell the property in order to at least recoup his investment. In summer of 1973, Dr. Jose De la Rosa, a resident of Baguio and a friend of the Busuegos, offered to rent the premises, in behalf of a certain American, Mr. Dennis Ireton. Mrs. Salonga authorized Dr. De la Rosa to sell or lease the property to Ireton, who eventually became a tenant.<sup>[3]</sup>

Meanwhile, Dr. De la Rosa negotiated with Mrs. Salonga for the eventual sale of the property to him. She apprised the petitioner of the developments. Thereafter, petitioner sent Mr. Agustin Ortega to the GSIS to verify the records.

However, based on the GSIS records, petitioner failed to pay the agreed monthly amortizations of the subject property. Consequently, the GSIS Acquired Assets Department sent a September 9, 1968 demand letter to petitioner at his given address at 756 Padilla St., San Miguel, Manila based on the Contract to Sell; however, he failed to comply with the demand letter. Subsequently, the Acquired Assets Accounts Division of GSIS sent two (2) additional demand letters dated February 5, 1970 and December 7, 1972 to petitioner through registered mail at the same address.

Meanwhile, the GSIS Claims Department sent two letters dated July 24, 1970 and November 16, 1970 to petitioner through mail at Lucena City regarding the refund to him of the insurance premiums he paid with interest. While said department was informed of the office address of petitioner at the Court of First Instance of Quezon, Lucena City, the Acquired Assets Department was not aware of his new address which was why all communications relating to the Baguio lot were sent to his Manila address.

Sometime in October 1973, petitioner thought that he had already fully paid for the property and even exceeded his payments to GSIS. Thus, he sent a representative

to the GSIS to ask the latter to execute a final deed of sale and to deliver the torrens title of the subject property to him, but he was apprised by his representative that his GSIS account was in arrears.

On October 29, 1973, Dr. Jose Dela Rosa wrote a letter to the GSIS informing the latter that he allegedly acquired the property of Senator Jovito Salonga at Leonila Hills, Baguio City, which the latter purchased from petitioner. He sent Fe Santos to find out the amount due to GSIS because of his desire to pay it in full so that he could have the title to the property transferred to him.<sup>[4]</sup> It appeared that Dr. De la Rosa allowed Fe Santos to rent petitioner's house and he offered to sell the lot to her.<sup>[5]</sup> Santos wanted to verify the papers with GSIS but in the process, she discovered that the owner of the subject property was petitioner Santiago and not De la Rosa. She also found out that petitioner was in arrears for 71 installments. A GSIS employee advised her to apply for the purchase of the property. Thus, on November 12, 1973, she filed an application with the GSIS to purchase the subject property.<sup>[6]</sup>

With regard to the rent of the premises, she tendered the payments of rentals to GSIS corresponding to two (2) months pending the processing of her application to purchase.<sup>[7]</sup> Through a November 23, 1973 letter,<sup>[8]</sup> GSIS then informed Santos to comply with its requirements in order to process her application; and she deposited PhP 622.82 to GSIS after complying with its requirements.<sup>[9]</sup>

On November 15, 1973, petitioner sent a letter to Mr. Cesar S. del Rosario, Accounting Chief of the Acquired Assets Accounts Division of the GSIS, stating that he was surprised to learn, through his representative, that he still had arrearages amounting to PhP 22,324.28 as of September 30, 1973. He reasoned that since he had already paid PhP 44,549.94, he concluded that the purchase price of PhP 33,000.00 was already fully paid. He also stated that he was informed that GSIS had sent letters or notices to his old address in San Miguel, Manila and not to the Court of First Instance of Quezon, Lucena City. Thus, he wanted to make arrangements with GSIS to settle his arrearages through his representatives, Agustin Ortega and Leopoldo Echevarria, Jr.<sup>[10]</sup>

On November 27, 1973, petitioner filed a letter of protest with Atty. Jaime Marcelo, Manager of the GSIS Acquired Assets Department. He vehemently objected to any plan of awarding the property to any other person and manifested his willingness to pay whatever balance he may owe the GSIS. He also stated that Fe Santos and her family, who had been able to enter the premises without his knowledge or consent, may wish to leave the premises.<sup>[11]</sup>

Meanwhile, on December 5, 1973, Fe Santos gave PhP 3,300.00 to GSIS in the nature of good faith deposit and PhP 100.00 processing fee.<sup>[12]</sup>

On December 6, 1973, petitioner sent a letter to Atty. Marcelo, which was hand carried by petitioner's representatives, Ortega and Echevarria, enclosing the check in the amount of PhP 17,024.71 as full payment of the alleged unpaid balance of the purchase price.<sup>[13]</sup> The letter and check were presented to the Manager of the Acquired Assets Department but these were transferred to his Assistant Manager for comment and recommendation.<sup>[14]</sup>

It was only on December 7, 1973 that GSIS sent a letter to petitioner at the Court of First Instance of Quezon, Lucena City notifying him of the cancellation of his award of the subject property effective October 25, 1973 for non-compliance with the terms and conditions of the Contract to Sell.<sup>[15]</sup> Specifically, he was in arrears for seventy-one (71) monthly amortizations as of September 30, 1973. Petitioner then sent a telegram of protest to the Manager of the Acquired Assets Department and requested reconsideration of the revocation of the award.

On December 12, 1973, the Assistant Manager of the Acquired Assets Department stated that "Judge Santiago, [the former owner,] should be given preference per existing policy provided that the new purchase price is paid in full." He likewise averred that the new applicant, Fe Santos, had no perfected contract as her application was not yet approved by the Board and her payment would be subjected to refund under the GSIS' November 23, 1973 letter of proposal.<sup>[16]</sup>

On December 26, 1973, petitioner wrote a letter to GSIS to reconsider the cancellation of his award.<sup>[17]</sup> Then, on January 2, 1974, he repeated his request for reconsideration through a memorandum.<sup>[18]</sup> He argued that he failed to receive any notice of arrears or delinquency from the GSIS, notwithstanding the fact that it knew the address of his residence and all his changes of address and residence as a consequence of his promotions.

On February 12, 1974, Santos paid PhP 934.24 to the GSIS corresponding to the three (3)-month rental.<sup>[19]</sup>

On March 4, 1974, GSIS informed Santos that any improvements introduced to the lot or building, if any, were unauthorized, and the expenses that would be incurred were chargeable against her account.<sup>[20]</sup>

On June 11, 1974, Atty. Manuel Lazaro, Assistant General Manager of the GSIS Legal Affairs, recommended that the cancellation of the award of petitioner be set aside but with conditions that he would hold GSIS free and unharmed from any and all liability by reason of the cancellation, and to defend GSIS in any and all suits connected or related to the return of the money of Fe Santos.<sup>[21]</sup> On August 1, 1974, in its Board Resolution No. 21, the GSIS Board of Trustees approved the recommendation of Atty. Lazaro, with the conditions that were set forth in the meeting.<sup>[22]</sup>

In a letter dated August 31, 1974, Santiago accepted the terms and conditions of Board Resolution No. 21 provided however that "the full force and effect of the said original Deed of Conditional Sale x x x is recognized conformably with law x x x."<sup>[23]</sup> He later designated Leopoldo Echevarria as his attorney-in-fact, through a Special Power of Attorney,<sup>[24]</sup> to sign the Deed of Absolute Sale covering the property located at Leonila Hills, Baguio City.

Through a July 2, 1974 letter, GSIS notified Santos that her application to purchase the subject property was denied by its Board of Trustees and that GSIS was returning to her the amount of PhP 3,300.00 deposit she previously paid.<sup>[25]</sup> Moreover, through an August 15, 1974 letter, GSIS also informed Santos that it set