

## FIRST DIVISION

[ G.R. NO. 137162, January 24, 2007 ]

**CORAZON L. ESCUETA, ASSISTED BY HER HUSBAND EDGAR ESCUETA, IGNACIO E. RUBIO, THE HEIRS OF LUZ R. BALOLOY, NAMELY, ALEJANDRINO R. BALOLOY AND BAYANI R. BALOLOY, PETITIONERS, VS. RUFINA LIM, RESPONDENT.**

### DECISION

**AZCUNA, J.:**

This is an appeal by certiorari<sup>[1]</sup> to annul and set aside the Decision and Resolution of the Court of Appeals (CA) dated October 26, 1998 and January 11, 1999, respectively, in CA-G.R. CV No. 48282, entitled "Rufina Lim v. Corazon L. Escueta, etc., et. al."

The facts<sup>[2]</sup> appear as follows:

Respondent Rufina Lim filed an action to remove cloud on, or quiet title to, real property, with preliminary injunction and issuance of [a hold-departure order] from the Philippines against Ignacio E. Rubio. Respondent amended her complaint to include specific performance and damages.

In her amended complaint, respondent averred *inter alia* that she bought the hereditary shares (consisting of 10 lots) of Ignacio Rubio [and] the heirs of Luz Baloloy, namely: Alejandrino, Bayani, and other co-heirs; that said vendors executed a contract of sale dated April 10, 1990 in her favor; that Ignacio Rubio and the heirs of Luz Baloloy received [a down payment] or earnest money in the amount of P102,169.86 and P450,000, respectively; that it was agreed in the contract of sale that the vendors would secure certificates of title covering their respective hereditary shares; that the balance of the purchase price would be paid to each heir upon presentation of their individual certificate[s] of [title]; that Ignacio Rubio refused to receive the other half of the down payment which is P[100,000]; that Ignacio Rubio refused and still refuses to deliver to [respondent] the certificates of title covering his share on the two lots; that with respect to the heirs of Luz Baloloy, they also refused and still refuse to perform the delivery of the two certificates of title covering their share in the disputed lots; that respondent was and is ready and willing to pay Ignacio Rubio and the heirs of Luz Baloloy upon presentation of their individual certificates of title, free from whatever lien and encumbrance;

As to petitioner Corazon Escueta, in spite of her knowledge that the disputed lots have already been sold by Ignacio Rubio to respondent, it is

alleged that a simulated deed of sale involving said lots was effected by Ignacio Rubio in her favor; and that the simulated deed of sale by Rubio to Escueta has raised doubts and clouds over respondent's title.

In their separate amended answers, petitioners denied the material allegations of the complaint and alleged *inter alia* the following:

For the heirs of Luz Baloloy (Baloloys for brevity):

Respondent has no cause of action, because the subject contract of sale has no more force and effect as far as the Baloloys are concerned, since they have withdrawn their offer to sell for the reason that respondent failed to pay the balance of the purchase price as orally promised on or before May 1, 1990.

For petitioners Ignacio Rubio (Rubio for brevity) and Corazon Escueta (Escueta for brevity):

Respondent has no cause of action, because Rubio has not entered into a contract of sale with her; that he has appointed his daughter Patricia Llamas to be his attorney-in-fact and not in favor of Virginia Rubio Laygo Lim (Lim for brevity) who was the one who represented him in the sale of the disputed lots in favor of respondent; that the P100,000 respondent claimed he received as down payment for the lots is a simple transaction by way of a loan with Lim.

The Baloloys failed to appear at the pre-trial. Upon motion of respondent, the trial court declared the Baloloys in default. They then filed a motion to lift the order declaring them in default, which was denied by the trial court in an order dated November 27, 1991. Consequently, respondent was allowed to adduce evidence *ex parte*. Thereafter, the trial court rendered a partial decision dated July 23, 1993 against the Baloloys, the dispositive portion of which reads as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of [respondent] and against [petitioners, heirs] of Luz R. Balolo[y], namely: Alejandrino Baloloy and Bayani Baloloy. The [petitioners] Alejandrino Baloloy and Bayani Baloloy are ordered to immediately execute an [Absolute] Deed of Sale over their hereditary share in the properties covered by TCT No. 74392 and TCT No. 74394, after payment to them by [respondent] the amount of P[1,050,000] or consignment of said amount in Court. [For] failure of [petitioners] Alejandrino Baloloy and Bayani Baloloy to execute the Absolute Deed of Sale over their hereditary share in the property covered by TCT No. T-74392 and TCT No. T-74394 in favor of [respondent], the Clerk of Court is ordered to execute the necessary Absolute Deed of Sale in behalf of the Baloloys in favor of [respondent,] with a consideration of P[1,500,000]. Further[, ] [petitioners] Alejandrino Baloloy and Bayani Baloloy are ordered to jointly and severally pay [respondent] moral damages in the amount of P[50,000] and P[20,000] for

attorney's fees. The adverse claim annotated at the back of TCT No. T-74392 and TCT No. T-74394[,] insofar as the shares of Alejandrino Baloloy and Bayani Baloloy are concerned[,] [is] ordered cancelled.

With costs against [petitioners] Alejandrino Baloloy and Bayani Baloloy.

SO ORDERED.<sup>[3]</sup>

The Baloloys filed a petition for relief from judgment and order dated July 4, 1994 and supplemental petition dated July 7, 1994. This was denied by the trial court in an order dated September 16, 1994. Hence, appeal to the Court of Appeals was taken challenging the order denying the petition for relief.

Trial on the merits ensued between respondent and Rubio and Escueta. After trial, the trial court rendered its assailed Decision, as follows:

IN VIEW OF THE FOREGOING, the complaint [and] amended complaint are dismissed against [petitioners] Corazon L. Escueta, Ignacio E. Rubio[,] and the Register of Deeds. The counterclaim of [petitioners] [is] also dismissed. However, [petitioner] Ignacio E. Rubio is ordered to return to the [respondent], Rufina Lim[,] the amount of P102,169.80[,] with interest at the rate of six percent (6%) per annum from April 10, [1990] until the same is fully paid. Without pronouncement as to costs.

SO ORDERED.<sup>[4]</sup>

On appeal, the CA affirmed the trial court's order and partial decision, but reversed the later decision. The dispositive portion of its assailed Decision reads:

**WHEREFORE**, upon all the foregoing premises considered, this Court rules:

1. the appeal of the Baloloys from the Order denying the Petition for Relief from Judgment and Orders dated July 4, 1994 and Supplemental Petition dated July 7, 1994 is **DISMISSED**. The Order appealed from is **AFFIRMED**.
2. the Decision dismissing [respondent's] complaint is **REVERSED** and **SET ASIDE** and a new one is entered. Accordingly,
  - a. the validity of the subject contract of sale in favor of [respondent] is upheld.
  - b. Rubio is directed to execute a Deed of Absolute Sale conditioned upon the payment of the balance of the purchase price by [respondent] within 30 days from the receipt of the entry of judgment of this Decision.

c. the contracts of sale between Rubio and Escueta involving Rubio's share in the disputed properties is declared **NULL** and **VOID**.

d. Rubio and Escueta are ordered to pay jointly and severally the [respondent] the amount of P[20,000] as moral damages and P[20,000] as attorney's fees.

3. the appeal of Rubio and Escueta on the denial of their counterclaim is **DISMISSED**.

SO ORDERED.<sup>[5]</sup>

Petitioners' Motion for Reconsideration of the CA Decision was denied. Hence, this petition.

The issues are:

#### I

THE HONORABLE COURT OF APPEALS ERRED IN DENYING THE PETITION FOR RELIEF FROM JUDGMENT FILED BY THE BALOLOYS.

#### II

THE HONORABLE COURT OF APPEALS ERRED IN REINSTATING THE COMPLAINT AND IN AWARDING MORAL DAMAGES AND ATTORNEY'S FEES IN FAVOR OF RESPONDENT RUFINA L. LIM CONSIDERING THAT:

A. IGNACIO E. RUBIO IS NOT BOUND BY THE CONTRACT OF SALE BETWEEN VIRGINIA LAYGO-LIM AND RUFINA LIM.

B. THE CONTRACT ENTERED INTO BETWEEN RUFINA LIM AND VIRGINIA LAYGO-LIM IS A CONTRACT TO SELL AND NOT A CONTRACT OF SALE.

C. RUFINA LIM FAILED TO FAITHFULLY COMPLY WITH HER OBLIGATIONS UNDER THE CONTRACT TO SELL THEREBY WARRANTING THE CANCELLATION THEREOF.

D. CORAZON L. ESCUETA ACTED IN UTMOST GOOD FAITH IN ENTERING INTO THE CONTRACT OF SALE WITH IGNACIO E. RUBIO.

#### III

THE CONTRACT OF SALE EXECUTED BETWEEN IGNACIO E. RUBIO AND CORAZON L. ESCUETA IS VALID.

#### IV

THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING PETITIONERS' COUNTERCLAIMS.

Briefly, the issue is whether the contract of sale between petitioners and respondent is valid.

Petitioners argue, as follows:

*First*, the CA did not consider the circumstances surrounding petitioners' failure to appear at the pre-trial and to file the petition for relief on time.

As to the failure to appear at the pre-trial, there was fraud, accident and/or excusable neglect, because petitioner Bayani was in the United States. There was no service of the notice of pre-trial or order. Neither did the former counsel of record inform him. Consequently, the order declaring him in default is void, and all subsequent proceedings, orders, or decision are void.

Furthermore, petitioner Alejandrino was not clothed with a power of attorney to appear on behalf of Bayani at the pre-trial conference.

*Second*, the sale by Virginia to respondent is not binding. Petitioner Rubio *did not authorize Virginia to transact business* in his behalf pertaining to the property. The Special Power of Attorney was constituted in favor of Llamas, and the latter was not empowered to designate a substitute attorney-in-fact. Llamas even disowned her signature appearing on the "Joint Special Power of Attorney," which constituted Virginia as her true and lawful attorney-in-fact in selling Rubio's properties.

Dealing with an assumed agent, respondent should ascertain not only the fact of agency, but also the nature and extent of the former's authority. Besides, *Virginia exceeded the authority for failing* to comply with her obligations under the "Joint Special Power of Attorney."

The amount encashed by Rubio represented not the down payment, but the payment of respondent's debt. His acceptance and encashment of the check was not a ratification of the contract of sale.

*Third*, the contract between respondent and Virginia is a contract to sell, not a contract of sale. The real character of the contract is not the title given, but the intention of the parties. They intended to *reserve ownership* of the property to petitioners pending full payment of the purchase price. Together with taxes and other fees due on the properties, these are conditions precedent for the perfection of the sale. Even assuming that the contract is ambiguous, the same must be resolved against respondent, the party who caused the same.

*Fourth*, Respondent *failed to faithfully fulfill her part of the obligation*. Thus, Rubio had the right to sell his properties to Escueta who exercised due diligence in ascertaining ownership of the properties sold to her. Besides, a purchaser need not inquire beyond what appears in a Torrens title.

The petition lacks merit. The contract of sale between petitioners and respondent is valid.

Bayani Baloloy was represented by his attorney-in-fact, Alejandrino Baloloy. In the Baloloys' answer to the original complaint and amended complaint, the allegations relating to the personal circumstances of the Baloloys are clearly admitted.