

## THIRD DIVISION

[ G.R. NO. 125256, May 02, 2006 ]

**JESUS DURAN AND DEMETRIA A. DURAN, PETITIONERS, VS. CARPIO, COURT OF APPEALS, JORGE OLIVAR, PRAXEDES UMPAD GANTUANGCO, JOINED BY HER HUSBAND, ALBERTO GANTUANGCO, EMILIA DICHOS, LUISA NUNEZ, JOINED BY HER HUSBAND, FAUSTINO NUNEZ, AND JUANITO LAWAS, RESPONDENTS.**

[G.R. NO. 126973]

**JESUS DURAN AND DEMETRIA A. DURAN, PETITIONERS, VS. COURT OF APPEALS, MERCEDES U. GANTUANGCO, AND HER HUSBAND, GEORGE OLIVAR, EMILIO DICHOS, JUANITO LAWAS, BELIE LUMAPAT, LUISA NUNEZ, AND HER HUSBAND, HON. MEINRADO P. PAREDES, AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, RESPONDENTS.**

### D E C I S I O N

#### **TINGA, J.:**

These consolidated petitions challenge the Decisions of the Court of Appeals in CA-G.R. CV No. 31730 dated May 23, 1996<sup>[1]</sup> and CA-G.R. SP No. 21084 dated October 9, 1996,<sup>[2]</sup> which respectively ordered the reconveyance of portions of the disputed lot to private respondents and dismissed the complaint for unlawful detainer filed by petitioners.

There is no substantial dispute regarding the following facts which we quote from the decision of the Court of Appeals in CA-G.R. CV No. 31730:

The complaint in the case at bench is for Reconveyance of certain portions of a 449 square meter parcel of land situated in Mabolo, Cebu City covered by Transfer Certificate of Title No. 99527 (Exhibit "1") in the name of defendant-appellant Jesus Duran who is married to Demetria Duran. Plaintiffs-appellees Jorge Olivar, Praxedes Umpad Gantuangco assisted by husband Alberto Gantuangco, Emilio Dichos, Luisa Nuñez assisted by her husband Faustino Nunez and Juanito Lawas sought to recover the portions on which they have built their respective dwellings as shown on Exhibit "A", a Sketch Plan of the controverted lot.

Transfer Certificate of Title No. 25018 (Exhibit "B") shows that the prior owner of the lot was one Antonina Oporto who leased out the property to the plaintiffs-appellees and the defendants-appellants. Oporto decided to sell the whole lot later. Two witnesses namely plaintiffs-appellees Jorge Olivar and Praxedes Gantuangco gave concurring testimonies that

plaintiffs-appellees and defendants-appellants requested owner-lessor Antonina Oporto to sell the lot to them. Evidence further shows that the latter acceded to sell the land to the parties at P100.00 per square meter. Defendant-appellant Jesus Duran however was designated by plaintiffs to negotiate for the lowering of the purchase price. This fact is practically corroborated by defendants-appellants' claim that it was Jesus Duran who insisted that he be the one to bargain with Antonina Oporto. Subsequently however, defendant-appellant Jesus Duran bought the lot in its entirety for himself from Antonina Oporto on January 29, 1987 for the sum of P37,000.00 or at approximately P82.41 per square meter. The aggrieved plaintiffs-appellees learned of the transaction only when they were summoned to appear before the barangay captain in anticipation of the filing of the case for unlawful detainer. As a consequence, plaintiffs-appellees impute bad faith on defendant-appellant Jesus Duran.

Defendants-appellants filed an Unlawful Detainer case with the Municipal Trial Court, Branch II, Cebu City docketed as CEB-8576. The Municipal Trial Court ruled in their favor in this other case, which deals only with the question of possession. On appeal, the Municipal Trial Court's decision was affirmed by the Regional Trial Court. The RTC's decision is now the subject of a Petition for Review docketed as CA-G.R. SP No. 21084 presently pending before another Division of this Court.

In this case for Reconveyance originally filed before the RTC of Cebu City, Brach 13, the court a quo rendered judgment the decretal portion of which is hereunder quoted as follows:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs ordering defendants to convey the ownership and possession to the plaintiffs of portions of Lot No. 4, Block 6 as stated in paragraph 2 of the complaint as per sketch plan marked as Exhibit "A". Plaintiffs are ordered to reimburse defendants the sum of P44,900.00 at the rate of P100.00 per square meter for the total area of 449 square meters within a period of thirty (30) days from and after this decision shall have become final and executory. Failure on the part of any plaintiff to reimburse defendants means forfeiture of his or her right to have the portion of the lot he/she is occupying conveyed to him/her.

"The claims for damages in the complaint as well as in the counterclaim are hereby dismissed. No cost.

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

The Court of Appeals ruled that there was a verbal contract of agency between the parties whereby petitioner, Jesus Duran, was constituted as an agent to negotiate the purchase of the subject property at a lesser price. It held that a constructive trust was created and that Jesus Duran breached his fiduciary duty not only because he concealed the fact that the negotiations had been successfully completed but, worse, he purchased the property for himself. Thus, he has the duty to convey the pertinent portions of the property upon the demand of private respondents and payment by them of the acquisition cost.

It appears that at the time this Decision was rendered, the case for unlawful detainer was pending before another division of the Court of Appeals. At any rate, the case ultimately landed in the same 13<sup>th</sup> Division which decided the reconveyance case.

The appellate court, adopting the facts in the reconveyance case, rendered judgment in favor of private respondents ruling that the prior determination of the capacity in which petitioners acted in purchasing the subject property is indispensable to the correct resolution of who between the parties have a better right to physical possession. Since it was ruled that petitioners are obliged to convey the pertinent portions of the property to private respondents, the Court of Appeals dismissed the complaint for unlawful detainer filed by petitioners against them.

No motions for reconsideration were filed.

Petitioners now dispute the appellate court's findings that an agency was constituted between the parties; that there was constructive trust; and that Jesus Duran was guilty of fraud or breach of trust. Allegedly, these findings do not find support in the evidence on record. Petitioners insist that Jesus Duran was only designated as the spokesman to represent the private respondents in the negotiations for the sale of the property.<sup>[4]</sup>

They further argue that the Court of Appeals erred in adopting the facts in the reconveyance case and using them as evidence in the unlawful detainer case, insisting that an action for reconveyance of property has no effect on ejectment suits regarding the same property. Procedurally, they contend that the motion for reconsideration of the RTC decision did not toll the period within which the decision may be brought on petition for review before the Court of Appeals. Hence, the petition for review was filed late and should not have been taken cognizance of.<sup>[5]</sup>

Private respondents, on the other hand, insist that Jesus Duran was the one who suggested that he would talk to Antonina Oporto to ask her to lower the purchase price. They then agreed that he would act as agent on behalf of private respondents in the sale negotiations. A fiduciary relationship was therefore created which petitioners breached when they purchased the property for themselves. Private respondents also argue that the petition in G.R. No. 125256 raises a question of fact because it assails the credibility of the testimonies upon which the Court of Appeals based its Decision.<sup>[6]</sup>

In G.R. No. 126973, private respondents aver that while a motion for reconsideration of a decision of the Municipal Trial Court is a prohibited pleading under the 1991 Revised Rule on Summary Procedure, this is not the case once the matter is elevated to the Regional Trial Court (RTC). In such an instance, the ordinary rules, which allows a motion for reconsideration and tolls the period within which a petition for review may be filed before the Court of Appeals, apply.

They further contend that the appellate court correctly ruled that the issue of possession cannot be decided independently of the question of ownership. Hence, the inquiry it made into the title of the property as adjudged in the reconveyance case was necessary.<sup>[7]</sup>