

FIRST DIVISION

[G.R. NO. 168035, November 30, 2006]

MELANIE M. MESINA, DANILO M. MESINA, AND SIMEON M. MESINA, PETITIONERS, VS. GLORIA C. GARCIA, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to reverse and set aside the Court of Appeals Decision^[1] in C.A.-G.R. CV No. 79646 entitled, *Gloria C. Garcia v. Melanie M. Mesina, Danilo M. Mesina and Simeon M. Mesina*, dated 6 January 2005, which affirmed the Decision^[2] of the Regional Trial Court (RTC) of Cabanatuan City, dated 6 January 2003, ordering petitioners to issue the necessary Deed of Absolute Sale over the parcel of land, subject matter of this case in favor of respondent.

The controversy of the present case arose from the following facts, as summarized by the RTC and the Court of Appeals:

Atty. Honorio Valisno Garcia and Felicisima Mesina, during their lifetime, or on 26 April 1977, to be exact entered into a *Contract to Sell* over a lot consisting of 235 square meters, situated at Diversion Road, Sangitan, Cabanatuan City, covered and embraced by [Transfer Certificate of Title] TCT No. T-31643 in the name of Felicisima Mesina which title was eventually cancelled and TCT No. T-78881 was issued in the name of herein [petitioners]. Atty. Honorio Valisno Garcia is the deceased husband of [herein respondent Gloria C. Garcia] while the late Felicisima Mesina is the mother of [petitioners] Danilo, Simeon, and Melanie, all surnamed Mesina.

The Contract to Sell provides that the cost of the lot is P70.00 per square meter for a total amount of P16,450.00; payable within a period not to exceed seven (7) years at an interest rate of 12% per annum, in successive monthly installments of P260.85 per month, starting May 1977. Thereafter, the succeeding monthly installments are to be paid within the first week of every month, at the residence of the vendor at Quezon City, with all unpaid monthly installments earning an interest of one percent (1%) per month.

The Contract [to Sell] also stipulated, among others, that: *Should the [spouses Garcia] fail to pay five (5) successive monthly installments, [Felicisima Mesina] shall have a right to rescind this [C]ontract to [S]ell. All paid installments to be recomputed as rental for usage of lot shall be at the rate of [P100.00] a month and that [Felicisima Mesina] shall have the further option to return the downpayment (sic) plus whatever*

balance [spouses Garcia] paid, thereby rescinding the Contract to Sell. Upon rescission of the Contract to Sell, [spouses Garcia] agrees (sic) to remove all the improvements built on the lot within three (3) months from rescission of this contract, [spouses Garcia] shouldering all expenses of said removal.^[3]

Instituting this case at bar, [respondent] asserts that despite the full payment made on 7 February 1984 for the consideration of the subject lot, [petitioners] refused to issue the necessary Deed of Sale to effect the transfer of the property to her, for which reason she was constrained to secure the services of a counsel at an agreed attorney's fees of P150,000.00 in addition to P3,000.00 per court appearance.

[Respondent] prays that the Court renders judgment in [her] favor and against [herein petitioners], viz:

1. Ordering the [petitioners] to issue a [D]eed of [A]bsolute [S]ale pertaining to the property in question;
2. Ordering the [petitioners] to pay to the [respondent] moral damages (sic) P1,000,000.00;
3. Ordering the [petitioners] to pay the [respondent] exemplary damages of P150,000.00;
4. Ordering the [petitioners] to pay to the [respondent] attorney's fees of P150,000.00 plus P3,000.00 per court appearance;
5. To pay the costs of this suit.

On the other hand, through the lone testimony of Atty. Caesar Augustus P. Blanco, the [petitioners] sought to establish that [they] agreed to pay P300,000.00 attorney's fees to the Carag, Caballes, Jamora and Somera Law Office, and appearance fee in accordance with the standard hourly charge of P2,500.00 per hour.

As of 20 December 1999, up to present, their law firm had rendered a total of 113 hours computed at an hourly rate of P2,500.00 per hour, or a total of P282,500.00. The [petitioners] have made partial payments in the total sum of P71,725.00. Atty. Blanco presented a Statement of Account dated 15 January 2002 (Exhibit "1") of the expenses incurred by [petitioners] as of 20 December 1996.

Records show that none of the [petitioners] was presented to give their respective testimony.^[4]

After trial, the court *a quo* rendered a Decision dated 6 January 2003. The decretal portion of which reads, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. ordering the [petitioners] MELANIE MESINA, DANILO MESINA, and SIMEON MESINA to issue the necessary [D]eed of [A]bsolute [S]ale in favor of the [respondent] GLORIA C. GARCIA over the property, more particularly described as follows:

"A parcel of land portion of Lot 314-A-2 (LRC) PSD-179247 situated in the District of Magsaysay, Cabanatuan City. Bounded in the NE. & SE. by Lot 317, Cabanatuan City; on the SW., by Lot 314-A-1 (LRC) PSD-179247 (Atty. R.Z. Annang); on the W., by National Road; and on the NW., by Lot 314-A-2 (LRC) PSD-179247 (portion). Containing an area of 235 sq. meters more or less."

2. ordering the [respondent] GLORIA C. GARCIA to vacate and return the excess of the 235 square meter area subject of the Contract to Sell, or, pay compensation therefore at the present prevailing current market value to the [petitioners]; and

3. Parties' claim for damages and attorney's fees are DISMISSED.

No pronouncement as to costs.^[5]

Petitioners sought reconsideration of the above-mentioned Decision on 10 February 2003 but the same was denied by the court *a quo* in its Order, dated 21 March 2003.

Petitioners appealed the aforesaid Decision of the RTC to the Court of Appeals. Nonetheless, on 6 January 2005, the Court of Appeals rendered a Decision dismissing the appeal for lack of merit; thereby affirming the Decision of the RTC dated 6 January 2003. The dispositive portion of which reads as follows:

WHEREFORE, PREMISES CONSIDERED, this Appeal is **DISMISSED** for lack of merit. Accordingly, the Decision of the Regional Trial Court, Third Judicial Region, Branch 24, Cabanatuan City in Civil Case No. 2549 (AF) is hereby **AFFIRMED**.^[6]

Petitioners filed a Motion for Reconsideration of the Court of Appeals' Decision on 27 January 2005, but it was denied in a Resolution^[7] dated 5 May 2005.

Hence, this Petition.

Petitioners submit that the Court of Appeals committed a reversible error in rendering its Decision dated 6 January 2005, which was based on the inadmissible, incompetent, and unreliable testimonies of respondent's witnesses. Hence, petitioners presented before this Court the following issues:

I.

Whether or not respondent's cause of action had already prescribed.

II.

Whether or not petitioners are in estoppel.

III.

Whether or not the Court of Appeals failed to consider the fact that no competent evidence had been adduced by respondent tending to prove her cause of action.

Petitioners aver that the respondent's cause of action had already prescribed. They further contend that the "series of extra-judicial demands" made by the respondent could never have worked to interrupt the prescriptive period following the exception laid down in Article 1155^[8] of the Civil Code as the exception in Article 1155 refers only to an extra-judicial demand made by a creditor not by a debtor. Hence, herein respondent, being a debtor, does not qualify under the said exception. Therefore, there could be no interruption in the prescriptive period of this present case. Consequently, the case should have been dismissed outright for having been filed out of time.

Petitioners likewise argue that the principle of estoppel does not apply in the case at bar because respondent was never induced to believe that she already owned the subject property by making full payment. Furthermore, respondent cannot say that she has been led by petitioners to have validly effected full payment in view of the fact that petitioners repeatedly denied her requests for execution of a Deed of Absolute Sale. In fact, petitioners made it clear to respondent that they have not accepted her late payments, and that they will not execute the Deed of Absolute Sale in her favor.

Petitioners also claim that respondent failed to prove the fact of full payment of the subject property because there were no reliable and credible evidence adduced by respondent to support her unfounded claims that she completely paid the purchase price of the subject property.

The Petition is bereft of merit.

The Civil Code provides that an action based on a written contract, an obligation created by law, and a judgment must be brought within 10 years from the time the right of action accrues.^[9]

In the case at bar, as pointed out by the Court of Appeals, the right of action of the respondent accrued on the date that the full and final payment of the contract price was made. Accordingly, as the full payment of the purchase price on the subject Contract to Sell had been effected on 7 February 1984^[10] thus, respondent had from said date until 7 February 1994 within which to bring an action to enforce the written contract, *i.e.*, the Contract to Sell. It was then the contention of the petitioners that when the respondent instituted her Complaint for Specific Performance with Damages on 20 January 1997, the same had already been barred by prescription. The contention of the petitioners is untenable. Article 1155 of the Civil Code is explicit that the prescriptive period is interrupted when an action has been filed in court; when there is a written extrajudicial demand made by the creditors; and when there is any written acknowledgment of the debt by the debtor.

In the present case it cannot be gainsaid that respondent made a series of written extrajudicial demands for the petitioners to execute the Deed of Absolute Sale in her favor. The records reveal that starting 19 April 1986 until 2 January 1997 respondent continuously demanded from the petitioners the execution of the said Deed of Absolute Sale but the latter conjured many reasons and excuses not to execute the same. Respondent even filed a Complaint before the Housing and Land Use Regulatory Board (HLURB) way back in June, 1986, to enforce her rights and to compel the mother of herein petitioners, who was still alive at that time, to execute