

## SECOND DIVISION

[ G.R. No. 128609, January 28, 2004 ]

**DOUGLAS F. ANAMA, PETITIONER, VS. COURT OF APPEALS,  
PHILIPPINE SAVINGS BANK, SPS. TOMAS CO & SATURNINA  
BARIA AND REGISTER OF DEEDS, METRO MANILA, DISTRICT II,  
RESPONDENTS.**

### DECISION

**TINGA, J,:**

On March 24, 1973, petitioner Douglas Anama and private respondent Philippine Savings Bank (PSBank) entered into an agreement denominated as a *Contract to Buy*<sup>[1]</sup> whereby the latter agreed to sell to the former a parcel of land, together with the improvements thereon.<sup>[2]</sup> The property was previously owned by petitioner's parents, who mortgaged it to respondent Bank. Upon their failure to pay the loan extended to them by PSBank, the latter foreclosed on the property.

The salient provisions of the *Contract to Buy* are as follows:

1. The BUYER shall purchase the property mentioned in the First Whereas Clause hereof and shall pay the sum of PESOS: ONE HUNDRED THIRTY FIVE THOUSAND (P135,000.00), Philippine Currency;
2. The BUYER shall pay to the SELLER the amount of PESOS: THIRTY THOUSAND (P30,000.00) payable as follows:
  - (a) P5,000.00 upon signing of this Agreement;
  - (b) P5,000.00 on or before April 12, 1973; and
  - (c) P20,000.00 on or before April 30, 1973,

which all amounts shall be credited to the total purchase price mentioned in Paragraph No. 1 hereof upon execution of the necessary formal deed or deeds of conveyance.

3. The BUYER shall apply from the SELLER a real estate mortgage loan in the sum of PESOS: ONE HUNDRED FIVE THOUSAND (P105,000.00), Philippine Currency, and the proceeds of this loan shall be used exclusively to pay the balance of the purchase price of ONE HUNDRED THIRTY FIVE THOUSAND (P135,000.00) PESOS; Provided, that the loan application shall be processed, subject to existing Central Bank circulars, rules, regulations and policies of the SELLER;

. . . .

5. Should the BUYER fail to comply with any of the terms and conditions herein set forth or fail to pay any of the amounts mentioned in Paragraph No. 2 hereof, any and all amounts paid by the BUYER, pursuant to this Agreement, shall be forfeited automatically in favor of the SELLER without any need of demand or notice; Provided, However, that the SELLER hereby reserves the right to demand full payment of the agreed total purchase price instead of electing forfeiture and rescission, in which case, the balance of the purchase price shall bear interest from May 1, 1973 at the rate of one (1%) percent per month until fully paid; . . . [3]

Petitioner was able to pay the first and second installments on March 24, 1973 and April 13, 1973, respectively. However, when the third installment in the amount of P20,000.00 became due, petitioner failed to pay the same.

In a handwritten letter<sup>[4]</sup> dated July 5, 1974, petitioner's father, Felix Anama, asked respondent Bank for an extension of time to pay the balance and offered to make a deposit of P3,000.00 on the same savings account as a sign of good faith.

On February 22, 1975, petitioner paid respondent Bank the amount of P17,500.00.

On May 31, 1976, petitioner sent a letter to the Bank through Mr. Juanito dela Cruz, then the Vice-President of PSBank, promising to pay the balance in the sum of P20,000.00 on or before August 3, 1976.<sup>[5]</sup>

Subsequently, on November 25, 1976, petitioner again paid PSBank the sum of P15,208.34. This payment, as well as that of February 22, 1975, was taken from the account of petitioner's father Felix, who allegedly assigned his savings account under AC #11-200781-4 in favor of PSBank by means of withdrawal slips. Respondent Bank issued official receipts (Nos. 130561 and 148693)<sup>[6]</sup> indicating that these payments covered "penalty/interest charges" for the delay in the payment of the third installment.

On September 9, 1977, the Bank executed an *Affidavit of Cancellation* rescinding the contract.<sup>[7]</sup> Petitioner was then advised to vacate the premises. In addition, respondent Bank forfeited the payments made by petitioner, which were applied as rentals for the use of the property.<sup>[8]</sup>

Petitioner opposed the rescission of the *Contract to Buy* in a letter addressed to Mr. Juanito dela Cruz, then General Manager of PSBank dated October 6, 1977.<sup>[9]</sup> Petitioner wrote that he was led to believe that the Bank treated the deposits he made as payments on the *Contract to Buy*.

On November 6, 1978, PSBank sold the property to private respondent spouses Tomas Co and Saturnina Baria,<sup>[10]</sup> in whose favor *Transfer Certificate of Title* No. 14239<sup>[11]</sup> was subsequently issued.

Despite the sale to respondent spouses, the Bank on February 15, 1980, even prevented petitioner from making withdrawals from his father's account since the

deposits were purportedly treated as payments under the contract.<sup>[12]</sup>

On March 1, 1982, petitioner filed a complaint before the Regional Trial Court (RTC) of Pasig against PSBank, spouses Baria and Co, and the Register of Deeds for Metro Manila, District II (Pasig, Metro Manila) for "Declaration of Nullity of Deed of Sale, Cancellation of Transfer Certificate of Title, and Specific Performance with Damages."<sup>[13]</sup>

After trial, the RTC issued an *Order* dated March 31, 1989 requiring the parties to file their respective memoranda:

The parties are given a period of thirty (30) days FROM THE COMPLETION OF ALL TRANSCRIPTS of stenographic notes taken in the proceedings to file their simultaneous memoranda, furnishing each other copy of their respective memorandum and all of them are given a period of fifteen (15) days from receipt of the respective memorandum to file a reply-memorandum. THEREAFTER, the case shall be deemed submitted for decision.<sup>[14]</sup>

On August 27, 1990, the RTC directed the completion of the transcript of stenographic notes (TSN):

Considering that the above-entitled case is now considered submitted for decision BUT CANNOT be decided with the absence of some transcripts of stenographic notes, stenographer Miss Celis P. Claravall of this branch is hereby ordered within thirty (30) days from today within which to submit her transcripts of the hearings held on January 30, 1987, July 10, 1987 and September 27, 1988.<sup>[15]</sup>

On June 19, 1991, the RTC noted a *Motion for Early Resolution* filed by respondent Bank. It attributed the delay in the resolution of the case to the incomplete transcript:

Submitted for Resolution is the "*Motion for Early Resolution*" filed by defendant Philippine Savings Bank.

It appears on record that the Court issued an Order dated August 27, 1990 to submit the lacking transcripts as the case COULD NOT BE decided without these transcripts. It is to be noted that this is an inherited case and before this Presiding Judge assumed office, the stenographic notes taken during the proceedings before his assumption have not been completed and submitted. It is only after his assumption that stenographers concerned were directed to complete and submit their transcripts and at present, only one (1) stenographer have (sic) not yet completed and submitted her transcripts. Although, the Court noted the herein motion, it is already in the process of resolving the merits of the case and a decision shall be rendered in due time.<sup>[16]</sup>

The incomplete TSN notwithstanding, the RTC on August 21, 1991 rendered a *Decision* <sup>[17]</sup> in favor of respondent Bank. It held that the Bank's rescission of the contract was justified since petitioner failed to meet the terms of the *Contract to Buy*.

On September 12, 1991, petitioner filed a *Notice of Appeal* to which the RTC gave due course on October 8, 1991. The records of the case, however, could not be transmitted to the Court of Appeals because the transcript of January 30, 1987, covering the cross-examination of Atty. Raul Totañes, witness for respondent Bank, could not be produced. The stenographer who took down the testimony had already resigned and migrated to Australia.

Thus, on February 17, 1992 the RTC issued an *Order* inviting the parties to a conference to discuss the missing portion of the TSN:

In an Order dated October 8, 1991, the "Notice of Appeal" filed by plaintiff was given due course and the records of the case ordered elevated to the Court of Appeals for further proceedings.

However, the records could not be transmitted to the appellate court because of the unavailability of the transcript of stenographic notes taken on January 30, 1987. The records show that the Stenographer who took the stenographic notes failed to submit the transcripts and who is now abroad, residing permanently in Australia.

WHEREFORE, the Court is constrained to invite the parties for a conference on the matter on March 6, 1992 at 9:00 o'clock in the morning.

Notify counsel for all parties.<sup>[18]</sup>

On the day of the conference, the parties agreed to the retaking of the testimony of Atty. Totañes on June 2, 1992.

On August 14, 1992, petitioner, after receiving a copy of the TSN of Atty. Totañes' retaken testimony, submitted his *Memorandum* in compliance with the previous RTC *Order* dated March 31, 1989. On the same date, he submitted a position paper claiming that the court's decision was null and void. Petitioner argued that he was not permitted to submit his memorandum and was, therefore, deprived of due process.

In its *Order* dated September 30, 1992, the RTC declined to rule on the question of due process. It held that the issue was beyond its "competence" in light of the approval of petitioner's notice of appeal:

All the incidents initiated by plaintiff after the retaking of the testimony on cross-examination of Raul Totañes seeking the reversal of the decision and/ or rendition of new decision would be outside the competence of this Court at this point in time. Suffice it to say, the Court had approved the notice of appeal of plaintiff which was filed within the reglamentary (sic) period. The only reason why the records have not been elevated to the Court of Appeals is on account of the said missing transcripts, which was finally retaken. There is therefore no more legal obstacle to the elevation of the records to the appellate court. All issues which plaintiff seeks to dispute and the errors it is assigning can be properly addressed to the Court of Appeals.

WHEREFORE, in view of all the foregoing, and in conformance to the Order of October 8, 1992, let the entire records of the case together with all the evidence, oral and documentary, be elevated to the Court of Appeals for appropriate proceedings on appeal.

SO ORDERED.<sup>[19]</sup>

On June 17, 1996, the Court of Appeals dismissed the appeal for the failure of petitioner to make an assignment of errors in his *Appellant's Brief*. The Court of Appeals likewise held that petitioner was not denied due process when the RTC rendered its decision without his memorandum because:

It is our opinion that closing oral arguments of counsels and submission of memorandum are not essential parts of the trial process for their only province is to enlighten the court about the party's position and the evidence supporting it. The rule quoted above does not make it mandatory for a trial court to allow arguments or the filing of memoranda. Although they may in some instances be desirable they are not however indispensable so that their absence does not fatally impair the validity of the proceedings and the decision.<sup>[20]</sup>

Petitioner's *Motion for Reconsideration* was denied, prompting him to seek relief before this Court.

Petitioner initially faults the Court of Appeals for dismissing his appeal on the ground that his appellant's brief did not contain an assignment of errors.

The contention has merit. In *Luzon Stevedoring Corp. v. Court of Industrial Relations*,<sup>[21]</sup> this Court admitted a petition for certiorari notwithstanding the absence of an assignment of errors since the petition had substantially complied with the requirement of the Rules of Court:

Want of specific assignment of errors in appellant's brief (LEA), is one of the grounds for the dismissal of an appeal under Section 1(f), Rule 52, of the Rules of Court. This ground proved fatal in several cases for where no assignment of errors is made, no question may be considered by the appellate court (Section 5, Rule 53, now Section 7, Rule 51, Rules of Court). Substantial compliance with the requirements is however sufficient. The underlying reason for the rule is to point out to the court the specific part of the appealed judgment which the appellant seeks to controvert.

The assignment of errors embodied in LEA's petition for certiorari, the statement of the issues in its amended petition and the clear discussion of the points in issue in its brief have accomplished the task of informing this Court which part of the decision of the Court of Industrial Relations is sought to be reviewed. LEA's appeal in L-18681 ought not therefore to be dismissed, as urged by LUZON, merely for the so-called lack of an assignment of errors in LEA's brief. Pleadings, as well as remedial laws, should be construed liberally, in order that the litigants may have ample