

## THIRD DIVISION

[ G.R. No. 138018, July 26, 2002 ]

**RIDO MONTECILLO, PETITIONER, VS. IGNACIA REYNES AND SPOUSES REDEMPTOR AND ELISA ABUCAY, RESPONDENTS.**

### DECISION

**CARPIO, J.:**

On March 24, 1993, the Regional Trial Court of Cebu City, Branch 18, rendered a Decision<sup>[1]</sup> declaring the deed of sale of a parcel of land in favor of petitioner null and void ab initio. The Court of Appeals,<sup>[2]</sup> in its July 16, 1998 Decision<sup>[3]</sup> as well as its February 11, 1999 Order<sup>[4]</sup> denying petitioner's Motion for Reconsideration, affirmed the trial court's decision in toto. Before this Court now is a Petition for Review on Certiorari<sup>[5]</sup> assailing the Court of Appeals' decision and order.

#### The Facts

Respondents Ignacia Reynes ("Reynes" for brevity) and Spouses Abucay ("Abucay Spouses" for brevity) filed on June 20, 1984 a complaint for Declaration of Nullity and Quieting of Title against petitioner Rido Montecillo ("Montecillo" for brevity). Reynes asserted that she is the owner of a lot situated in Mabolo, Cebu City, covered by Transfer Certificate of Title No. 74196 and containing an area of 448 square meters ("Mabolo Lot" for brevity). In 1981, Reynes sold 185 square meters of the Mabolo Lot to the Abucay Spouses who built a residential house on the lot they bought.

Reynes alleged further that on March 1, 1984 she signed a Deed of Sale of the Mabolo Lot in favor of Montecillo ("Montecillo's Deed of Sale" for brevity). Reynes, being illiterate,<sup>[6]</sup> signed by affixing her thumb-mark<sup>[7]</sup> on the document. Montecillo promised to pay the agreed P47,000.00 purchase price within one month from the signing of the Deed of Sale. Montecillo's Deed of Sale states as follows:

"That I, IGNACIA T. REYNES, of legal age, Filipino, widow, with residence and postal address at Mabolo, Cebu City, Philippines, **for and in consideration of FORTY SEVEN THOUSAND (P47,000.00) PESOS, Philippine Currency, to me in hand paid by RIDO MONTECILLO,** of legal age, Filipino, married, with residence and postal address at Mabolo, Cebu City, Philippines, the receipt hereof is hereby acknowledged, have sold, transferred, and conveyed, unto RIDO MONTECILLO, his heirs, executors, administrators, and assigns, forever, a parcel of land together with the improvements thereon, situated at Mabolo, Cebu City, Philippines, free from all liens and encumbrances, and more particularly described as follows:

A parcel of land (Lot 203-B-2-B of the subdivision plan Psd-07-01-00 2370, being a portion of Lot 203-B-2, described on plan (LRC) Psd-76821, L.R.C. (GLRO) Record No. 5988), situated in the Barrio of Mabolo, City of Cebu. Bounded on the SE., along line 1-2 by Lot 206; on the SW., along line 2-3, by Lot 202, both of Banilad Estate; on the NW., along line 4-5, by Lot 203-B-2-A of the subdivision of Four Hundred Forty Eight (448) square meters, more or less.

of which I am the absolute owner in accordance with the provisions of the Land Registration Act, my title being evidenced by Transfer Certificate of Title No. 74196 of the Registry of Deeds of the City of Cebu, Philippines. That This Land Is Not Tenanted and Does Not Fall Under the Purview of P.D. 27.”<sup>[8]</sup> (Emphasis supplied)

Reynes further alleged that Montecillo failed to pay the purchase price after the lapse of the one-month period, prompting Reynes to demand from Montecillo the return of the Deed of Sale. Since Montecillo refused to return the Deed of Sale,<sup>[9]</sup> Reynes executed a document unilaterally revoking the sale and gave a copy of the document to Montecillo.

Subsequently, on May 23, 1984 Reynes signed a Deed of Sale transferring to the Abucay Spouses the entire Mabolo Lot, at the same time confirming the previous sale in 1981 of a 185-square meter portion of the lot. This Deed of Sale states:

“I, IGNACIA T. REYNES, of legal age, Filipino, widow and resident of Mabolo, Cebu City, do hereby confirm the sale of a portion of Lot No. 74196 to an extent of 185 square meters to Spouses Redemptor Abucay and Elisa Abucay covered by Deed per Doc. No. 47, Page No. 9, Book No. V, Series of 1981 of notarial register of Benedicto Alo, of which spouses is now in occupation;

That for and in consideration of the total sum of FIFTY THOUSAND (P50,000) PESOS, Philippine Currency, received in full and receipt whereof is herein acknowledged from SPOUSES REDEMPTOR ABUCAY and ELISA ABUCAY, do hereby in these presents, SELL, TRANSFER and CONVEY absolutely unto said Spouses Redemptor Abucay and Elisa Abucay, their heirs, assigns and successors-in-interest the whole parcel of land together with improvements thereon and more particularly described as follows:

TCT No. 74196

A parcel of land (Lot 203-B-2-B of the subdivision plan psd-07-01-002370, being a portion of Lot 203-B-2, described on plan (LRC) Psd 76821, LRC (GLRO) Record No. 5988) situated in Mabolo, Cebu City, along Arcilla Street, containing an area of total FOUR HUNDRED FORTY EIGHT (448) Square meters.

of which I am the absolute owner thereof free from all liens and encumbrances and warrant the same against claim of third persons and other deeds affecting said parcel of land other than that to the said spouses and inconsistent hereto is declared without any effect.

In witness whereof, I hereunto signed this 23rd day of May, 1984 in Cebu City, Philippines.” [9]

Reynes and the Abucay Spouses alleged that on June 18, 1984 they received information that the Register of Deeds of Cebu City issued Certificate of Title No. 90805 in the name of Montecillo for the Mabolo Lot.

Reynes and the Abucay Spouses argued that “for lack of consideration there (was) no meeting of the minds”[11] between Reynes and Montecillo. Thus, the trial court should declare null and void *ab initio* Montecillo’s Deed of Sale, and order the cancellation of Certificate of Title No. 90805 in the name of Montecillo.

In his Answer, Montecillo, a bank executive with a B.S. Commerce degree,[12] claimed he was a buyer in good faith and had actually paid the P47,000.00 consideration stated in his Deed of Sale. Montecillo, however, admitted he still owed Reynes a balance of P10,000.00. He also alleged that he paid P50,000.00 for the release of the chattel mortgage which he argued constituted a lien on the Mabolo Lot. He further alleged that he paid for the real property tax as well as the capital gains tax on the sale of the Mabolo Lot.

In their Reply, Reynes and the Abucay Spouses contended that Montecillo did not have authority to discharge the chattel mortgage, especially after Reynes revoked Montecillo’s Deed of Sale and gave the mortgagee a copy of the document of revocation. Reynes and the Abucay Spouses claimed that Montecillo secured the release of the chattel mortgage through machination. They further asserted that Montecillo took advantage of the real property taxes paid by the Abucay Spouses and surreptitiously caused the transfer of the title to the Mabolo Lot in his name.

During pre-trial, Montecillo claimed that the consideration for the sale of the Mabolo Lot was the amount he paid to Cebu Ice and Cold Storage Corporation (“Cebu Ice Storage” for brevity) for the mortgage debt of Bienvenido Jayag (“Jayag” for brevity). Montecillo argued that the release of the mortgage was necessary since the mortgage constituted a lien on the Mabolo Lot.

Reynes, however, stated that she had nothing to do with Jayag’s mortgage debt except that the house mortgaged by Jayag stood on a portion of the Mabolo Lot. Reynes further stated that the payment by Montecillo to release the mortgage on Jayag’s house is a matter between Montecillo and Jayag. The mortgage on the house, being a chattel mortgage, could not be interpreted in any way as an encumbrance on the Mabolo Lot. Reynes further claimed that the mortgage debt had long prescribed since the P47,000.00 mortgage debt was due for payment on January 30, 1967.

The trial court rendered a decision on March 24, 1993 declaring the Deed of Sale to Montecillo null and void. The trial court ordered the cancellation of Montecillo’s Transfer Certificate of Title No. 90805 and the issuance of a new certificate of title in favor of the Abucay Spouses. The trial court found that Montecillo’s Deed of Sale had no cause or consideration because Montecillo never paid Reynes the P47,000.00 purchase price, contrary to what is stated in the Deed of Sale that Reynes received the purchase price. The trial court ruled that Montecillo’s Deed of Sale produced no effect whatsoever for want of consideration. The dispositive portion of the trial court’s decision reads as follows:

"WHEREFORE, in view of the foregoing consideration, judgment is hereby rendered declaring the deed of sale in favor of defendant null and void and of no force and effect thereby ordering the cancellation of Transfer Certificate of Title No. 90805 of the Register of Deeds of Cebu City and to declare plaintiff Spouses Redemptor and Elisa Abucay as rightful vendees and Transfer Certificate of Title to the property subject matter of the suit issued in their names. The defendants are further directed to pay moral damages in the sum of P20,000.00 and attorney's fees in the sum of P2,000.00 plus cost of the suit.

xxx"

Not satisfied with the trial court's Decision, Montecillo appealed the same to the Court of Appeals.

### **Ruling of the Court of Appeals**

The appellate court affirmed the Decision of the trial court in toto and dismissed the appeal<sup>[13]</sup> on the ground that Montecillo's Deed of Sale is void for lack of consideration. The appellate court also denied Montecillo's Motion for Reconsideration<sup>[14]</sup> on the ground that it raised no new arguments.

Still dissatisfied, Montecillo filed the present petition for review on certiorari.

### **The Issues**

Montecillo raises the following issues:

1. "Was there an agreement between Reynes and Montecillo that the stated consideration of P47,000.00 in the Deed of Sale be paid to Cebu Ice and Cold Storage to secure the release of the Transfer Certificate of Title?"
2. "If there was none, is the Deed of Sale void from the beginning or simply rescissible?"<sup>[15]</sup>

### **The Ruling of the Court**

The petition is devoid of merit.

First issue: **manner of payment of the P47,000.00 purchase price.**

Montecillo's Deed of Sale does not state that the P47,000.00 purchase price should be paid by Montecillo to Cebu Ice Storage. Montecillo failed to adduce any evidence before the trial court showing that Reynes had agreed, verbally or in writing, that the P47,000.00 purchase price should be paid to Cebu Ice Storage. Absent any evidence showing that Reynes had agreed to the payment of the purchase price to any other party, the payment to be effective must be made to Reynes, the vendor in the sale. Article 1240 of the Civil Code provides as follows:

"Payment shall be made to the person in whose favor the obligation has been constituted, or his successor in interest, or any person authorized to receive it."

Thus, Montecillo's payment to Cebu Ice Storage is not the payment that would extinguish<sup>[16]</sup> Montecillo's obligation to Reynes under the Deed of Sale.

It militates against common sense for Reynes to sell her Mabolo Lot for P47,000.00 if this entire amount would only go to Cebu Ice Storage, leaving not a single centavo to her for giving up ownership of a valuable property. This incredible allegation of Montecillo becomes even more absurd when one considers that Reynes did not benefit, directly or indirectly, from the payment of the P47,000.00 to Cebu Ice Storage.

The trial court found that Reynes had nothing to do with Jayag's mortgage debt with Cebu Ice Storage. The trial court made the following findings of fact:

"x x x. Plaintiff Ignacia Reynes was not a party to nor privy of the obligation in favor of the Cebu Ice and Cold Storage Corporation, the obligation being exclusively of Bienvenido Jayag and wife who mortgaged their residential house constructed on the land subject matter of the complaint. The payment by the defendant to release the residential house from the mortgage is a matter between him and Jayag and cannot by implication or deception be made to appear as an encumbrance upon the land."<sup>[17]</sup>

Thus, Montecillo's payment to Jayag's creditor could not possibly redound to the benefit<sup>[18]</sup> of Reynes. We find no reason to disturb the factual findings of the trial court. In petitions for review on certiorari as a mode of appeal under Rule 45, as in the instant case, a petitioner can raise only questions of law.<sup>[19]</sup> This Court is not the proper venue to consider a factual issue as it is not a trier of facts.

***Second issue: whether the Deed of Sale is void ab initio or only rescissible.***

Under Article 1318 of the Civil Code, "[T]here is no contract unless the following requisites concur: (1) Consent of the contracting parties; (2) Object certain which is the subject matter of the contract; (3) Cause of the obligation which is established." Article 1352 of the Civil Code also provides that "[C]ontracts without cause x x x produce no effect whatsoever."

Montecillo argues that his Deed of Sale has all the requisites of a valid contract. Montecillo points out that he agreed to purchase, and Reynes agreed to sell, the Mabolo Lot at the price of P47,000.00. Thus, the three requisites for a valid contract concur: consent, object certain and consideration. Montecillo asserts there is no lack of consideration that would prevent the existence of a valid contract. Rather, there is only non-payment of the consideration within the period agreed upon for payment.

Montecillo argues there is only a breach of his obligation to pay the full purchase price on time. Such breach merely gives Reynes a right to ask for specific performance, or for annulment of the obligation to sell the Mabolo Lot. Montecillo maintains that in reciprocal obligations, the injured party can choose between fulfillment and rescission,<sup>[20]</sup> or more properly cancellation, of the obligation under Article 1191<sup>[21]</sup> of the Civil Code. This Article also provides that the "court shall decree the rescission claimed, unless there be just cause authorizing the fixing of the period." Montecillo claims that because Reynes failed to make a demand for