372 Phil. 743

FIRST DIVISION

[G.R. No. 120465, September 09, 1999]

WILLIAM UY AND RODEL ROXAS, PETITIONERS, VS. COURT OF APPEALS, HON. ROBERT BALAO AND NATIONAL HOUSING AUTHORITY, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

Petitioners William Uy and Rodel Roxas are agents authorized to sell eight parcels of land by the owners thereof. By virtue of such authority, petitioners offered to sell the lands, located in Tuba, Tadiangan, Benguet to respondent National Housing Authority (NHA) to be utilized and developed as a housing project.

On February 14, 1989, the NHA Board passed Resolution No. 1632 approving the acquisition of said lands, with an area of 31.8231 hectares, at the cost of P23.867 million, pursuant to which the parties executed a series of Deeds of Absolute Sale covering the subject lands. Of the eight parcels of land, however, only five were paid for by the NHA because of the report[1] it received from the Land Geosciences Bureau of the Department of Environment and Natural Resources (DENR) that the remaining area is located at an active landslide area and therefore, not suitable for development into a housing project.

On 22 November 1991, the NHA issued Resolution No. 2352 cancelling the sale over the three parcels of land. The NHA, through Resolution No. 2394, subsequently offered the amount of P1.225 million to the landowners as *daños perjuicios.*

On 9 March 1992, petitioners filed before the Regional Trial Court (RTC) of Quezon City a Complaint for Damages against NHA and its General Manager Robert Balao.

After trial, the RTC rendered a decision declaring the cancellation of the contract to be justified. The trial court nevertheless awarded damages to plaintiffs in the sum of P1.255 million, the same amount initially offered by NHA to petitioners as damages.

Upon appeal by petitioners, the Court of Appeals reversed the decision of the trial court and entered a new one dismissing the complaint. It held that since there was "sufficient justifiable basis" in cancelling the sale, "it saw no reason" for the award of damages. The Court of Appeals also noted that petitioners were mere attorneys-in-fact and, therefore, not the real parties-in-interest in the action before the trial court.

> xxx In paragraph 4 of the complaint, plaintiffs alleged themselves to be "sellers' agents" for several owners of the 8 lots subject matter of the case. Obviously, William Uy and Rodel Roxas in filing this case acted as attorneys-in-fact of the lot owners who are the real parties in interest but

> who were omitted to be pleaded as party-plaintiffs in the case. This omission is fatal. Where the action is brought by an attorney-in-fact of a land owner in his name, (as in our present action) and not in the name of his principal, the action was properly dismissed (Ferrer vs. Villamor, 60 SCRA 406 [1974]; Marcelo vs. de Leon, 105 Phil. 1175) because the rule is that every action must be prosecuted in the name of the real parties-in-interest (Section 2, Rule 3, Rules of Court).
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> When plaintiffs Uy and Roxas sought payment of damages in their favor in view of the partial rescission of Resolution No. 1632 and the Deed of Absolute Sale covering TCT Nos. 10998, 10999 and 11292 (Prayer complaint, page 5, RTC records), it becomes obviously indispensable that the lot owners be included, mentioned and named as party-plaintiffs, being the real party-in-interest. Uy and Roxas, as attorneys-in-fact or apoderados, cannot by themselves lawfully commence this action, more so, when the supposed special power of attorney, in their favor, was never presented as an evidence in this case. Besides, even if herein plaintiffs Uy and Roxas were authorized by the lot owners to commence this action, the same must still be filed in the name of the pricipal, (Filipino Industrial Corporation vs. San Diego, 23 SCRA 706 [1968]). As such indispensable party, their joinder in the action is mandatory and the complaint may be dismissed if not so impleaded (NDC vs. CA, 211 SCRA 422 [1992]).[2]

Their motion for reconsideration having been denied, petitioners seek relief from this Court contending that:

> I. COMPLAINT FINDING THE RESPONDENT CA ERRED IN DECLARING THAT RESPONDENT NHA HAD ANY LEGAL BASIS FOR RESCINDING THE SALE INVOLVING THE LAST THREE (3) PARCELS COVERED BY NHA RESOLUTION NO. 1632.
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> II. GRANTING ARGUENDO THAT THE RESPONDENT NHA HAD LEGAL BASIS TO RESCIND THE SUBJECT SALE, THE RESPONDENT CA NONETHELESS ERRED IN DENYING HEREIN PETITIONERS' CLAIM TO DAMAGES, CONTRARY TO THE PROVISIONS OF ART. 1191 OF THE CIVIL CODE.
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> III. THE RESPONDENT CA ERRED IN DISMISSING THE SUBJECT COMPLAINT FINDING THAT THE PETITIONERS FAILED TO JOIN AS INDISPENSABLE PARTY PLAINTIFF THE SELLING LOT-OWNERS.[3]

We first resolve the issue raised in the third assignment of error.

Petitioners claim that they lodged the complaint not in behalf of their principles but in their own name as agents directly damaged by the termination of the contract. The damages prayed for were intended not for the benefit of their principals but to indemnify petitioners for the losses they themselves allegedly incurred as a result of such termination. These damages consist mainly of "unearned income" and advances.[4] Petitioners, thus, attempt to distinguish the case at bar from those involving agents or apoderados instituting actions in their own name but in *behalf of*

their principals.[5] Petitioners in this case purportedly brought the action for damages in their own name and *in their own behalf.*

We find this contention unmeritorious.

Section 2, Rule 3 of the Rules of Court requires that every action must be prosecuted and defended in the name of the real party-in-interest. The real party-in-interest is the party who stands to be benefited or injured by the judgment or the party entitled to the avails of the suit. "Interest," within the meaning of the rule, means material interest, an interest in the issue and to be affected by the decree, as distinguished from mere interest in the question involved, or a mere incidental interest.[6] Cases construing the real party-in-interest provision can be more easily understood if it is borne in mind that the true meaning of real party-in-interest may be summarized as follows: An action shall be prosecuted in the name of the party who, by the substantive law, has the right sought to be enforced.[7]

Do petitioners, under substantive law, possess the right they seek to enforce? We rule in the negative.

The applicable substantive law in this case is Article 1311 of the Civil Code, which states:

> Contracts take effect only between the **parties,** their **assigns,** and **heirs,** except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation, or by provision of law. x x x.
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> If a contract should contain some stipulation in favor of a **third person**, he may demand its fulfillment provided he communicated his acceptance to the obligor before its revocation. A mere incidental benefit or interest of a person is not sufficient. The contracting parties must have clearly and deliberately conferred a favor upon a third person. (Underscoring supplied.)

Petitioners are not parties to the contract of sale between their principals and NHA. They are mere agents of the owners of the land subject of the sale. As agents, they only render some service or do something *in representation* or on *behalf* of their principals.[8] The rendering of such service did not make them parties to the contracts of sale executed in behalf of the latter. Since a contract may be violated only by the parties thereto as against each other, the real parties-in-interest, either as plaintiff or defendant, in an action upon that contract must, generally, either be parties to said contract.[9]

Neither has there been any allegation, much less proof, that petitioners are the heirs of their principals.

Are petitioners assignees to the rights under the contracts of sale? In *McMicking* vs. *Banco Español-Filipino,*[10] we held that the rule requiring every action to be prosecuted in the name of the real party-in-interest

> x x x recognizes the assignments of rights of action and also recognizes that when one has a right of action assigned to him he is then the real party in interest and may maintain an action upon such claim or right. The purpose of [this rule] is to require the plaintiff to be the real party in interest, or, in other words, he must be the person to whom the proceeds of the action shall belong, and to prevent actions by persons who have no interest in the result of the same. xxx

Thus, an agent, in his own behalf, may bring an action founded on a contract made for his principal, as an assignee of such contract. We find the following declaration in Section 372 (1) of the Restatement of the Law on Agency (Second):[11]

> Section 372. Agent as Owner of Contract Right
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> (1) Unless otherwise agreed, an agent who has or who acquires an interest in a contract which he makes on behalf of his principal can, although not a promisee, maintain such action thereon as might a transferee having a similar interest.

The Comment on subsection (1) states:

> a. *Agent a transferee.* One who has made a contract on behalf of another may become an assignee of the contract and bring suit against the other party to it, as any other transferee. The customs of business or the course of conduct between the principal and the agent may indicate that an agent who ordinarily has merely a security interest is a transferee of the principals rights under the contract and as such is permitted to bring suit. If the agent has settled with his principal with the understanding that he is to collect the claim against the obligor by way of reimbursing himself for his advances and commissions, the agent is in the position of an assignee who is the beneficial owner of the chose in action. He has an irrevocable power to sue in his principal's name. x x x. And, under the statutes which permit the real party in interest to sue, he can maintain an action in his own name. This power to sue is not affected by a settlement between the principal and the obligor if the latter has notice of the agent's interest. x x x. Even though the agent has not settled with his principal, he may, by agreement with the principal, have a right to receive payment and out of the proceeds to reimburse himself for advances and commissions before turning the balance over to the principal. In such a case, although there is no formal assignment, the agent is in the position of a transferee of the whole claim for security; he has an irrevocable power to sue in his principal's name and, under statutes which permit the real party in interest to sue, he can maintain an action in his own name.

Petitioners, however, have not shown that they are assignees of their principals to the subject contracts. While they alleged that they made advances and that they suffered loss of commissions, they have not established any agreement granting them "the right to receive payment and out of the proceeds to reimburse [themselves] for advances and commissions before turning the balance over to the principal[s]."

Finally, it does not appear that petitioners are **beneficiaries of a stipulation pour**

autrui under the second paragraph of Article 1311 of the Civil Code. Indeed, there is no stipulation in any of the Deeds of Absolute Sale "clearly and deliberately" conferring a favor to any third person.

That petitioners did not obtain their commissions or recoup their advances because of the non-performance of the contract did not entitle them to file the action below against respondent NHA. Section 372 (2) of the Restatement of the Law on Agency (Second) states:

> (2) An agent does not have such an interest in a contract as to entitle him to maintain an action at law upon it in his own name merely because he is entilted to a portion of the proceeds as compensation for making it or because he is liable for its breach.

The following Comment on the above subsection is illuminating:

> The fact that an agent who makes a contract for his principal will gain or suffer loss by the performance or nonperformance of the contract by the principal or by the other party thereto does not entitle him to maintain an action on his own behalf against the other party for its breach. An agent entitled to receive a commission from his principal upon the performance of a contract which he has made on his principal's account does not, from this fact alone, have any claim against the other party for breach of the contract, either in an action on the contract or otherwise. An agent who is not a promisee cannot maintain an action at law against a purchaser merely because he is entitled to have his compensation or advances paid out of the purchase price before payment to the principal. x x x.

Thus, in *Hopkins vs. Ives,*[12] the Supreme Court of Arkansas, citing Section 372 (2) above, denied the claim of a real estate broker to recover his alleged commission against the purchaser in an agreement to purchase property.

> In *Goduco vs. Court of Appeals,*[13] this Court held that:
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> x x x granting that appellant had the authority to sell the property, the same did not make the buyer liable for the commission she claimed. At most, the owner of the property and the one who promised to give her a commission should be the one liable to pay the same and to whom the claim should have been directed. xxx

As petitioners are not parties, heirs, assignees, or beneficiaries of a stipulation *pour autrui* under the contracts of sale, they do not, under substantive law, possess the right they seek to enforce. Therefore, they are not the real parties-in-interest in this case.

Petitioners not being the real parties-in-interest, any decision rendered herein would be pointless since the same would not bind the *real* parties-in-interest.[14]

Nevertheless, to forestall further litigation on the substantive aspects of this case, we shall proceed to rule on the merits.[15]

Petitioners submit that respondent NHA had no legal basis to "rescind" the sale of the subject three parcels of land. The existence of such legal basis, notwithstanding,