

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02827-MIN, March 25, 2014]

MERYVIC LUIS, PLAINTIFF-APPELLEE, VS. DJHOANNA N. DONASCO, DEFENDANT-APPELLANT.

D E C I S I O N

CAMELLO, J.:

On appeal is the Decision dated 6 January 2012 of the Regional Trial Court (RTC), Branch 15,^[1] Davao City, in Civil Case No. 29,573-2003, the *fallo* of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant by ordering the latter:

1. To pay the plaintiffs P100,000.00 representing the cost of the completion of the plaintiff's house; and
2. To pay the Cost of Suit.
3. The plaintiff's prayer for moral damages, attorney's fees, and litigation expenses are DENIED for lack of evidence.

SO ORDERED.

The following are the factual antecedents as summarized and found by the trial court.

In September 2002, plaintiff Meryvic Luis entered into an agreement with defendant Djhoanna Donasco (contractor) for the construction of her house at Doña Mercedes Village, Panacan, Davao City. For Four Hundred Thousand Pesos (P400,000.00) as consideration, Donasco agreed to complete the construction and to deliver the house on or before 28 December 2002.

Unfortunately, despite the payment of P406,715.00, Donasco stopped and abandoned the house construction, leaving it unfinished and uninhabitable. Plaintiff was thus constrained to hire another contractor to finish the job in the amount of P187,000.00.

Defendant Donasco admitted the agreement and the non-completion of the construction. She justified that the construction was stopped because plaintiff Luis made some substantial modification and alterations in the original plan and yet failed to provide the necessary funding for those variations, which included elevation of the flooring, changing the size of the master's bedroom, changing the walling from plywood to concrete, and extension of the kitchen. The requested alterations were not, however, reduced to writing. Donasco claimed that she personally shouldered the additional cost of P92,177.95 because plaintiff at that time had limited funds. And because plaintiff would not reimburse her the amount, not to

mention that the P400,000.00 budget had been depleted, she stopped the construction.

Plaintiff Luis herself admitted that she asked Donasco to make few alterations and modifications in some portions of the house, but she paid for the cost of the necessary materials and labor to Donasco. After Donasco abandoned the construction, Luis made an ocular inspection and discovered that not only were there unfinished portions but there were also several defects in the construction. Consequently, she filed a complaint for breach of contract.

After trial, the lower court rendered the assailed Decision in favor of plaintiff-appellee. Applying Article 1724 of the New Civil Code, the trial court ruled that defendant Donasco was not justified in stopping or abandoning the construction of the house. Hence, she should be liable for the additional expense for the completion of the house to make it habitable.

Aggrieved, defendant interposed this ordinary appeal seeking the reversal of the assailed Decision.

She assigned the following errors, to wit:

I. THE COURT A QUO ERRED IN APPLYING ARTICLE 1724 OF THE NEW CIVIL CODE IN FAVOR OF PLAINTIFF-APPELLEE.

II. THE COURT A QUO ERRED IN FINDING THAT DEFENDANT-APPELLANT BREACHED HER CONTRACT WITH PLAINTIFF-APPELLEE.

The crux of the controversy is whether or not defendant-appellant committed a breach of contract.

We sustain the trial court.

Article 1724 of the New Civil Code provides:

ART. 1724. The contractor who undertakes to build a structure or any other work for a stipulated price, in conformity with plans and specification agreed upon with the landowner, can neither withdraw from the contract nor demand an increase in the price on account of the higher cost of labor or materials, save when there has been a change in the plans and specifications, provided:

(1) Such change has been authorized by the proprietor in writing; and

(2) The additional price to be paid to the contractor has been determined in writing by both parties.

Defendant-appellant now alleges that the cited provision applies only when there has been an increase in cost of labor and material, but not when the owner of the house made requests for alteration of the construction without furnishing the necessary funds, as in the present case. According to her, since no refund was made by the owner for these substantial changes, there can be no breach of contract when she in turn failed to finish the construction of the house. Basic principles of justice and equity cry out against such unjust enrichment and inequity.

We disagree.