

SEVENTH DIVISION

[CA-G.R. CV No. 99024, November 24, 2014]

GMA NETWORK, INC., PLAINTIFF-APPELLEE, VS. FABIAN O. MENDEZ, DEFENDANT-THIRD PARTY PLAINTIFF AND APPELLANT. VS. INTESTATE ESTATE OF LAURA & JOSE MENDOZA, NAMELY: VICENTA M. ESCABAR, LAURA M. MARNAL, ROSITA M. ALONZO AND FORTUNATO MENDOZA, ALL REPRESENTED BY FORTUNATO "TATO" MENDOZA, THIRD PARTY DEFENDANTS AND APPELLEES.

DECISION

INTING, S.B., J.:

In this appeal, herein defendant-third party plaintiff and appellant Atty. Fabian O. Mendez (*Atty. Mendez*, for brevity) seeks the reversal of the *Decision*^[1] dated May 10, 2012 of the Regional Trial Court of Naga City, Branch 26, rescinding the Deed of Conditional Sale^[2] and Deed of Absolute Sale^[3] entered into between Atty. Mendez and herein plaintiff-appellee GMA Network, Inc. (*GMA*, for brevity). The dispositive portion of the assailed decision reads:

"WHEREFORE, in view of the foregoing, decision is hereby rendered:

1. Rescinding the Deed of Conditional Sale dated February 13, 1998 and the Deed of Absolute Sale dated February 24, 1998;
2. Ordering defendant to return the amount of Three Million Seven Hundred Ninety Thousand Five Hundred Pesos (P3,790,500.00) representing the purchase price of the subject properties with interest at 12% per annum from February 24, 1998 until fully paid;
3. To pay plaintiff the amount of P228,682.00 as actual damages;
4. To pay plaintiff the amount of P100,000.00 as Exemplary Damages;
5. To reimburse the plaintiff the amount of P100,000.00 as Attorney's Fees and P100,000.00 as litigation expenses.

The Third-Party Complaint against the Third-Party Defendants is **DISMISSED** for lack of merit. There being no substantial evidence presented, the counterclaims of the Third-Party Defendant against Defendant are likewise **DISMISSED**.

SO ORDERED."

THE FACTS

This controversy involves four (4) parcels of land which were sold by Atty. Mendez to GMA. Said lands were originally covered by TCT No. 986 registered in the name of the Spouses Jose and Laura Mendoza, late parents of third-party defendant Fortunato Mendoza (*Mendoza*, for brevity).

The subject properties were conveyed by the late spouses to the Development Bank of the Philippines on January 4, 1962 by a Deed of Conveyance of Real Estate Property in Payment of Debt (*dacion en pago*). As such, TCT No. 986 which covers an area of 8946 square meters was canceled by the Registry of Deeds of Naga City and TCT No. 1149 was issued in DBP's name.

Sometime in 1990, the land covered by TCT No. 1149 was made the subject of an Invitation to Bid. Atty. Mendez turned out to be the highest bidder, thus the land was sold to him by DBP for 1.2 million pesos. As such, TCT No. 1149 was cancelled and TCT No. 21190 was issued in Atty. Mendez' name.

In 1991, Weller Jopson, claiming to be a *bona fide* tenant-farmer of the land covered by TCT No. 21190, filed with the Provincial Agrarian Reform Adjudicator (PARAD) a Complaint for Annulment of Sale, Preemption/Redemption and Reinstatement with prayer for a writ of preliminary injunction and/or restraining order with damages against DBP, Atty. Mendez and a certain Leonardo Tominio. On November 11, 1993, Jopson caused the annotation of the notice of *lis pendens* in the title of Atty. Mendez.

The present controversy arose when GMA entered into the picture. GMA, which is engaged in the business of nationwide radio had been renting the roof deck and a room of the Naga College Foundation in Naga City for 10 years as a site of its transmitters. It wanted to have a bigger space where it can install its tower and transmitter, hence, it decided to purchase a vacant lot.

On November 20, 1997, Atty. Mendez sent to GMA a Letter of Intent to Sell thru Richard V. Akia (*Engr. Akia*, for brevity), project engineer of GMA, who recommended the purchase of the four (4) parcels of land owned by Atty. Mendez which has a total land area of 1, 083 square meters and was being sold at P3,500.00 per square meter.

After a successful negotiation, Atty. Mendez and GMA, through its Engineering Department's Senior Vice President Ernesto L. Claudio, executed a Deed of Conditional Sale over the 4 lots for a consideration of P3,790,500.00.

In the Deed of Conditional Sale dated February 13, 1998, the following stipulation appear:

"2. DOCUMENTS

The SELLER shall submit the following documents within thirty (30) days

upon signing of this Deed of Sale:

- 2.1. Certificate from the Department of Agrarian Reform that said property is not covered by the CARP (original);
- 2.2. Cancellation of *lis pendens* (Parad Case No. 000043) filed by Efren G. Santos, counsel for Weller Jopson (complainant/petitioner);
- 2.3. Certificate of non-delinquency of Real Estate Taxes and receipts of real estate tax payments for 1997 including the tax declaration (original);
- 2.4. Owner's copy of the TCT and other documents required for the legal transfer and registration of the sale;
- 2.5. Approved subdivision plan indicating the boundaries of the 1,083 sq. m. portion of the property subject of the sale.

3. x x x x

4. **WARRANTIES**

- 4.1. The SELLER warrants that he is the absolute owner of the aforementioned property, and that the same is free from any lien, encumbrance and/or restriction.
- 4.2. The SELLER warrants to defend at his expense the right over the said parcel of land sold and ceded to BUYER against any adverse claim, existing or accruing upon or prior to the execution of this Deed.
- 4.3. The SELLER warrants that the said property is not tenanted nor occupied by squatters, and is outside the coverage of the Comprehensive Agrarian Reform Program.

Upon the execution of the Deed of Conditional Sale, GMA paid Atty. Mendez the amount of P1,895,250.00, the other half to be paid upon the fulfillment of the conditions stipulated in said deed.

Later, Atty. Mendez signed a Deed of Absolute Sale dated February 24, 1998 unilaterally prepared by GMA and, in turn, GMA paid in full the amount of the purchase price.

On June 5, 1998, four (4) new titles covering the subject properties were issued in GMA's name, however, said titles still carry with them the annotations from the previous title of Atty. Mendez which is the Notice of *Lis Pendens* of the case of Jopson v. DBP, Mendez and Tominio.

When asked why the notice of *lis pendens* has not been canceled despite the condition agreed upon in the Deed of Conditional Sale, Atty. Mendez furnished GMA with a copy of the decision of the PARAD in his favor. When GMA submitted said decision to the Register of Deeds, it was informed that the annotation on the title will be canceled as soon as the main office of the Department of Agrarian Reform in Quezon City issues a Certificate of Finality of the decision of the Provincial Adjudicator.

Meanwhile, GMA commenced installation of its transmitters and construction of its towers on the subject lot, however, it was prevented by Fortunato Mendoza who

represented himself as the owner of the adjoining lots and who barricaded the right of way leading to the lots purchased by GMA.

Due to Mendoza's continuous refusal to let GMA pass, it was not able to make full use of the property as it could not install its transmitters and towers. Hence, in order not to impair its operation, GMA extended their stay in the Naga College Foundation thereby causing them to incur additional expenses for rentals.

Given all the above-mentioned circumstances, GMA sought the rescission of the contract of sale it entered into with Atty. Mendez and demanding a refund of the purchase price plus actual and exemplary damages, litigation expenses and attorney's fees.

For his part, Atty. Mendez alleged that it was GMA who offered to buy his lots on an "as it is, where it is" basis. He denied that he undertook any warranty other than what was implied in the deed of absolute sale. He alleged that he should not be blamed if GMA was denied of its right of way by Mendoza because from the physical appearance of the property, there is no established right of way. If at all, GMA's right to oblige Atty. Mendez to comply with the terms and conditions has been waived by the subsequent execution of the deed of sale which no longer bears the same terms and conditions. He therefore asked the court for the dismissal of the complaint against him on the ground of lack of cause of action.

Putting the blame on Mendoza on why GMA could not make use of the subject properties, Atty. Mendez filed a third-party complaint against Mendoza. Mendoza, on the other hand, claimed that he is willing to give GMA and Atty. Mendez a right of way but the same should be for a fee. This was not agreeable to Atty. Mendez as he wanted to acquire the right of way for free. Hence, came this controversy.

Ruling of the Regional Trial Court

Finding Atty. Mendez remiss of his obligations under the contracts of sale, the trial court brushed aside his counter-arguments and accordingly ruled in GMA's favor. It found that Atty. Mendez failed to comply with his obligations under the Deed of Conditional Sale as well as the warranties under the same deed. In other words, Atty. Mendez failed to provide GMA with legal and peaceful possession of the subject properties and for this reason, the trial court rendered a decision rescinding the Deed of Conditional Sale and Deed of Absolute Sale. As a consequence, Atty. Mendez was ordered the refund of the purchase price paid to him by GMA plus interest, the payment of actual and exemplary damages as well as litigation and attorney's fees in favor of GMA.

Hence, the recourse to this Court.

THE APPEAL^[4]

In this appeal, Atty. Mendez enumerated assignment of errors which all boil down to one lone issue, that is: