

THIRD DIVISION

[G.R. No. 179025, June 17, 2015]

**CEBU STATE COLLEGE OF SCIENCE AND TECHNOLOGY (CSCST),
REPRESENTED BY ITS INCUMBENT PRESIDENT, PETITIONER, VS.
LUIS S. MISTERIO, GABRIEL S. MISTERIO, FRANCIS S.
MISTERIO, THELMA S. MISTERIO, AND ESTELA S. MISTERIO-
TAGIMACRUZ, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision^[1] dated July 25, 2007 of the Court Appeals (CA) in CA-G.R. CV No. 77329 which reversed and set aside the Order^[2] dated October 1, 2002, of the Regional Trial Court (RTC), Branch 23, Cebu City, in Civil Case No. CEB-25746.

The antecedent facts are as follows:

On December 31, 1956, the late Asuncion Sadaya, mother of herein respondents, executed a Deed of Sale covering a parcel of land denominated as Lot 1064, consisting of an area of 4,563 square meters, located at Lahug, Cebu City, and covered by Transfer Certificate of Title (TCT) No. 13086 of the Register of Deeds, Cebu Province, in favor of Sudlon Agricultural High School (SAHS). The sale was subject to the right of the vendor to repurchase the property after SAHS shall have ceased to exist, or shall have transferred its school site elsewhere, worded in the Deed of Sale as follows:

That the Vendee herein, SUDLON AGRICULTURAL HIGH SCHOOL, hereby obligates itself to use the aforementioned Lot No. 1064, for school purposes only, and it is the condition attached to this contract that the aforementioned Vendee obligates itself to give the Vendor herein, the right to repurchase the said lot by paying to the Vendee herein the aforementioned consideration of P9,130.00 only, after the aforementioned SUDLON AGRICULTURAL HIGH SCHOOL shall (have) ceased to exist or shall have transferred its school site elsewhere.^[3]

Consequently, on May 22, 1957, TCT No. 13086 was cancelled, and in lieu thereof, TCT No. 15959 was issued in the name of SAHS, with the vendor's right to repurchase annotated at its dorsal portion.

On March 18, 1960, the Provincial Board of Cebu donated 41 parcels of land, covering 104.5441 hectares of the Banilad Friar Lands Estate to the SAHS subject to two (2) conditions: (1) that if the SAHS ceases to operate, the ownership of the lots would automatically revert to the province, and (2) that the SAHS could not

alienate, lease or encumber the properties.^[4]

On June 10, 1983, Batas Pambansa (*BP*) Blg. 412, entitled "An Act Converting the Cebu School of Arts and Trades in Cebu City into a Chartered College to be Known as the Cebu State College of Science and Technology, Expanding its Jurisdiction and Curricular Programs" took effect. It incorporated and consolidated several schools in the Province of Cebu, including the SAITS, as part of the Cebu State College of Science and Technology (*CSCST*). The law also transferred all personnel, properties, including buildings, sites, and improvements, records, obligations, monies and appropriations of SAITS to the *CSCST*.^[5]

In the meantime, the Province of Cebu sought to recover the 41 parcels of land it previously donated to SALIS on the basis of an initial report of its provincial attorney that SAHS had no personality to accept the donation, and thus, the deed it executed was void.^[6]

On August 19, 1988, respondents Luis, Gabriel, Francis, Thelma, -all surnamed Misterio, and Estella S. Misterio-Tagimacruz, as heirs of the late Asuncion Sadaya, informed the then Governor of the Province of Cebu, Emilio Osmena, through a letter, of their intention to repurchase the subject property as stipulated in the Deed of Sale.^[7] Thereafter, on March 13, 1990, respondents, through their counsel, Atty. Ricardo Padilla, informed petitioner of their 'intention to exercise their right to repurchase under the Deed of Sale on the ground that the SAHS had ceased to exist. However, petitioner's Vocational School Superintendent II, Jesus T. Bonilla, informed respondents that SAHS still existed as only the name of the school was changed.^[8]

On December 23, 1993, respondents filed a Complaint^[9] before the RTC of Cebu City, Branch 18, docketed as Civil Case No. CEB-15267, for Nullity of Sale and/or Redemption against *CSCST*, its chairman, Armand Fabella, and president, Dr. Mussolini Barillo, alleging the following causes of action:

1. That SAHS, at the time of the execution of the deed of sale on December 31, 1956, had no juridical personality. As such, it cannot acquire and possess any property, including the subject parcel of land. Hence, the Deed of Sale is null and void; and
2. That with the enactment of BP Blg. 412, SAHS had ceased to exist. Thus, the right to repurchase the subject property became operative.^[10]

On November 29, 1995, the RTC rendered judgment, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing considerations, JUDGMENT is hereby rendered in favor of the plaintiffs and against the defendants declaring the Deed of Sale entered into by and between Asuncion Sadaya and Sudlon Agricultural High School as null and void for the latter's lack of juridical personality to acquire real property or to enter into such transaction or having ceased to exist and ordering the Cebu State College of Science and Technology being the actual possessor of the land, Lot 1064, to deliver and reconvey the same to plaintiffs upon payment of the

aforementioned purchased price.

No pronouncement as to costs. SO ORDERED.^[11]

Petitioner appealed the aforesaid decision to the CA. During the pendency thereof, respondents filed a Manifestation and Motion for Injunction,^[12] amending their complaint and cause of action to include, petitioner's intent to abandon the subject property and to no longer use the same for school site purposes, to wit:

COME NOW, the appellees x x x.

1. Sometime July 7, 1996, a Motion for Injunction was filed by the undersigned stating that the land in question is being negotiated by the defendants-appellants CSCST to the Provincial Government.

xxxx

3. Recently, the provincial government is negotiating with ABS-CBN for an acquisition of the land located in Sudlon, Cebu City. It is not known though if the land in dispute is included in the negotiation.

xxxx

4. That appellant CSCST clearly showed an intent to abandon the land in dispute and that it will no longer use it for school purposes and that it will transfer its school site in Barili, Cebu.

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6. That since this fact arises only after the case was filed, this manifestation and information amends the complaint and cause of action of the case, but it is proper that it be consolidated and considered before this Honorable Court, for convenience and expediency.

The foregoing Manifestation and Motion for Injunction was acknowledged by the appellate court in its Resolution dated September 13, 1999.^[13]

On October 3, 1997, petitioner and the Province of Cebu executed a Deed for Reversion, by virtue of which petitioner ceded to the Province of Cebu the subject property covered by TCT No. 15959. Consequently, the Register of Deeds issued TCT No. 146351 in the name of the Province of Cebu, with a notice annotated at the dorsal portion thereof of the pending, cases before the RTC and the CA.^[14]

On July 31, 2000, the CA reversed the decision of the RTC, ruling that while it agrees with the trial court's finding that the SAHS had ceased to exist when BP Blg. 412 took effect, respondents are barred by prescription from exercising their right to repurchase the subject property, which expired in June 1987, or four years from the effectivity of BP Blg. 412, as provided by Article 1606^[15] of the New Civil Code.

On June 23, 2005, this Court affirmed the decision of the CA and denied the petition for review filed by respondents, reiterating that conformably to the condition in the deed of sale, and under Article 1606 of the New Civil Code, the right of respondents

as successors-in-interest of the vendor *a retro* commenced to run on June 10, 1983. Hence, they had until June 10, 1987 within which to repurchase the property. However, they failed to do so. It was held that the four-year period for the respondents to repurchase the property was not suspended merely and solely because there was a divergence of opinion between the petitioners, on the one hand, and the respondents, on the other, as to the precise meaning of the phrase "after the SAHS shall cease to exist" in the deed of sale. Verily, the existence of the respondents' right to repurchase the property was not suspended for being dependent upon the prior final interpretation by the court of the said phrase.^[16]

However, on February 5, 2001, during the pendency of their appeal with this Court, respondents again filed an Amended Complaint^[17] with the RTC of Cebu City, Branch 23, docketed as Civil Case No. CEB-25746, this time, impleading the Province of Cebu and the Register of Deeds, essentially alleging that pursuant to petitioner's transfer of its school site, their right of redemption on said condition became operative. In support thereof, respondents claim the existence of newspaper reports stating that SAHS will be transferred to Barili, Cebu, that petitioner and the Province of Cebu entered into a Memorandum of Agreement facilitating such transfer, and that pursuant to a Deed of Reversion, ownership of the subject property had already been transferred in the name of the Province of Cebu. Thus, respondents assert their right to redeem the subject property and pray that the title in the name of the Province of Cebu be cancelled.

In its Answer,^[18] petitioner averred that when respondents failed to include the ground of transfer of school site in their previous complaint in Civil Case No. CEB-15267, they are deemed to have waived the same; that respondents should not split a single cause of action by multiple suits; that the case was dismissible for being barred by *litis pendentia*; that appellants were guilty of forum shopping; and, that the action was likewise barred by prescription.^[19]

On October 1, 2002, the RTC dismissed respondents' Amended Complaint in Civil Case No. CEB-25746 in the following wise:

In the present complaint for redemption, cancellation of title and damages, plaintiffs prayed among others, that they be granted the right to redeem the subject land by paying the PHP9,130.00 as provided for in the Deed of Sale. The record, however, bears out that prior to the filing of this case, plaintiffs had instituted an action for nullity of sale and/or redemption of the same property which was docketed as Civil Case No. CEB-15267, now pending before the Court of Appeals and docketed as CA-G.R. CV No. 53592. From this point, it is also that the present action is barred by *litis pendentia* where being another case which is pending between the same parties for the same cause.

Plaintiffs are likewise guilty of forum shopping, there being substantial identity of parties, rights of action and reliefs sought for in the instant case and that in the Civil Case No. CEB-15267 which is still pending as CA-G.R. CV No. 53592.^[20]

On appeal, however, the CA reversed the decision of the RTC holding that the case is not barred by *litis pendentia* for while there is an identity of parties and reliefs

prayed for between the two complaints filed by respondents, there exists no identity of causes of action, to wit:

It bears stressing that the right to repurchase as stated in the deed of sale can only be exercised on the occurrence of either of the two suspensive conditions, to wit:

1. if SAHS shall have ceased to exist; or
2. if SAHS shall have transferred its school site elsewhere.

In Civil Case No. Ceb-15267, which was appealed to this Court and docketed as CA-G.R. CV No. 53592, the cause of action of herein appellants (appellees therein) was based on the first suspensive condition, the fact that SAHS, by virtue of Batas Pambansa Blg. 412, enacted on June 10, 1983, has ceased to exist. On the other hand, the cause of action, in the instant case is based on the second suspensive condition, the fact that the school site was transferred to another location. Apparently, though the reliefs sought in both cases are the same, they are not founded on the same facts which give rise to two different causes of action.^[21]

Hence, the instant petition invoking the following arguments:

I.

THE COURT OF APPEALS ERRED IN REVERSING THE TRIAL COURT'S ORDER DISMISSING THE CASE AND IN REMANDING THE SECOND COMPLAINT TO THE TRIAL COURT FOR FURTHER PROCEEDINGS DESPITE THE CLEAR FACT THAT *LITIS PENDENTIA* (NOW *RES JUDICATA*) AND FORUM SHOPPING BARS THE FILING OF THE SECOND COMPLAINT.

II.

THE SECOND COMPLAINT FILED BY RESPONDENTS LACKS A CAUSE OF ACTION.

Petitioner maintains that since all the elements of *litis pendentia* were present, the appellate court should have affirmed the trial court's decision in dismissing the instant case. *First*, the parties involved in the two cases are essentially the same parties representing the same interest. *Second*, as between the two cases, there is an identity of rights and reliefs sought. According to petitioner, both complaints filed involve the same issue: whether or not the respondents are entitled to repurchase the property from petitioner, the causes of action are both anchored upon the happening of the suspensive condition set forth under the same provision of the same deed of sale, and both complaints compel petitioner to convey the same property to respondents by way of repurchase. *Third*, there is identity in the two cases such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the present case. In view of the finality of this Court's decision on the first case, petitioner adds that *res judicata* has then taken effect, necessarily barring respondents from pursuing the instant case.