

SECOND DIVISION

[G.R. No. 212256, December 09, 2015]

**FARIDA YAP BITTE AND THE HEIRS OF BENJAMIN D. BITTE,
NAMES: JACOB YAP BITTE, SHAIRA DAYANARA YAP BITTE,
FATIMA YAP BITTE AND ALLAN ROBERT YAP BITTE,
PETITIONERS, VS. SPOUSES FRED AND ROSA ELSA SERRANO
JONAS, RESPONDENTS.**

DECISION

MENDOZA, J.:

In this petition for review on *certiorari*^[1] under Rule 45 of the Rules of Court, the petitioners, Farida Yap Bitte and Heirs of Benjamin Bitte (*the petitioners*), seek the review of the September 26, 2013 Decision^[2] and February 26, 2014 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 01596-MIN, which reversed the January 18, 2007 Joint Decision^[4] of the Regional Trial Court, Branch 13, Davao (*RTC-Branch 13*), arrived at in favor of respondents, Spouses Fred and Rosa Elsa Serrano Jonas (*Spouses Jonas*).

Factual Antecedents

This controversy stemmed from two civil cases filed by the parties against each other relative to a purported contract of sale involving a piece of property situated at 820 corner Jacinto Street and Quezon Boulevard, Davao City (*subject property*). It was initially covered by TCT No. T-112717 in the name of Rosa Elsa Serrano Jonas (*Rosa Elsa*) and presently by TCT No. T-315273 under the name of Ganzon Yap, married to Haima Yap (*Spouses Yap*).

On July 19, 1985, before Rosa Elsa went to Australia, she had executed a Special Power of Attorney (*SPA*) authorizing her mother, Andrea C. Serrano (*Andrea*), to sell the property.

Sometime in May 1996, Cipriano Serrano (*Cipriano*), son of Andrea and brother of Rosa Elsa, offered the property for sale to Spouses Benjamin and Farida Yap Bitte (*Spouses Bitte*) showing them the authority of Andrea. On September 3, 1996, Cipriano received from Spouses Bitte the amount of P200,000.00 as advance payment for the property. Later on, on September 10, 1996, he received the additional amount of P400,000.00.

Spouses Bitte sought a meeting for final negotiation with Rosa Elsa, the registered owner of the subject property. At that time, Rosa Elsa was in Australia and had no funds to spare for her travel to the Philippines. To enable her to come to the country, Spouses Bitte paid for her round trip ticket.

On October 10, 1996, shortly after her arrival here in the Philippines, Rosa Elsa

revoked the SPA, through an instrument of even date, and handed a copy thereof to Andrea.

The next day, on October 11, 1996, the parties met at Farida Bitte's office, but no final agreement was reached. The next day, Rosa Elsa withdrew from the transaction.

On October 17, 1996, Spouses Bitte filed before the RTC a Complaint for Specific Performance with Damages seeking to compel Rosa Elsa, Andrea and Cipriano to transfer to their names the title over the subject property. The case was docketed as **Civil Case No. 24,771-96** and raffled to RTC-Branch 13.

While the case was pending, Andrea sold the subject property to Spouses Bitte, through a deed of absolute sale, dated February 25, 1997, and notarized by one Atty. Bernardino Bolcan, Jr.

Immediately thereafter, Rosa Elsa asked Andrea about the sale. Her questions about the sale, however, were ignored and her pleas for the cancellation of the sale and restoration of the property to her possession were disregarded.

Undisputed by the parties is the fact that Rosa Elsa earlier mortgaged the subject property to Mindanao Development Bank. Upon failure to pay the loan on maturity, the mortgage was foreclosed and sold at a public auction on December 14, 1998 as evidenced by the annotation on the title, Entry No. 1173153.^[5]

Armed with the deed of absolute sale executed by Andrea, Spouses Bitte were able to redeem the property on September 14, 1998 from the highest bidder, Thelma Jean Salvana, for P1.6 Million Pesos.

Thereafter, Spouses Bitte sold the property to Ganzon Yap (Ganzon), married to Haima Yap.^[6]

Civil Case No. 24,771-96

(Spouses Bitte v. Rosa Elsa Serrano Jonas, Andrea C. Serrano and Cipriano Serrano, Jr.)

As earlier recited, on October 17, 1996, Spouses Bitte filed before the RTC **Civil Case No. 24,771-96**, a Complaint for Specific Performance with Damages seeking to compel Rosa Elsa, Andrea and Cipriano to transfer the title of the subject property to their names.

In their Complaint, Spouses Bitte alleged that sometime in May 1996, the property was offered to them for sale by Cipriano, who showed them the SPA in favor of Andrea; that on September 3, 1996 and September 10, 1996, Cipriano received from them the respective amounts of P200,000.00 and then P400,000.00 as advance payments for the property; that they sought a meeting for final negotiation with Rosa Elsa, then the registered owner of the subject property; that at that time, Rosa Elsa was in Australia and had no funds to spare in order to return to the Philippines; that to enable her to come to the country, they paid for her round trip ticket; that on October 11, 1996, they and Rosa Elsa met at Farida Bitte's office; that an agreement of sale of the subject property for the total purchase price of

P6.2 Million Pesos was reached; that P5 Million thereof would be paid on October 18, 1996 and the balance, thirty (30) days thereafter; that on the following day, Rosa Elsa withdrew from the transaction; and that on the same date, they demanded, through a letter, the execution of the necessary documents to effect the transfer of the property to their names, but to no avail.

On October 18, 1996, RTC-Branch 13 granted the prayer for the issuance of a Temporary Restraining Order (*TRO*) preventing Rosa Elsa and her agents from disposing the subject property. Subsequently, on November 8, 1996, a Writ of Preliminary Injunction (*WPI*) was issued in favor of Spouses Bitte.

In response, Rosa Elsa countered that despite her appointment of her mother, Andrea, as her attorney-in-fact/agent, she later gave her instructions not to sell the property; that her revocation barred the consummation of the contract to sell; that it was her belief that her return to the Philippines was in connection with the sale of another property situated in Cawag, San Isidro, Davao Oriental; that it was a surprise to her when she learned that Cipriano was still negotiating for the sale of the subject property; that for said reason, she asked for a meeting with Spouses Bitte to discuss the issue; that in the meeting, upon learning of the source of her air fare, she offered to refund it and to return the unused ticket for her return trip, but Spouses Bitte refused her offer; that no authority was given to Cipriano to receive any advance payment for the property; and that Andrea's authority was revoked through a Deed of Revocation of the Special Power of Attorney (*SPA*), dated October 10, 1996.

During the pre-trial conference held on July 30, 1999, Spouses Bitte failed to appear. Consequently, RTC-Branch 13 dismissed their complaint and set the reception of Rosa Elsa's counterclaim for hearing.

Later on, Benjamin Bitte manifested the withdrawal of their counsel. RTC-Branch 13 then cancelled the reception of Rosa Elsa's evidence without reconsidering the dismissal of the complaint.

Civil Case No. 27,667-99

(Spouses Fred Jonas and Rosa Elsa Serrano Jonas v. Sps. Benjamin Bitte and Farida Yap Bitte, Andrea C. Serrano, Reg. of Deeds and the Clerk of Court, RTC, Davao City)

On November 16, 1999, Spouses Jonas filed before the RTC ***Civil Case No. 27,667-99***, a complaint for Annulment of Deed of Absolute Sale, Cancellation of TCT and Recovery of Possession, Injunction, and Damages against Spouses Bitte.

In the Complaint, Spouses Jonas alleged that Rosa Elsa acquired the property before marriage; that on July 19, 1985, when she decided to leave for Australia to reside there, she executed an SPA of even date, granting her mother, Andrea, the authority to sell the subject property; that while in Australia, she decided that she would no longer sell the property; that she instructed her mother to stop offering the property to prospective buyers; that upon arrival here in the Philippines in 1996, she revoked the SPA, through an instrument, dated October 10, 1996, and handed a copy thereof to Andrea; that later, she received information that the property was subsequently sold to Spouses Bitte, through a Deed of Absolute Sale, dated February 25, 1997, signed by her mother, Andrea; and that she then pleaded for the

return of the property, but Andrea repeatedly ignored her.

Spouses Jonas eventually sought judicial recourse through the filing of a complaint for the Annulment of the Deed of Absolute Sale and Reconveyance of the Property which was raffled to RTC-Branch 9.

On November 17, 1999, Branch 9 issued a 20-day TRO restraining Spouses Bitte from selling or disposing the subject property. On December 6, 1999, after hearing, it issued a WPI for the same purpose.

On July 11, 2000, Rosa Elsa moved for the admission of an Amended Complaint in order to implead Spouses Yap because the title over the subject property had been subsequently registered in their names.

Consolidation of the Two Cases

As earlier recited, RTC-Branch 13 dismissed the complaint of Spouses Bitte and set the reception of Rosa Elsa's counterclaim for hearing.

Later on, RTC-Branch 13 cancelled the reception of Rosa Elsa's evidence without reconsidering the dismissal of the complaint.

Nonetheless, on May 26, 2000, RTC-Branch 13 reconsidered its earlier ruling after seeing the need to consolidate **Civil Case No. 27,667-99** with **Civil Case No. 24,771-99** pending before the RTC, Branch 9, Davao (RTC-Branch 99). In the October 4, 2001 Order, the cases were ordered **consolidated** and were thereafter scheduled to be jointly heard before Branch 13.

On April 17, 2002, Spouses Bitte were again declared in default by RTC- Branch 13 for their failure to attend the pre-trial.

On January 4, 2003, the counsel of Spouses Bitte withdrew and a new one entered his appearance and then filed a verified motion for reconsideration.

On August 21, 2003, Spouses Bitte once again failed to appear in the pre-trial and were, thus, declared non-suited. Rosa Elsa then presented her evidence *ex parte*.

Joint Decision of the RTC-Branch 13

On January 18, 2007, RTC-Branch 13 rendered a Joint Decision,^[7] confirming the dismissal of Civil Case No. 24,771-96 and directing Spouses Bitte to pay Rosa Elsa the amount of P1,546,752.80, representing the balance of the sale of the subject. The dispositive portion of the Joint Decision reads:

WHEREFORE, judgment is hereby rendered in these cases as follows:

- a. Reiterating the dismissal of Civil Case No. 24,771-96;
- b. Directing spouses Benjamin and Farida Bitte to pay Rosa Elsa Serrano Jonas the amount of P1,546,752.80 (one million five hundred forty-thousand seven hundred fifty two and 80/100 pesos) representing the balance of the sale of the property subject of this

case to them;

- c. Directing spouses Benjamin and Farida Bitte to pay interest on the balance at the rate of 12% per annum from the date of this decision until fully paid.

SO ORDERED.^[8]

Ruling of the CA

Aggrieved, Spouses Jonas appealed to the CA. On September 26, 2013, the CA *reversed* the RTC-Branch 13 Joint Decision. In so ruling, the CA focused on the validity and enforceability of the deed of absolute sale executed by Andrea in the name of Rosa Elsa. The CA explained:

1. Andrea's execution on behalf of Rosa Elsa of the deed of absolute sale in favor of Spouses Bitte was void and unenforceable as the authority to represent Rosa Elsa had already been revoked as early as October 10, 1996. Without the authority to effect the conveyance, the contract was without effect to Rosa Elsa, who was a stranger to the conveyance in favor of Spouses Bitte. Rosa Elsa did not consent to the transaction either.
2. Considering that no valid conveyance was effected, Spouses Bitte had no right to redeem the foreclosed property because they were not among those persons who could redeem a property under Sec. 6 of Act. No. 3135 and Section 27 of Rule 39 of the Rules of Court. They could not be considered successors-in-interest or transferees because no right was conveyed by Rosa Elsa on account of the revocation of the authority given to Andrea.
3. Ganzon, the one who subsequently purchased the property from Spouses Bitte, was not an innocent purchaser of the property as the conveyance was attended with circumstances which should have alerted him of the fallibility of the title over the property. Ganzon transacted with Spouses Bitte, who were then not yet the registered owners of the property. He should have made inquiries first as to how Spouses Bitte acquired the rights over the property.

Thus, the CA disposed as follows:

WHEREFORE, premises considered, the instant appeal is hereby **GRANTED** and the Joint Decision, dated 18 January 2007 of the RTC, Eleventh Judicial Region, Branch 13, Davao City, insofar as it pertains to Civil Case No. 27,667-99 is hereby **REVERSED** and **SET ASIDE**. Accordingly,

- a) The Deed of Absolute Sale dated 25 February 1997 is hereby declared **NULL** and **VOID**.
- b) Transfer Certificate of Title (TCT) No. T-315273 in the name of Ganzon Yap, married to Haima Yap, is declared **NULL** and **VOID**, and the Registry of Deeds of Davao City is hereby **DIRECTED** to cancel TCT No. T-315273, and to issue a new title reinstating TCT No. T-112717 in the name of Rosa Elsa S. Serrano; and
- c) Ganzon and Haima Yap and/or whoever is in possession of the