

## THIRD DIVISION

[ G.R. No. 179518, November 11, 2014 ]

**BANK OF THE PHILIPPINE ISLANDS, PETITIONER, VS. VICENTE VICTOR C. SANCHEZ, HEIRS OF KENNETH NEREO SANCHEZ, REPRESENTED BY FELISA GARCIA YAP, AND HEIRS OF IMELDA C. VDA. DE SANCHEZ, REPRESENTED BY VICENTE VICTOR C. SANCHEZ, RESPONDENTS.**

[G.R. NO. 179835]

**GENEROSO TULAGAN, HEIRS OF ARTURO MARQUEZ, REPRESENTED BY ROMMEL MARQUEZ, AND VARIED TRADERS CONCEPT, INC., REPRESENTED BY ITS PRESIDENT AND GENERAL MANAGER, ANTHONY QUINA, PETITIONERS, VS. VICENTE VICTOR C. SANCHEZ, HEIRS OF KENNETH NEREO SANCHEZ, REPRESENTED BY FELISA GARCIA YAP, AND HEIRS OF IMELDA C. VDA. DE SANCHEZ, REPRESENTED BY VICENTE VICTOR C. SANCHEZ, JESUS V. GARCIA, AND TRANSAMERICAN SALES & EXPOSITION, INC., RESPONDENTS.**

[G.R. NO. 179954]

**REYNALDO V. MANIWANG, PETITIONER, VS. VICENTE VICTOR C. SANCHEZ AND FELISA GARCIA YAP, RESPONDENTS.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **The Case**

These are consolidated Petitions for Review on Certiorari under Rule 45 of the Rules of Court assailing the November 6, 2006 Decision<sup>[1]</sup> and August 31, 2007 Resolution of the Court of Appeals in CA-G.R. No. 83236 entitled *Vicente Victor C. Sanchez, Heirs of Kenneth Nereo Sanchez represented by Felisa Garcia Yap, and Heirs of Imelda C. Vda. de Sanchez represented by Vicente Victor C. Sanchez v. Jesus V. Garcia and Transamerican Sales and Exposition, Inc.* The assailed Decision affirmed with modification the Decision dated July 14, 2004 of the Regional Trial Court, Branch 89 in Quezon City, in Civil Case No. Q-90-4690.

#### **The Facts**

The facts of the case are as follows:

Vicente Victor C. Sanchez (Vicente), Kenneth Nereo Sanchez and Imelda C. Vda. De Sanchez owned a parcel of land located at No. 10 Panay Avenue, Quezon City

consisting of 900 square meters. The property was registered under Transfer Certificate of Title No. (TCT) 156254 of the Registry of Deeds of Quezon City (the Subject Property).<sup>[2]</sup>

On October 10, 1988, Jesus V. Garcia (Garcia), doing business under the name TransAmerican Sales and Exposition, Inc. (TSEI), wrote a letter<sup>[3]</sup> to Vicente offering to buy the Subject Property for One Million Eight Hundred Thousand Pesos (P1,800,000) under the following terms and conditions:

Following are my basic terms and conditions in buying the above-mentioned property:

1. P50,000.00 - Reservation/earnest money to be paid upon execution of reservation agreement
2. P1,750,000.00 - To be paid to seller as soon as all pertinent sales documents, including a Deed of Absolute Sale are prepared and executed in my favor.
3. As per standard practice, the capital gain [sic] tax, documentary stamps, brokers commission of 5% and Deed of Sale documents shall be in the account of the Seller.
4. Registration expenses and transfer tax shall be my obligations [sic].

<sup>[4]</sup>

The offer was good for only seven (7) days. The period elapsed with the parties failing to come to an agreement.

Sometime in the third week of October 1988, Felisa Yap (Yap), the widow of Kenneth Nereo Sanchez, and Garcia had a meeting at the Quezon City Sports Club wherein the parties agreed to the sale of the subject property under the following terms and conditions:

1.7.1. Garcia shall buy the property for P1.850 million payable in cash immediately after the occupants thereof shall have vacated the property.

1.7.2. Garcia shall immediately pay (the) amount of P50,000.00 creditable against the total purchase.

1.7.3. Garcia shall take care of all documentation necessary for the transfer of the title in his favor, including the reconstitution of the original title x x x and the extrajudicial settlement of the property, considering that, as stated, the title is still registered in the names of plaintiff Sanchez, the late Kenneth Nereo Sanchez and the late Imelda C. Vda. De Sanchez. For this purpose, the original owner's copy of Transfer Certificate of Title, the copy of the application for the reconstitution of title of the property, and copies of receipts of real estate taxes were to be entrusted to defendant Garcia;

1.7.4. Garcia shall cause the demolition of the old house standing on the

property and shall sell the scrap materials thereof for not less than P50,000.00. All proceeds to be realized on account of said demolition shall be turned over to the [Sanchezes].<sup>[5]</sup>

Pursuant to this agreement, Yap turned over to Garcia the original owner's copy of TCT 156254, the copy of the filed Application for Restitution of Title to the property, and copies of all receipts for the payment of real estate taxes on the property, while Garcia paid Yap ₱50,000 as earnest money.<sup>[6]</sup>

Afterwards, Yap required the occupants of the subject property to vacate the same. Immediately after it was vacated, Garcia, without Yap's knowledge and consent, took possession of the lot and installed his own caretaker thereon with strict instructions not to allow anyone to enter the property. Yap later learned that Garcia had also demolished the house on the property and advertised the construction and sale of "TransAmerican Townhouse V" thereon. The foregoing developments notwithstanding and despite numerous demands, Garcia failed to pay the balance of the purchase price as agreed upon.<sup>[7]</sup>

Then, on December 5, 1988, Yap was informed that the checks representing the purchase price of the subject property were ready but that Vicente must pick up his checks personally. On December 8, 1988, Vicente came to Manila from Laguna and proceeded to Garcia's office to get the checks. However, out of the six (6) checks that were presented to them, four (4) of them were post-dated, further delaying their overdue payment.<sup>[8]</sup> In order to properly document such check payments, the parties executed an Agreement dated December 8, 1988,<sup>[9]</sup> paragraphs 3 to 8 of which relevantly provide:

3. That the total consideration of sale of the rights, interest, participation and title of the First (Yap) and Second (Vicente) Parties of the aforestated parcel of land to the Third Party (Garcia) shall be One Million Eight Hundred Fifty Thousand Pesos (P1,850,000.00), Philippine Currency, payable in check, as follows:

a) RBC Check No. 290258 to be drawn in favor of Felisa G. Yap and dated December 8, 1988 for the sum of P250,000.00;

b) RBC Check No. 290257 to be drawn in favor of Vicente Victor Sanchez and dated December 8, 1988 for the sum of P250,000.00;

c) RBC Check No. 290261 to be drawn in favor of Felisa G. Yap and dated December 14, 1988 for the sum of P250,000.00;

d) RBC Check No. 290260 to be drawn in favor of Vicente Victor Sanchez and dated December 14, 1988 for the sum of P250,000.00;

e) RBC Check No. 290263 to be drawn in favor of Felisa G. Yap and dated December 22, 1988 for the sum of P400,000.00; and

f) RBC Check No. 290262 to be drawn in favor of Vicente Victor Sanchez and dated December 22, 1988 for the sum of P400,000.00.

4. That the parties hereto agree that once the aforesaid checks are honored by the bank and encashed by the payees thereof, the First and Second Parties shall execute an EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE distributing and dividing among themselves the aforesaid parcel of land and conveying in the said instrument all their rights, interest, share, title and participation in the said property to the Third Party for the consideration stated in the preceding paragraph.

5. That once the aforesaid EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE is executed, the First and Second Parties shall immediately deliver the said document to the Third Party who, on the strength of the same, shall reconstitute the burned Title of the aforesaid Transfer Certificate of Title No. 156254, copy attached, in the Registry of Deed of Quezon City and thereafter effect the transfer and registration of the said property in his name; it being understood however that all necessary expenses necessary for such reconstitution of title, transfer and registration, shall be borne by the Third Party while the inheritance tax, capital gains tax and documentary stamps required to be paid therefor shall be borne by the First and Second Parties, but in no case shall it exceed the combined amount of P\_\_\_\_\_.

6. That it is agreed by the parties hereof that if at any time one of the aforesaid checks is dishonored by the bank, the First and Second Parties may opt to rescind this contract and that in the event of rescission, the First and Second Parties shall forfeit the earnest money of P50,000.00 and retain or withhold the amount representing the value of damage effected by way of demolition by the Third Party on the property standing and situated on the aforesaid parcel of land, which value shall not exceed the sum of P290,000 -- depreciated cost of the building therein and that whatever then remain as proceeds of the aforesaid checks shall be returned to the Third Party.

7. It is also agreed that after the delivery of the EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE by the First and Second Parties after the encashment of the last check, the Third Party shall also pay the balance of the demolition proceeds in the amount of P20,000.00.

8. That after the delivery of the EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE to the Third Party, the First and Second Parties shall, except those stipulated above, then have only the remaining obligation to deliver to the Third Party any document in their possession or what they can lawfully and validly execute in accordance with their rights as aforesaid and/or shown in the aforementioned title.<sup>[10]</sup>

Subsequently, the first four (4) checks were deposited with no issue. However, the last two (2) checks, amounting to P400,000 each, were dishonored for the reason of

"DAIF" or drawn against insufficient funds.<sup>[11]</sup>

Thus, Yap wrote a letter dated December 26, 1988<sup>[12]</sup> to Garcia informing him that the two (2) checks were dishonored and asking that the checks be replaced within five (5) days from receipt of the letter. Such request was left unheeded.

On January 10, 1989, Yap informed Garcia in a letter<sup>[13]</sup> that she and Vicente were rescinding the Agreement while demanding the return of the original owner's copy of TCT 156254. This prompted Garcia to offer two (2) manager's checks in the aggregate amount of P300,000 which Yap flatly refused, reiterating the rescission of their Agreement and demanding for the return of all documents entrusted to Garcia through a January 21, 1989 letter.<sup>[14]</sup>

However, in a letter dated January 27, 1989,<sup>[15]</sup> Garcia's counsel, Atty. Francisco Beato, Jr. (Beato), informed Yap that they (Garcia, Vicente and Yap) had an agreement that the P800,000 balance of the purchase price was due to be paid by Garcia only upon Yap and Vicente's payment of the realty, inheritance and capital gains taxes due on the transfer of the property. Thus, Garcia effectively refused to return the documents and to vacate the subject property.

Yap referred Beato's letter to her own counsel, Atty. Julian S. Yap, who wrote back in a letter dated February 16, 1989, refuting the claim of Garcia that the P800,000 was not yet due and reiterating their decision to rescind the Agreement and demanding that Garcia vacate the property and return the documents that were surrendered to him by Yap.<sup>[16]</sup>

In the meantime, on February 19, 1989, Yap and Vicente discovered that Garcia posted an advertisement in the classified ads of the Manila Bulletin offering to sell units at the TransAmerican Townhouse V situated at the subject property.<sup>[17]</sup>

Thus, on February 27, 1989, Atty. Yap wrote the Housing and Land Use Regulatory Board (HLURB) informing the latter of the existing public advertisement of TSEI offering for sale townhouses illegally constructed on the subject property and urging the HLURB to cancel any existing permit or license to sell the said townhouse units or to deny any application therefor.<sup>[18]</sup>

On March 17, 1989, the HLURB issued a Cease and Desist Order<sup>[19]</sup> (CDO) enjoining TSEI and Garcia from further developing and selling the townhouses. In the said order, Commissioner Amado B. Celoria of the HLURB certified that respondents Garcia and TSEI have not been issued any permit by said Board for the townhouse Project on the subject lot. Respondents Garcia and TSEI were directed to immediately stop from further developing the project. Additionally, such cease and desist order as well as warnings to possible buyers of the townhouses were published with the Philippine Daily Inquirer on April 16, 1989, and with the Manila Bulletin on April 19, 1989.<sup>[20]</sup> On May 5, 1989, the HLURB issued another letter to TSEI reiterating its previous directive for it to cease and desist from selling the townhouse units.<sup>[21]</sup> In compliance, Garcia and TSEI stopped construction of the townhouses units on March 30, 1989.<sup>[22]</sup>