

## THIRD DIVISION

**[ G.R. NO. 144661 AND 144797, June 15, 2005 ]**

**DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER, VS.  
SPOUSES FRANCISCO ONG AND LETICIA ONG, RESPONDENTS.**

### D E C I S I O N

**GARCIA, J.:**

Appealed to this Court by way of a petition for review on certiorari are the **Decision<sup>[1]</sup> dated March 5, 1999** and **Resolution dated July 19, 2000** of the Court of Appeals in **CA-G.R. CV No. 54919**, affirming in toto an earlier decision of the Regional Trial Court at Cagayan de Oro City, Branch 23, which ruled in favor of herein respondents, the **Spouses Francisco Ong and Leticia Ong**, in a suit for breach of contract and/or specific performance with prayer for writ of preliminary injunction and damages thereat commenced by them against petitioner **Development Bank of the Philippines (DBP)**.

Petitioner filed by registered mail a motion for extension time to submit petition, paying the corresponding docket fees therefor by money order. Upon receipt of the motion, the Court docketed the case as G.R. No. 144797. Before actual receipt of said motion, however, petitioner personally filed its petition, which was docketed with a lower number as G.R. No. 144661. What then appears to be two (2) cases before us are actually just one, now the subject of this decision.

The facts are simple and undisputed:

Petitioner's foreclosed asset, formerly owned by one Enrique Abada under TCT No. T-4786 and located at Corrales Extension, Cagayan de Oro City is the subject of this controversy. On May 25, 1988, respondent Francisco Ong with the conformity of his wife Leticia Ong, addressed a written offer to petitioner thru its branch manager at Cagayan de Oro City to buy the subject property on a negotiated sale basis and submitted his "best and last offer" to purchase<sup>[2]</sup> under the following terms:

PURCHASE PRICE.....	P136,000.00
DOWNPAYMENT.....	<u>14,000.00</u>
BALANCE .....	<u>P122,000.00</u>
TERM: C A S H    MODE OF PAYMENT: Payable upon	
	ejection of
	occupants on the
	property subject of
	my offer.

I/We am/are depositing the amount of P14,000.00 in cash/check to accompany my/our offer, it being expressly understood, however, that the same does not bind the DBP to the offer until after my/our receipt of

its approval by the higher authorities of the bank. Should the bank receive an offer from a third-party buyer higher by more than 5% or at more advantageous term accompanied by a deposit of at least 10% of the offered price, or a higher offer from the former-owner for at least the updated Total Claim of the Bank accompanied by a minimum deposit of 20% of the purchase price, the Bank may favorably consider the higher offer and thereafter refund my/our deposit within three (3) working days after the determination of the most advantageous offer.

The foregoing offer was duly "NOTED" by petitioner's branch head at its Cagayan de Oro City Branch, Jose Z. Lagrito (Lagrito, for brevity), and Official Receipt No. 3081947 was issued for the amount of P14,000.00 as respondents' deposit.

In a letter dated October 21, 1988<sup>[3]</sup>, sent to respondents via registered mail, Lagrito informed the spouses that the bank recently received an offer from another interested third-party-buyer of the same property at the same price and term, "but better and more advantageous to the Bank considering that the buyer will assume the responsibility at her expense for the ejection of present occupants in the said property". Nonetheless, respondents were given in the same letter three (3) days within which "to match the said offer", failing in which the Bank "will immediately award the said property to the other buyer", in which event respondents' deposit of P14,000.00 shall be refunded to them upon surrender of O.R. No. 3081947.

In yet another written offer dated October 28, 1988<sup>[4]</sup>, respondents matched the said offer of the second interested buyer by assuming the responsibility "at my/our own expense for the ejection of squatters/occupants, if any, on the property".

On April 7, 1989, there was a conference between respondents, together with their counsel, and the bank whereat respondents were informed why the sale could not be awarded to them. Thereafter, in a letter dated September 6, 1990<sup>[5]</sup>, respondents were notified that the property would instead be offered for public bidding on September 24, 1990 at ten 10:00 o'clock in the morning.

Feeling aggrieved by such turn of events, respondents filed with the Regional Trial Court at Cagayan de Oro City a complaint for breach of contract and/or specific performance against petitioner. Thereat, the complaint was docketed as Civil Case No. 90-422 which was raffled to Branch 23 of the court.

After pre-trial, the parties agreed to submit the case for judgment based on the pleadings. Accordingly, the trial court required them to submit simultaneously their respective memoranda within thirty (30) days. Only petitioner filed its memorandum.

In a decision<sup>[6]</sup> dated April 25, 1995, the trial court dismissed the complaint finding that there was "no perfected contract of sale" between the parties, hence, "there is no breach to speak of since there was no contract from the very beginning". However, upon respondents' motion for reconsideration, the trial court vacated its judgment and set the case for the reception of evidence. This time, only the respondents adduced their evidence consisting of the lone testimony of respondent Francisco Ong and the documents identified by him in the course thereof.

In his testimony, Ong gave the respondents' version of what supposedly transpired in their transaction with petitioner. According to him, he and his wife went to the bank branch at Cabayan de Oro City and looked for Roy Palasan, a bank clerk thereat and told the latter that they were interested to buy two (2) lots. Palasan went to talk to Lagrito, the branch manager. Palasan returned to the spouses and informed them that the branch manager agreed to sell the property to them. Palasan further told them that they will be required to pay ten (10%) percent of the purchase price as downpayment, adding that if they were to pay the purchase price in cash, they would be entitled to a ten (10%) percent discount. After some computations, respondents rounded up the purchase price at P136,000.00 and pegged the downpayment therefor at P14,000.00. They were then required by Palasan to sign a bank form supposedly to express their firm offer to purchase the subject property. But since the form signed by them contains the statement that the approval of higher authorities of the bank is required to close the deal, respondents queried Palasan about it. Palasan, however, told them that the documents were only for formality purposes, and further assured them that the branch manager has already agreed to sell the subject property to them.

Having completed the presentation of their evidence, respondents rested their case. For its part, petitioner no longer adduced any evidence but merely opted to formally offer its documentary exhibits. Thereafter, the case was submitted for resolution.

On September 26, 1996, the trial court came out with a new decision,<sup>[7]</sup> this time rendering judgment for the respondents, as follows:

WHEREFORE, by reason of preponderance of evidence, the Court hereby finds in favor of the plaintiffs as against the defendant and hereby orders the defendant:

1. To execute a final sale of the lot subject matter of the contract of sale at the original agreed price of P136,000.00;
2. Defendant to accept the balance of the purchase price from the plaintiffs;
3. Defendant to pay moral damages in the amount of P30,000.00;
4. Defendant to refund the amount of P10,000.00 actual litigation expenses; and to pay attorney's fees in the amount of P20,000.00.

SO ORDERED.

Therefrom, petitioner went on appeal to the Court of Appeals in CA-G.R. CV No. 54919, and, on March 5, 1999, the appellate court rendered the herein assailed decision<sup>[8]</sup> affirming *in toto* that of the trial court, thus:

ACCORDINGLY, the foregoing premises considered, the appealed decision is hereby AFFIRMED *in toto*.

SO ORDERED.

With its motion for reconsideration of the same decision having been denied by the Court of Appeals in its equally challenged resolution of July 19, 2000,<sup>[9]</sup> petitioner is

now with us thru the present recourse on the following grounds:

A.

THAT THE RESPONDENTS' INTRODUCTION OF PAROL EVIDENCE TO PROVE THE ALLEGED MEETING OF MINDS BETWEEN THE PARTIES WAS NOT SANCTIONED BY RULE 130, SEC. 9, RULES OF COURT, CONTRARY TO THE FINDINGS OF THE LOWER COURTS, CONSIDERING THAT THERE WAS NO WRITTEN CONTRACT THAT WAS EVER EXECUTED BY THE PARTIES IN THIS CASE, BUT MERELY UNILATERAL WRITTEN COMMUNICATIONS, AT BEST CONSTITUTING OFFERS AND COUNTER-OFFERS.

B.

THAT THE QUANTUM OF PROOF IS WANTING TO PROVE THE ALLEGED PERFECTION OF CONTRACT OF SALE BETWEEN THE PARTIES BASED ON THE SOLE, UNCORROBORATED, ORAL TESTIMONY THUS FAR PRESENTED BY THE RESPONDENTS.

C.

THAT THE BURDEN OF PROOF THAT THERE WAS PERFECTION OF THE CONTRACT OF SALE BETWEEN THE PARTIES BASICALLY REST WITH THE RESPONDENTS, NOTWITHSTANDING THE NON-OBJECTION ON THE PART OF HEREIN PETITIONER DURING THE INTRODUCTION OF THAT "PAROL EVIDENCE"; THE ADMISSIBILITY OF PETITIONER'S (sic.) PAROL EVIDENCE DOES NOT AUTOMATICALLY RIPEN THE TESTIMONY AS A TRUTH RESPECTING A MATTER OF FACT AS ITS CREDIBILITY AND TRUSTWORTHINESS AND WEIGHT ARE STILL SUBJECT TO JUDICIAL SCRUTINY AND APPRECIATION.

D.

THAT THERE WAS ACTUALLY OPPOSITION ON THE PART OF THE PETITIONER TO THE CONTENTS OF THE ORAL TESTIMONY OF THE RESPONDENT REGARDING THE ALLEGED PERFECTION OF CONTRACT OF SALE BECAUSE THE PETITIONER HAD ALREADY INTERPOSED THEIR DEFENSES WHEN IT FILED A MEMORANDUM ATTACHING THEREIN THE DOCUMENTARY AS WELL AS DECLARATIONS IN ITS PLEADINGS ON THE NON-PERFECTION OF SUCH CONTRACT WHEN THE CASE WAS THEN SUBMITTED FOR JUDGMENT ON THE PLEADINGS, AS AGREED BY THE PARTIES DURING THE PRE-TRIAL, AND SUCH EVIDENCES WERE ALREADY PASSED UPON BY THE COURT WHEN IT RENDERED A JUDGMENT DATED APRIL 25, 1995.

We **GRANT** the petition.

At the very core of the controversy is the question of whether or not there actually was a perfected contract of sale between petitioner and respondents, for which the Court may compel petitioner to issue a board resolution approving the sale and to execute the final deed of sale in respondents' favor, and/or hold petitioner liable for