

## SECOND DIVISION

[ G.R. No. 142037, October 18, 2004 ]

**SPOUSES EDGARDO AND CECILIA GONZAGA, PETITIONERS, VS.  
COURT OF APPEALS AND SPOUSES ALFONSO AND LETICIA  
ABAGAT, RESPONDENTS.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for the review of the Decision<sup>[1]</sup> and resolution of the Court of Appeals in CA-G.R. CV No. 48687 filed by the Spouses Edgardo and Cecilia Gonzaga.

#### The Antecedents –

On October 22, 1991, the respondents, Spouses Abagat, filed a complaint against the petitioners, Spouses Gonzaga, for the recovery of possession of a parcel of land identified as Lot 11, Block No. 15. The lot was located in Baclaran, Parañaque, Metro Manila, covered by Transfer Certificate of Title (TCT) No. 128186 issued in their names, as owners.

The respondents alleged, *inter alia* in their complaint that they were the owners of a small hut (*barong-barong*) constructed on the said lot, which was then owned by the government. On February 22, 1961, when he was still single, the respondent Alfonso Abagat filed an application for a sales patent over the said parcel of land. The hut was, however, gutted by fire on January 26, 1973. According to the respondents, after the fire the Spouses Miguel and Violeta Gregorio built a two-storey house on the property without their consent. As such, they filed a complaint for ejectment against the Spouses Gregorio but the complaint was dismissed for lack of jurisdiction because in their answer to the complaint, the petitioners therein claimed ownership over the house. Thereafter, the Spouses Gregorio sold the house to the petitioners for P100,000.00 under a deed of conditional sale, in which Spouses Gregorio undertook to secure an award of the land by the government in favor of the petitioners. On January 2, 1986, the Bureau of Lands granted the application of respondent Alfonso Abagat for a sales patent over the property on the basis of which TCT No. 128186 was issued by the Register of Deeds to and in his name. The respondents demanded that the petitioners vacate the property, but the latter refused to do so. The respondents prayed that judgment be rendered in their favor, thus:

WHEREFORE, premises considered, it is respectfully prayed before this Honorable Court that judgment be rendered in favor of the plaintiffs –

1. Ordering the defendants and all persons claiming rights under them to vacate Lot 11, Block 15 located at 2063 Bagong Sikat Street, Baclaran, Parañaque, Metro Manila and to demolish at their own expense the house constructed thereon;

Ordering the defendants:

- a) to pay P10,000.00 as attorney's fees, plus P500.00 as appearance fee for every court hearing;
- b) to pay P45,500.00 as compensatory damages representing the unearned rentals on the subject premises from March 1984 to October 1991, and P500.00 as land rental every month thereafter;
- c) to pay P20,000.00 as exemplary damages;
- d) to pay the costs of this suit.

PLAINTIFFS pray for such other and further reliefs as may deemed (sic) equitable in the premises.<sup>[2]</sup>

In their Answer to the complaint, the petitioners averred that they purchased the house from the Spouses Gregorio for P100,000.00 under a deed of conditional sale with the understanding that Miguel Gregorio would secure an award in their favor over the lot. However, the Spouses Gregorio failed to do so. Thereafter, they and the Spouses Gregorio executed a Deed of Final and Absolute Sale over the property. According to the petitioners, their refusal to vacate the property was justified in view of the Memorandum of Agreement executed between them and the Spouses Gregorio, whereby they agreed to rescind the deeds of conditional sale and final and absolute sale they earlier executed. The said agreement was made in consideration of the refund of the amount of P90,000.00 to take place on or before December 15, 1991, which amount was earlier paid by them to the Spouses Gregorio under the deed of conditional sale. Until then, the petitioners alleged, they had the right to remain in the property. The petitioners prayed that the court render judgment in their favor, thus:

- 1) Dismissing the complaint for lack of merit;
- 2) Awarding defendants moral damages in such amount as may be proven during the trial and exemplary damages in such amount as may be awarded by this Honorable Court;
- 3) Ordering plaintiff to pay the cost of suit.

Defendants likewise pray for such other relief just and equitable under the premises.<sup>[3]</sup>

On September 29, 1992, the petitioners filed a motion for leave to file a third-party complaint against the Spouses Gregorio, appending thereto the said third-party complaint. They prayed that judgment be rendered in their favor, thus:

WHEREFORE, Third-Party Plaintiffs pray for judgment ordering Third-Party Defendants to indemnify Third-Party Plaintiffs for whatever is adjudged, if any, against the latter in favor of Plaintiffs in the main case now pending with this court.

FURTHER, praying for such and other reliefs as may be deemed just and equitable.<sup>[4]</sup>

The petitioners likewise appended a copy of the deed of conditional sale executed between them and the third-party defendants which contained the following terms, among others:

11. The VENDOR herein shall bear the costs of notarization of this deed of conditional sale.
12. The VENDOR herein warrants that he is the legal owner in full, without any lien and encumbrance, of such house, and the VENDOR herein warrants to defend his ownership over such house against unlawful claims by any third parties. The VENDOR herein further warrants to indemnify the VENDEE herein for any material damage that may be caused by any unlawful claims from third parties.<sup>[5]</sup>

Even before the Court could resolve the said motion, the Spouses Gregorio filed their Answer to the Third-Party Complaint, alleging that the petitioners were entitled to indemnify them for any award which may be adjudicated in favor of the respondents. Thus:

WHEREFORE, herein third-party defendants voluntarily manifest their full admission of the truth and veracity of the entirety of Pars. 1 to 9 of the Third-Party Complaint, and that the defendants/third-party plaintiffs are entitled to the legal benefit of indemnity or subrogation, as against the herein third-party defendants, under Sec. 12, Rule 6 of the Rules of Court.<sup>[6]</sup>

Although he was already the counsel of the petitioners, Atty. Manuel J. Laserna, Jr. entered his appearance as counsel of the Spouses Gregorio.<sup>[7]</sup> The latter, with the assistance of Atty. Laserna, Jr., likewise, filed a motion for intervention and filed their Answer-In-Intervention in which they alleged that the respondents were able to secure a sales patent over the residential lot in question through fraud and deceit; and prayed that the complaint be dismissed.<sup>[8]</sup>

On November 12, 1992, the trial court issued an Order granting the motion of the Spouses Gregorio to intervene and admitting their Answer-in-Intervention. The trial court also granted the respondents' motion to strike off the appearance of Atty. Laserna, Jr. as counsel of the Spouses Gregorio as he was already the petitioners' counsel of record. The trial court, however, no longer resolved the motion of the petitioners for leave to file a third-party complaint against the Spouses Gregorio.

### **The Evidence for the Respondents**

On February 22, 1961, respondent Alfonso Abagat, then single, filed a sales application patent over a residential lot, particularly Lot 11, Block 15, Bagong Isla Subd., Baclaran, Parañaque, Rizal, Philippines.<sup>[9]</sup> He built a house thereon and declared the house for taxation purposes beginning 1961.<sup>[10]</sup> He later paid the realty taxes for the house for the period of 1969 to 1970.<sup>[11]</sup>

Pending the processing of his sales patent application, respondent Alfonso Abagat leased the hut to the Spouses Miguel and Violeta Gregorio at a monthly rental of seventy pesos (P70.00). On January 26, 1973, the house was destroyed by fire. The Spouses Gregorio, along with the other residents, near the area were evacuated to the Baclaran Elementary School.

In light of the certification of the Committee on Resettlement of Baclaran Fire Victims, on February 28, 1973, the respondents were allowed to return to the

property and to build a make-shift house out of the ruins. They allowed his nephew, Roberto "Boy" Abagat, to occupy the said "house," but for some reason, he left and resettled somewhere.

In August 1973, the Spouses Gregorio, surreptitiously occupied the abandoned make-shift house of the respondents. The couple "remodeled" the make-shift structure into a two-storey house. On April 7, 1977, the respondents, thru counsel, demanded payment of rental for his house for the period from 1976 to March 1977 amounting to P350.00 but Miguel Gregorio offered to pay only the amount of P280.00 which the plaintiffs refused. On April 25, 1977, Miguel Gregorio wrote respondent Alfonso Abagat that, in view of his persistent refusal to accept the amount of P280 for the rent covering the period of January to April 1977, he would consign the amount to the court.<sup>[12]</sup>

Respondent Alfonso Abagat filed a complaint with the Municipal Trial Court of Parañaque for unlawful detainer against the Spouses Gregorio, docketed as Civil Case No. 3898. On January 14, 1983, the court rendered a decision dismissing the case for lack of jurisdiction.<sup>[13]</sup>

Unknown to Alfonso Abagat, the Spouses Gregorio, as vendors, and the Spouses Edgardo and Cecilia D. Gonzaga, as vendees, executed a Deed of Conditional Sale over the house for the price of P100,000.00 under the following terms and conditions:

...

2. The VENDOR herein hereby acknowledges receipt of the amount of FIFTY THOUSAND PESOS (P50,000.00), Philippine currency, in cash, from the VENDEE herein, as part and representing the FIRST DOWNPAYMENT.
3. The VENDEE herein shall remit and pay to the VENDOR herein the amount of TEN THOUSAND PESOS (P10,000.00), Philippine Currency, in cash, within the month of May, 1984, as part of and representing the SECOND DOWNPAYMENT of this sale.
4. The VENDOR herein shall apply, file with and work for the issuance, approval and release of the government order, decree and award of the official ownership over the government land on which the said house now stands in favor of the VENDOR, after which, the VENDOR herein shall transfer such right over said government award to and in favor of the VENDEE herein.
5. Upon the approval, release and issuance of such government award, as mentioned in the immediately preceding paragraph, the VENDEE herein shall remit and pay to the VENDOR herein the amount of FORTY THOUSAND PESOS (P40,000.00), Philippine Currency, in cash, as part of and representing the FINAL AND FULL PAYMENT in settlement in full of the obligation of the VENDEE.
6. The VENDOR herein shall see to it that such government award of ownership over the government land on which the said house now

stands shall be made, done and processed by the concerned government agency with utmost speed and facility.

7. The VENDOR herein shall shoulder all the official and incidental costs and fees relative to the filing and application for, and the processing of, such government award.<sup>[14]</sup>

During the period of April 13, 1984 to July 11, 1985, Miguel Gregorio received from the petitioners the total amount of P55,000.00<sup>[15]</sup> thereby leaving a balance of P30,000.00. For Miguel Gregorio's failure to secure an award from the government, as agreed upon, they further agreed to reduce the balance of the purchase price of the house to P25,000.00. Petitioner Edgardo Gonzaga paid to Miguel Gregorio following the latter's execution on July 12, 1985 of a **Deed of Final and Absolute Sale** in favor of Edgardo Gonzaga, under the following terms and conditions:

1. That the VENDOR shall exert utmost effort, diligence and speed in securing a government award over the said property for subsequent transfer to the VENDEE within one (1) year from the execution hereof.
2. That all costs and expenses relative to such government award shall be for the account of the VENDOR;
3. That all costs and expenses relative to the execution of this Deed of Final and Absolute Sale shall be for the account of the VENDOR;
4. That all costs and expenses for the future or subsequent issuance of Torrens Title over the said property shall be for the account of the VENDEE;
5. That the VENDOR hereby grants and affords the VENDEE a WARRANTY AGAINST EVICTION, and that the VENDOR shall be liable to the VENDEE for damages that might arise from any false representations as to the prior validity of her rights, interest, or ownership over the said property.<sup>[16]</sup>

When Miguel Gregorio learned that respondent Alfonso Abagat had earlier filed an application for a sales patent over the property, he and petitioner Edgardo Gonzaga filed a protest in the Bureau of Lands. On January 2, 1986, the Bureau of Lands rendered a decision ordering the dismissal of the protest and granting the application of respondent Alfonso Abagat for a sales patent. The Spouses Gonzaga were, likewise, ordered to vacate the property. The decretal portion of the said decision reads:

WHEREFORE, it is ordered that the protest filed by spouses Miguel Gregorio and Violeta Gregorio against the Insular Government Property Sales Application No. (IV-1) 191 of Alfonso Abagat be as hereby it is, dismissed and this once, dropped from the records. Protestants and their privies the spouses Edgardo Gonzaga and Cecilia Gonzaga, are hereby directed to vacate the land in question and remove whatever improvements introduced thereon within sixty (60) days from a receipt of