

THIRD DIVISION

[G.R. No. 111448, January 16, 2002]

**AF REALTY & DEVELOPMENT, INC. AND ZENAIDA R. RANULLO,
PETITIONERS, VS. DIESELMAN FREIGHT SERVICES, CO., MANUEL
C. CRUZ, JR. AND MIDAS DEVELOPMENT CORPORATION,
RESPONDENTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari assailing the Decision dated December 10, 1992 and the Resolution (Amending Decision) dated August 5, 1993 of the Court of Appeals in CA-G.R. CV No. 30133.

Dieselman Freight Service Co. (Dieselman for brevity) is a domestic corporation and a registered owner of a parcel of commercial lot consisting of 2,094 square meters, located at 104 E. Rodriguez Avenue, Barrio Ugong, Pasig City, Metro Manila. The property is covered by Transfer Certificate of Title No. 39849 issued by the Registry of Deeds of the Province of Rizal.^[1]

On May 10, 1988, Manuel C. Cruz, Jr., a member of the board of directors of Dieselman, issued a letter denominated as "Authority To Sell Real Estate"^[2] to Cristeta N. Polintan, a real estate broker of the CNP Real Estate Brokerage. Cruz, Jr. authorized Polintan "to look for a buyer/buyers and negotiate the sale" of the lot at P3,000.00 per square meter, or a total of P6,282,000.00. Cruz, Jr. has no written authority from Dieselman to sell the lot.

In turn, Cristeta Polintan, through a letter^[3] dated May 19, 1988, authorized Felicisima ("Mimi") Noble^[4] to sell the same lot.

Felicisima Noble then offered for sale the property to AF Realty & Development, Inc. (AF Realty) at P2,500.00 per square meter.^[5] Zenaida Ranullo, board member and vice-president of AF Realty, accepted the offer and issued a check in the amount of P300,000.00 payable to the order of Dieselman. Polintan received the check and signed an "Acknowledgement Receipt"^[6] indicating that the amount of P300,000.00 represents the partial payment of the property but refundable within two weeks should AF Realty disapprove Ranullo's action on the matter.

On June 29, 1988, AF Realty confirmed its intention to buy the lot. Hence, Ranullo asked Polintan for the board resolution of Dieselman authorizing the sale of the property. However, Polintan could only give Ranullo the original copy of TCT No. 39849, the tax declaration and tax receipt for the lot, and a photocopy of the Articles of Incorporation of Dieselman.^[7]

On August 2, 1988, Manuel F. Cruz, Sr., president of Dieselman, acknowledged receipt of the said P300,000.00 as "earnest money" but required AF Realty to finalize the sale at **P4,000.00** per square meter.^[8] AF Realty replied that it has paid an initial down payment of P300,000.00 and is willing to pay the balance.^[9]

However, on August 13, 1988, Mr. Cruz, Sr. terminated the offer and demanded from AF Realty the return of the title of the lot earlier delivered by Polintan.^[10]

Claiming that there was a perfected contract of sale between them, AF Realty filed with the Regional Trial Court, Branch 160, Pasig City a complaint for specific performance (Civil Case No. 56278) against Dieselman and Cruz, Jr.. The complaint prays that Dieselman be ordered to execute and deliver a final deed of sale in favor of AF Realty.^[11] In its amended complaint,^[12] AF Realty asked for payment of P1,500,000.00 as compensatory damages; P400,000.00 as attorney's fees; and P500,000.00 as exemplary damages.

In its answer, Dieselman alleged that there was no meeting of the minds between the parties in the sale of the property and that it did not authorize any person to enter into such transaction on its behalf.

Meanwhile, on July 30, 1988, Dieselman and Midas Development Corporation (Midas) executed a Deed of Absolute Sale^[13] of the same property. The agreed price was P2,800.00 per square meter. Midas delivered to Dieselman P500,000.00 as down payment and deposited the balance of P5,300,000.00 in escrow account with the PCIBank.

Constrained to protect its interest in the property, Midas filed on April 3, 1989 a Motion for Leave to Intervene in Civil Case No. 56278. Midas alleged that it has purchased the property and took possession thereof, hence Dieselman cannot be compelled to sell and convey it to AF Realty. The trial court granted Midas' motion.

After trial, the lower court rendered the challenged Decision holding that the acts of Cruz, Jr. bound Dieselman in the sale of the lot to AF Realty.^[14] Consequently, the perfected contract of sale between Dieselman and AF Realty bars Midas' intervention. The trial court also held that Midas acted in bad faith when it initially paid Dieselman P500,000.00 even without seeing the latter's title to the property. Moreover, the notarial report of the sale was not submitted to the Clerk of Court of the Quezon City RTC and the balance of P5,300,000.00 purportedly deposited in escrow by Midas with a bank was not established.

The dispositive portion of the trial court's Decision reads:

"WHEREFORE, foregoing considered, judgment is hereby rendered ordering defendant to execute and deliver to plaintiffs the final deed of sale of the property covered by the Transfer Certificate of Title No. 39849 of the Registry of Deed of Rizal, Metro Manila District II, including the improvements thereon, and ordering defendants to pay plaintiffs attorney's fees in the amount of P50,000.00 and to pay the costs.

"The counterclaim of defendants is necessarily dismissed.

"The counterclaim and/or the complaint in intervention are likewise dismissed

"SO ORDERED."^[15]

Dissatisfied, all the parties appealed to the Court of Appeals.

AF Realty alleged that the trial court erred in not holding Dieselman liable for moral, compensatory and exemplary damages, and in dismissing its counterclaim against Midas.

Upon the other hand, Dieselman and Midas claimed that the trial court erred in finding that a contract of sale between Dieselman and AF Realty was perfected. Midas further averred that there was no bad faith on its part when it purchased the lot from Dieselman.

In its Decision dated December 10, 1992, the Court of Appeals reversed the judgment of the trial court holding that since Cruz, Jr. was not authorized in writing by Dieselman to sell the subject property to AF Realty, the sale was not perfected; and that the Deed of Absolute Sale between Dieselman and Midas is valid, there being no bad faith on the part of the latter. The Court of Appeals then declared Dieselman and Cruz, Jr. jointly and severally liable to AF Realty for P100,000.00 as moral damages; P100,000.00 as exemplary damages; and P100,000.00 as attorney's fees.^[16]

On August 5, 1993, the Court of Appeals, upon motions for reconsideration filed by the parties, promulgated an Amending Decision, the dispositive portion of which reads:

"WHEREFORE, The Decision promulgated on October 10, 1992, is hereby AMENDED in the sense that only defendant Mr. Manuel Cruz, Jr. should be made liable to pay the plaintiffs the damages and attorney's fees awarded therein, plus the amount of P300,000.00 unless, in the case of the said P300,000.00, the same is still deposited with the Court which should be restituted to plaintiffs.

"SO ORDERED."^[17]

AF Realty now comes to this Court via the instant petition alleging that the Court of Appeals committed errors of law.

The focal issue for consideration by this Court is who between petitioner AF Realty and respondent Midas has a right over the subject lot.

The Court of Appeals, in reversing the judgment of the trial court, made the following ratiocination:

"From the foregoing scenario, the fact that the board of directors of Dieselman never authorized, verbally and in writing, Cruz, Jr. to sell the property in question or to look for buyers and negotiate the sale of the subject property is undeniable.