

SECOND DIVISION

[G.R. No. 127695, December 03, 2001]

HEIRS OF LUIS BACUS, NAMELY: CLARA RESMA BACUS, ROQUE R. BACUS, SR., SATURNINO R. BACUS, PRISCILA VDA. DE CABANERO, CARMELITA B. SUQUIB, BERNARDITA B. CARDENAS, RAUL R. BACUS, MEDARDO R. BACUS, ANSELMA B. ALBAN, RICARDO R. BACUS, FELICISIMA B. JUDICO, AND DOMINICIANA B. TANGAL, PETITIONERS, VS. HON. COURT OF APPEALS AND SPOUSES FAUSTINO DURAY AND VICTORIANA DURAY, RESPONDENTS.

D E C I S I O N

QUISUMBING, J.:

This petition assails the decision dated November 29, 1996, of the Court of Appeals in CA-G.R. CV No. 37566, affirming the decision dated August 3, 1991, of the Regional Trial Court of Cebu City, Branch 6, in Civil Case No. CEB-8935.

The facts, as culled from the records, are as follows:

On June 1, 1984, Luis Bacus leased to private respondent Faustino Duray a parcel of agricultural land in Bulacao, Talisay, Cebu. Designated as Lot No. 3661-A-3-B-2, it had an area of 3,002 square meters, covered by Transfer Certificate of Title No. 48866. The lease was for six years, ending May 31, 1990. The contract contained an option to buy clause. Under said option, the lessee had the exclusive and irrevocable right to buy 2,000 square meters of the property within five years from a year after the effectivity of the contract, at P200 per square meter. That rate shall be proportionately adjusted depending on the peso rate against the US dollar, which at the time of the execution of the contract was fourteen pesos.^[1]

Close to the expiration of the contract, Luis Bacus died on October 10, 1989. Thereafter, on March 15, 1990, the Duray spouses informed Roque Bacus, one of the heirs of Luis Bacus, that they were willing and ready to purchase the property under the option to buy clause. They requested Roque Bacus to prepare the necessary documents, such as a Special Power of Attorney authorizing him to enter into a contract of sale,^[2] on behalf of his sisters who were then abroad.

On March 30, 1990, due to the refusal of petitioners to sell the property, Faustino Duray's adverse claim was annotated by the Register of Deeds of Cebu, at the back of TCT No. 63269, covering the segregated 2,000 square meter portion of Lot No. 3661-A-3-B-2-A.^[3]

Subsequently, on April 5, 1990, Duray filed a complaint for specific performance against the heirs of Luis Bacus with the *Lupon Tagapamayapa of Barangay Bulacao*, asking that he be allowed to purchase the lot specifically referred to in the lease

contract with option to buy. At the hearing, Duray presented a certification^[4] from the manager of Standard Chartered Bank, Cebu City, addressed to Luis Bacus, stating that at the request of Mr. Lawrence Glauber, a bank client, arrangements were being made to allow Faustino Duray to borrow funds of approximately P700,000 to enable him to meet his obligations under the contract with Luis Bacus.
^[5]

Having failed to reach an agreement before the *Lupon*, on April 27, 1990, private respondents filed a complaint for specific performance with damages against petitioners before the Regional Trial Court, praying that the latter, (a) execute a deed of sale over the subject property in favor of private respondents; (b) receive the payment of the purchase price; and (c) pay the damages.

On the other hand, petitioners alleged that before Luis Bacus' death, private respondents conveyed to them the former's lack of interest to exercise their option because of insufficiency of funds, but they were surprised to learn of private respondents' demand. In turn, they requested private respondents to pay the purchase price in full but the latter refused. They further alleged that private respondents did not deposit the money as required by the *Lupon* and instead presented a bank certification which cannot be deemed legal tender.

On October 30, 1990, private respondents manifested in court that they caused the issuance of a cashier's check in the amount of P650,000^[6] payable to petitioners at anytime upon demand.

On August 3, 1991, the Regional Trial Court ruled in favor of private respondents, the dispositive portion of which reads:

Premises considered, the court finds for the plaintiffs and orders the defendants to specifically perform their obligation in the option to buy and to execute a document of sale over the property covered by Transfer Certificate of Title # T-63269 upon payment by the plaintiffs to them in the amount of Six Hundred Seventy-Five Thousand Six Hundred Seventy-Five (P675,675.00) Pesos within a period of thirty (30) days from the date this decision becomes final.

SO ORDERED.^[7]

Unsatisfied, petitioners appealed to the respondent Court of Appeals which denied the appeal on November 29, 1996, on the ground that the private respondents exercised their option to buy the leased property before the expiration of the contract of lease. It held:

... After a careful review of the entire records of this case, we are convinced that the plaintiffs-appellees validly and effectively exercised their option to buy the subject property. As opined by the lower court, "the readiness and preparedness of the plaintiff on his part, is manifested by his cautionary letters, the prepared bank certification long before the date of May 31, 1990, the final day of the option, and his filing of this suit before said date. If the plaintiff-appellee Francisco Duray had no intention to purchase the property, he would not have bothered to write those letters to the defendant-appellants (which were all received by

them) and neither would he be interested in having his adverse claim annotated at the back of the T.C.T. of the subject property, two (2) months before the expiration of the lease. Moreover, he even went to the extent of seeking the help of the Lupon Tagapamayapa to compel the defendants-appellants to recognize his right to purchase the property and for them to perform their corresponding obligation.^[8]

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We therefore find no merit in this appeal.

WHEREFORE, the decision appealed from is hereby AFFIRMED.^[9]

Hence, this petition where petitioners aver that the Court of Appeals gravely erred and abused its discretion in:

- I. ...UPHOLDING THE TRIAL COURT'S RULING IN THE SPECIFIC PERFORMANCE CASE BY ORDERING PETITIONERS (DEFENDANTS THEREIN) TO EXECUTE A DOCUMENT OF SALE OVER THE PROPERTY IN QUESTION (WITH TCT NO. T-63269) TO THEM IN THE AMOUNT OF P675,675.00 WITHIN THIRTY (30) DAYS FROM THE DATE THE DECISION BECOMES FINAL;
- II. ...DISREGARDING LEGAL PRINCIPLES, SPECIFIC PROVISIONS OF LAW AND JURISPRUDENCE IN UPHOLDING THE DECISION OF THE TRIAL COURT TO THE EFFECT THAT PRIVATE RESPONDENTS HAD EXERCISED THEIR RIGHT OF OPTION TO BUY ON TIME; THUS THE PRESENTATION OF THE CERTIFICATION OF THE BANK MANAGER OF A BANK DEPOSIT IN THE NAME OF ANOTHER PERSON FOR LOAN TO RESPONDENTS WAS EQUIVALENT TO A VALID TENDER OF PAYMENT AND A SUFFICIENT COMPLAINT (SIC) OF A CONDITION FOR THE EXERCISE OF THE OPTION TO BUY; AND
- III. ... UPHOLDING THE TRIAL COURT'S RULING THAT THE PRESENTATION OF A CASHIER'S (SIC) CHECK BY THE RESPONDENTS IN THE AMOUNT OF P625,000.00 EVEN AFTER THE TERMINATION OF THE TRIAL ON THE MERITS WITH BOTH PARTIES ALREADY HAVING RESTED THEIR CASE, WAS STILL VALID COMPLIANCE OF THE CONDITION FOR THE PRIVATE RESPONDENTS' (PLAINTIFFS THEREIN) EXERCISE OF RIGHT OF OPTION TO BUY AND HAD A FORCE OF VALID AND FULL TENDER OF PAYMENT WITHIN THE AGREED PERIOD.^[10]

Petitioners insist that they cannot be compelled to sell the disputed property by virtue of the nonfulfillment of the obligation under the option contract of the private respondents.

Private respondents first aver that petitioners are unclear if Rule 65 or Rule 45 of the Rules of Court govern their petition, and that petitioners only raised questions of facts which this Court cannot properly entertain in a petition for review. They claim that even assuming that the instant petition is one under Rule 45, the same must be denied for the Court of Appeals has correctly determined that they had validly exercised their option to buy the leased property before the contract expired.

In response, petitioners state that private respondents erred in initially classifying