

FIRST DIVISION

[G.R. No. 108169, August 25, 1999]

**SPOUSES VENANCIO DAVID AND PATRICIA MIRANDA DAVID
AND FLORENCIA VENTURA VDA. DE BASCO, PETITIONERS, VS.
ALEJANDRO AND GUADALUPE TIONGSON, RESPONDENTS.**

D E C I S I O N

PARDO, J.:

Before the Court is a petition for review on *certiorari* of the decision of the Court of Appeals^[1] modifying that of the trial court^[2] in an action for specific performance with damages filed by petitioners against respondents.

The facts are as follows:

On February 23, 1989, three sets of plaintiffs, namely, spouses Feliciano and Macaria Ventura, spouses Venancio and Patricia David and Florencia Ventura Vda. De Basco, filed with the Regional Trial Court, San Fernando, Pampanga, a complaint for specific performance with damages, against private respondents spouses Alejandro and Guadalupe Tiongson, alleging that the latter sold to them lots located in Cabalantian, Bacolor, Pampanga, as follows:

- (a) a parcel of residential land with an area of 300 square meters (sq. m.), more or less, for a total purchase price of P16,500.00, sold to spouses Feliciano and Macaria Ventura;
- (b) a parcel of land consisting of 308 sq.m., more or less, which is a portion of Lot No. 1547-G-2-G covered by TCT No. 187751-R, for a total consideration of P15,000.00, sold to spouses Venancio and Patricia M. David;
- (c) two parcels of land with a total area of 169 sq. m., 109 sq. m., which is a portion of Lot No. 1547-G-2-G and a 60 sq. m., which is part of a lot covered by TCT No. 200835-R, for a total consideration of P10,400.00, sold to Florencia Ventura Vda. De Basco.

The parties expressly agreed that as soon as the plaintiffs fully paid the purchase price on their respective lots, respondents would execute an individual deed of absolute sale and cause the issuance of the corresponding certificate of title in plaintiffs' favor.

Spouses Ventura immediately took possession of the lot, erected their house thereon and fenced the perimeters. As of October 28, 1985, the Venturas had fully paid the price of their lot, evidenced by a certification^[3] issued by Alejandro Tiongson. Sometime in November 1985, the Venturas demanded the execution of a

deed of sale and the issuance of the corresponding certificate of title, but the latter refused to issue the same.

Spouses David claimed that, as agreed by the parties, the P15,000.00 purchase price would be paid as follows: P3,800.00, as downpayment and a monthly amortization of P365.00, starting on March 8, 1983, until fully paid. On October 31, 1985, the Davids had paid a total of P15,050.00, evidenced by the receipts issued by Alejandro Tiongson.^[4] On the first week of November 1985, the Davids demanded the execution of a deed of sale and the issuance of the corresponding certificate of title, but respondents refused. Unlike the Venturas, they were not able to take possession of the property.

Plaintiff Florencia Ventura Vda. De Basco averred that she bought two parcels of land, a 109 sq. m. lot and a 60 sq. m. lot, for P6,425.00 and P6,500.00, respectively. As of February 6, 1984, Florencia had paid P12,945.00 for the two lots, evidenced by receipts issued by Alejandro Tiongson.^[5] Sometime in March 1984, she demanded the execution of the deeds of sale and issuance of the corresponding certificates of title over the lots. However, respondents failed to comply with their obligation.

After no settlement was reached at the barangay level, on February 23, 1989, plaintiffs filed a complaint with the Regional Trial Court, San Fernando, Pampanga, for specific performance with damages. On April 18, 1989, upon motion of the plaintiffs, respondents Tiongsons were declared in default for failure to file their answer, despite the fifteen (15) days extension granted by the trial court.

On June 14, 1989, the trial court rendered a decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

"1) Ordering the defendants to execute the deeds of absolute sale covering the lots respectively sold to plaintiffs and to cause the issuance of the title covering the aforesaid lots at their own expense;

"2) Ordering the defendants to pay unto the plaintiffs P15,000.00 as moral damages.

"Defendants are likewise ordered to pay the costs of suit."^[6]

Respondents Tiongsons appealed the decision to the Court of Appeals. They claimed that their failure to file an answer in due time amounted to excusable negligence.^[7] They contended that the plaintiffs had not fully paid the agreed price of P120 per sq. m. They argued that the Venturas were still in arrears for P30,000.00, the Davids for P21,000.00 and Florencia for P9,880.00. Hence, the deeds of sale and certificates of title were not issued.

On October 19, 1992, the Court of Appeals^[8] modified the trial court's decision. Although it blamed respondents for their failure to file an answer in due time, it held that there was no perfected contracts of sale entered into by the Davids and

Florencia Vda. de Basco with respondents. However, the Court of Appeals upheld the sale involving the Venturas and ordered respondents to execute a deed of sale and cause the issuance of the corresponding certificate of title in Venturas' favor.

With respect to spouses David, the Court of Appeals said that there was no agreement as to the price, as well as the manner and time of payment of the installments. It held that Patricia David's testimony regarding the price, P15,000.00, payable in monthly installments of P365.00, contradicted a receipt stating: "...the balance to be paid on installment to be agreed upon later on."^[9] The appellate court referred to another receipt^[10] wherein only P300.00 was paid but with the following statement - "Subject to further discussion later on." It stated that there was no agreement as to the price, since it was subject to further discussion by the parties. It held that the P115.00 overpayment^[11] illustrate the lack of an agreed price. The receipts failed to state the total purchase price or prove that full payment was made. Thus, there was no meeting of minds regarding the price. Consequently, there was no perfected contract of sale.

In ruling against the Davids, the Court of Appeals applied the doctrine in *Yuvienco v. Dacuycuy*^[12] that in sale of real property on installments, the statute of frauds read together with the requirements of Article 1475, must be understood and applied in the sense that the payment on installments must be in the requisite form of a note or memorandum. In other words, there must be a note or memorandum evidencing the agreement to pay on installment, otherwise, the contract is unenforceable under the statute of frauds. In the instant case, the agreement to pay in installment was not reduced in writing.

As regards Florencia Ventura Vda. De Basco, the Court of Appeals ruled that there was no meeting of the minds with regard to both object and consideration of the contract. It held that the 109 sq. m. lot could not be specifically determined or identified by the parties.

As to the sixty (60) sq. m. lot, the Court of Appeals held that the object was not determinate nor determinable. Assuming *arguendo* that the lot was determinate or determinable, the Court of Appeals held that there was no purchase price agreed upon. The receipts indicated a price of P70.00 per sq. m., or a total of P4,200.00. However, Florencia paid P6,500.00 for the lot. The discrepancy between Florencia's claim of full payment and the last receipt^[13] stating that only a partial payment was made, bolstered the finding that there was no agreed price.

The Court of Appeals, however, upheld the contract of sale with respect to the spouses Ventura. It held that the Venturas had fully paid for the lot, evidenced by the certification issued by Alejandro Tiongson. There was also actual delivery when the Venturas took possession, erected their house thereon and fenced the perimeters.

The Court of Appeals decreed as follows:

"PREMISES CONSIDERED, the appealed decision is hereby **MODIFIED**. The contracts of sale not having been perfected between plaintiff-appellee spouses Venancio and Patricia M. David, and plaintiff-appellee Florencia Ventura Vda. De Basco (vendees) and defendant-appellants

Alejandro and Guadalupe D. Tiongson (vendors), hence, inefficacious, the former's action for specific performance must fail, but defendants-appellants must return to plaintiffs-appellees spouses Venancio and Patricia David the amount of fifteen thousand one hundred fifteen pesos (P15,115.00) and to plaintiff-appellee Florenica Ventura Vda. De Basco, the amount of twelve thousand nine hundred twenty five pesos (P12,925.00) with legal interest from the time of the filing of the complaint until the return of the said amounts.

"As to plaintiff-appellee spouses Feliciano and Macaria Ventura, the decision of the court *a quo* is **AFFIRMED**. We hereby order: (a) Plaintiff-appellee spouses Feliciano and Macaria Ventura to have the lot purchased by them segregated by a licensed surveyor from the rest of the Lot 8 described in TCT No. 200835-R and to have the corresponding subdivision plan, duly approved by the Land Registration Authority, submitted to the court of origin for approval; (b) the defendants-appellants Alejandro and Guadalupe D. Tiongson to be divested of their title to the lot purchased under Rule 39, Section 10, Rules of Court; and (c) the Register of Deeds of Pampanga to cancel TCT No. 200835-R and issue, in lieu thereof, one title to the names of Feliciano and Macaria Ventura for the lot they purchased another title in the names of Alejandro and Guadalupe D. Tiongson.

"In the light of the above, moral damages in the amount of three thousand pesos (P3,000.00) to be paid to plaintiffs-appellees Feliciano and Macaria Ventura by defendant-appellant spouses Tiongson is considered fair and reasonable. Without costs."^[14]

On November 6, 1992, Venancio and Patricia M. David and Florenica Ventura Vda. de Basco filed a motion for reconsideration of the foregoing decision. On December 11, 1992, the Court of Appeals denied the motion.^[15]

Hence, this petition for review.

We shall discuss the sales transactions between petitioners and respondents *in seriatim*.

As to the Spouses Venancio and Patricia David

Petitioners Davids contend that there was an implied agreement on the price and manner of installment payments. The receipts issued by respondents and Patricia David's testimony clearly indicate the agreement.

We disagree with the finding of the Court of Appeals that there was no agreement as to the price of the lots. The Court of Appeals relied heavily on the receipts issued by Alejandro Tiongson. However, Patricia David testified that there was an agreement to purchase the lot for P15,000.00, payable as follows: P3,800.00 as down payment, with P385.00 monthly installments thereafter.^[16] The respondents failed to rebut such declaration, as the default order rendered them without personality to adduce evidence in their behalf.