

Republic of the Philippines
SUPREME COURT
Manila

SECOND DIVISION

G.R. No. L-65594 July 9, 1986

MAHARLIKA PUBLISHING CORPORATION, ANGELA CALICA, ADOLFO CALICA and the HEIRS OF THE LATE PIO CALICA, petitioners,

vs.

SPOUSES LUZ R. TAGLE and EDILBERTO TAGLE and the GOVERNMENT SERVICE INSURANCE SYSTEM and the HONORABLE INTERMEDIATE APPELLATE COURT, respondents.

GUTIERREZ, JR., J.:

The Government Service Insurance System (GSIS) was the registered owner of a parcel of land consisting of 1,373 square meters situated in the district of Paco and covered by Transfer Certificate of Title No. 5986 of the Registry of Deeds of Manila.

On June 4, 1963, the GSIS entered into a conditional contract to sell the parcel of land to petitioner Maharlika Publishing Corporation (Maharlika for short) together with the building thereon as well as the printing machinery and equipment therein. Among the conditions of the sale are that the petitioner shall pay to the GSIS monthly installments of P969.94 until the total purchase price shall have been fully paid and that upon the failure of petitioner to pay any monthly installment within ninety (90) days from due date, the contract shall be deemed automatically cancelled.

After Maharlika failed to pay the installments for several months, the GSIS, on June 7, 1966, notified Maharlika in writing of its arrearages and warned Maharlika that the conditions of the contract would be enforced should Maharlika fail to settle its account within fifteen (15) days from notice. Because of Maharlika's failure to settle the unpaid accounts, the GSIS notified Maharlika in writing on June 26, 1967 that the conditional contract of sale was annulled and cancelled and required Maharlika to sign a lease contract. Maharlika refused to vacate the premises and to sign the lease contract.

Sometime later, the GSIS published an invitation to bid several acquired properties, among which was the property in question, to be held at the Office of the General Manager, second floor, GSIS Building, Arroceros Street, Manila, from 9:00 a.m. to 3:00 p.m. on February 12, 1971.

Meanwhile, on February 11, 1971, or one day before the scheduled public bidding, Maharlika represented by its president Adolfo Calica addressed to GSIS a letter-proposal to repurchase

their foreclosed properties proposing that they be allowed to pay P11,000.00 representing ten percent (10%) of their total account; that they be allowed to pay P18,300.00 as balance to complete the twenty-five percent (25%) of their total arrearages(P117,175.00) not later than February 28, 1971 and the remaining seventy-five percent (75%) to be paid in twenty four (24) months.

This letter-proposal was discussed by Adolfo Calica with GSIS Board Vice-Chairman Leonilo Ocampo, who wrote a note to the General Manager Roman Cruz, Jr., the last paragraph of which reads as follows:

It sounds fair and reasonable subject to your wise judgment, as usual. (Exhibit 4, Maharlika)

Said letter-proposal and Ocampo's note were taken by Calica to General Manager Cruz, Jr., who, in turn, wrote on the face of Exhibit 4-Maharlika a note to one Mr. Ibañez which reads: "Hold Bidding. Discuss with me." The letter-proposal together with two (2) checks amounting to P11,000.00 were submitted to the office of General Manager Cruz, Jr. and were received by his Secretary.

On February 12, 1971, however, the public bidding of this particular property was held as scheduled prompting Adolfo Calica to submit his bid to the Bidding Committee with a deposit of P11,000.00 represented by the same two checks submitted to General Manager Cruz, Jr., together with his letter-proposal. His bid proposal reads: "I bid to match the highest bidder."

The bidding committee rejected Maharlika's bid as an imperfect bid and recommended acceptance of private respondent Luz Tagle's bid of P130,000.00 with a ten percent (10%) deposit of P13,000.00.

On February 19, 1971, the GSIS addressed a letter to Adolfo Calica informing him of the non-acceptance of his bid and returning his two checks.

After approval and confirmation of the sale of the subject property to Luz Tagle on April 20, 1971, the GSIS executed a Deed of Conditional Sale in favor of the Tagles on June 8, 1971.

Due to the refusal of petitioners to surrender the possession of the property in question, respondent spouses Luz R. Tagle and Edilberto Tagle filed a case for Recovery of Possession with Damages with the Court of First Instance of Manila which rendered the following decision on May 15, 1974:"

IN VIEW OF THE FOREGOING CONSIDERATIONS, the Court hereby renders judgment:

(a) declaring the letter-proposal (Exh.. 3-Maharlika) ineffective and without any binding effect, being imperfect to create any contractual relation between GSIS and defendants Maharlika and Adolfo Calica;

(b) declaring plaintiffs and (sic) entitled to the possession of the properties in question and directing, therefore, defendants Maharlika and Adolfo Calica, or any person or persons holding or possessing the properties in their behalf, to forthwith vacate the properties in question and to surrender the same to the plaintiffs;"

(c) dismissing the complaint as against defendants 'Heirs of the deceased Pio Calica' (except Angela Calica) it appearing that they were not properly summoned and represented in the instant suit:"

(d) directing the defendants Maharlika, Adolfo Calica and Angela Calica, to pay jointly and severally the plaintiffs a monthly rental of the properties in question in the sum of P976.00 a month commencing 12 February 1971, until the said properties are vacated by said defendants, with legal interest of all sums due from 12 Feb. 1971 up to the rendition of this judgment in this instant suit, such interest to commence from the filing of the complaint until the same is fully paid; and that such monthly rentals commencing from the date of this judgment, shall also earn interest at the legal rate unless paid within the first ten days of the current month for the rental of the preceding month;"

(e) dismissing the counterclaim of defendants Maharlika and the Calicas against plaintiffs;

(f) dismissing the cross-claim of defendants Maharlika and the Calicos against defendant GSIS;"

(g) dismissing all other claims which the parties may have against each other; and

(h) directing defendants Maharlika, Adolfo Calica and Angela Calica to pay the costs of this suit.

After a motion to set aside judgment and grant a new trial was denied by the trial court for lack of merit, the case was brought on appeal to the former Court of Appeals on April 8, 1976. On March 2, 1983, the Intermediate Appellate Court affirmed the decision of the trial court, stating as follows:

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The mere offer to repurchase of the subject property and the deposit of the amount of P11,000.00 by the defendants on February 11, 1971, does not have the effect of reviving the conditional deed of sale (Exhibit 4-GSIS, *Ibid*, p. 29) executed by the GSIS and the defendants. To revive the said contract, and for the defendants to be deemed to have repurchased the subject property, there should have been payment in favor of the GSIS of all the installments due and interests thereon in the total amount of P117,175.00 as of February 11, 1971

But the defendants insist that the notations of Leonilo M. Ocampo, Vice-Chairman of the GSIS Board of Trustees, to GSIS General Manager Roman Cruz, Jr. (Exhibits 4-A and 4-B Maharlika, *Ibid*, p. 76) as well as the notation of GSIS General Manager Roman Cruz, Jr. 'to hold bidding. Discuss with me' (Exhibit 4-C Maharlika, *Ibid*, p. 76) means that the GSIS had accepted defendants' offer and had revived the conditional contract of sale dated June 4, 1963.

This interpretation is far-fetched. The notations referred to by the defendants do not show acceptance of defendants' offer to repurchase the subject property. In fact, the defendants themselves were aware that their offer was not accepted at all because they submitted to and participated in the bidding of the subject property on February 12, 1971 (Exhibits K, K-1, 6, 6-A, *Ibid*, pp. 16-34), using its letter-proposal as deposit for its bid. But defendants' bid was rejected because it was imperfect and not accompanied with a deposit of 10% of the highest bid (Exhibits B-1, 7 GSIS, 7-A Maharlika, *Ibid*, pp. 5, 35), and that defendants' bid did not contain a specific bid price proposal (Exhibit 7 GSIS, *Ibid*, p. 35).

The consequent auction sale of the property on February 12, 1971 and execution of the conditional deed of sale in favor of the plaintiffs (Exhibit A, *Ibid*, p. 1) is valid. The plaintiffs are entitled to the possession of the subject property.

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A motion for reconsideration and/or new trial was filed by petitioners. The motion was denied by the respondent Appellate Court.

Hence, this petition for review on certiorari filed on December 16, 1983.

On January 9, 1984, we resolved to deny in a minute resolution, the petition for lack of merit. A timely motion for reconsideration was filed by the petitioners which contained the following reasons to warrant review of the case:

It is apparent that petitioners will suffer serious injustice, consisting in the loss of the subject property, by reason of the failure of respondent Court to decide questions of substance involved herein in a way not in accord with law and the applicable decisions of this Honorable Court, such questions being the following:

(1) Whether or not respondent Edilberto Tagle's being a GSIS officer at the time of the sale by the GSIS of the subject property to his wife should be allowed to be introduced as newly discovered evidence or at any rate received in the interest of justice;"

(2) Whether or not respondent Court acted with grave abuse of discretion in ignoring the irregular appearance of respondent Luz Tagle's bid and the inference of fraud flowing therefrom in the context of surrounding circumstances;

(3) Whether or not the auction sale in question is void for having been conducted despite the directive of the GSIS General Manager to suspend the same in virtue of petitioners' offer to repurchase the subject property and their payment of P11,000.00 in checks as earnest money which he accepted.

Significantly, on September 21, 1984, the GSIS filed a Supplemental Memorandum submitting for resolution of this Court the matter of whether the respondent spouses Luz and Edilberto Tagle can still enforce their claim as winning bidders considering the fact that they have so far made only two payments to the GSIS amounting to P32,500.00 in violation of the terms and conditions of the conditional sale executed in their favor and which provides for its automatic cancellation in such case, or whether the petitioners can still repurchase the property in question as original owners thereof.

We find the petitioners' motion for reconsideration impressed with merit.

The certification secured by the petitioners from GSIS on April 28, 1983 shows that Edilberto Tagle was Chief, Retirement Division, GSIS, from 1970 to 1978. He worked for the GSIS since 1952. Strictly speaking, the evidence of Mr. Tagle's being a GSIS official when his wife bid for the disputed property is not newly discovered evidence. However, we cannot simply ignore the fact that on February 12, 1971 when Adolfo Calica was desperately trying to retrieve the property foreclosed against him, after receiving assurances from the highest GSIS officials that his letter- proposal would be accepted and after the sale at public auction of the property was, in fact, ordered to be stopped, the wife of a GSIS official would be allowed to bid for that property and would actually win in the bidding.

As stated by the petitioners, this important factor implicit in good government, should have been considered in the interest of justice. It was incumbent under the law for GSIS to have rejected the bid of the wife of a GSIS official and to have refused to enter into the deed of conditional sale with the respondents Tagle.

The petitioners bank on the allegation that the indirect participation of Edilberto Tagle in the public bidding creates a "conflict of interests situation" which invalidates the aforesaid transaction under the precept laid down in Article 1409 paragraph (1) of the Civil Code making his participation void for being contrary to morals, good customs, and public policy.

The Supreme Court has ample authority to go beyond the pleadings when in the interest of justice and the promotion of public policy there is a need to make its own finding to support its conclusions. In this particular case, there is absolutely no doubt that Mr. Edilberto Tagle was a GSIS Division Chief when his wife bid for the property being sold by GSIS. The only issue is whether or not to consider this fact because it surfaced only after trial proper.

We declare it to be a policy of the law that public officers who hold positions of trust may not bid directly or indirectly to acquire prop properties foreclosed by their offices and sold at public auction.

Article XIII, Section 1 of our Constitution states that:

Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people.

We stated in *Ancheta vs. Hilario* (96 SCRA 62);

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...A public servant must exhibit at all times the highest sense of honesty and integrity. ...

Under Article 1491 of the Civil Code the following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

- (1) The guardian, the property of the person or persons who may be under his guardianship;
- (2) Agents, the property whose administration or sale may have been intrusted to them, unless the consent of the principal has been given;
- (3) Executors and administrators, the property of the estate under administration;
- (4) Public officers and employees, the property of the State or of any subdivisions thereof, or of any government owned or controlled corporation, or institution, the administration of which has been intrusted to them; this provision shall apply to judges and government experts who, in any manner whatsoever, take part in the sale;
- (5) Justices, judges, prosecuting attorneys, clerk of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions;

this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession;

(6) Any others specially disqualified by law.

In so providing, the Code tends to prevent fraud, or more precisely, tends not to give occasion for fraud, which is what can and must be done (Francisco, *Sales*, p. 111). We, therefore, reject the contention of respondents that the fact that Edilberto Tagle was, at the time of the public bidding, a GSIS official, will not alter or change the outcome of the case.

A Division Chief of the GSIS is not an ordinary employee without influence or authority. The mere fact that he exercises ample authority with respect to a particular activity, i.e., retirement, shows that his influence cannot be lightly regarded.

The point is that he is a public officer and his wife acts for and in his name in any transaction with the GSIS. If he is allowed to participate in the public bidding of properties foreclosed or confiscated by the GSIS, there will always be the suspicion among other bidders and the general public that the insider official had access to information and connections with his fellow GSIS officials as to allow him to eventually acquire the property. It is precisely the need to forestall such suspicions and to restore confidence in the public service that the Civil Code now declares such transactions to be void from the beginning and not merely voidable (*Rubias vs. Batiller*, 51 SCRA 120). The reasons are grounded on public order and public policy. We do not comment on the motives of the private respondents or the officers supervising the bidding when they entered into the contract of sale. Suffice it to say that it fags under the prohibited transactions under Article 1491 of the Civil Code and, therefore, void under Article 1409.

In the case of *Garciano vs. Oyao* (102 SCRA 195), this Court held:

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...We need not exaggerate the importance of being absolutely free from any suspicion which may unnecessarily erode the faith and confidence of the People in their government. As the Constitution categorically declared: 'Public office is a public trust. Public officers and employees shall serve with the highest degree of responsibility, integrity, loyalty and efficiency, and shall remain accountable to the people' (Art. XIII, Sec. 1, Constitution).

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Respondent Wilfredo Oyao, should avoid so far as reasonably possible a situation which would normally tend to arouse any reasonable suspicion that he is utilizing his official position for personal gain or advantage to the prejudice of party litigants or the public in general. In the language of then Justice, now Chief

Justice Enrique M. Fernando in the case of Pineda vs. Claudio (28 SCRA 34, 54):
'There may be occasion then where the needs of the collectivity that is the government may collide with his private interest as an individual.

In *Mclain vs. Miller County* (23 SW 2d. 2-4; 255) the Court ruled that:

As the efficiency of the public service is a matter of vital concern to the public, it is not surprising that agreements tending to injure such service should be regarded as being contrary to public policy. It is not necessary that actual fraud should be shown, for a contract which tends to the injury of the public service is void, although the parties entered into it honestly, and proceeded under it in good faith. The courts do not inquire into the motives of the parties in the particular case to ascertain whether they were corrupt or not, but stop when it is ascertained that the contract is one which is opposed to public policy. Nor is it necessary to show that any evil was in fact, done by or through the contract. The purpose of the rule is to prevent persons from assuming a position where selfish motives may impel them to sacrifice the public good to private benefit.

There is no need, therefore, to pass upon the issue of irregularity in the appearance of the private respondents' bid and the alleged inference of fraud flowing therefrom.

We reiterate that assuming the transaction to be fair and not tainted with irregularity, it is still looked upon with disfavor because it places the officer in a position which might become antagonistic to his public duty.

There are other grounds which contain us to grant this petition.

We now come to the issue whether or not there was a repurchase of the property in question from the GSIS effected by the petitioners the day before the public bidding.

In Article 1475 of the Civil Code, we find that "the contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price. From that moment, the parties may reciprocally demand performance, subject to the law governing the form of contracts. "

This Court in the case of *Central Bank of the Philippines vs. Court of Appeals* (63 SCRA 431) ruled on the perfection of government contracts in the following manner:

We are not persuaded that petitioner's posture conforms with law and equity. According to Paragraph IB 114.1 of the Instructions to Bidders, Ablaza was 'required to appear in the office of the Owner (the Bank) in person, or, if a firm or corporation, a duly authorized representative (thereof)and to execute the contract within five (5) days after notice that the contract has been awarded to him. *Failure or neglect to do so shall constitute a breach of agreement effected*

by the acceptance of the Proposal. There can be no other meaning of this provision than that the Bank's acceptance of the bid of respondent Ablaza effected an actionable agreement between them. We cannot read it in the unilateral sense suggested by petitioner that it bound only the contractor, without any corresponding responsibility or obligation at all on the part of the Bank. An agreement presupposed a meeting of minds and when that point is reached in the negotiations between two parties intending to enter into a contract, the purported contract is deemed perfected and none of them may thereafter disengage himself therefrom without being liable to the other in an action for specific performance. "

In *American Jurisprudence*, 2d., Section 73 (pp. 186-187), we read:

The principle is fundamental that a party cannot be held to have contracted if there was no assent, and this is so both as to express contracts and contracts implied in fact. There must be mutual assent or a meeting of minds in all essential elements or terms in order to form a binding contract. However, ordinarily no more is meant by this than an expression or manifestation of mutual assent, as an objective thing, is necessary, and that is generally deemed sufficient in the formation of a contract ... In other words, appropriate conduct by the parties may be sufficient to establish an agreement, and there may be instances where interchanged correspondence does not disclose the exact point at which the deal was closed, but the actions of the parties may indicate that a binding obligation has been undertaken.

It is undisputed that when the letter-proposal of petitioners was presented to GSIS General Manager Roman Cruz, Jr., he wrote on the face of such letter the words "Hold Bidding. Discuss with me." These instructions were addressed to one Mr. Ibañez who was in-charge of public bidding. Thereafter, a deposit of P11,000.00 in checks was accepted by the Secretary of Mr. Roman Cruz, Jr. In the light of these circumstances an inference may be made that General Manager Cruz, Jr. had already accepted the petitioners' offer of repurchase or at the very least had led them to understand that he had arrived at a decision to accept it.

It should also be noted that there is no serious denial as to General Manager Cruz, Jr.'s capacity to enter into binding contractual obligations for GSIS without the prior approval of the Board of Trustees.

On the other hand, the letter of endorsement made by the GSIS Board Vice-Chairman Leonilo Ocampo which states ...subject to your wise judgment, as usual leads one to conclude that it has been the practice of GSIS to permit the General Manager to do acts within the scope of his apparent authority.

In the case of *Francisco vs. Government Service Insurance System* (7 SCRA 577), we held that:

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... Corporate transactions would speedily come to a standstill were every person dealing with a corporation held duty-bound to disbelieve every act of its responsible officers, no matter how regular they should appear on their face. This Court has observed in *Ramirez vs. Orientalist Co.*, 38 Phil. 634, 654-655, that—

In passing upon the liability of a corporation in cases of this kind it is always well to keep in mind the situation as it presents itself to the third party with whom the contract is made. Naturally he can have little or no information as to what occurs in corporate meetings; and he must necessarily rely upon the external manifestation of corporate consent. The integrity of commercial transactions can only be maintained by holding the corporation strictly to the liability fixed upon it by its agents in accordance with law; and we would be sorry to announce a doctrine which would permit the property of a man in the city of Paris to be whisked out of his hands and carried into a remote quarter of the earth without recourse against the corporation whose name and authority had been used in the manner disclosed in this case. As already observed, it is familiar doctrine that if a corporation knowingly permits one of its officers, or any other agent, to do acts within the scope of an apparent authority, and thus holds him out to the public as possessing power to do those acts, the corporation will, as against any one who has in good faith dealt with the corporation through such agent, be estopped from denying his authority; and where it is said if the corporation permits' this means the same as 'if the thing is permitted by the directing power of the corporation.

We note that the petitioners are not complete strangers entering into a contract with respondent GSIS for the first time. There was an earlier contract to sell the same properties to the petitioners. That contract was perfected and there had been partial compliance with its terms. The transaction now under question in this case merely referred to the curing of certain defects which led to the cancellation of the earlier contract by GSIS. Under the peculiar circumstances of this case, therefore, the acceptance of the petitioners' letter-proposal by Mr. Roman Cruz, Jr., the person with authority to do so, and his order to his subordinates to stop the bidding so that they could first discuss the matter with him, created an agreement of binding nature with the petitioners.

WHEREFORE, the decision and resolution of the Intermediate Appellate Court subject of the instant petition for review on certiorari are hereby SET ASIDE. The conditional sale entered into between public respondent GSIS and private respondents Luz and Edilberto Tagle is declared NULL and VOID for being contrary to public policy. The prayer of petitioners for the repurchase of the subject property in an amount equal to the amount offered by private respondents and to retain ownership and possession of the disputed property is GRANTED.

SO ORDERED.

Feria (Chairman), Fernan and Alampay, JJ., concur.

Cruz, J., concurs in the result.