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SECOND DIVISION

[G.R. No. 173622. March 11, 2013]

ROBERN DEVELOPMENT CORPORATION and RODOLFO M. BERNARDO, JR., *petitioners, vs.* **PEOPLE'S LANDLESS ASSOCIATION represented by FLORIDA RAMOS and NARDO LABORA,** *respondent.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; APPEAL BY *CERTIORARI*; FAILURE TO ATTACH THE MATERIAL PORTIONS OF THE RECORD THAT WOULD SUPPORT THE ALLEGATIONS IN THE PETITION DOES NOT MERIT THE OUTRIGHT DISMISSAL OF THE PETITION.— Petitioners' failure to attach the material portions of the record that would support the allegations in the Petition is not fatal. We ruled in *F.A.T. Kee Computer Systems, Inc. v. Online Networks International, Inc.*, thus: x x x However, such a requirement [failure to attach material portions of the record] was not meant to be an ironclad rule such that the failure to follow the same would merit the outright dismissal of the petition. In accordance with Section 7 of Rule 45, 'the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate.' More importantly, Section 8 of Rule 45 declares that '[i]f the petition is given due course, the Supreme Court may require the elevation of the complete record of the case or specified parts thereof within fifteen (15) days from notice.' x x x.

2. CIVIL LAW; SPECIAL CONTRACTS; CONTRACT OF SALE; ELEMENTS TO BE VALID; EXPOUNDED.— A 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. Thus, for a contract of sale to be valid, all of the following essential elements must concur: "a) consent or meeting of the minds; b) determinate subject matter; and c) price certain in money or its equivalent." In the case at bench, there is no

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controversy anent the determinate subject matter, *i.e.*, the 2,000-square meter lot. This leaves us to resolve whether there was a concurrence of the remaining elements. As for the price, fixing it can never be left to the decision of only one of the contracting parties. "But a price fixed by one of the contracting parties, if accepted by the other, gives rise to a perfected sale." As regards consent, "[w]hen there is merely an offer by one party without acceptance of the other, there is no contract." The decision to accept a bidder's proposal must be communicated to the bidder. However, a binding contract may exist between the parties whose minds have met, although they did not affix their signatures to any written document, as acceptance may be expressed or implied. It "can be inferred from the contemporaneous and subsequent acts of the contracting parties." Thus, we held: x x x The rule is that except where a formal acceptance is so required, although the acceptance must be affirmatively and clearly made and must be evidenced by some acts or conduct communicated to the offeror, it may be made either in a formal or an informal manner, and may be shown by acts, conduct, or words of the accepting party that clearly manifest a present intention or determination to accept the offer to buy or sell. Thus, acceptance may be shown by the acts, conduct, or words of a party recognizing the existence of the contract of sale.

3. ID.; ID.; ID.; NO PERFECTED CONTRACT OF SALE WHERE THE PARTIES DID NOT AGREE ON THE PRICE AND NO CONSENT WAS GIVEN, WHETHER EXPRESS OR IMPLIED; CASE AT BAR.— After scrutinizing the testimonial and documentary evidence in the records of the case, we find no proof of a perfected contract of sale between A1-Amanah and PELA. The parties did not agree on the price and no consent was given, whether express or implied. When PELA Secretary Florida Ramos (Ramos) testified, she referred to the March 18, 1993 letter which PELA sent to A1-Amanah as the document supposedly embodying the perfected contract of sale. However, we find that the March 18, 1993 letter referred to was merely an offer to buy x x x. Neither can the note written by the bank that "[s]ubject offer has been acknowledged/received but processing to take effect upon putting up of the partial amount of ₱150,000.00 on or before April 15, 1993" be construed as acceptance of PELA's offer to buy. Taken at face value, the annotation simply means that the

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bank merely acknowledged receipt of PELA's letter-offer. Furthermore, by 'processing,' A1-Amanah only meant that it will 'act on the offer', *i.e.,* it still has to evaluate whether PELA's offer is acceptable. Until and unless A1-Amanah accepts, there is as yet no perfected contract of sale. Notably here, the bank never signified its 'approval' or 'acceptance' of the offer. We cannot agree with the CA's ratiocination that receipt of the amount, coupled with the phrase written on the four receipts as "deposit on sale of TCT No. 138914," signified a tacit acceptance by A1-Amanah of PELA's offer. For sure, the money PELA gave was not in the concept of an earnest money. Besides, as testified to by then OIC Dalig, it is the usual practice of A1-Amanah to require submission of a bid deposit which is acknowledged by way of bank receipts before it entertains offers.

4. ID.; ID.; ID.; THREE STAGES; ABSENT ORAL OR DOCUMENTARY EVIDENCE PROVING THE ACCEPTANCE OF THE OFFERED PURCHASE PRICE, THE TRANSACTION BETWEEN THE PARTIES REMAINED IN THE NEGOTIATION STAGE AND NEVER MATERIALIZED INTO A PERFECTED SALE.— Contracts undergo three stages: "[a) n]egotiation [which] begins from the time the prospective contracting parties indicate interest in the contract and ends at the moment of their agreement[; b) p]erfection or birth[,] x x x which takes place when the parties agree upon all the essential elements of the contract x x x; [and c) c]onsummation[, which] occurs when the parties fulfill or perform the terms agreed upon, culminating in the extinguishment thereof." In the case at bench, the transaction between A1-Amanah and PELA remained in the negotiation stage. The offer never materialized into a perfected sale, for no oral or documentary evidence categorically proves that A1-Amanah expressed amenability to the offered ₱300,000.00 purchase price. Before the lapse of the 1-year period PELA had set to pay the remaining 'balance,' A1-Amanah expressly rejected its offered purchase price, although it took the latter around seven months to inform the former and this entitled PELA to award of damages. A1-Amanah's act of selling the lot to another buyer is the final nail in the coffin of the negotiation with PELA. Clearly, there is no double sale, thus, we find no reason to disturb the consummated sale between A1-Amanah and Robern.

APPEARANCES OF COUNSEL

Alabastro & Olaguer Law Offices for petitioners.
Rodolfo Ta-asan, Jr. for respondent.

D E C I S I O N

DEL CASTILLO, *J.*:

"This Court cannot presume the existence of a sale of land, absent any direct proof of it."[1]

Challenged in this Petition for Review on *Certiorari* are the August 16, 2005 Decision[2] and May 30, 2006 Resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 66071, which ordered petitioner Robern Development Corporation (Robern) to reconvey the 2,000-square meter lot it bought from Al-Amanah Islamic Development Bank of the Philippines (Al-Amanah) to respondent People's Landless Association (PELA).

Factual Antecedents

Al-Amanah owned a 2000-square meter lot located in Magtuod, Davao City and covered by Transfer Certificate of Title (TCT) No. 138914.[4] On December 12, 1992, Al-Amanah Davao Branch, thru its officer-in-charge Febe O. Dalig (OIC Dalig), asked[5] some of the members of PELA[6] to desist from building their houses on the lot and to vacate the same, unless they are interested to buy it. The informal settlers thus expressed their

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[1] *Amado v. Salvador*, G.R. No. 171401, December 13, 2007, 540 SCRA 161, 176.

[2] CA *rollo*, pp. 137-173; penned by Associate Justice Teresita Dy-Liacco Flores and concurred in by Associate Justices Edgardo A. Camello and Myrna Dimaranan-Vidal.

[3] *Id.* at 214.

[4] Records, Vol. 2, p. 594.

[5] *Id.* at 589.

[6] Namely Alejandro Padilla Boy Bartiana, Leonardo Labora, Francisco Paig, and Asterio Aki.

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interest to buy the lot at ₱100.00 per square meter, which Al-Amanah turned down for being far below its asking price.[7] Consequently, Al-Amanah reiterated its demand to the informal settlers to vacate the lot.[8]

In a letter[9] dated March 18, 1993, the informal settlers together with other members comprising PELA offered to purchase the lot for ₱300,000.00, half of which shall be paid as down payment and the remaining half to be paid within one year. In the lower portion of the said letter, Al-Amanah made the following annotation:

> Note:
>
> Subject offer has been acknowledged/received but processing to take effect upon putting up of the partial amt. of ₱150,000.00 on or before April 15, 1993.

By May 3, 1993, PELA had deposited ₱150,000.00 as evidenced by four bank receipts.[10] For the first three receipts, the bank labelled the payments as "Partial deposit on sale of TCT No. 138914," while it noted the 4th receipt as "Partial/ Full payment on deposit on sale of A/asset TCT No. 138914."

In the meantime, the PELA members remained in the property and introduced further improvements.

On November 29, 1993, Al-Amanah, thru Davao Branch Manager Abraham D. Ututalum-Al Haj, wrote then PELA President Bonifacio Cuizon, Sr. informing him of the Head Office's disapproval of PELA's offer to buy the said 2,000-square meter lot, *viz*.:

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[7] Records, Vol. 2, p. 636.

[8] *Id.* at 653-656. No letter was sent to Asterio Aki.

[9] Records, Vol. 1, p. 52.

[10] *Id.* at 53. The receipts are as follows:

Receipt No. 139497 issued on April 15, 1993 — ₱106,000.00
Receipt No. 139515 issued on April 27, 1993 — ₱18,500.00
Receipt No. 139520 issued on April 30, 1993 — ₱24,000.00
Receipt No. 139522 issued on May 3, 1993 — ₱1,500.00

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Dear Mr. Cuizon[,] Sr.,

Please be inform[ed] that your offer to purchase the lot covered by TCT No. T-138914, containing an area of 2,000 square meters, located at Bakingan, Barangay Magtuod, Davao City for ₱300,000.00 has been turned down by the top management, due to the reason that your offered price is way below the selling price of the Bank which is ₱500.00 per square meter, or negotiate but on Cash basis only.

You had been told regarding this matter, but you failed to counter offer since you have [conferred] with the Bank's local management. Despite . . . the time given to you to counter offer or to vacate the lot presently and illegally occupied by you and the members of the association, still you refrain to hear our previous notices. You even deliberately construct more residential structures without our permission. As such, you are finally instructed to vacate the lot and remove all the house structures erected on the said lot within 15 days upon receipt of this letter. Failure on your part including that of the members, the Bank will be constrained to take legal action against you.

Furthermore, you can withdraw the amount deposited in the name of your association anytime during banking hours.[11]

Subsequently, Al-Amanah sent similarly worded letters,[12] all dated December 14, 1993, to 19 PELA members demanding that they vacate the lot.

In a letter[13] dated December 20, 1993, PELA, through Atty. Pedro S. Castillo, replied that it had already reached an agreement with Al-Amanah regarding the sale of the subject lot based on their offered price:

Dear Mr. Ututalum-Al-Haj,

The People's Landless Association, Inc., through Mr. Bonifacio Cuizon, Sr. has requested us to assist them in communicating with you anent your letter of 29 November 1993. According to Mr. Cuizon

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[11] Records, Vol. 2, p. 639.

[12] *Id.* at 657-675.

[13] *Id.* at 638.

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the present occupants of the lot covered by T.C.T. No. T-138914 with an area of 2,000 square meters, had a definite agreement with the Islamic Bank through its previous Manager or Officer[-]in[-]Charge to buy this foreclosed property at ₱300,000.00. As a matter of fact their deposit of ₱150,000.00 was on that basis. For this reason, the occupants, who are members of the association, have already made lot allocations among themselves and have improved their respective houses.

It would be most unfair if the Bank would now renege on its [commitment] and eject these occupants. In line with the national policy of granting landless members of our society the opportunity of owning [land] and providing shelter to their families, it would be equitable and socially justifiable to grant these occupants their occupied areas pursuant to the earlier agreement with the Bank.

For the foregoing reasons we hope that the Islamic Bank, for legal, moral and social grounds would reconsider.

Meanwhile, acting on Robern's undated written offer,[14] Al-Amanah issued a Recommendation Sheet[15] dated December 27, 1993 addressed to its Board Operations Committee, indicating therein that Robern is interested to buy the lot for ₱400,000.00; that it has already deposited 20% of the offered purchase price; that it is buying the lot on "as is" basis; and, that it is willing to shoulder the relocation of all informal settlers therein. On December 29, 1993, the Head Office informed the Davao Branch Manager that the Board Operations Committee had accepted Robern's offer.[16]

Eight days later, Robern was informed of the acceptance. Al-Amanah stressed that it is Robern's responsibility to eject the occupants in the subject lot, if any, as well as the payment of the remaining amount within 15 days; otherwise, the ₱80,000.00 deposit shall be forfeited.[17]

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[14] *Id.* at 637.

[15] *Id.* at 640 and 642.

[16] *Id.* at 641.

[17] *Id.* at 643.

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In a letter[18] dated January 13, 1994, Robern expressed to Al-Amanah its uncertainty on the status of the subject lot, *viz*.:

> This is in connection with TCT No. 138914 which your bank offered to sell to us and which we committed to buy.
>
> A group calling itself PEOPLE[']S LANDLESS ASSOCIATION, INC. made representation with our office bringing with them copies of official receipts totalling ₱150,000.00 issued by your bank which stated — "PARTIAL PAYMENT/DEPOSIT on sale of TCT #138914".
>
> While condition no. 6 in the sale of property to us states that the buyer shall be responsible for ejecting the squatters of the property, the occupants of the said lot could hardly be categorized as squatters considering the supposed transaction previously entered by your bank with them. We were greatly appalled that we should learn about this not from the bank but from outside sources.
>
> My company is ready to finalize our transaction provided, however, that the problem with this group is cleared. In this connection, we are requesting for a definite statement from your bank on whether the official receipts being brandished by this group are genuine or not, and if they were, were they ever invalidated by virtue of the return of their deposit and whether there was a cancellation of your agreement with them.
>
> In the meantime, please consider the 15-day period for us to pay the amount of ₱320,000.00 imposed by your bank suspended until such time that the legal problem with the lot occupants is settled.

To convince Robern that it has no existing contract with PELA, Al-Amanah furnished it with copies of the Head Office's rejection letter of PELA's bid, the demand letters to vacate, and the proof of consignment of PELA's ₱150,000.00 deposit to the Regional Trial Court (RTC) of Davao City that PELA refused to withdraw.[19] Thereafter, on February 2, 1994, it informed Robern that should the latter fail to pay the balance by February 9, 1994, its ₱80,000.00 deposit will be forfeited and the lot shall be up for sale to other prospective buyers.[20] Meanwhile, Al-

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[18] *Id.* at 644.

[19] Records, Vol. 1, pp. 191-192.

[20] Records, Vol. 2, p. 646.

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Amanah requested for assistance for the removal of the houses not only from the Office of the City Engineer of Davao City[21] but also from Mayor Rodrigo Duterte. Gaining a favorable legal opinion from the City Legal Officer, the matter was indorsed to the Chief of Demolition Consensus of the Department of Public Services for action.[22]

On March 4, 1994, Robern paid the balance of the purchase price.[23] The Deed of Sale[24] over the realty was executed on April 6, 1994 and TCT No. T-212983[25] was issued in Robern's name the following day.

A week later, PELA consigned ₱150,000.00 in the RTC of Davao City.[26] Then on April 14, 1994, it wrote[27] Al-Amanah asking the latter to withdraw the amount consigned. Part of the letter states:

x x x x x x x x x

On March 21, 1994 (almost one month before the April 15, 1994 deadline) we came to your bank to remit the balance and full payment [for] the abovementioned lot. [Inasmuch] as you refuse[d] to accept the payment, we have decided to deposit the amount consigned to your bank.

In our dialogue at your office in 1993, we have agreed that documents will be processed as soon as we pay the ₱150,000.00 initial deposit. [Inasmuch] as we have not only paid the deposit but have also made full payment of the account, kindly facilitate processing of the documents to finalize transaction.

We have not been remiss in doing our part of the transaction; please do your share.

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[21] *Id.* at 648.

[22] Records, Vol. 1, pp. 192-193.

[23] *Id.* at 192.

[24] Records, Vol. 2, pp. 595-596.

[25] *Id.* at 597.

[26] *Id.* at 592.

[27] *Id.* at 593.

Thank you.

Very truly yours,

For the occupants/claimants
T.C.T. No. T-138914[28]

Three months later, as its members were already facing eviction and possible demolition of their houses, and in order to protect their rights as vendees, PELA filed a suit for Annulment and Cancellation of Void Deed of Sale[29] against Al-Amanah, its Director Engr. Farouk Carpizo (Engr. Carpizo), OIC Dalig, Robern, and Robern's President and General Manager, petitioner Rodolfo Bernardo (Bernardo) before the RTC of Davao City. It insisted that as early as March 1993 it has a perfected contract of sale with Al-Amanah. However, in an apparent act of bad faith and in cahoots with Robern, Al-Amanah proceeded with the sale of the lot despite the prior sale to PELA.

Incidentally, the trial court granted PELA's prayer for a temporary restraining order.[30] Subsequently, it issued on August 12, 1994 an Order[31] finding merit in the issuance of the writ of preliminary injunction, *inter alia*. The RTC's grant of injunctive relief was affirmed by the CA in CA-G.R. SP No. 35238[32] when the factual and legal bases for its issuance were questioned before the appellate court.

The respondents in the annulment case filed their respective Answers.[33] Al-Amanah and Engr. Carpizo claimed that the bank

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[28] *Id*.

[29] Records, Vol. 1, pp. 1-6. The Complaint filed on July 14, 1994 and docketed as Civil Case No. 23,037-94 was amended on July 18, 1994, pp. 19-25 to additionally pray for a temporary restraining order and for injunction.

[30] *Id.* at 36.

[31] *Id.* at 76-83. The writ itself was issued on November 9, 1994, *id.* at 174-175.

[32] *Id.* at 189-196; penned by Associate Justice Fidel F. Purisima and concurred in by Associate Justices Jainal D. Rasul and Eubulo G. Verzola.

[33] *Id.* at 55-60, 84-88, and 220-224.

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has every right to sell its lot to any interested buyer with the best offer and thus they chose Robern. They clarified that the ₱150,000.00 PELA handed to them is not part of the payment but merely a deposit in connection with its offer. They asserted that PELA was properly apprised that its offer to buy was subject to the approval of Al-Amanah's Head Office. They stressed that Al-Amanah never entered into a sale with PELA for there was no perfected agreement as to the price since the Head Office rejected PELA's offer.

For their part, Robern and Bernardo asserted the corporation's standing as a purchaser in good faith and for value in the sale of the property, having relied on the clean title of Al-Amanah. They also alleged that the purported sale to PELA is violative of the Statute of Frauds[34] as there is no written agreement covering the same.

Ruling of the Regional Trial Court

In its August 10, 1999 Decision,[35] the RTC dismissed PELA's Complaint. It opined that the March 18, 1993 letter PELA has been relying upon as proof of a perfected contract of sale was a mere offer which was already rejected. Furthermore, the annotation appearing in the bottom part of the said letter could not be construed as an acceptance because the same is a mere acknowledgment of receipt of the letter (not the offer) which will still be subject to processing. The RTC likewise ruled that

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[34] CIVIL CODE, Art. 1403. The following contracts are unenforceable, unless they are ratified:

x x x x x x x x x

(2) Those that do not comply with the Statute of Frauds as set forth in this number. In the following cases an agreement hereafter made shall be unenforceable by action, unless the same, or some note or memorandum thereof, be in writing, and subscribed by the party charged, or by his agent; evidence, therefore, of the agreement cannot be received without the writing, or a secondary evidence of its contents:

x x x x x x x x x

(e) An agreement x x x for the sale of real property or of an interest therein;

[35] Records, Vol. 3, pp. 724-732; penned by Judge Paul T. Arcangel.

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being a corporation, only Al-Amanah's board of directors can bind the bank with third persons involving the sale of its property. Thus, the purported offer made by Al-Amanah's OIC, who was never conferred authority by the board of directors to sell the lot, cannot bind the bank. In contrast, when the Head Office accepted Robern's offered price, it was duly approved by the board of directors, giving birth to a perfected contract of sale between Al-Amanah and Robern.

Refusing to accept the Decision, PELA elevated its case to the CA.[36]

Ruling of the Court of Appeals

Reversing the RTC in its assailed Decision[37] of August 16, 2005, the CA ruled that there was already a perfected contract of sale between PELA and Al-Amanah. It held that the annotation on the lower portion of the March 18, 1993 letter could be construed to mean that for Al-Amanah to accept PELA's offer, the sum of ₱150,000.00 must be first put up. The CA also observed that the subsequent receipt by Al-Amanah of the amounts totalling ₱150,000.00, and the annotation of "deposit on sale of TCT No. 138914," on the receipts it issued explicitly indicated an acceptance of the association's offer to buy. Consequently, the CA invalidated the sale between Robern and Al-Amanah.

The CA also concluded that Al-Amanah is guilty of bad faith in dealing with PELA because it took Al-Amanah almost seven months to reject PELA's offer while holding on to the ₱150,000.00 deposit. The CA thus adjudged PELA entitled to moral and exemplary damages as well as attorney's fees.

The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the assailed Decision is **SET ASIDE**. Judgment is hereby rendered:

1. **DECLARING** the contract of sale between PELA and defendant Bank valid and subsisting.

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[36] *Id.* at 733.

[37] *Supra* note 2.

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2. **ORDERING** the defendant Bank to receive the balance of ₱150,000.00 of the purchase price from PELA as consigned in court.

3. **DECLARING** the deed of sale executed by defendant Bank in favor or Robern Development Corporation as invalid and, therefore, void.

4. **ORDERING** defendant Bank to return to Robern the full amount of ₱400,000.00 which Robern paid as the purchase price of the subject property within ten (10) days from finality of this decision. It shall earn a legal interest of twelve percent (12%) per annum from the tenth (10th) day aforementioned if there is delay in payment.

5. **ORDERING** Robern Development Corporation to reconvey the land covered by T.C.T. No. 212983 in favor of People's Landless Association within a similar period of ten (10) days from finality of this decision.

6. **ORDERING** defendant Bank to pay plaintiffs-appellants the following:

   a. The sum of ₱100,000.00 as moral damages;

   b. The sum of ₱30,000.00 as exemplary damages;

   c. The sum of ₱30,000.00 as attorney's fees;

   d. A legal interest of SIX PERCENT (6%) per annum on the sums awarded in (a), (b), and (c) from the date of this Decision up to the time of full payment thereof.

SO ORDERED.[38]

Robern and Bernardo filed a Motion for Reconsideration[39] which Al-Amanah adopted. The CA, however, was firm in its disposition and thus denied[40] the same. Aggrieved, Robern and Al-Amanah separately filed Petitions for Review on *Certiorari* before us. However, Al-Amanah's Petition docketed as G.R. No. 173437, was denied on September 27, 2006 on procedural

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[38] CA *rollo*, pp. 172-173.

[39] *Id.* at 178-196.

[40] *Supra* note 3.

grounds.[41] Al-Amanah's Motion for Reconsideration of the said Resolution of dismissal was denied with finality on December 4, 2006.[42]

Hence, only the Petition of Robern and Bernardo subsists.

Petitioners' Arguments

Petitioners stress that there was no sale between PELA and Al-Amanah, for neither a deed nor any written agreement was executed. They aver that Dalig was a mere OIC of Al-Amanah's Davao Branch, who was never vested with authority by the board of directors of Al-Amanah to sell the lot. With regard to the notation on the March 18, 1993 letter and the four bank receipts, Robern contends that these are only in connection with PELA's offer.

Petitioners likewise contend that Robern is a purchaser in good faith. The PELA members are mere informal settlers. The title to the lot was clean on its face, and at the time Al-Amanah accepted Robern's offer, the latter was unaware of the alleged transaction with PELA. And when PELA later represented to Robern that it entered into a transaction with Al-Amanah regarding the subject lot, Robern even wrote Al-Amanah to inquire about PELA's claim over the property. And when informed by Al-Amanah that it rejected the offer of PELA and of its action of requesting assistance from the local government to remove the occupants from the subject property, only then did Robern push through with the sale.

Respondent's Arguments

PELA, on the other hand, claims that petitioners are not the proper parties who can assail the contract of sale between it and the bank. It likewise argues that the Petition should be dismissed because the petitioners failed to attach the material portions of the records that would support its

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[41] CA *rollo*, p. 542. The said Petition was denied due to Al-Amanah's failure to take the appeal within the reglementary period as well as to submit registry receipts as proof of service.

[42] *Id.* at 554.

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allegations, as required by Section 4, Rule 45 of the Rules of Court.[43]

Aside from echoing the finding of the CA that Al-Amanah has a perfected contract of sale with PELA, the latter further invokes the reasoning of the RTC and the CA (CA-G.R. SP No. 35238) in finding merit in the issuance of the writ of preliminary injunction, that is, that there was 'an apparent perfection of contract (of sale) between the Bank and PELA.'[44] Furthermore, PELA claims that Al-Amanah accepted its offered price and the ₱150,000.00, thus barring the application of the Statute of Frauds as the contract was already partially executed. As to the non-existence of a written contract evidencing the same, PELA ascribes fault on the bank claiming that nothing happened despite its repeated follow-ups for the OIC of Al-Amanah to execute the deed after payment of the ₱150,000.00 in May 1993.

Issue

At issue before us is whether there was a perfected contract of sale between PELA and Al-Amanah, the resolution of which will decide whether the sale of the lot to Robern should be sustained or not.

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[43] Section 4. *Contents of petition*. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of Section 2, Rule 42.

[44] Records, Vol. 1, pp. 80-81 and 195.

Our Ruling

We shall first briefly address some matters raised by PELA.

PELA's contention that Robern cannot assail the alleged sale between PELA and Al-Amanah is untenable. Robern is one of the parties who claim title to the disputed lot. As such, it is a real party in interest since it stands to be benefited or injured by the judgment.[45]

Petitioners' failure to attach the material portions of the record that would support the allegations in the Petition is not fatal. We ruled in *F.A.T. Kee Computer Systems, Inc. v. Online Networks International, Inc.*,[46] thus:

> x x x However, such a requirement [failure to attach material portions of the record] was not meant to be an ironclad rule such that the failure to follow the same would merit the outright dismissal of the petition. In accordance with Section 7 of Rule 45, 'the Supreme Court may require or allow the filing of such pleadings, briefs, memoranda or documents as it may deem necessary within such periods and under such conditions as it may consider appropriate.' More importantly, Section 8 of Rule 45 declares that '[i]f the petition is given due course, the Supreme Court may require the elevation of the complete record of the case or specified parts thereof within fifteen (15) days from notice.' x x x[47]

Anent the statement of the courts below that there was 'an apparent perfection of contract (of sale) between Al-Amanah and PELA,' we hold that the same is strictly confined to the resolution of whether a writ of preliminary injunction should issue since the PELA members were then about to be evicted. PELA should not rely on such statement as the same is not decisive of the rights of the parties and the merits of this case.

We shall now delve into the crucial issue of whether there was a perfected contract of sale between PELA and Al-Amanah.

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[45] 1997 RULES OF CIVIL PROCEDURE, Rule 3, Section 2.

[46] G.R. No. 171238, February 2, 2011, 641 SCRA 390.

[47] *Id.* at 407.

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Essential Elements of a Contract of Sale

A 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.[48] Thus, for a contract of sale to be valid, all of the following essential elements must concur: "a) consent or meeting of the minds; b) determinate subject matter; and c) price certain in money or its equivalent."[49]

In the case at bench, there is no controversy anent the determinate subject matter, *i.e.*, the 2,000-square meter lot. This leaves us to resolve whether there was a concurrence of the remaining elements.

As for the price, fixing it can never be left to the decision of only one of the contracting parties.[50] "But a price fixed by one of the contracting parties, if accepted by the other, gives rise to a perfected sale."[51]

As regards consent, "[w]hen there is merely an offer by one party without acceptance of the other, there is no contract."[52] The decision to accept a bidder's proposal must be communicated to the bidder.[53] However, a binding contract may exist between the parties whose minds have met, although they did not affix their signatures to any written document,[54] as acceptance may be expressed or implied.[55] It "can be inferred from the

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[48] CIVIL CODE, Article 1475.

[49] *Navarra v. Planters Development Bank*, G.R. No. 172674, July 12, 2007, 527 SCRA 562, 574.

[50] *Bank of Commerce v. Manalo*, 517 Phil. 328, 347 (2006).

[51] *Id.*

[52] *Manila Metal Container Corporation v. Philippine National Bank*, 540 Phil. 451, 471 (2006).

[53] *The Insular Life Assurance Company, Ltd. v. Asset Builders Corporation*, 466 Phil. 751, 768 (2004).

[54] *Development Bank of the Philippines v. Medrano*, G.R. No. 167004, February 7, 2011, 641 SCRA 559, 567, citing *Traders Royal Bank v. Cuison Lumber Co., Inc.*, G.R. No. 174286, June 5, 2009, 588 SCRA 690, 701, 703.

[55] CIVIL CODE, Article 1320.

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contemporaneous and subsequent acts of the contracting parties."[56] Thus, we held:

> x x x The rule is that except where a formal acceptance is so required, although the acceptance must be affirmatively and clearly made and must be evidenced by some acts or conduct communicated to the offeror, it may be made either in a formal or an informal manner, and may be shown by acts, conduct, or words of the accepting party that clearly manifest a present intention or determination to accept the offer to buy or sell. Thus, acceptance may be shown by the acts, conduct, or words of a party recognizing the existence of the contract of sale.[57]

There is no perfected contract of sale between PELA and Al-Amanah for want of consent and agreement on the price.

After scrutinizing the testimonial and documentary evidence in the records of the case, we find no proof of a perfected contract of sale between Al-Amanah and PELA. The parties did not agree on the price and no consent was given, whether express or implied.

When PELA Secretary Florida Ramos (Ramos) testified, she referred to the March 18, 1993 letter which PELA sent to Al-Amanah as the document supposedly embodying the perfected contract of sale.[58] However, we find that the March 18, 1993 letter referred to was merely an offer to buy, *viz*.:

March 18, 1993

The Manager
Islamic Bank
Davao Branch
Davao City

Sir/Madam:

This has reference to the offer made by Messrs. Alejandro Padilla, Leonardo Labora, Boy Bartiana, Francisco Paig, and Mr.

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[56] *Jardine Davies, Inc. v. Court of Appeals*, 389 Phil. 204, 214 (2000).

[57] *Adelfa Properties, Inc. v. Court of Appeals*, 310 Phil. 623, 642 (1995).

[58] See TSN-Florida Ramos, November 19, 1998, Records, Vol. 8, pp. 262-265.

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Asterio Aki for the purchase of the acquired asset of the bank with an area of 2,000 square meters and covered by T.C.T. No. T-138914, portions of which are occupied by their houses. These occupants have formed and registered [a] group of x x x landless families who have occupied shoulders of National Highways, to be able to raise an amount that would meet the approval of the Bank as the consideration for the purchase of the property. **The group which [is] known as PELA or People's Landless Association, is offering the bank the amount of THREE HUNDRED THOUSAND PESOS (₱300,000.00) for the whole 2,000 sq. meters. Of this amount the buyers will pay a down payment of ONE HUNDRED FIFTY THOUSAND PESOS (₱150,000.00) and the balance payable in one (1) year.**

According to the plan of PELA, about 24 landless families can be accommodated in the property. We hope the Bank can help these families own even a small plot for their shelter. This would be in line with the government's program of housing which the present administration promised to put in high gear this year.[59] (Emphasis supplied)

Neither can the note written by the bank that "[s]ubject offer has been acknowledged/received but processing to take effect upon putting up of the partial amount of ₱150,000.00 on or before April 15, 1993" be construed as acceptance of PELA's offer to buy. Taken at face value, the annotation simply means that the bank merely acknowledged receipt of PELA's letter-offer. Furthermore, by 'processing,' Al-Amanah only meant that it will 'act on the offer,' *i.e.*, it still has to evaluate whether PELA's offer is acceptable. Until and unless Al-Amanah accepts, there is as yet no perfected contract of sale. Notably here, the bank never signified its 'approval' or 'acceptance' of the offer.

We cannot agree with the CA's ratiocination that receipt of the amount, coupled with the phrase written on the four receipts as "deposit on sale of TCT No. 138914," signified a tacit acceptance by Al-Amanah of PELA's offer. For sure, the money PELA gave was not in the concept of an earnest money. Besides, as testified to by then OIC Dalig, it is the usual practice of Al-

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[59] *Supra* note 9.

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Amanah to require submission of a bid deposit which is acknowledged by way of bank receipts before it entertains offers. Thus:

Atty. Bolcan:

> Now, as far as you can remember, these receipts state that these are partial deposit[s], what do you mean by that?

WITNESS:

A: x x x, we normally request an offeror to submit or make deposit, actually the bank does not entertain any offer without any deposit and just like that, during my time x x x in buying the property for those interested the bank does not entertain any offer [unless they] make a deposit.

x x x x x x x x x

Q: Why do you issue receipts as officer-in-charge stating only partial deposits?

A: Because there was no sale, there was no consu[m]mated sale, so any amount which you will give as a deposit will be accepted by the bank for the offer and that if their offer will be disapproved we will return the deposit because their offer was very low and this might be disapproved by the head office in Manila.[60]

x x x x x x x x x

Atty. Taasan:

> Do you confirm that based on the interest of the plaintiff to acquire the property they made a deposit with said bank, as evidence[d] by the receipts that were shown to you by your counsel, correct?

A: Yes, sir.

Q: And according to you, the bank do[es] not entertain any offer to buy the property without deposits?

A: Yes, sir.

Q: In this case since the plaintiffs made a deposit . . . they were properly entertained, correct?

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[60] TSN-Febe Dalig, March 11, 1999, Records, Vol. 8, pp. 441-442, 448.

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A: Yes because it is under negotiation, now while their offer price is below the selling price of the bank.[61]

The absence of a perfected contract of sale was further buttressed by the testimony of PELA Secretary Ramos on cross examination, *viz*.:

Atty. Rabor:

Since it was x x x hard earned money you did not require the Amanah Bank when you gave that ₱150,000.00 to reduce your agreement into writing regarding the sale of this property?

A: I insisted but she will not issue that.[62]

x x x x x x x x x

Atty. Bolcan:

Now, on April 15, 1993 when the deposit was made, you were present?

A: Yes, sir.

Q: Now, after making the deposit of One Hundred Fifty Thousand (₱150,000.00) Pesos [o]n April 15, 1993 did you not request for the bank to execute a document to prove that actually you are buying the property?

A: I even said to the OIC or the manager that ma'am, now that you have received our money, where is our paper that we were the ones to buy that property, sir.

Q: To whom are you referring to?

A: Febe Dalig, the OIC, sir.

Q: And this OIC Febe Dalig informed you that the Offer on your part to buy the property is subject for approval by the head office in Manila, is that correct?

A: Yes she told me that it would be subject [to] approval in Manila. x x x

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[61] *Id.* at 459-460.

[62] TSN-Florida Ramos, August 2, 1994, Records, Vol. 7, pp. 27-28.

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Q: And later on you were informed by the bank that you[r] offer was not [accepted] by the head office in Manila, is that correct?

A: She did not inform us but we [kept] on following it up with their office and she told us that it did not arrive yet, sir.[63] (Emphasis supplied)

PELA Secretary Ramos' testimony thus corroborated OIC Dalig's consistent stand that it is the Head Office which will decide whether Al-Amanah would accept PELA's offer:

Atty. Bolcan:

And now, if there are interested persons making offer x x x what [would] you do?

A: Well, we have to screen the offer before we [forward] the offer to Manila for approval because x x x

Court:

What [would] you do before you [forward] that to Manila?

A: We will be screening the offer x x x

Atty. Bolcan:

And you said that it [is] referred to Manila?

A: Yes, sir.

Q: Who will eventually approve the offer made by the interested persons to buy the property?

A: We have a committee in Manila to approve the sale of the property.

Q: Do you have any idea who will approve the offer of the property?

A: I have no idea but the president, rather it consist[s] of the president I think and then signed also by the vice-president and some officers in the office, sir.

x x x x x x x x x

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[63] TSN-Florida Ramos, November 19, 1998, Records, Vol. 8, pp. 259-261.

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Q: Now, in case of offers of the property of the bank, x x x the officer-in-charge of the bank, Al-Amanah Bank branch, usually refers this matter to the head office in Manila?

A: Yes, sir.

Q: And it is the head office that will decide whether the offer will be approved or not?

A: Yes as head of the branch, we have to forward the offer whether it was acceptable or not.[64]

It is thus undisputed, and PELA even acknowledges, that OIC Dalig made it clear that the acceptance of the offer, notwithstanding the deposit, is subject to the approval of the Head Office. Recognizing the corporate nature of the bank and that the power to sell its real properties is lodged in the higher authorities,[65] she never falsely represented to the bidders that she has authority to sell the bank's property. And regardless of PELA's insistence that she execute a written agreement of the sale, she refused and told PELA to wait for the decision of the Head Office, making it clear that she has no authority to execute any deed of sale.

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[64] *Id.* at 443-446.

[65] CORPORATION CODE, Sec. 23. *The board of directors or trustees.* — Unless otherwise provided in this Code, the corporate powers of all corporations formed under this Code shall be exercised, all business conducted and all property of such corporations controlled and held by the board of directors or trustees to be elected from among the holders of stock, or where there is no stock, from among the members of the corporation, who shall hold office for one (1) year and until their successors are elected and qualified. x x x

Sec. 36. *Corporate powers and capacity.*— Every corporation incorporated under this Code has the power and capacity:

x x x x x x x x x

7. To purchase, receive, take or grant, hold, convey, sell, lease, pledge, mortgage and otherwise deal with such real and personal property, including securities and bonds of other corporations, as the transaction of the lawful business of the corporation may reasonably and necessarily require, subject to the limitations prescribed by law and the Constitution;

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Contracts undergo three stages: "[a) n]egotiation [which] begins from the time the prospective contracting parties indicate interest in the contract and ends at the moment of their agreement[; b) p]erfection or birth[,] x x x which takes place when the parties agree upon all the essential elements of the contract x x x; [and c) c]onsummation[, which] occurs when the parties fulfill or perform the terms agreed upon, culminating in the extinguishment thereof."[66]

In the case at bench, the transaction between Al-Amanah and PELA remained in the negotiation stage. The offer never materialized into a perfected sale, for no oral or documentary evidence categorically proves that Al-Amanah expressed amenability to the offered ₱300,000.00 purchase price. Before the lapse of the 1-year period PELA had set to pay the remaining 'balance,' Al-Amanah expressly rejected its offered purchase price, although it took the latter around seven months to inform the former and this entitled PELA to award of damages.[67] Al-Amanah's act of selling the lot to another buyer is the final nail in the coffin of the negotiation with PELA. Clearly, there is no double sale, thus, we find no reason to disturb the consummated sale between Al-Amanah and Robern.

At this juncture, it is well to stress that Al-Amanah's Petition before this Court docketed as G.R. No. 173437 was already denied with finality on December 4, 2006. Hence, we see no reason to disturb paragraph 6 of the CA's Decision ordering Al-Amanah to pay damages to PELA.

WHEREFORE, we **PARTIALLY GRANT** the Petition. Except for paragraph 6 of the Court of Appeals Decision which had already been long settled,[68] the rest of the judgment in the assailed August 16, 2005 Decision and May 30, 2006 Resolution of the Court of Appeals in CA-G.R. No. CV No. 66071 are hereby **ANNULLED and SET ASIDE**. The August 10, 1999

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[66] *Navarra v. Planters Development Bank, supra* note 49 at 571-572.

[67] The CA's finding of bad faith entitled PELA to the award of damages, the judgment of which became final and executory. See notes 42 and 43.

[68] See notes 42 and 43.

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Decision of the Regional Trial Court of Davao City, Branch 12, dismissing the Complaint for Annulment and Cancellation of Void Deed of Sale filed by respondent People's Landless Association is **REINSTATED and AFFIRMED**. The amount of Pesos: Three Hundred Thousand (₱300,000.00) consigned with the Regional Trial Court of Davao City may now be withdrawn by People's Landless Association.

SO ORDERED.

Carpio (Chairperson), Brion, Villarama, Jr.,[*] and *Perlas-Bernabe, JJ.,* concur.

SECOND DIVISION

[G.R. No. 193301. March 11, 2013]

MINDANAO II GEOTHERMAL PARTNERSHIP, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

[G.R. No. 194637. March 11, 2013]

MINDANAO I GEOTHERMAL PARTNERSHIP, *petitioner, vs.* **COMMISSIONER OF INTERNAL REVENUE,** *respondent.*

SYLLABUS

1. TAXATION; NATIONAL INTERNAL REVENUE CODE; VALUE-ADDED TAX (VAT); REFUNDS OR TAX CREDITS OF INPUT TAX; ZERO-RATED OR EFFECTIVELY ZERO-RATED SALES; THE PRESCRIPTIVE PERIOD FOR THE FILING OF

[*] Per Special Order No. 1426 dated March 8, 2013.