



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**FIRST OPTIMA REALTY
CORPORATION,**

Petitioner,

- versus -

**SECURITRON SECURITY
SERVICES, INC.,**

Respondent.

G.R. No. 199648

Present:

CARPIO, *Chairperson,*
VELASCO, JR.,
DEL CASTILLO,
MENDOZA, *and*
LEONEN, *JJ.*

Promulgated:

28 JAN 2015

MCabaloq/Argento
X

X-----

DECISION

DEL CASTILLO, J.:

In a potential sale transaction, the prior payment of earnest money even before the property owner can agree to sell his property is irregular, and cannot be used to bind the owner to the obligations of a seller under an otherwise perfected contract of sale; to cite a well-worn cliché, the carriage cannot be placed before the horse. The property owner-prospective seller may not be legally obliged to enter into a sale with a prospective buyer through the latter's employment of questionable practices which prevent the owner from freely giving his consent to the transaction; this constitutes a palpable transgression of the prospective seller's rights of ownership over his property, an anomaly which the Court will certainly not condone.

This Petition for Review on *Certiorari*¹ seeks to set aside: 1) the September 30, 2011 Decision² of the Court of Appeals (CA) in CA-G.R. CV No. 93715 affirming the February 16, 2009 Decision³ of the Regional Trial Court (RTC) of

* Per Special Order No. 1910 dated January 12, 2015.

¹ *Rollo*, pp. 9-42.

² Id. at 44-51; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Juan Q. Enriquez, Jr. and Ramon M. Bato, Jr.

³ Id. at 95-98; penned by Presiding Judge Francisco G. Mendiola.

Pasay City, Branch 115 in Civil Case No. 06-0492 CFM; and 2) the CA's December 9, 2011 Resolution⁴ denying the herein petitioner's Motion for Reconsideration⁵ of the assailed judgment.

Factual Antecedents

Petitioner First Optima Realty Corporation is a domestic corporation engaged in the real estate business. It is the registered owner of a 256-square meter parcel of land with improvements located in Pasay City, covered by Transfer Certificate of Title No. 125318 (the subject property).⁶ Respondent Securitron Security Services, Inc., on the other hand, is a domestic corporation with offices located beside the subject property.

Looking to expand its business and add to its existing offices, respondent – through its General Manager, Antonio Eleazar (Eleazar) – sent a December 9, 2004 Letter⁷ addressed to petitioner – through its Executive Vice-President, Carolina T. Young (Young) – offering to purchase the subject property at ₱6,000.00 per square meter. A series of telephone calls ensued, but only between Eleazar and Young's secretary;⁸ Eleazar likewise personally negotiated with a certain Maria Remoso (Remoso), who was an employee of petitioner.⁹ At this point, Eleazar was unable to personally negotiate with Young or the petitioner's board of directors.

Sometime thereafter, Eleazar personally went to petitioner's office offering to pay for the subject property in cash, which he already brought with him. However, Young declined to accept payment, saying that she still needed to secure her sister's advice on the matter.¹⁰ She likewise informed Eleazar that prior approval of petitioner's Board of Directors was required for the transaction, to which remark Eleazar replied that respondent shall instead await such approval.¹¹

On February 4, 2005, respondent sent a Letter¹² of even date to petitioner. It was accompanied by Philippine National Bank Check No. 24677 (the subject check), issued for ₱100,000.00 and made payable to petitioner. The letter states thus:

⁴ Id. at 68-69.

⁵ Id. at 52-66.

⁶ Id. at 77-78.

⁷ Id. at 76.

⁸ Transcript of Stenographic Notes (TSN), Antonio Eleazar, February 5, 2008, pp. 9-12.

⁹ TSN, Carolina Young, July 1, 2008, pp. 20-24.

¹⁰ TSN, Antonio Eleazar, February 5, 2008, pp. 13-14.

¹¹ TSN, Carolina Young, July 1, 2008, pp. 19-20.

¹² *Rollo*, p. 79.

Gentlemen:

As agreed upon, we are making a deposit of ONE HUNDRED THOUSAND PESOS (Php 100,000.00) as earnest money for your property at the corner of Layug St., & Lim-An St., Pasay City as per TCT No. 125318 with an area of 256 sq. m. at 6,000.00/ sq. m. for a total of ONE MILLION FIVE HUNDRED THIRTY SIX THOUSAND PESOS (Php 1,536,000.00).

Full payment upon clearing of the tenants at said property and signing of the Deed of Sale.

(signed)
ANTONIO S. ELEAZAR¹³

Despite the delicate nature of the matter and large amount involved, respondent did not deliver the letter and check directly to Young or her office; instead, they were coursed through an ordinary receiving clerk/receptionist of the petitioner, who thus received the same and therefor issued and signed Provisional Receipt No. 33430.¹⁴ The said receipt reads:

Received from x x x Antonio Eleazar x x x the sum of Pesos One Hundred Thousand x x x

IN PAYMENT OF THE FOLLOWING x x x

Earnest money or Partial payment of
Pasay Property Layug & Lim-an St. x x x.

Note: This is issued to transactions not yet cleared but subsequently an Official Receipt will be issued. x x x¹⁵

The check was eventually deposited with and credited to petitioner's bank account.

Thereafter, respondent through counsel demanded in writing that petitioner proceed with the sale of the property.¹⁶ In a March 3, 2006 Letter¹⁷ addressed to respondent's counsel, petitioner wrote back:

Dear Atty. De Jesus:

Anent your letter dated January 16, 2006 received on February 20, 2006, please be informed of the following:

¹³ Id.

¹⁴ Id. at 80.

¹⁵ Id.

¹⁶ Records, pp. 17-18.

¹⁷ *Rollo*, p. 81.

1. It was your client SECURITRON SECURITY SERVICES, INC. represented by Mr. Antonio Eleazar who offered to buy our property located at corner Layug and Lim-An St., Pasay City;
2. It tendered an earnest money despite the fact that we are still undecided to sell the said property;
3. Our Board of Directors failed to pass a resolution to date whether it agrees to sell the property;
4. We have no Contract for the earnest money nor Contract to Sell the said property with your client;

Considering therefore the above as well as due to haste and demands which we feel [are forms] of intimidation and harassment, we regret to inform you that we are now incline (sic) not to accept your offer to buy our property. Please inform your client to coordinate with us for the refund of this (sic) money.

Very truly yours,

(signed)
CAROLINA T. YOUNG
Executive Vice[-]President¹⁸

Ruling of the Regional Trial Court of Pasay City

On April 18, 2006, respondent filed with the Pasay RTC a civil case against petitioner for specific performance with damages to compel the latter to consummate the supposed sale of the subject property. Docketed as Civil Case No. 06-0492 CFM and assigned to Branch 115 of the Pasay RTC, the Complaint¹⁹ is predicated on the claim that since a perfected contract of sale arose between the parties after negotiations were conducted and respondent paid the ₱100,000.00 supposed earnest money – which petitioner accepted, the latter should be compelled to sell the subject property to the former. Thus, respondent prayed that petitioner be ordered to comply with its obligation as seller, accept the balance of the purchase price, and execute the corresponding deed of sale in respondent's favor; and that petitioner be made to pay ₱200,000.00 damages for its breach and delay in the performance of its obligations, ₱200,000.00 by way of attorney's fees, and costs of suit.

In its Answer with Compulsory Counterclaim,²⁰ petitioner argued that it never agreed to sell the subject property; that its board of directors did not authorize the sale thereof to respondent, as no corresponding board resolution to such effect was issued; that the respondent's ₱100,000.00 check payment cannot

¹⁸ Id.

¹⁹ Records, pp. 3-9.

²⁰ Id. at 23-27.

be considered as earnest money for the subject property, since said payment was merely coursed through petitioner's receiving clerk, who was forced to accept the same; and that respondent was simply motivated by a desire to acquire the subject property at any cost. Thus, petitioner prayed for the dismissal of the case and, by way of counterclaim, it sought the payment of moral damages in the amount of ₱200,000.00; exemplary damages in the amount of ₱100,000.00; and attorney's fees and costs of suit.

In a Reply,²¹ respondent countered that authorization by petitioner's Board of Directors was not necessary since it is a real estate corporation principally engaged in the buying and selling of real property; that respondent did not force nor intimidate petitioner's receiving clerk into accepting the February 4, 2005 letter and check for ₱100,000.00; that petitioner's acceptance of the check and its failure – for more than a year – to return respondent's payment amounts to estoppel and a ratification of the sale; and that petitioner is not entitled to its counterclaim.

After due proceedings were taken, the Pasay RTC issued its Decision dated February 16, 2009, decreeing as follows:

WHEREFORE, defendant First Optima Realty Corporation is directed to comply with its obligation by accepting the remaining balance of One Million Five Hundred Thirty-Six Thousand Pesos and Ninety-Nine Centavos (₱1,536,000.99), and executing the corresponding deed of sale in favor of the plaintiff Securitron Security Services, Inc. over the subject parcel of land.

No costs.

SO ORDERED.²²

In ruling for the respondent, the trial court held that petitioner's acceptance of ₱100,000.00 earnest money indicated the existence of a perfected contract of sale between the parties; that there is no showing that when respondent gave the February 4, 2005 letter and check to petitioner's receiving clerk, the latter was harassed or forced to accept the same; and that for the sale of the subject property, no resolution of petitioner's board of directors was required since Young was "free to represent" the corporation in negotiating with respondent for the sale thereof.

Ruling of the Court of Appeals

Petitioner filed an appeal with the CA. Docketed as CA-G.R. CV No. 93715, the appeal made out a case that no earnest money can be considered to

²¹ Id. at 28-30.

²² *Rollo*, p. 98.

have been paid to petitioner as the supposed payment was received by a mere receiving clerk, who was not authorized to accept the same; that the required board of directors resolution authorizing the sale of corporate assets cannot be dispensed with in the case of petitioner; that whatever negotiations were held between the parties only concerned the possible sale, not the sale itself, of the subject property; that without the written authority of petitioner's board of directors, Young cannot enter into a sale of its corporate property; and finally, that there was no meeting of the minds between the parties in the first place.

On September 30, 2011, the CA issued the assailed Decision affirming the trial court's February 16, 2009 Decision, pronouncing thus:

Article 1318 of the Civil Code declares that no contract exists unless the following requisites concur: (1) consent of the contracting parties; (2) object certain which is the subject matter of the contract; and (3) cause of the obligation established.

A careful perusal of the records of the case show[s] that there was indeed a negotiation between the parties as regards the sale of the subject property, their disagreement lies on whether they have arrived on an agreement regarding said sale. Plaintiff-appellee avers that the parties have already agreed on the sale and the price for it and the payment of earnest money and the remaining balance upon clearing of the property of unwanted tenants. Defendant-appellant on the other hand disputes the same and insists that there was no concrete agreement between the parties.

Upon a careful consideration of the arguments of the parties and the records of the case, we are more inclined to sustain the arguments of the plaintiff-appellee and affirm the findings of the trial court that there was indeed a perfected contract of sale between the parties. The following instances militate against the claim of the defendant-appellant: *First*. The letter of the plaintiff-appellee dated February 4, 2005 reiterating their agreement as to the sale of the realty for the consideration of Php 1,536,000.00 was not disputed nor replied to by the defendant-appellant, the said letter also provides for the payment of the earnest money of Php 100,000.00 and the full payment upon the clearing of the property of unwanted tenants, if the defendant-appellant did not really agree on the sale of the property it could have easily replied to the said letter informing the plaintiff-appellee that it is not selling the property or that the matter will be decided first by the board of directors, defendant-appellant's silence or inaction on said letter shows its conformity or consent thereto; *Second*. In addition to the aforementioned letter, defendant-appellant's acceptance of the earnest money and the issuance of a provisional receipt clearly shows that there was indeed an agreement between the parties and we do not subscribe to the argument of the defendant-appellant that the check was merely forced upon its employee and the contents of the receipt was just dictated by the plaintiff-appellee's employee because common sense dictates that a person would not issue a receipt for a check with a huge amount if she does not know what that is for and similarly would not issue [a] receipt which would bind her employer if she does not have prior instructions to do [so] from her superiors; *Third*. The said check for earnest money was deposited in the bank by defendant-appellant and not until after one year did it offer to return the same. Defendant-appellant cannot claim lack of

knowledge of the payment of the check since there was a letter for it, and it is just incredible that a big amount of money was deposited in [its] account [without knowing] about it [or] investigat[ing] what [it was] for. We are more inclined to believe that their inaction for more than one year on the earnest money paid was due to the fact that after the payment of earnest money the place should be cleared of unwanted tenants before the full amount of the purchase price will be paid as agreed upon as shown in the letter sent by the plaintiff-appellee.

As stated above the presence of defendant-appellant's consent and, corollarily, the existence of a perfected contract between the parties are evidenced by the payment and receipt of Php 100,000.00 as earnest money by the contracting parties' x x x. Under the law on sales, specifically Article 1482 of the Civil Code, it provides that whenever earnest money is given in a contract of sale, it shall be considered as part of the price and proof of the perfection of the contract. Although the presumption is not conclusive, as the parties may treat the earnest money differently, there is nothing alleged in the present case that would give rise to a contrary presumption.

We also do not find merit in the contention of the defendant-appellant that there is a need for a board resolution for them to sell the subject property since it is a corporation, a juridical entity which acts only thru the board of directors. While we agree that said rule is correct, we must also point out that said rule is the general rule for all corporations [but] a corporation [whose main business is buying and selling real estate] like herein defendant-appellant, is not required to have a board resolution for the sale of the realty in the ordinary course of business, thus defendant-appellant's claim deserves scant consideration.

Furthermore, the High Court has held that "a corporate officer or agent may represent and bind the corporation in transactions with third persons to the extent that the authority to do so has been conferred upon him, and this includes powers which have been intentionally conferred, and also such powers as, in the usual course of the particular business, are incidental to, or may be implied from, the powers intentionally conferred, powers added by custom and usage, as usually pertaining to the particular officer or agent, and such apparent powers as the corporation has caused persons dealing with the officer or agent to believe that it was conferred."

In the case at bench, it is not disputed and in fact was admitted by the defendant-appellant that Ms. Young, the Executive Vice-President was authorized to negotiate for the possible sale of the subject parcel of land. Therefore, Ms. Young can represent and bind defendant-appellant in the transaction.

Moreover, plaintiff-appellee can assume that Ms. Young, by virtue of her position, was authorized to sell the property of the corporation. Selling of realty is not foreign to [an] executive vice[-]president's function, and the real estate sale was shown to be a normal business activity of defendant-appellant since its primary business is the buy and sell of real estate. Unmistakably, its Executive Vice-President is cloaked with actual or apparent authority to buy or sell real property, an activity which falls within the scope of her general authority.

Furthermore, assuming *arguendo* that a board resolution was indeed needed for the sale of the subject property, the defendant-appellant is estopped from raising it now since, [it] did not inform the plaintiff-appellee of the same,

and the latter deal (sic) with them in good faith. Also it must be stressed that the plaintiff-appellee negotiated with one of the top officer (sic) of the company thus, any requirement on the said sale must have been known to Ms. Young and she should have informed the plaintiff-appellee of the same.

In view of the foregoing we do not find any reason to deviate from the findings of the trial court, the parties entered into the contract freely, thus they must perform their obligation faithfully. Defendant-appellant's unjustified refusal to perform its part of the agreement constitutes bad faith and the court will not tolerate the same.

WHEREFORE, premises considered, the Decision of the Regional Trial Court of Pasay City Branch 115, in Civil Case No. 06-0492 CFM is hereby AFFIRMED.

SO ORDERED.²³

Petitioner moved for reconsideration,²⁴ but in a December 9, 2011 Resolution, the CA held its ground. Hence, the present Petition.

Issues

In an October 9, 2013 Resolution,²⁵ this Court resolved to give due course to the Petition, which raises the following issues:

I

THE HONORABLE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT RULED THAT THE MONEY RESPONDENT DELIVERED TO PETITIONER WAS EARNEST MONEY THEREBY PROVIDING A PERFECTED CONTRACT OF SALE.

II

THE HONORABLE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT RULED THAT THE TIME THAT LAPSED IN RETURNING THE MONEY AND IN REPLYING TO THE LETTER IS PROOF OF ACCEPTANCE OF EARNEST MONEY.

III

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS AND GRAVE ERROR WHEN IT IGNORED THE RESERVATION IN THE PROVISIONAL RECEIPT – “Note: This is issued to transactions not yet cleared but subsequently an Official Receipt will be issued.”²⁶

²³ *Rollo*, pp. 47-51.

²⁴ *Id.* at 52-66.

²⁵ *Id.* at 141-142.

²⁶ *Id.* at 21-22.

Petitioner's Arguments

In its Petition and Reply²⁷ seeking to reverse and set aside the assailed CA dispositions and in effect to dismiss Civil Case No. 06-0492 CFM, petitioner argues that respondent failed to prove its case that a contract of sale was perfected between the parties. It particularly notes that, contrary to the CA's ruling, respondent's delivery of the February 4, 2005 letter and check; petitioner's failure to respond to said letter; petitioner's supposed acceptance of the check by depositing the same in its account; and its failure to return the same after more than one year from its tender – these circumstances do not at all prove that a contract of sale was perfected between the parties. It claims that there was never an agreement in the first place between them concerning the sale of the subject property, much less the payment of earnest money therefor; that during trial, Eleazar himself admitted that the check was merely a "deposit";²⁸ that the February 4, 2005 letter and check were delivered not to Young, but to a mere receiving clerk of petitioner who knew nothing about the supposed transaction and was simply obliged to accept the same without the prerogative to reject them; that the acceptance of respondent's supposed payment was not cleared and was subject to approval and issuance of the corresponding official receipt as noted in Provisional Receipt No. 33430; that respondent intentionally delivered the letter and check in the manner that it did in order to bind petitioner to the supposed sale with or without the latter's consent; that petitioner could not be faulted for receiving the check and for depositing the same as a matter of operational procedure with respect to checks received in the course of its day-to-day business.

Petitioner argues that ultimately, it cannot be said that it gave its consent to any transaction with respondent or to the payment made by the latter. Respondent's letter and check constitute merely an offer which required petitioner's acceptance in order to give rise to a perfected sale; "[o]therwise, a buyer can easily bind any unsuspecting seller to a contract of sale by merely devising a way that prevents the latter from acting on the communicated offer."²⁹

Petitioner thus theorizes that since it had no perfected agreement with the respondent, the latter's check should be treated not as earnest money, but as mere guarantee, deposit or option money to prevent the prospective seller from backing out from the sale,³⁰ since the payment of any consideration acquires the character of earnest money only after a perfected sale between the parties has been arrived at.³¹

²⁷ Id. at 134-139.

²⁸ Citing TSN, Antonio Eleazar, November 27, 2007, pp. 14-15, thus:

Q – Was there any formal letter or something that you sent to them, Mr. Witness?

A – Yes, ma'am, I sent a letter, February 4, 2005 and saying that I make a deposit of ₱100,000.00.

²⁹ Rollo, pp. 31-32.

³⁰ Citing *Manila Metal Container Corporation v. Philippine National Bank*, 540 Phil. 451, 475 (2006); and *San Miguel Properties Philippines, Inc. v. Huang*, 391 Phil. 636, 643-644 (2000).

³¹ Citing *XYST Corporation v. DMC Urban Properties Development, Inc.*, 612 Phil. 116, 123-124 (2009).

Respondent's Arguments

In its Comment,³² respondent counters that petitioner's case typifies a situation where the seller has had an undue change of mind and desires to escape the legal consequences attendant to a perfected contract of sale. It reiterates the appellate court's pronouncements that petitioner's failure to reply to respondent's February 4, 2005 letter indicates its consent to the sale; that its acceptance of the check as earnest money and the issuance of the provisional receipt prove that there is a prior agreement between the parties; that the deposit of the check in petitioner's account and failure to timely return the money to respondent militates against petitioner's claim of lack of knowledge and consent. Rather they indicate petitioner's decision to sell subject property as agreed. Respondent adds that contrary to petitioner's claim, negotiations were in fact held between the parties after it sent its December 9, 2004 letter-offer, which negotiations precisely culminated in the preparation and issuance of the February 4, 2005 letter; that petitioner's failure to reply to its February 4, 2005 letter meant that it was amenable to respondent's terms; that the issuance of a provisional receipt does not prevent the perfection of the agreement between the parties, since earnest money was already paid; and that petitioner cannot pretend to be ignorant of respondent's check payment, as it involved a large sum of money that was deposited in the former's bank account.

Our Ruling

The Court grants the Petition. The trial and appellate courts erred materially in deciding the case; they overlooked important facts that should change the complexion and outcome of the case.

It cannot be denied that there were negotiations between the parties conducted after the respondent's December 9, 2004 letter-offer and prior to the February 4, 2005 letter. These negotiations culminated in a meeting between Eleazar and Young whereby the latter declined to enter into an agreement and accept cash payment then being tendered by the former. Instead, Young informed Eleazar during said meeting that she still had to confer with her sister and petitioner's board of directors; in turn, Eleazar told Young that respondent shall await the necessary approval.

Thus, the trial and appellate courts failed to appreciate that respondent's offer to purchase the subject property was never accepted by the petitioner at any instance, even after negotiations were held between them. Thus, as between them, there is no sale to speak of. "When there is merely an offer by one party without

³² *Rollo*, pp. 121-130.

acceptance of the other, there is no contract.”³³ To borrow a pronouncement in a previously decided case,

The stages of a contract of sale are: (1) negotiation, starting from the time the prospective contracting parties indicate interest in the contract to the time the contract is perfected; (2) perfection, which takes place upon the concurrence of the essential elements of the sale; and (3) consummation, which commences when the parties perform their respective undertakings under the contract of sale, culminating in the extinguishment of the contract.

In the present case, the parties never got past the negotiation stage. Nothing shows that the parties had agreed on any final arrangement containing the essential elements of a contract of sale, namely, (1) consent or the meeting of the minds of the parties; (2) object or subject matter of the contract; and (3) price or consideration of the sale.³⁴

Respondent’s subsequent sending of the February 4, 2005 letter and check to petitioner – without awaiting the approval of petitioner’s board of directors and Young’s decision, or without making a new offer – constitutes a mere reiteration of its original offer which was already rejected previously; thus, petitioner was under no obligation to reply to the February 4, 2005 letter. It would be absurd to require a party to reject the very same offer each and every time it is made; otherwise, a perfected contract of sale could simply arise from the failure to reject the same offer made for the hundredth time. Thus, said letter cannot be considered as evidence of a perfected sale, which does not exist in the first place; no binding obligation on the part of the petitioner to sell its property arose as a consequence. The letter made no new offer replacing the first which was rejected.

Since there is no perfected sale between the parties, respondent had no obligation to make payment through the check; nor did it possess the right to deliver earnest money to petitioner in order to bind the latter to a sale. As contemplated under Art. 1482 of the Civil Code, “there must first be a perfected contract of sale before we can speak of earnest money.”³⁵ “Where the parties merely exchanged offers and counter-offers, no contract is perfected since they did not yet give their consent to such offers. Earnest money applies to a perfected sale.”³⁶

This Court is inclined to accept petitioner’s explanation that since the check was mixed up with all other checks and correspondence sent to and received by the corporation during the course of its daily operations, Young could not have timely discovered respondent’s check payment; petitioner’s failure to return the purported earnest money cannot mean that it agreed to respondent’s offer.

³³ *Manila Metal Container Corporation v. Philippine National Bank*, supra note 30 at 471.

³⁴ *Government Service Insurance System v. Lopez*, 610 Phil. 128, 137-138 (2009).

³⁵ *Umipig v. People*, G.R. Nos. 171359, 171755, 171776, July 18, 2012, 677 SCRA 53, 77.

³⁶ *Starbright Sales Enterprises, Inc. v. Philippine Realty Corporation*, G.R. No. 177936, January 18, 2012, 663 SCRA 326, 333.

Besides, respondent's payment of supposed earnest money was made under dubious circumstances and in disregard of sound business practice and common sense. Indeed, respondent must be faulted for taking such a course of action that is irregular and extraordinary: common sense and logic dictate that if any payment is made under the supposed sale transaction, it should have been made directly to Young or coursed directly through her office, since she is the officer directly responsible for negotiating the sale, as far as respondent is concerned and considering the amount of money involved; no other ranking officer of petitioner can be expected to know of the ongoing talks covering the subject property. Respondent already knew, from Eleazar's previous meeting with Young, that it could only effectively deal with her; more than that, it should know that corporations work only through the proper channels. By acting the way it did – coursing the February 4, 2005 letter and check through petitioner's mere receiving clerk or receptionist instead of directly with Young's office, respondent placed itself under grave suspicion of putting into effect a premeditated plan to unduly bind petitioner to its rejected offer, in a manner which it could not achieve through negotiation and employing normal business practices. It impresses the Court that respondent attempted to secure the consent needed for the sale by depositing part of the purchase price and under the false pretense that an agreement was already arrived at, even though there was none. Respondent achieved the desired effect up to this point, but the Court will not be fooled.

Thus, as between respondent's irregular and improper actions and petitioner's failure to timely return the ₱100,000.00 purported earnest money, this Court sides with petitioner. In a manner of speaking, respondent cannot fault petitioner for not making a refund since it is equally to blame for making such payment under false pretenses and irregular circumstances, and with improper motives. Parties must come to court with clean hands, as it were.

In a potential sale transaction, the prior payment of earnest money even before the property owner can agree to sell his property is irregular, and cannot be used to bind the owner to the obligations of a seller under an otherwise perfected contract of sale; to cite a well-worn cliché, the carriage cannot be placed before the horse. The property owner-prospective seller may not be legally obliged to enter into a sale with a prospective buyer through the latter's employment of questionable practices which prevent the owner from freely giving his consent to the transaction; this constitutes a palpable transgression of the prospective seller's rights of ownership over his property, an anomaly which the Court will certainly not condone. An agreement where the prior free consent of one party thereto is withheld or suppressed will be struck down, and the Court shall always endeavor to protect a property owner's rights against devious practices that put his property in danger of being lost or unduly disposed without his prior knowledge or consent. As this *ponente* has held before, "[t]his Court cannot presume the existence of a

sale of land, absent any direct proof of it.”³⁷

Nor will respondent's supposed payment be 'treated as a deposit or guarantee; its actions will not be dignified and must be called for what they are: they were done irregularly and with a view to acquiring the subject property against petitioner's consent.

Finally, since there is nothing in legal contemplation which petitioner must perform particularly for the respondent, it should follow that Civil Case No. 06-0492 CFM for specific performance with damages is left with no leg to stand on; it must be dismissed.

With the foregoing view, there is no need to resolve the other specific issues and arguments raised by the petitioner, as they do not materially affect the rights and obligations of the parties – the Court having declared that no agreement exists between them; nor do they have the effect of altering the outcome of the case.

WHEREFORE, the Petition is **GRANTED**. The September 30, 2011 Decision and December 9, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 93715, as well as the February 16, 2009 Decision of the Regional Trial Court of Pasay City, Branch 115 in Civil Case No. 06-0492 CFM are **REVERSED** and **SET ASIDE**. Civil Case No. 06-0492 CFM is ordered **DISMISSED**.

Petitioner First Optima Realty Corporation is ordered to **REFUND** the amount of ₱100,000.00 to respondent Securitron Security Services, Inc. without interest, unless petitioner has done so during the course of the proceedings.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

³⁷ *Robern Development Corporation v. People's Landless Association*, G.R. No. 173622, March 11, 2013, 693 SCRA 24, 26, citing *Amado v. Salvador*, 564 Phil. 728, 740 (2007).

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice

Chairperson



PRESBITERO J. VELASCO, JR.

Associate Justice



JOSE CATRAL MENDOZA

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO


Associate Justice

Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARIA LOURDES P. A. SERENO***Chief Justice*