Arbedul v. Iderbei Lineage, 7 ROP Intrm. 53 (1998)

ESBEI ARBEDUL,
Appellant,

v.

IDERBEI LINEAGE,
Appellee.

CIVIL APPEAL NO. 11-97
Civil Action No. 60-95

Supreme Court, Appellate Division
Republic of Palau

Argued: April 17, 1998
Decided: May 1, 1998

Counsel for Appellant: Yukiwo P. Dengokl, Esq.

Counsel for Appellee: J. Roman Bedor, T.C.

BEFORE: ARTHUR NGIRAKLSONG, Chief Justice; JEFFREY L. BEATTIE, Associate Justice; R. BARRIE MICHELSEN, Associate Justice.

MICHELSEN, Justice:

Espangel Arbedul appeals from a decision of the Trial Division holding that he had relinquished title to certain land in Ngerkebesang.[1] We affirm.

I. BACKGROUND

In 1983, the Land Commission ⊥54 awarded a portion of land in Ngerkebesang known as Iderbei to Iderbei Lineage, with Rose Kebekol as trustee. On April 29, 1992, Ms. Kebekol signed a warranty deed granting Appellant Esbei Arbedul 675 square meters of Iderbei. Arbedul paid Ms. Kebekol $1,500 for the land. Ms. Kebekol later changed her mind and on February 25, 1993, met with Arbedul to discuss a return of the land. At the meeting, Kebekol and Arbedul signed a document that provided:[2]

> On this day, February 25, 1993, I, Rose K. Alfonso, return (sic) the money belonging to Espangel Esbei, of the $1,500 that was supposed to be a payment for tract of land Lot No. 018 A 03,

[1] We have changed the caption of this case to reflect the real parties in interest. *See* ROP R. Civ. P. 17(a). George Kebekol, who brought this suit on behalf of Iderbei Lineage, had been named as the Appellee here and as the plaintiff below.

[2] This is a translation of the original document, which was in Palauan.

> referred to "Iderbei" (sic) situated in Ngerkebesang Hamlet. This money was given to me on April 29, 1992, but thereafter I had discussion with my children it was decided (sic) that money will be returned.
>
> Based on this return of the money Warranty Deed (sic) about this tract prepared on April 29, 1992, will not have effect, and the land will return back to its origin.
>
> Dated 2/25/93 s/s
> Rose K. Alfonso
>
> ACKNOWLEDGMENT
>
> On this day February 25, 1993, Rose Kebekol return the money to me that I gave for payment for a land shown above.
>
> Dated 2/25/93 sls
> Espangl Esbei

Ms. Kebekol returned the $1,500 to Arbedul at that time. Arbedul deposited the money in the bank, but soon thereafter disavowed the agreement. In November 1994, Arbedul obtained a certificate of title to Iderbei from the Land Claims Hearing Office based upon the April 1992 warranty deed. George Kebekol, the son of Ms. Kebekol, filed this action in February 1995 on behalf of Iderbei Lineage, seeking to quiet title to the land in the Lineage and to set aside the April 1992 warranty deed. After trial, the Trial Division found that the February 25, 1993 agreement was sufficient to rescind the April 1992 warranty deed.

II. ANALYSIS

Appellant contends that the February 25, 1993 document is insufficient to rescind the earlier warranty deed because he took Ms. Kebekol's $1,500 only because she insisted that he take it and not because he intended it to be payment for the exchange of the land. According to Appellant, his signature on the bottom half of the February 25, 1993 document shows that he acknowledged receipt of the money and nothing else.

The Trial Division found that the February 25, 1993 document, examined in its entirety, could not be construed merely as a receipt. We agree. The document specifically states that "Based on this return of the money [the April 1992 warranty deed] will not have effect, and the land will return back to its origin."

⊥55 Appellant contends also that the Trial Division erred by raising the issue of rescission at all. Appellant maintains that because it was not one of the issues specified in the parties' joint pre-trial statement, the Trial Division should not have addressed it. We find that the parties raised the issue sufficiently in paragraph #7 of their joint pre trial statement, which discusses the

matter generally without specifically using the word "rescission." [3] Both parties understood that a central issue in the trial was whether the February 1993 document negated the effect of the earlier warranty deed. Moreover, Appellant discussed the enforceability of the agreement in his written closing argument to the Trial Division. Although the Trial Division may have been the first to employ the word "rescission," that was merely the correct label for an issue the parties had raised before and contested at trial.

Appellant's final argument is that any agreement that he and Ms. Kebekol may have reached concerning rescission of the April 1992 deed does not satisfy the statute of frauds. Appellant's argument presumes that the February 25, 1993 agreement is invalid and that any agreement involving rescission of the deed is an oral contract. However, we believe the February 25, 1993 agreement to be a valid contract. Its plain language suggests that Ms. Kebekol offered Appellant $1,500 in exchange for a rescission of the April 1992 deed and that Appellant accepted that offer as well as the $1,500 consideration. That is all that contract law requires. *See Kamishi v. Han Pa Const. Co.*, 4 ROP Intrm. 37, 40-41 (1993)(discussing elements of contract formation).[4] Because the February 25, 1993 agreement is a valid contract, there is no merit to Appellant's final argument.

Accordingly, the decision of the Trial Division is AFFIRMED.

---

[3] Paragraph 7 states: "If Rose Kebekol did return the $1,500 purchase price for the land in dispute to defendant Arbedul, may such act be deemed to have resulted in the transfer of the land in dispute back to Iderbei Lineage without more?"

[4] To the extent that the agreement is ambiguous in any way and thereby would permit an inquiry into extrinsic evidence, *see Etpison v. Rdialul*, 2 ROP Intrm. 211, 217 (1991), we find no error in the Trial Division's determination that the more credible extrinsic evidence suggests that Appellant understood the agreement and its purpose.