

**ASSOCIATED DEVELOPMENT CORPORATION,
PLAINTIFF-APPELLANT, VS. THE REPARATIONS COMMISSION,
DEFENDANT-APPELLEE.**

G.R. No. L-29555. May 22, 1982

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

In this appeal from a decision of the Court of First Instance, there is no dispute as to defendant Reparations Commission, granting to plaintiff Associated Development Corporation, now appellant, its application for reparation goods, iron works equipment,[1] contracts to purchase being duly entered into in June and December of 1961. The Reparations Commission, pursuant to a directive of the President of March 23, 1963, required that payment must be at the free market rate, instead of the conversion rate of P2.00 to \$1.00. Appellant was so informed on May 14, 1963. On the same day it replied to the Reparations Commission that it questioned the constitutionality of such directive and that it would formally do so in court. That was done. In the decision now on appeal, defendant Reparations Commission was ordered to accept from appellant payment at the conversion rate of P2.00 to \$1.00, subject, however, to the conditions expressed in the following words of the opinion: "However, in view of the willingness of plaintiff as manifested thru its President, Mr. Enrique Martel, to abide by any definitive ruling on the question of Philippine Peso-U.S. dollar conversion rate on reparations contracts which is now pending resolution in the Supreme Court, the Court, without anymore touching on the legal issues raised on that issue in the instant case, has decided to direct, as it hereby directs, with the aim of preventing a further stagnation of the use of reparations materials by the end-user, which may tend in one or the other to contribute to the rehabilitation of our debilitated economy, the defendant Reparations Commission to accept provisionally the payments made by the plaintiff for its approved allocations at the conversion rate of P2.00 to \$1.00. The acceptance of the payments shall be subject to adjustment if and when the Supreme Court, in resolving the issue in any of the cases appealed to it, shall finally adjudged that the free market rate shall be the conversion rate on reparations contracts." [2]

The Consolidated Textile Mills[3] decision, promulgated on February 22, 1968, resolved the issue against the contention that the conversion rate should be P2.00 to \$1.00. This Court explained why: "The gravamen of appellant's contention is anchored on the proposition that under the 'contract to purchase' earlier quoted, the Commission is under obligation to procure, sell and deliver the goods, which said appellant had requisitioned or applied for at the rate of P2.00 for every \$1.00 of the procurement cost of said reparations item. In a word, appellant holds the view that the said 'contract to purchase' is a bilateral promise to buy and sell at the rate of P2.00 to \$1.00 and is as good as a perfected sale. In this posture, therefore, it argues with vehemence that the appellee Commission cannot unilaterally alter the consideration of the perfected sale by applying a rate of exchange which was not agreed upon, nor contemplated by the parties when they executed the aforesaid 'contract to purchase'. Unfortunately, however, an examination of that 'contract to purchase' does not support appellant's assumption and contention. On the contrary, it reveals all the earmarks of a mere preliminary agreement.

Admittedly, both the objects to be procured and the price to be paid were not specifically described therein. It is likewise significant to note that in the 'contract to purchase' there is no stipulation as to what rate of exchange should govern in the determination of the peso equivalent of the dollar value of the reparations to be procured thereunder. It is, we hold, obvious from the face of the agreement that it does not contain, and was not intended to contain, all of the important terms and conditions of the future contract. It was really incomplete, for it left out material terms thereof for future determination. Hence, it was indeed necessary that the parties should, as they did stipulate, in the very same 'contract to purchase' relied upon heavily by the appellant that before the delivery of the goods, a contract of conditional purchase and sale shall be executed by the parties to the agreement which shall supersede the said contract to purchase." [4] It was our considered opinion that the Secretary of Justice was right, and the court below did not err, in holding that 'existing contracts to purchase reparations goods are, at best, preliminary agreements which do not definitely stipulate the contract price; nor do they carry any provision as to the rate to be used for the conversion into pesos of the dollar value of the reparations goods.'" [5] This Court went further: "Even from the standpoint that the 'contract to purchase' is a perfected contract between the parties, as contended by the appellant, it can only be so with respect to the rights and obligations therein stipulated and agreed upon by the parties. We find that the Commission had assumed under the 'contract to purchase' the obligation to give due course to appellant's application for the goods in question and to procure and deliver the same after appellant shall have executed a contract of conditional purchase and sale of the goods accordingly procured which, may be in whole or in part of the item specified in the procurement order. Before the contemplated contract of conditional purchase and sale may be executed certain essential points must necessarily be threshed out first between them, as to the terms of payment, and the rate of exchange to be used in determining the peso cost of the goods over which the minds of the parties may or may not meet. And since the parties made no mention whatsoever in the 'contract of purchase' about the rate of exchange to be adopted in fixing the peso cost of the goods, it becomes necessary that a final contract of conditional purchase and sale be subsequently executed by them before delivery of the goods wherein the dollar price of the goods may be reduced into its peso equivalent." [6] The opinion ended on this note: "In fine, it is the opinion of the Court, that whether the 'contract to purchase' be treated as a mere preliminary agreement of the parties, or as a perfected contract which bound the Reparations Commission to procure and then sell the goods, and herein appellant to purchase the said goods, we have arrived at the same conclusion - that for the failure of the agreement to specify therein the rate of exchange to be adopted in computing the dollar value of the goods to its peso equivalent - the adoption of the free market rate by the Reparations Commission to ascertain the peso cost of the goods would not spell impairment of any obligation thereunder. Consequently, we do not find it necessary to dwell at length on the discussion of the principle of non-impairment of obligation so elaborately expounded by appellant in its brief; and so, with the alleged denial of due process and equal protection of the laws." [7]

A motion for reconsideration was thereafter filed. It was finally resolved on March 2, 1977 upholding the original decision. [8] There was an extensive discussion by the late Chief Justice Castro on the principal question of whether or not any obligatory effect should be accorded the contract to purchase in accordance with the constitutional guarantee of non-impairment as well as of due process. The resolution even went to the extent of enumerating in accordance with Republic Act No. 1789 the necessary steps, all in all numbering nineteen, before what it considered a "preliminary transaction between the Reparations Commission and the end-user would assume the quality of finality." In the determination of the conversion rate, the resolution pointed out that the date of "verification by the Japanese government of the reparations contract for the procurement of the reparations goods" applied for by the end-user would result in the "element of completeness then accrued to the Contract to Purchase entered into between the CMI and the Commission on 29 November 1961 and the completion of the said transaction, in turn, rendered in force the obligation of the parties to execute the contract of conditional purchase and sale - a contract to supersede the antecedent agreement." [9] The test as to the amount to be paid by the

end-user like appellant, was then set forth in such resolution of the Court: "In the controversy at bar, the Mission concluded reparations contracts for the procurement of the reparations goods applied for by the CMI with the corresponding Japanese suppliers sometime in April 1963. Consistency with all the foregoing demands the adoption of that money market rate of exchange of the Philippine peso vis-a-vis the US dollar prevailing at that time in the determination of the peso equivalent of the procurement cost of the reparations goods expressed in US dollars." [10]

It is noteworthy that defendant Reparations Commission instead of filing a brief filed a manifestation, the last paragraph reading: "That this manifestation is being filed in order that this Honorable Supreme Court, in deciding the above-entitled case will take judicial notice of whatever final decision it may render in the aforementioned cases of Lirag Textile Mills, Inc. vs. Reparations Commission (G.R. No. L-22768) and Consolidated Textile Mills, Inc. vs. Reparations Commission (G.R. No. L-23859)." [11] A counter manifestation was filed by the plaintiff-appellant, which while reserving its right to file a pleading on whether there was such similarity on the issues and evidences presented which denied the Consolidated Mills decision, it should not be a bar to the pronouncement of a different ruling. The record is barren of any such pleading as to the lack of similarity.

Plaintiff-appellant had submitted an extensive brief quite vigorous in its plea for the conversion rate of P2.00 for every \$1.00. It raised questions of importance which admittedly would have some bearing on the final determination of that issue which if were not previously decided, certainly ought to have been taken into consideration. Nonetheless, with the Consolidated Mills decision, as originally promulgated, as well as the equally extensive resolution on the motion for reconsideration, it clearly appears that this Court had decided with finality the question of what the conversion rate should be. It supplies the answer to this case. The plea of appellant as to the conversion rate of P2.00 to \$1.00 cannot, therefore, be granted.

WHEREFORE, the decision is modified in accordance with the definitive ruling of this Court in the resolution penned by the late Chief Justice Castro that it is the date the "reparations contracts for the procurement of the reparations goods applied for" by appellant "with the corresponding Japanese suppliers" were entered into that should be the basis of the "money market rate of exchange of the Philippine peso vis-a-vis the US dollar prevailing at that time in the determination of the peso equivalent of the procurement cost of the reparations goods expressed in US dollars." Whatever amount had been previously paid by appellant Associated Development Corporation should be credited to its account. The decision is immediately executory. The case is remanded to the lower court for its implementation. It is so ordered. No costs.

Barredo, Aquino, Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., J., on leave.

[1] The controlling statute is the Reparations Law, Republic Act No. 1789 (1957).

[2] Record on Appeal, 574.

[3] L-23859, 22 SCRA 717.

[4] Ibid, 725-726.

[5] Ibid, 727.

[6] Ibid.

[7] Ibid, 730.

[8] L-23859, 76 SCRA 18.

[9] Ibid, 31.

[10] Ibid, 35-36.

[11] Manifestation, 2-3.

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