

**SPS. MIGUELA LOMOTAN AND JOSE LOMOTAN,
PLAINTIFFS-APPELLEES, VS. ARTURO MIRANDA AND CARMEN
MIRANDA, DEFENDANTS-APPELLANTS.**

CV No. 88177, February 12, 2010

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/625fa099d5c0/>

Before Us is an appeal from the Decision[1] dated March 23, 2006 of the Regional Trial Court, Branch 83, Malolos, Bulacan in Civil Case No. 468-M-2003 which rescinded the Conditional Deed of Sale dated October 31, 2001 between plaintiff-appellees spouses Miguela and Jose Lomotan and defendants-appellants spouses Arturo and Carmen Miranda and consequently directed the former to return the partial payments made thereon and the latter in turn to vacate the subject property, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered:

1. Ordering the public document executed by plaintiffs and defendants entitled "Conditional Deed of Sale" rescinded;
2. Ordering plaintiffs to return the payments made by defendants in the amount of P105,000.00;
3. Ordering the defendants to vacate the premises and to surrender the peaceful possession thereof to plaintiffs and;
4. Ordering the defendants to pay plaintiff the amount of P30,000.00 as nominal damages; and,
5. Ordering the defendants to pay P2,500.00 as monthly rental from the time plaintiff filed the instant case on July 1, 2003 until they vacate the same with legal interest;

No pronouncement as to attorneys fees and cost of suit.

SO ORDERED.[2]

THE FACTS

Plaintiffs-appellees spouses Miguela and Jose Lomotan are the registered owners of a parcel of land with an area of 230 square meters identified as Lot 230-E, situated at San Vincete, San Miguel, Bulacan and covered by Transfer Certificate of Title No. RT-7947 (T-165171)[3] of the Registry of Deeds of Bulacan. On the other hand, defendants-appellants spouses Arturo and Carmen Miranda are in actual possession of the subject land by tolerance for a period of twenty (20) years.

Sometime in 2001, appellees agreed to sell the property to appellants for a consideration of P345,000.00 which shall be paid by giving a down payment of P75,000.00 while the balance of P270,000.00 shall be payable on or before September 30, 2001. On July 16, 2001, appellants paid the initial down payment of P75,000.00.[4] The corresponding Conditional Deed of Sale[5] was, however, executed and notarized only on October 31, 2001. The contract reflected the parties' prior agreement as to the terms of payment and further stipulated that appellees shall execute the corresponding deed of absolute sale over the subject property upon fully payment of the total purchase price. In case of any violation by appellants of the terms and conditions thereof, the contract shall be deemed

rescinded. The pertinent portions of the Conditional Deed of Sale are quoted:

- That for and in consideration of the sum of THREE HUNDRED FORTY FIVE THOUSAND PESOS (P345,000.00), the vendor hereby sells, transfers and conveys unto the VENDEE, his heir and assigns, the above described property, in installment basis, under the following terms and conditions:
- The sum of seventy five thousand pesos (75,000.00) shall be paid by vendee as initial downpayment and the balance of TWO HUNDRED SEVENTY THOUSAND PESOS (P27,000.00) shall be payable on or before SEPTEMBER 30, 2001;
- vendor shall execute, in favor of vendee, his heirs and assigns, the corresponding Absolute Deed of Sale only upon full payment of the purchase price as aforementioned agreed upon.
- That violation of any of the provisions of this Conditional Deed of Sale shall automatically cause the rescission and/or termination of this contract at the option of the vendor.[6]

Appellants defaulted in the payment of the balance. Appellees sent a written demand letter[7] dated August 29, 2002 requiring appellants to pay the outstanding balance of P270,000.00; otherwise, the contract shall be deemed rescinded and appellants must vacate the subject property. Another demand letter[8] dated February 7, 2003 was sent to appellants but the same remained unheeded.

On July 1, 2003, a Complaint[9] for Rescission of Contract, Recovery of Possession and Damages was filed by appellees against appellants before the Regional Trial Court of Malolos, Bulacan alleging that appellants failed and repeatedly refuse to comply with their obligations under the contract, specifically their obligation to pay the remaining balance of P270,000.00. appellees gave appellants an opportunity to settle their outstanding balance but the latter merely informed them that they could no longer comply with their obligation. Appellants even offered to sell the property to interested buyers. Appellees thus prayed for the rescission of the Conditional Deed of Sale dated October 31, 2001, forfeiture of the P75,000.00 down payment, reconveyance of the property, payment of reasonable rentals for the use thereof and attorney's fees.

In a Joint Answer[10] dated August 25, 2003, appellants averred that their outstanding balance amounts to only P240,000.00 and not P270,000.00. Aside from the P75,000.00 down payment, appellants also made succeeding payments on June 19, 2002 in the amount of P10,000.00 and on October 5, 2002 in the amount of P20,000.00. Since appellees accepted the payments made by appellants after a demand was made upon them, the Conditional Deed of Sale should then be considered novated. As such a new contract of sale should be executed executed between the parties fixing the amount and period of payment of the unpaid balance. Further, appellants suggested that they be allowed to pay the outstanding obligation by making monthly payments of P5,000.00 until the consideration is fully satisfied.

After due trial, the court a quo rendered the assailed Decision[11] dated March 23, 2006 rescinding the Conditional Deed of Sale dated October 31, 2001. It was ratiocinated that appellants' failure to pay the balance of the purchase price constituted a substantial breach of the contract to sell. Appellants were in fact given a ample time by appellees to comply with their obligation. However, appellants still failed to pay the remaining balance. As such, appellees rightfully exercised their right to rescind the contract under Article 1191 of the New Civil Code. Further, the acceptance by appellees of the subsequent payments made by appellants after the demand could not be deemed a novation of the previous contract. The elements of novation were clearly lacking in this case. Consequently, appellants must vacate the subject property and surrender possession thereof to appellees, pay P2,500.00 plus legal interest as monthly rental for the occupation thereof from the filing of the instant case until appellants vacate the same and pay appellees the amount of P30,000.00 as nominal damages. Appellees were

likewise ordered to return to appellants the amount of P105,000.00 representing the latter's partial payments under the contract. The pertinent portions of the Decision read:

In the case at bar, the agreement was clearly a contract to sell, where ownership of the property remains with the vendor and does not pass to the vendee until full payment of the purchase price. When the defendants failed to comply with what is incumbent upon them, i.e. pay the balance on the stipulated date, the obligation of plaintiffs to sell the subject property was prevented from taking place.

Under Article 1191 of the New Civil Code, the power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him. ***

Rescission may be had only for such breaches that are substantial and fundamental as to defeat the object of the parties in making the agreement. ***

Defendants' failure to pay the remaining balance of P270,000.00 is considered to be substantial. Even assuming arguendo that payment of P30,000.00 was made by defendants on two separate occasions, the amount of P240,000.00 is still substantial. Taken together with the fact that the last payment made was on October 5, 2002, and the letter addressed to the plaintiffs by the defendants suggesting that they sell the property to another, the intention of defendants to renege on their obligation is utterly clear.

*** They were given ample time to do what was required of them i.e. to pay the P240,000.00 balance but still they failed to comply.

Anent the issue whether or not the acceptance by the plaintiffs of defendants' late payment after the lapse of the stipulated period is tantamount to condonation or novation of the contract, this court rules in the negative.

The elements of novation are clearly lacking in the instant case. Obviously, there is no mutual consent to replace the old contract with a new obligation. The conflicting intention and acts of the parties emphasize the absence of any express disclosure or circumstances with which to deduce a clear and unequivocal intent by the parties to novate the old agreement. Further, a contract cannot be novated by the will of only one party.***

The receipt of plaintiffs of the aggregate amount of P30,000.00 from the defendants after demand has been made upon them cannot be construed as a waiver on the part of plaintiffs to demand the rescission of the subject Conditional Deed of Sale. *** Hence, the contention of the defendants that the acceptance by the plaintiffs of their late payments is tantamount to a novation or condonation i[s] untenable

Thus, for failure of defendants to comply with the obligation set forth under the terms and conditions of the subject instrument entitled "Conditional Deed of Sale", the same may be rescinded and the plaintiffs are entitled to be restored to the possession of the thing sold.

Hence, as a consequence of the rescission or, more accurately, resolution of the Conditional Deed of Sale, it is the duty of the court to require the parties to surrender whatever they may have received from the other. *** The plaintiffs should therefore refund to the defendants the total amount of P105,000.00 while defendants should surrender the peaceful possession of the subject property of the plaintiffs.

As to the prayer of plaintiffs for the forfeiture of the P75,000.00 down payment made by defendants, the same cannot be given due course considering that no stipulation was made in the subject agreement as to liquidated damages in case of breach thereof. However, considering that the defendants have been in actual possession of the subject property to the exclusion of the plaintiffs for a considerable length of time, this Court believes that

payment of rental in the amount of P2,500.00 per month with legal interest for the use of the same is proper to be reckoned from the date of filing of the instant case until the defendants shall have surrendered the peaceful possession thereof to the plaintiffs.

Anent the issue of damages, par. 2 of Art.1191 of the New Civil Code provides that "the injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case ***". Otherwise stated, while plaintiffs are indeed obliged to return the said amount to defendants, defendants are at the same time liable to plaintiffs for damages for their breach of their contract.

Under the fact and circumstances of the instant case, this Court opines that the award of P30,000.00 is nominal damages is appropriate.

Hence, this appeal in which appellants raised the Assignment of Errors as follows:[12]

I.

THE COURT A QUO ERRED WHEN IT ORDERED THE CONDITIONAL DEED OF SALE RESCINDED.

II.

THE COURT A QUO ERRED IN NOT ORDERING THE REFORMATION OF THE CONDITIONAL DEED OF SALE.

III.

THE COURT A QUO ERRED WHEN IT ORDERED THE EJECTMENT OF APPELLANTS AND ORDERED THE PAYMENT OF RENTALS.

IV.

THE COURT A QUO ERRED IN NOT HOLDING THAT APPELLANTS ARE BUILDERS IN GOOD FAITH.

THE ISSUE

The pivotal issue that needs to be resolved in this appeal is whether or not the court a quo erred in ruling that appellees are entitled to rescind the Conditional Deed of Sale dated October 31, 2001.

THE RULING

The appeal must fail.

Stripped of the non-essentials, appellants primarily argue that rescission of the contract was not proper since ownership over the subject property has already been transferred to them. The only remedy left for appellees was to collect the balance of the purchase price. The court a quo thus erred in directing the appellants to vacate the lot in dispute and pay the monthly rental to appellees. Further, the court a quo should have ordered the reformation of the Conditional Deed of Sale dated October 31, 2001 and not the rescission thereof.

We do not agree.

In *Cordero, et al. vs F.S. Management & Development Corp.*[13], the Supreme Court held that the nature as well as the characteristics of a contract to sell is determinative of the propriety of the remedy of rescission and the award of damages. Under a contract to sell, the seller retains title to the thing to be sold until the purchaser fully

pays the agreed purchase price.[14] The full payment is a positive suspensive condition, the non fulfillment of which is not a breach of contract but merely an event that prevents the seller from conveying title to the purchaser. The nonpayment of the purchase price renders the contract to sell ineffective and without force and effect.[15] Thus, for its not-fulfillment there will be no contract to speak of, the obligor having failed to perform the suspensive condition which enforces a juridical relation.[16] In fact with this circumstance, there can be no rescission of an obligation that is still nonexistent, the suspensive condition not having occurred as yet. Emphasis should be made that the breach contemplated in Article 1191 of New Civil Code is the obligor's failure to comply with an obligation already extant, not a failure of a condition to render binding that obligation.[17]

A perusal of the records shows that the parties indeed executed a contract to sell and not a contract of sale. The contract explicitly provides that appellees intended to reserve ownership of the property until appellants shall have paid in full the purchase price. There is no dispute that appellant did not pay the balance of the purchase price. As such, the non-fulfillment by appellants of their obligation to pay the balance of the purchase price, which is a suspensive condition for the obligation of appellees to sell and deliver the title to the property, rendered the Conditional Deed of Sale dated October 31, 2001 ineffective and without force and effect. The parties stand as if the conditional obligation has never existed.[18]

Pursuant to existing jurisprudence, appellees' remedy then was cancel the contract to sell and not to rescind the same.[19] In the recent case of Valenzuela, et al. vs. Kalayaan Development and Industrial Corp.[20], the Supreme Court held that rescission under Article 1191[21] of the New Civil Code finds no application in case of failure of the buyer to fully pay the purchase price in a contract to sell. Citing Rayos vs. Court of Appeals[22], the Supreme Court elucidated that Article 1191 will not apply because it presupposes an obligation already extant. There can be no rescission of an obligation that is still non-existing, the suspensive condition not having happened. In the said case, the Supreme Court modified the RTC's judgment insofar as it rescinded the contract to sell between the parties therein and in lieu thereof, ruled that the contract was deemed cancelled and thereby directed the seller to refund the payments made by the buyer under the contract. We quote:

Since the obligation of respondent did not arise because of the failure of petitioners to fully pay the purchase price, Article 1191 of the Civil Code would have no application.

Rayos v. Court of Appeals elucidates:

Construing the contracts together, it is evident that the parties executed a contract to sell and not a contract of sale. The petitioners retained ownership without further remedies by the respondents until the payment of the purchase price of the property in full. Such payment is a positive suspensive condition, failure of which is not really a breach, serious or otherwise, but an event that prevents the obligation of the petitioners to convey title from arising, in accordance with Article 1184 of the Civil Code ***

The non-fulfillment by the respondent of his obligation to pay, which is a suspensive condition to the obligation of the petitioners to sell and deliver the title to the property, rendered the contract to sell ineffective and without force and effect. The parties stand as if the conditional obligation had never existed. Article 1191 of the New Civil Code will not apply because it presupposes an obligation already extant. There can be no rescission of an obligation that is still non-existing, the suspensive condition not having happened.

The parties' contract to sell explicitly provides that Kalayaan "shall execute and deliver the corresponding deed of absolute sale over" the subject property to the petitioners "upon full payment of the total purchase price". Since petitioners failed to fully pay the purchase price for the entire property, Kalayaan's obligation to convey title to the property did not arise. Thus, Kalayaan may validly cancel the contract to sell its land to petitioner, not because it had the power to rescind the contract, but because their obligation thereunder did not arise.

WHEREFORE, premises considered, the Decision of the Regional Trial Court in Civil Case No. C-18378, dated August 2, 2000 is hereby MODIFIED to the extent that the contract between the parties is cancelled and the attorney's fees is reduced to P50,000.00. Respondent is further ordered to refund the amount paid by the petitioners after deducting the penalty interest due. In all other aspects, the Decision stands.

Subject to the above disquisitions, the Decision dated January 23, 2004 and the Resolution dated April 20, 2004, of the Court of Appeals in CA-G.R. CV No. 69814, are AFFIRMED.

SO ORDERED.

(Emphasis provided by us.)

While rescission does not apply in this case, appellees may nevertheless cancel the contract to sell, their obligation to convey ownership over the subject property not having arisen.[23] Consequently, appellants are entitled to a refund of the P105,000.00 down payment made to appellees based on the principle that one may not unjustly enrich himself at the expense of the other.

Appellants' claim that the court a quo erred in awarding the P2,500.00 monthly rentals in favor of appellees likewise deserves scant consideration. It must be noted that appellants have been in actual possession of the subject property by tolerance for a period of more than twenty (20) years now. Hence, the court a quo correctly awarded the monthly rental of P2,500.00 from the time the complaint was filed until appellants vacate the subject land which amount is considered reasonable under the circumstances of this case.

As to the award of nominal damages of P30,000.00, this Court finds that the same is not warranted. Nominal damages are given in order that a right of the plaintiff, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered by him.[24] Such is not the case here. The non-payment by appellants of the balance of the purchase price is not considered a breach as would be tantamount of a violation of appellees' right. In *Cordero, et al. vs. F.S. Management & Development, Corp.*[25] the Supreme Court held that it is not proper to award damages in case of failure on the part of the buyer to make full payment of the purchase price in a contract to sell since it is not really breach, serious or otherwise, but an event that prevents the obligation of the seller to convey title to the property from arising.

WHEREFORE, in light of all the foregoing, the instant appeal is hereby DENIED. The assailed Decision dated March 23, 2006 is AFFIRMED with modification in that the Conditional Deed of Sale dated October 31, 2001 is declared CANCELLED while the award of P30,000.00 as nominal damages is DELETED.

SO ORDERED.

Asuncion-Vicente and Zalameda, JJ., concur.

[1] Decision penned by Judge Guillermo P. Agloro, Rollo, pp. 69-76

[2] Rollo, p. 76.

[3] Records, Annex "A" to the Complaint, p. 5.

[4] TSN, December 2, 2003, p. 10.

[5] Records, Annex "B" to the Complaint, pp. 6-8.

[6] Records, pp. 6-7.

[7] Records, Annex "D" to the Complaint, p. 10

[8] Records, Annex "E" to the Complaint, p. 11

[9] Records, pp. 1-4

[10] Records, pp. 17-18.

[11] Supra, see note 1.

[12] Rollo, p. 59.

[13] G.R. No. 167213, October 31, 2006.

[14] Cordero, et al. vs. F.S. Management & Development Corp., G.R. No. 167213, October 31, 2006.

[15] Ibid.

[16] Cheng vs. Genato, et al., G.R. No. 129760, December 29, 1998.

[17] Cheng vs. Genato, et al, G.R. No. 129760, December 29, 1998.

[18] Valenzuela, et al. vs. Kalayaan Development and Industrial Corp., G.R. No. 163244, June 22, 2009.

[19] Valenzuela, et al. vs. Kalayaan Development and Industrial Corp., G.R. No. 163244, June 22, 2009; Cordero, et al. vs. F.S. Management & Development Corp., G.R. No. 167213, October 31, 2006.

[20] G.R. No. 163244, June 22, 2009.

[21] Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case of the obligors should not comply with what is incumbent upon him

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

[22] G.R. No. 135528, July 14, 2004.

[23] Cordero, et al. vs. F.S. Management & Development Corp., G.R. No. 167213, October 31 2006.

[24] Twin Ace Holdings, Corp. vs. Rufina and Company, G.R. No. 160191, June 8, 2006.

[25] G.R. No. 167213, October 31, 2006.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.