

ASSOCIATED MARINE OFFICERS & SEAMEN'S UNION OF THE PHILIPPINES, PETITIONER, VS. SPOUSES JOSELITO AND NIEVA YAP, RESPONDENTS.

Ponente: CRUZ, R.A. J.

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CRUZ, R.A. J.:

This is a Petition for Review under Rule 42 of the Rules of Court assailing the Decision dated March 24, 2011[1] in Civil Case No. 558-09 for Unlawful Detainer rendered in the exercise of the appellate jurisdiction of the Regional Trial Court (“RTC”) of Imus, Cavite, Branch 20 and the Order dated August 5, 2011[2] denying reconsideration thereof. The said decision reversed and set aside the Decision dated August 16, 2009 of the Municipal Trial Court (“MTC”) of Dasmarinas, Cavite ordering respondents to vacate and surrender possession of the subject property and pay the petitioner outstanding obligations and attorney's fees.

THE ANTECEDENTS

Petitioner Associated Marine Officers and Seamen's Union of the Philippines (“AMOSUP”) is a legitimate labor union duly registered with the Bureau of Labor Relations now Department of Labor and Employment (“DOLE”) with principal office at Seamen's Center, Cabildo cor. Sta Potenciana Sts., Intramuros, Manila.

Respondent Joselito Yap is a seafarer and member of AMOSUP. Nieva Yap is his spouse.

One of AMOSUP's projects is the Shelter Program - a socialized housing project intended to ameliorate the plight of AMOSUP members who do not have houses of their own. AMOSUP purchased a parcel of land in Dasmarinas, Cavite using union dues contributed by all its members. AMOSUP then built houses and amenities within the property and called it the Seamen's Village. Members who qualify under said program need not make any downpayment, interest or special assessment for the house and lot awarded to them. The awardee is required only to reimburse the actual cost of the house and lot to AMOSUP.

Spouses Joselito and Nieva Yap applied and qualified for the Shelter Program. On July 19, 1995, AMOSUP and Spouses Joselito and Nieva Yap executed the Shelter Contract Award No. 126[3] which contains the following provisions:

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“1. Property

The property subject of this Contract Award is the packaged House and Lot described as:

Lot No. : 10

Block No. : 7

House Model No. and Name : 6 DIS

Street :

Barangay : Piela

Municipality of Dasmarinas

Province of Cavite

2. Amount For Reimbursement

The amount of the above-described house and lot for reimbursement US\$29,005.

3. Period of Reimbursement

The Awardee shall reimburse the above-mentioned amount to the union within fifteen (15) years unless this Award is revoked or canceled sooner for any reason stated hereunder or under the law.

4. Deposit and Manner of Reimbursement

The Awardee shall deposit US\$2,000 upon signing this Contract to be credited for the corresponding last reimbursement provided that in case of the Awardee's failure to comply with any reimbursement, the Union shall have the right and discretion to apply the said deposit in proportion to the unremitted accounts.

The periodic reimbursement shall be remitted directly to the UNION or its authorized representative in US Dollar (US\$) in 180 equal monthly periodic reimbursements of US\$161 or in equivalent Philippine Currency at the time the same falls due without need of demand."

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The right to possess the house and lot located at Lot 10, Block 7, Brgy. Piela, Seamen's Village, Dasmarinas, Cavite was thereafter awarded to Spouses Joselito and Nieva Yap. Spouses Joselito and Nieva Yap took possession of the subject property and made periodic monthly reimbursements. After December 2003 however, they refused and continue to refuse to make monthly reimbursement for the subject property. AMOSUP sent several demand letters[4] to Spouses Joselito and Nieva Yap, namely: (1) Demand Letter dated April 5, 2005 for the payment of outstanding obligations in the amount of US\$ 2,830.00 within 5 days from receipt of the letter; (2) Notice to Vacate dated April 29, 2005 within 15 days from receipt of the letter; (3) Final Notice to Vacate dated May 8, 2006 within 15 days from receipt of the letter and notice of rescission of the Contract Award as a result of Spouses Joselito and Nieva Yap's continued violation of the provisions of the contract.

AMOSUP canceled the Shelter Contract Award No. 126 pursuant to Section 5 thereof which provides,

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"5. Time of Reimbursement

The monthly reimbursement shall be made within the first ten (10) days of the month.

If the AWARDEE fails to remit one (1) monthly reimbursement the same shall be considered as a violation of the terms and conditions of this Award which can be a ground for revocation or cancellation hereof."

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The reimbursements made by the respondents were also forfeited and treated as rental payments pursuant to Section 9v of the Shelter Contract Award No. 126 by the petitioner.

On December 22, 2006, petitioner filed a Complaint[6] for Unlawful Detainer against the respondents before the MTC of Dasmarinas, Cavite docketed as Civil Case No. 3017. Petitioners claim that respondents breached the provisions of the Shelter Contract Award when they failed to pay the monthly reimbursement to AMOSUP. The resultant breach led to the cancellation of the contract pursuant to Section 9 thereof. The right to possess the subject property by the respondents was consequently terminated and it reverted back to AMOSUP as the registered owner of the subject property. Notwithstanding the termination of their right to possess the property and despite repeated demands to vacate the property, respondents unlawfully withheld possession thereof from AMOSUP. The cancellation of the Shelter Contract Award resulted in the forfeiture of reimbursements already made by the respondents. The reimbursements were treated as rental payments while the unpaid monthly reimbursements in arrears are to be treated as unpaid rental payments. They also claim: (1) outstanding village dues in the amount of P465.00 per month from the time of the filing of the complaint until the respondents have actually vacated the subject property and; (2) attorney's fees in the amount of P30,000.00.

On August 16, 2009, the MTC rendered a decision in favor of AMOSUP ordering respondents to: (1) vacate and surrender possession of the subject property to the petitioner and; (2) pay the outstanding obligations and attorney's fees owing to the petitioner. The MTC ruled that it has jurisdiction over the case. The complaint sufficiently made out a case for unlawful detainer when it alleged that: (1) Petitioner is the registered owner of the house and lot covered by Transfer Certificate of Title No. T-462526 of the Registry of Deeds for Cavite; (2) Petitioner allowed respondents to possess the subject property by virtue of Shelter Contract Award No. 126; (3) Petitioner rescinded the agreement when respondents failed to pay the monthly reimbursements under the contract; (4) Despite repeated demands to vacate the subject property, respondents refused and continue to refuse to vacate the subject property. The MTC emphasized and in fact admitted by the respondents that they failed to comply with their obligations under the Shelter Contract Award. The MTC held that Rule 70 of the Rules of Court does not limit unlawful detainer cases to a lessor-lessee relationship but includes persons against whom the possession of land or building is unlawfully withheld after the termination of the right to hold possession by virtue of any contract. The MTC faulted respondents' inaction for a considerable period of time to claim the cash surrender value. It also refused to rule on issues involving ownership of the subject property and nature of contract involved as it is not the proper forum to resolve these issues. It held that the violation of the Shelter Contract Award is a valid ground for ejectment under Section 1, Rule 70 of the Rules of Court. It also held that as the registered owner of the subject property, petitioner has the right to be respected in its possession and in light of the derogation of such right committed by the respondents, the former must be protected and restored to its peaceful possession. Without the Shelter Contract Award, respondents have no legal basis to retain possession of the subject property.

On appeal, the RTC reversed this decision and ordered: (1) Spouses Joselito and Nieva Yap to pay AMOSUP P187,613.74, Philippine Currency representing the balance of the purchase price plus interest; (2) AMOSUP to execute a deed of absolute sale of the subject property and deliver the certificate of title after payment by the respondents; (3) Spouses Joselito and Nieva Yap to vacate the subject property without need of demand in case of failure to pay as provided above. The RTC deleted the award of attorney's fees and costs of suit. The RTC applied The Act to Provide Protection to Buyers of Real Estate on Installment Payments or Republic Act No. 6552 ("RA 6552") because the Shelter Contract Award is a contract to sell real property on installment basis. The RTC noted that while there was default in the payment of installment on the part of the respondents, there was no notice of cancellation or demand for rescission by notarial act. Hence, Spouses Joselito and Nieva Yap have not lost the statutory grace period within which to pay. Based on the records, respondents are entitled to a grace period of 10 months pursuant to Section 3 of RA 6552.

Petitioner filed a Motion for Reconsideration on April 26, 2011[7] which was subsequently denied in an Order

dated August 5, 2011[8], hence this petition.

THE ASSIGNED ERRORS

In assailing the decision and order rendered against them, Petitioner AMOSUP poses the queries,

I.

WHETHER OR NOT THE RTC ERRED IN APPLYING RA 6552 TO THE PRESENT CASE;

II.

ASSUMING ARGUENDO THAT RA 6552 IS APPLICABLE, WHETHER OR NOT THE RTC ERRED IN FINDING THAT RESPONDENTS ALREADY PAID REIMBURSEMENTS FOR A PERIOD OF 10 YEARS AND THAT THE BALANCE OF THE PURCHASE PRICE IS P187,613.74, PHILIPPINE CURRENCY.

Petitioner asseverates that two tribunals already ruled that the Shelter Contract Award is not a contract of sale: (1) HLURB Case No. RIV6-090902-1842 entitled Seamen's Village Brotherhood Homeowners Association, Inc. vs. AMOSUP[9] and (2) RTC Civil Case No. 308-03 entitled AMOSUP vs. Bayani Mota[10]. Petitioner avers that RA 6552 is not applicable to this case because it is not engaged in the business of selling real estate nor does the Shelter Contract Award involve a sale of real property in installment. Hence, a simple notice is sufficient to terminate the contract between the parties. The Shelter Contract Award itself allows the termination of the contract in case of failure by the respondents to remit reimbursements for 3 consecutive months.

Petitioner stresses that the Shelter Contract Award is not an ordinary contract. It is a contract of award implementing the rules of the AMOSUP Shelter Program. When the petitioner exercised its right to pre-terminate the Shelter Contract Award, the respondents lost any and all rights to possess the subject property. By valid contractual stipulations, the reimbursements already made are converted to lease payments for the use of the subject property.

Assuming arguendo that RA 6552 is applicable to this case, respondents are only entitled to 8 months grace period since they only paid from the time of the execution of the contract on July 1995 up to December 2003. The records also bear that respondents only remitted US\$16,812.00 leaving a balance of US\$12,193.00 from the total purchase price of US\$29,005.00. Petitioner argues that the interest due should be reckoned from the time of default or April 2005 - the time the first demand letter was served upon the respondents. Petitioner contends that it is entitled to attorney's fees under paragraphs 5[11] and 11[12] of Article 2208 of the Civil Code.

In their Comment[13], respondents argue that the MTC has no jurisdiction over the case because it does not involve a lessor-lessee relationship. Respondents posit that there was no demand to pay and vacate as contemplated under Section 2 of Rule 70 of the Rules of Court. Both demands to pay and vacate are necessary to make a lessee a deforciant in order that an ejectment suit may be filed.

Respondents further argue that the complaint is seriously tainted with prematurity or lack of cause of action. Respondents stress that the Shelter Contract Award is a contract to sell real property in installment. Hence, RA 6552 is applicable to the case. Section 3 of RA 6552 provides the mandatory requisites before a contract of sale/to sell on installment can be terminated and before a buyer can be ejected, that is: (1) the seller shall refund to the buyer the cash surrender value of the payments on the property; (2) the actual cancellation of the contract shall take place after 30 days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by notarial act. Petitioner failed to comply with these requisites. There being no valid cancellation of the

Shelter Contract Award, respondents still have a right to continue occupying the subject property. Respondents contend that the suit is essentially one for rescission. As such the complaint is cognizable not by the MTC but by the RTC. Until properly rescinded, the action for ejectment filed by the petitioner is premature.

They also claim that they stopped payment of their monthly reimbursements because the contract contains provisions which are void and contrary to law, to wit: (1) it is contrary to the provisions of RA 6552; (2) the monthly reimbursements are to be paid in US dollars; (3) the contract unduly restricts the awardee's ownership rights over the subject property; (4) the houses were built using substandard materials in breach of the seller's implied warranty; (5) the property was developed without land conversion authority from the Department of Agrarian Reform; (6) Exorbitant amount of penalties in case of delay in the payment of utilities. Respondents claim that they are entitled to 10 months grace period because they paid US\$2,000.00 deposit/downpayment which under Section 3 of RA 6552, should be included in the computation of the grace period. Respondents aver that their balance is P187,613.74, Philippine Currency as evident from the letter dated March 24, 2004 sent by petitioner's counsel of record to the respondents.

OUR RULING

The petition will fall.

A contract is what the law defines it to be taking into consideration its essential elements, and not what the contracting parties call it.[14] We find the Shelter Contract Award as a contract to sell. This reasoning falls in the explanation of the Heirs of Paulino Atienza, et., al. vs. Domingo Espidol[15], thus:

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"In a contract of sale, the title to the property passes to the buyer upon the delivery of the thing sold. In a contract to sell, on the other hand, the ownership is, by agreement, retained by the seller and is not to pass to the vendee until full payment of the purchase price. In the contract of sale, the buyer's non-payment of the price is a negative resolutive condition; in the contract to sell, the buyer's full payment of the price is a positive suspensive condition to the coming into effect of the agreement. In the first case, the seller has lost and cannot recover the ownership of the property unless he takes action to set aside the contract of sale. In the second case, the title simply remains in the seller if the buyer does not comply with the condition precedent of making payment at the time specified in the contract."

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Here, it is quite evident that the Shelter Contract Award No. 126 was one of a contract to sell since AMOSUP, as seller, was to retain title of ownership to the land until respondents, the buyers, have fully paid the agreed consideration as expressly stipulated under Section 17[16] of the Shelter Contract Award No. 126. The parties herein entered into a contract to sell in the guise of a reimbursement scheme requiring respondents to make monthly reimbursement payments which are, in reality, installment payments for the value of the subject house and lot. Consequently, Realty Installment Buyer Protection Act or Republic Act No. 6652 ("RA 6652") is applicable to this case.

This means that the cancellation of the contract to sell by the seller must be in accordance with Sec. 3(b)[17] of R.A. No. 6552, which requires a notarial act of rescission and the refund to the buyer of the cash surrender value of the payments on the property. In the present case, as aptly pointed out by the respondents, petitioner failed to prove that the Shelter Contract Award No 126 had been canceled in accordance with R.A. No. 6552, which would have been the basis for the illegality of respondents' possession of the subject premises. Hence, the action for ejectment must necessarily fail.

In Manuel Pagtalunan vs. Rufina De La Cruz Vda. de Manzano[18], it was held that :

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“Second, petitioner also failed to cancel the Contract to Sell in accordance with law.

Petitioner contends that he has complied with the requirements of cancellation under Sec. 3 (b) of R.A. No. 6552. He asserts that his demand letter dated February 24, 1997 should be considered as the notice of cancellation or demand for rescission by notarial act and that the cash surrender value of the payments on the property has been applied to rentals for the use of the house and lot after respondent stopped payment after January 1980.

The Court, however, finds that the letter dated February 24, 1997, which was written by petitioner’s counsel, merely made formal demand upon respondent to vacate the premises in question within five days from receipt thereof since she had “long ceased to have any right to possess the premises x x x due to [her] failure to pay without justifiable cause the installment payments x x x.”

Clearly, the demand letter is not the same as the notice of cancellation or demand for rescission by a notarial act required by R.A. No. 6552. Petitioner cannot rely on Layug v. Intermediate Appellate Court¹² to support his contention that the demand letter was sufficient compliance. Layug held that “the additional formality of a demand on [the seller’s] part for rescission by notarial act would appear, in the premises, to be merely circuitous and consequently superfluous” since the seller therein filed an action for annulment of contract, which is a kindred concept of rescission by notarial act. Evidently, the case of unlawful detainer filed by petitioner does not exempt him from complying with the said requirement.

In addition, Sec. 3 (b) of R.A. No. 6552 requires refund of the cash surrender value of the payments on the property to the buyer before cancellation of the contract. The provision does not provide a different requirement for contracts to sell which allow possession of the property by the buyer upon execution of the contract like the instant case. Hence, petitioner cannot insist on compliance with the requirement by assuming that the cash surrender value payable to the buyer had been applied to rentals of the property after respondent failed to pay the installments due.

There being no valid cancellation of the Contract to Sell, the CA correctly recognized respondent’s right to continue occupying the property subject of the Contract to Sell and affirmed the dismissal of the unlawful detainer case by the RTC.” (Emphasis supplied)

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The same was the ruling of the court in AMOSUP vs. Noriel Decena[19], which involves similar facts to this case, to wit:

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“R.A. No. 6552, otherwise known as the Realty Installment Buyer Protection Act, recognizes in conditional sales of all kinds of real estate (industrial, commercial, residential) the right of the seller to cancel the contract upon non-payment of an installment by the buyer, which is simply an event that prevents the obligation of the vendor to convey title from acquiring binding force.” While we agreed that the cancellation of a contract to sell may be done outside of court, however, “the cancellation by the seller must be in accordance with Sec. 3(b) of R.A. No. 6552, which requires a notarial act of rescission and the refund to the buyer of the full payment of the cash surrender value of the payments on the property.” In the present case, as aptly pointed out by the appellate court, petitioner failed to prove that the Shelter Contract Award had been cancelled in accordance with R.A. No. 6552, which would have been the basis for the illegality of respondent’s possession of the subject premises. Hence, the action for ejectment must necessarily fail.”

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We note that this case has been pending for four years now. Both parties prayed for other reliefs that are just and equitable under the premises. Hence, the rights of the parties over the subject property shall be resolved to finally dispose of the issues in this case.

For respondents' delay in the payment of the installments, the Court, in its discretion, and applying Article 2209 of the Civil Code, may award interest at the rate of 6% per annum on the unpaid balance considering that there is no stipulation in the Shelter Contract Award No. 126 for such interest. For purposes of computing the legal interest, the reckoning period should be the filing of the complaint for unlawful detainer on December 22, 2006.

Based on the records^[20] and the findings of the MTC respondents paid a total of US\$23,692 out of the total purchase price of US\$29,005.00. Hence, respondents still have a balance of US\$5,313.00 or its equivalent in Philippine Currency plus legal interest at the rate of 6% per annum on the unpaid balance starting December 22, 2006.

WHEREFORE, the Petition for Review is DISMISSED. The Decision dated March 24, 2011 and Order dated August 5, 2011 of the Regional Trial Court of Imus, Cavite, Branch 20 are AFFIRMED with the following MODIFICATIONS:

- 1) The complaint for unlawful detainer is dismissed for lack of merit.
- 2) Respondents Spouses Joselito and Nieva Yap shall pay petitioner AMOSUP the balance of the purchase price in the amount of US\$5,313.00 or its equivalent in Philippine Currency plus legal interest at the rate of 6% per annum from December 22, 2006 up to the finality of this judgment, and thereafter, at the rate of 6%^{xxi} per annum;
- 3) Upon payment, petitioner AMOSUP shall execute a Deed of Absolute Sale of the subject property and deliver the certificate of title in favor of Respondents Spouses Joselito and Nieva Yap; and
- 4) In case of failure to pay within the mandated 60-day period, respondents shall immediately vacate the premises without need of further demand. Petitioner, on the other hand, shall pay respondents the cash surrender value equivalent to 50% of the total reimbursement payments made and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made. The Shelter Contract Award shall then be deemed canceled thirty (30) days after receipt by respondents of the full payment of the cash surrender value. If respondents fail to vacate the premises, they shall be charged reasonable rental in the amount determined by the trial court.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Abdulwahid, H.S., Chairperson and Barza, R.F., JJ., concur.

[1] Rollo, pp.38-40.

[2] Rollo, p. 41.

[3] Rollo, pp. 329-335.

[4] See Rollo, pp. 44, 55, 84-85, 114,. However the original demand letters were not attached to the records before this court.

[5] “9. Periodic Partial Reimbursement As Rental.

In the event that this contract is revoked or cancelled or rescinded for non-remittance of reimbursement or violation or non-compliance with any of its terms and conditions by the AWARDEE or for any reason allowed by law or by this Award or the AWARDEE voluntarily surrenders the Contract Award to the UNION, all partial reimbursements will be forfeited in favor of the UNION and will be treated as rental payments for his/her occupancy of the House and Lot subject hereof.”

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[6] Rollo, pp. 53-60.

[7] Rollo, pp. 129-140.

[8] Rollo, p. 41.

[9] Note: There was neither a date cited nor a copy of the citation attached to the records.

[10] Note: There was neither a date cited nor a copy of the citation attached to the records.

[11] (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;

[12] (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

[13] Rollo, pp. 298-324.

[14] Spouses Fortunato Santos vs. Court of Appeals, et., al., G.R. No. 120820, August 1, 2000.

[15] G.R. No. 180665, August 11, 2010.

[16] “17. Deed of Absolute Sale and Title

Upon completion of payment of the amount of US\$29,005, representing the full value of the House and Lot subject of this Contract Award, the UNION shall execute a Deed of Absolute Transfer and shall cause the issuance of the corresponding Transfer Certificate of Title in favor of and in the name of the AWARDEE at the latter's account.”

[17] “(b) If the contract is canceled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made, and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made: Provided, That the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer.”

[18] G.R. No. 147695, September 13, 2007.

[19] G.R. No. 178584, October 8, 2012.

[20] See Complaint, petitioner admitted that the outstanding balance of respondents is US\$5313.00 as of August 10, 2006, Rollo, p. 349.

[21] Dario Nacar vs. Gallery Frames and/or Felipe Bordey, Jr., G.R. No. 189871, August 13, 2013.

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