

GILMAR PLACE, INC., PETITIONER, V. CATALINA COSME AND ALL PERSONS CLAIMING RIGHTS UNDER HER, RESPONDENTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

For disposition is a Petition for Review[1] filed under Rule 42 of the Rules of Court. The Petition assails the Decision[2] dated April 24, 2012 of the Regional Trial Court (“RTC” for brevity) of Caloocan City, Branch 122 in Civil Case No. C- 22912, which affirmed the Decision[3] dated June 30, 2011 of the Metropolitan Trial Court (“MeTC” for brevity) of Caloocan City, Branch 49 in Civil Case No. 10-29878 for “Unlawful Detainer”[4]. The Petition also questions the RTC's Resolution[5] dated October 28, 2012, which denied petitioner's eventual Motion for Reconsideration[6].

The salient facts are those as stated in the RTC's Decision[7] dated April 24, 2012, as follows:

“In support of it (sic) stand, appellant (petitioner here) narrated its case in this fashion:

'that its President, Gilbert G. Young is the registered owner of two parcels of land covered by Transfer Certificate of Title Nos. C-364207 (referred to as the 1st parcel of land) and 364211 (referred to as the 2nd parcel of land), both of the Registry of Deeds for Caloocan City, as well as the housing units built thereon. These two parcels of land are located within Gilmar Place Subdivision located at Deparo, Caloocan City. On June 22, 2005[,] (Emphasis was made in the original) Gilmar and Catalina (respondent here) executed a contract to sell over the first parcel of land with house model Erika worth P2,989,000.00 built thereon. As agreed, Catalina (respondent) will pay P896,700.00 as down payment. Balance is to be paid in ten (10) years with a monthly amortization of P41,831.70 at the interest of 21% per year. Later, Catalina (respondent) became interested with the second parcel of land, with the same model of house, but smaller in size by four meters. On March 3, 2008, she (respondent) withdrew her contract to sell and proceeded with the buying of the second parcel of land, with the same terms as the first contract. She (respondent) then occupied the house and lot found on the second parcel of land. She was able to pay 10 monthly amortizations, i.e. from July 2008 to April 2009. As of April 2009[,] Catalina (respondent) was able to pay ten (10) monthly amortizations on top of her down payment of P896,700.00. Since May 2009, she (respondent) failed to pay amortizations, thus prompting Gilmar to send a Notarial Cancellation of their Contract to Sell. As per computation, Catalina's (respondent's) total unpaid obligation is P1,787,950.00, inclusive of interests and penalties. Having failed to pay said amount, a demand to pay P35,000.00 per month as rental starting October 2009 was made until she (respondent) vacates the premises. The said demand remained unheeded, hence, the complaint. (Emphasis Supplied)

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Catalina (respondent) remained steadfast in saying that the decision should be upheld, therefore the case against her should be DISMISSED.

She (respondent) narrated her case as follows:

'She bought a house and lot from appellant (petitioner). The purchase price for said property is P2,989,000.00, payable in installment[s] and with a down payment of 30% of the price or in the amount of P896,700.00. The

down payment itself may be payable in installments while the balance of P2,092,300.00 is payable in 10 years at a monthly rate of P41,831.70 from June 22, 2008 (Emphasis Supplied) with an interest rate of 21% per annum. On June 25, 2004, appellee (respondent) paid appellant (petitioner) P50,000.00 as reservation fee for Lot 10, Block 5 located at the subdivision of appellant (petitioner). A contract to Sell over a house and lot (Lot 10, Block 5, of the subdivision of the appellant) (Emphasis was made in the original) was then entered. On May 23, 2008, she (respondent) completed the down payment (Emphasis Supplied) and was made to occupy Lot 16, Block 2 and not Lot 10, Block 5 (Emphasis was made in the original) the property supposedly bought by her. To be more specific, on October 15, 2008 she (respondent) was made to sign a Contract to Sell, and pursuant to the said Contract to Sell, she paid eleven (11) monthly instal[l]ments at P54,274.00 per month. To cover more installments, she (respondent) issued twelve (12) checks postdated January 30, 2010 to December 30, 2010, in the amount of P54,274.00 each. However, after the first check was encashed, she (respondent) stopped the payment of the rest of the checks because she (respondent) discovered that the house delivered to her is located at the back of a gasoline station which she (respondent) finds hazardous. After the 'stopped payment' order, she (respondent) received a Notarial Cancellation of the Contract to Sell she (respondent) executed with appellant (petitioner). Subsequently, she (respondent) received a demand letter from the appellant (petitioner). In answer, she (respondent) wrote back appellant invoking the provisions of the Maceda Law and consequently demanded the return of at least 1/2 of P1,126,888.00 or the total amount actually paid by her (respondent). Her (respondent's) demand for reimbursement was unheeded. Instead, she (respondent) was sued for ejectment.”[8] (Emphasis Supplied)

On June 30, 2011, the MeTC rendered a Decision[9], which, among others, dismissed petitioner Gilmar Place Inc.'s (“petitioner” for brevity) Complaint for[10] “Unlawful Detainer” against respondent Catalina Cosme (“respondent” for brevity). The dispositive portion of the MeTC's Decision read:

“WHEREFORE, premises considered, judgment is hereby rendered against the plaintiff and in favor of defendant Catalina Cosme. Accordingly, the instant complaint is hereby DISMISSED and the counter-claim of the defendant is hereby GRANTED. Thus, the plaintiff is hereby ORDERED TO PAY the defendant the amount of Twenty Thousand Pesos (Php20,000.00) as attorney's fees.

SO ORDERED.”[11]

Upon petitioner's Appeal, the RTC rendered the Decision[12] appealed from, which affirmed in toto the Decision of the MeTC dated June 30, 2011.

After petitioner's Motion for Reconsideration[13] was denied by the RTC in its assailed Resolution[14] dated October 28, 2012, petitioner filed the Petition at bench praying that:

“WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court, that the herein Petition For Review be given due course, and that judgment be rendered REVERSING and SETTING ASIDE the Decision of the Regional Trial Court, Branch 122, Caloocan City, and another one be issued GRANTING what are prayed for in the Complaint for Unlawful Detainer filed by petitioner against respondent Catalina Cosme and all persons claiming rights and title under her before [the] Metropolitan Trial Court of Metro-Manila, Branch 49, Caloocan City.

Petitioner prays for such other reliefs as this Honorable Court may deem just and equitable in the premises.”[15] (Emphasis was made in the original)

Petitioner raised this sole assigned ground:

“WITH DUE RESPECT, THE LOWER COURT COMMITTED A REVERSIBLE ERROR OF FACT OR LAW IN AFFIRMING THE DECISION OF THE METROPOLITAN TRIAL COURT THAT THE HEREIN RESPONDENT CANNOT BE EJECTED FROM THE HOUSE AND LOT 6, UNLESS SHE IS PAID THE CASH SURRENDER VALUE OF THE INSTALLMENT PAYMENTS SHE HAS MADE ON THE

DISPUTED PROPERTY BY APPLYING THE PROVISIONS OF R.A. 6552 OR THE MACEDA LAW.”[16]

Contrary to petitioner's arguments in its sole assigned ground, the RTC properly affirmed the findings of the MeTC.

Petitioner had argued as follows:

“The only question therefore in the case at bar, that would decide whether or not petitioner should prevail against the respondent, is the interpretation made by the lower court a quo which agrees with the respondent that her full payment of the down payment of P896,700.00 made in the Second Contract to Sell of House and Lot 6 should be counted as several installments instead of one lump sum payment as contended by herein petitioner, hence, should only be counted as one installment payment.

If the answer is, that it should be counted as several installments payments, then obviously she would be covered by the Maceda Law having made more than twenty-four (24) installments payments. On the other hand if the down payment of P896,700.00 should be considered as only one (1) lump sum installment payment for the Second Contract To Sell of House and Lot 6, then she would have made only twelve (12) installment payments which is less than the twenty-four (24) installments payments to be covered by the Maceda Law.

Petitioner submits that its interpretation is the correct one, on the premise that the First Contract To Sell had been extinguished by novation, thus, we would be talking only of the Second Contract To Sell for which under its provision, respondent had only made twelve (12) installment payments, including the down payment of P896,700.00. This is because the down payment in the Second Contract To Sell does not provide for payment in installments, hence, it is considered as to be paid not in installments. xxx

xxx

It is clear from the aforesaid provisions of the Second Contract To Sell which should govern the relations between the petitioner and respondent, that the P896,700.00 was considered as a single down payment and is not a down payment by installments. This being the case, it cannot be considered as a payment by installments under the Maceda Law. Undoubtedly, therefore, insofar as the Second Contract To Sell is concerned, respondent has only made twelve (12) installments, thus respondent is not covered by the Maceda Law to avail of the 50% cash surrender value of the total payments she has made for the House and Lot 6.”[17] (Emphasis was made in the original)

Defeating petitioner's arguments however, is that the applicable provision in the case is not, as contended by petitioner, Section 4, but Section 3 (b) of Republic Act 6552[18] (“R.A. No. 6552” for brevity), otherwise known as the “Maceda Law”. This is because respondent had already made a total of twenty seven (27) monthly installment payments or more than two (2) years of installment payments on the subject property as was properly found by the MeTC, and as was affirmed by the RTC.

The records revealed that, apart from the eleven (11) monthly installments admitted by petitioner to have been paid by respondent[19], respondent had paid petitioner a downpayment in the amount of Php 896,700.00. Such downpayment in turn, respondent likewise paid via monthly installments[20], as was reflected in petitioner's Position Paper[21] dated May 23, 2011, to wit:

“Down Payment Details:

Mar. 30, 2005 to
Nov. 30, 2006 at
P28,223.33/mo.

P620,913.26

May 06, 2007

25,000.00

Sept. 10, 2007 to

Jan. 31, 2008 at

P40,000.00/mo.

160,000.00

Mar. 20, 2008

30,000.00

Apr. 20, 2008

30,000.00

May 23, 2008

30,786.74

Total 30% down

Payment

P896,700.00"[22]

Given that the downpayment of Php 896,700.00 was paid by respondent via monthly installments[23], then such downpayment is likewise to be considered as the equivalent of several monthly installment payments for the subject property, and not as a single lump sum installment payment as contended by petitioner. Such a computation of the total number of installment payments made by respondent to petitioner is more in accord with the policy espoused by R.A. No. 6552, which is "to protect buyers of real estate on installment payments against onerous and oppressive conditions"[24].

All of these matters were as also found by the MeTC, as follows:

"Under the afore-quoted Section 3(b) of R.A. 6552, down payments shall be included in the computation of the total number of installment payments made by the buyer. However, it is not provided therein on whether the down payment should be considered as equivalent to only one installment or that the same should be divided into as many installments it is equal to.

The Court agrees with the defendant (respondent) that the downpayment of PhP 896,700.00 should be divided into as many monthly installments it is equal to, taking into consideration the rationale for the enactment of

R.A. 6552 (Emphasis Supplied) as declared in *Active Realty & Development Corporation vs. Daroya*. Thus:

'The contract to sell in the case at bar is governed by Republic Act No. 6552 -- "The Realty Installment Buyer Protection Act," or more popularly known as the Maceda Law -- which came into effect in September 1972. Its declared public policy is to protect buyers of real estate on installment basis against onerous and oppressive conditions. The law seeks to address the acute housing shortage problem in our country that has prompted thousands of middle and lower class buyers of houses, lots and condominium units to enter into all sorts of contracts with private housing developers involving installment schemes. Lot buyers, mostly low income earners eager to acquire a lot upon which to build their homes, readily affix their signatures on these contracts, without an opportunity to question the onerous provisions therein as the contract is offered to them on a "take it or leave it" basis. Most of these contracts of adhesion, drawn exclusively by the developers, entrap innocent buyers by requiring cash deposits for reservation agreements which oftentimes include, in fine print, onerous default clauses where all the installment payments made will be forfeited upon failure to pay any installment due even if the buyers had made payments for several years. Real estate developers thus enjoy an unnecessary advantage over lot buyers who they often exploit with iniquitous results. They get to forfeit all the installment payments of defaulting buyers and resell the same lot to another buyer with the same exigent conditions. To help especially the low income lot buyers, the legislature enacted R.A. No. 6552 delineating the rights and remedies of lot buyers and protect them from one-sided and pernicious contract stipulations.' (Italics and Emphasis were made in the original)

Accordingly, dividing the down payment of PhP 896,700.00 by PhP 54,274.26 (not by PhP 41,831.70, which was the monthly amortization for Lot 2, not Lot 6), the quotient will be 16.52164396 or sixteen (16) monthly installments. Considering that plaintiff (petitioner) admitted that defendant (respondent) paid a total of eleven (11) monthly installments, then the total payments made by the defendant (respondent) is twenty-seven monthly installments or more than two (2) years or twenty-four (24) months." [25] (Emphasis Supplied)

Given that respondent had made more than two (2) years of installment payments on the subject property, then, petitioner should have complied with the mandatory requirements of sending a notarized notice of cancellation and of refunding the cash surrender value of the payments on the property to respondent, before cancelling the parties' Contract to Sell [26]. That this is to be so is pursuant to Section 3 (b) of R.A. 6552, which provides:

"Section 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under Republic Act Numbered Thirty-eight hundred forty-four, as amended by Republic Act Numbered Sixty-three hundred eighty-nine, where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:

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(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 percent 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." (Emphasis Supplied)

Here, petitioner sent a Notarial Cancellation [27] to respondent but failed to refund the cash surrender value to respondent. Consequently, petitioner and respondent's Contract to Sell [28] still subsisted, such that therefore respondent had a right to continue occupying the subject property. These matters were as also found by the MeTC, which were affirmed by the RTC, to wit:

"Therefore, the provision of R.A. 6552 applicable to this case is Section 3 (b) which provides that for a valid

and effective cancellation of the contract, the mandatory twin requirements of notarized notice of cancellation AND REFUND OF THE CASH SURRENDER VALUE should be complied with.

Considering that plaintiff has not yet paid the cash surrender value of the subject property, the Contract to Sell has not been validly and effectively terminated and cancelled and the Contract to Sell still subsists. Hence, since the Contract to Sell still subsists, defendant has still the right to continue occupying the subject property.”[29] (Emphasis Supplied)

That in order to validly and effectively cancel the Contract to Sell, the seller, such as petitioner, should comply with the mandatory requirements of sending a notarized notice of cancellation and of refunding the cash surrender value to the buyer, such as respondent, is in accordance with the following pronouncement of the Supreme Court in *Communities Cagayan Inc., vs. Spouses Arsenio and Angeles Nanol and Anybody Claiming Rights Under Them*[30]:

“In this connection, we deem it necessary to point out that, under the Maceda Law, the actual cancellation of a contract to sell takes place after 30 days from receipt by the buyer of the notarized notice of cancellation, and upon full payment of the cash surrender value to the buyer. In other words, before a contract to sell can be validly and effectively cancelled, the seller has (1) to send a notarized notice of cancellation to the buyer and (2) to refund the cash surrender value. Until and unless the seller complies with these twin mandatory requirements, the contract to sell between the parties remains valid and subsisting. Thus, the buyer has the right to continue occupying the property subject of the contract to sell, and may 'still reinstate the contract by updating the account during the grace period and before the actual cancellation' of the contract.

In this case, petitioner complied only with the first condition by sending a notarized notice of cancellation to the respondent-spouses. It failed, however, to refund the cash surrender value to the respondent-spouses. Thus, the Contract to Sell remains valid and subsisting and supposedly, respondent-spouses have the right to continue occupying the subject property. xxx” (Emphasis Supplied)

Indeed, the findings of the MeTC, especially when affirmed by the RTC as is the case here, are conclusive and should be given great weight.[31]

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

WHEREFORE, the Petition for Review is DENIED.

SO ORDERED.

Didican (Chairman) and Dimagiba,[*] JJ., concur.

[*] Acting Junior Member vice J. Paredes per Office Order No. 34-14-RSF dated January 30, 2014.

[1] Rollo, pp. 6-21

[2] Rollo, pp. 23-29

[3] Rollo, pp. 37-47

[4] Rollo, p. 37

[5] Rollo, p. 30-32

- [6] Rollo, pp. 33-36
- [7] Rollo, pp. 23-29
- [8] Rollo, pp. 24-26
- [9] Rollo, pp. 37-47
- [10] Rollo, pp. 66-68
- [11] Rollo, p. 47
- [12] Rollo, pp. 23-29
- [13] Rollo, pp. 33-36
- [14] Rollo, p. 30-32
- [15] Rollo, pp. 19-20
- [16] Rollo, p. 12
- [17] Rollo, pp. 16-18
- [18] “The Realty Installment Buyer Protection Act”
- [19] Rollo, pp. 89-91
- [20] Rollo, pp. 87-88
- [21] Rollo, pp. 87-88
- [22] Rollo, pp. 87-88
- [23] Rollo, pp. 87-88
- [24] Fedman Development Corporation vs. Federico Agcaoili, G.R. No. 165025, August 31, 2011
- [25] Rollo, pp. 45-46
- [26] Rollo, pp. 56-62
- [27] Rollo, p. 79
- [28] Rollo, pp. 56-62
- [29] Rollo, p. 46
- [30] G.R. No. 176791, November 14, 2012
- [31] Materrco, Inc. vs. First Landlink Asia Development Corporation, G.R. No. 175687, November 28, 2007

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