

SPOUSES EDGARDO AND OFELIA CRUZ (BOTH DECEASED, BUT REPRESENTED BY THEIR SURVIVING HEIRS / CHILDREN, NAMELY: JOSE MARI CONRAD CRUZ, MARIA VERONICA CRUZ, MARIA VICTORIA DAKANAY, ...

Ponente: BARZA, J.

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BARZA, J.:

On appeal before the Court is the June 22, 2009 decision[1] of the Regional Trial Court of Quezon City, Branch 225, in Civil Case No. Q-95-24298, dismissing the complaint[2] for specific performance and damages with prayer for issuance of a temporary restraining order and injunction filed by appellant spouses Edgardo and Ofelia Cruz (appellant spouses for brevity) against appellee Philippine Veterans Bank (Bank for brevity).

Appellant spouses are the registered owners of a parcel of land and its existing improvements situated in No. 1040 A. Bonifacio St., Balintawak, Quezon City, covered by Transfer Certificate of Title No. 261801. E.V. Cruz and Sons, Inc., a corporation duly organized and existing under Philippine law, is the registered owner of a piece of land together with its existing improvements located at No. 1040 A. Bonifacio St., Balintawak, Quezon City, covered by TCT No. 261158. On November 24, 1980, appellant spouses mortgaged the aforementioned titles to appellee bank to secure a loan in the amount of Php400,000.00 (Exhibit "10").[3] When appellant spouses defaulted in the payment of the loan, the Bank foreclosed on the real estate mortgage on July 13, 1983. As the sole bidder, the Bank submitted a total bidding price of Php681,843.00. Appellant spouses, however, failed to redeem the foreclosed properties within the redemption period.

In a letter[4] (Exh. "A") dated February 27, 1986 addressed to the Bank's liquidator Atty. Renan V. Santos, appellant spouses offered to repurchase the foreclosed properties based on the following proposals:

"In buying back our properties, we humbly submit, for your kind consideration, the following:

- a) We will pay Fifty Thousand Pesos (Php50,000.00) to the Bank immediately upon signing of our agreement;
- b) We will pay, direct to the Assessor's/Treasurer's Office of Quezon City, Twenty Nine Thousand Six Hundred Ninety Nine Pesos and Eighty Three Centavos (Php29,699.83) representing accrued real estate taxes from 1979 to 1985, as well as future taxes as they fall due, and
- c) We will remit to the Bank at least Thirty Thousand Pesos (Php30,000.00) every quarter beginning _____ until the balance is fully paid.

Our proposals are without prejudice to other terms and conditions which you may deem appropriate to protect the Bank's interest. We would, however, plead for leniency and the most liberal terms you can possibly extend to us like condonation/waiver of the interest and penalty charges, as well as attorney's fees or a substantial reduction of said amounts.

We look forward to receiving your reply."

The Bank, however, did not make a reply. Appellant spouses sent another letter[5] (Exh. "B") dated March 24, 1986 modifying their initial proposal in that they would pay the Bank the sum of Php80,000.00 immediately upon the signing of the parties' agreement and that they would pay the balance within 18 months on a quarterly basis. Still the Bank did not respond to appellant spouses' request. They sent another letter[6] (Exh. "C") dated May 2, 1989 reiterating their proposal to repurchase the foreclosed properties. Still no response from the Bank, appellant spouses sent another letter[7] (Exh. "D") dated February 27, 1990 reinforcing the same proposal to redeem the properties.

Finally, appellant spouses received a response from the Bank in a letter[8] (Exh. "E") dated June 18, 1990, the pertinent portion of which reads as follows -

"Please be informed that your request was approved by the Liquidator subject to the following terms and conditions:

1. The transaction shall be subject to the prior approval of the PVB Liquidation Court (RTC Br. 39, Manila);
2. The repurchase price shall be Php2,077,395.00, payable within thirty (30) days from receipt of notice of approval;
3. Any advances/expense to be incurred by the bank on subject properties while the repurchase price is not yet fully paid shall accrue to the purchaser with an interest of 12% p.a.
4. The purchaser shall shoulder the cost of evicting squatters on the properties, if there is any; and
5. The covering titles, TCT Nos. T-261801 and T-261158 shall be released only after the prior approval of the PVB Liquidation Court (RTC Br. 39, Manila) and after all the amounts due the bank have been fully paid.

Should you be agreeable to the foregoing terms and conditions, please return to us the duplicate copy of this letter with your signature on the space provided for the purpose."

In a letter[9] (Exh. "F") dated July 16, 1990, appellant spouses made a counter-offer to the Bank's proposal, to wit -

"I am pleased to inform you that I find your Condition Nos. 1, 3, 4 and 5 as acceptable and reasonable. However, may I propose that the repurchase price of TCT No. 261801 is Php999,470.00 based on the following details:

a) 25% down payment: (Php250,000.00)

Php100,000.00 upon signing of agreement

Php100,000.00 after 30 days

Php 50,000.00 after 60 days

b) the balance of Php749,470.00 within two (2) years.

May I request that the above title be immediately released after full payment of the above obligation.

For TCT No. 261158: Being a corporate property, the stockholders have yet to decide on how to repurchase the property.

We hope that you will accept and consider our counter-proposal reasonable."

The Bank did not send a reply to appellant spouses' counter-proposal. The latter took the former's silence that their counter-proposal had been approved. Appellant spouses again sent a letter[10] (Exh. "G") dated April 3, 1991 to the Bank with the following message -

"I was informed that my July 16, 1990 letter to the Central Bank of the Philippines, containing the terms and conditions for the repurchase of our house and lot covered by TCT No. 261801, was already approved.

In compliance with my accepted offer, I am sending you Pilipinas Bank Manager's Check No. 000658 dated April 03, 1991 in the amount of ONE HUNDRED THOUSAND PESOS (Php100,000.00) either as a deposit and/or as initial payment for the above purpose.

With this payment and/or deposit, kindly prepare the necessary documents for our signing."

Apparently, the Bank accepted the deposit of Php100,000.00 by appellant spouses as evinced by PVB Official Receipt No. 15410[11] (Exh. "H") dated April 3, 1991 with the following details -

Received From:

Mr. Edgardo Cruz

For Account Of:

Deposit on the approved repurchased price of TCT#T261801

Note: Subject to refund if transaction is not consummated

Another receipt[12] (Exh. "I") in the same amount of Php100,000.00 was also issued on May 29, 1991 with the following details:

Received From:

Mr. Edgardo Cruz

For Account Of:

Partial payment on the repurchase price of TCT # 261801 (Note: Subject to refund if the transaction is not consummated.)

Subsequently thereafter, several official receipts[13] (Exhs. "J", "K-3", "L-3" and "M-3") in the amount of Php100,000.00 each were issued by the Bank in Edgardo Cruz's account for the partial payment of repurchase price of TCT No. 261801, to wit:

O.R. No.

Date

Amount (Php)

15949

July 16, 1991

100,000.00

16186

September 3, 1991

100,000.00

19059

October 28, 1991

100,000.00

16795

January 23, 1992

100,000.00

In addition, Edgardo sent several letters[14] (Exhs. "I-1", "K", "L" and "M") to the Bank dated May 29, 1991, August 26, 1991, October 28, 1991 and January 23, 1992 informing the latter that the checks issued in its favor were in view of appellant spouses' July 16, 1990 letter offering to repurchase the property covered by TCT NO. 261801 in the amount of Php999,470.00, under the conditions submitted by appellant spouses therein. In a handwritten letter¹⁵ (Exh. "N") dated January 23, 1992, appellant spouses reiterated their desire to repurchase the said property in the aforesaid amount.

Finally, the Bank responded to appellant spouses' January 23, 1992 letter through a letter[16] (Exh. "Q") dated April 3, 1992 informing the latter to address their offer to the new management of the Bank in view of the re-opening of the Bank and in order not to preempt the new management in deciding on the matter.

Despite several follow-ups with the Bank, there still was no response from the Bank pertaining to appellant spouses' offer to repurchase the property covered by TCT NO. 261801. The Bank eventually re-opened with a new management, and without acting upon appellant spouses' offer, it consolidated in August 1995 the foreclosed titles in its name, prompting appellant spouses to file the instant action for specific performance and damages against the Bank.

In the Bank's answer[17] to appellant spouses' complaint, the Bank averred that appellant spouses' counter-offer to repurchase the foreclosed properties was unacceptable to the Bank. Thus, it decided to consolidate the foreclosed properties in its name. While the Bank may have received deposits from appellant spouses, the same is not tantamount to an affirmation of the repurchase agreement. The Bank continued to receive the deposits from appellant spouses with the understanding that the latter would come up with a better offer or at least abide with the conditions it laid down in its June 18, 1995 letter. The Bank furthered that appellant spouses failed to meet the said conditions. Instead of paying the amount of Php2,077,395.00, they paid only Php600,000.00 in a span of almost one year. In view of the notation in the official receipts issued by the Bank stating that the deposit made by appellant spouses is subject to refund if transaction is not consummated, the Bank is ready and willing to refund appellant spouses' total deposit of Php600,000.00.

In the appealed decision dated June 22, 2009, the trial court summarized the testimonial evidence of both parties as follows -

"On June 28, 1999, the pre-trial stage was terminated. Thereafter, trial ensued. The first witness presented was Edgardo L. Cruz. Some of the matters that he intended to testify on were stipulated upon by the parties: He and his co-petitioner wife obtained a loan from PVB. They failed to pay their obligation when it became due, which resulted in the foreclosure of the mortgage on the subject lots. They also failed to redeem the same within the redemption period. The properties were sold at public auction and defendant bank was declared as the highest bidder. The Sheriff's Sale was registered. Thereafter, they requested the bank to allow them to repurchase. It took sometime before defendant bank consolidated the titles of the auctioned properties in its

name.

The witness testified that after the mortgage were foreclosed by the bank, he and his wife sent several letters dated February 27, 1986, March 24, 1986, May 7, 1989 and February 27, 1990 to the bank through personal service for the repurchase of the property. It was only after four (4) years from the time they sent their first letter to the bank that it made a reply to their correspondence. After studying the proposal of the bank, they gave their counter-proposal. They were amenable to the terms and conditions of the bank's proposal except on the total amount of the repurchase price of P2,077,395.00 for the two (2) lots. They made a counter-offer of P999,470.00, for the property where their conjugal home stands since they were only interested to repurchase that particular property, as evidenced by their letter dated July 16, 1990 to the Central Bank through personal service. Since then, neither an oral nor written reply was made by the bank. Since they already made several follow-ups with the bank, they decided to go to the Central Bank of the Philippines to inquire about their request and they were able to talk to a certain Mr. Amoranto, head of the liquidator bank, who told them that their request had been approved. Thereafter, they brought a letter dated April 3, 1991 to the PVB addressed to its Acting Deputy Liquidator, together with Pilipinas Bank Manager's check with No. 00658 dated April 3, 1991 for P100,000.00. The Bank gave them an Official Receipt numbered 15410, bearing the remarks, 'Deposited on the approved repurchase price of TCT No. 261801. Note: Subject to refund if transaction is not consummated.'

The witness further testified that they gave the bank several checks amounting to P600,000.00 in the course of their negotiation for the repurchase of the subject property, wherein proper receipts were issued. Said payments were made by the plaintiffs during the period when the bank was being managed by a liquidator, i.e., from 1991 to 1992. The witness identified several Official Receipts numbered 15712 and 15949 dated July 16, 1991, Official Receipt numbered 16186 dated September 3, 1991, Official Receipt numbered 19059 dated October 28, 1991, and Official Receipt numbered 16795 dated January 23, 1992, as well as the letters he sent defendant bank/defendant bank's liquidator. On January 23, 1992, the witness and his wife were able to talk to the Acting Deputy Liquidator of defendant bank Mr. Pacifico Cervantes regarding the property they were repurchasing and informed him that their proposed repurchase price is P999,000.00. On the basis of the proposed repurchase price of P999,000.00 and their payments made through several checks, the liquidator advised them to settle the balance of P400,000.00. They were likewise advised by the liquidator to apply for a loan with other banks, which they heeded. Thereafter, they were able to obtain a loan for P300,000.00 from Premiere Development Bank. Since they had cash on hand in the amount of P100,000.00, they secured a BPI Manager's Check for said amount. However, after Philippine Veterans Bank reopened, its new administration under the new board of directors refused to honor the commitment made by the previous management of the bank regarding the proposed repurchase price of plaintiffs in the amount of P999,000.00. The new management of PVB is asking more than 2 Million Pesos for the repurchase price of the subject property including interests, penalties and charges.

The witness went to the Bank to give the letter dated March 20, 1992 prepared by the Officer of Premiere Development Bank ('PDB' for brevity) together with BPI Cashier's Check in the amount of P100,000.00. While there, the witness informed Mr. Pacifico Cervantes that they had an approved loan of P300,000.00 from PDB. In turn, Mr. Pacifico Cervantes told the witness that since PVB will already re-open, it would be better if the witness would instead give the letter and discuss his concerns regarding the subject property to the new management of PVB to avoid any suspicion or anomaly regarding the transaction. PVB had been under receivership of the Central Bank of the Philippines because of previous anomalies. Mr. Cervantes also advised the witness to just wait for a letter from the new management. Subsequently, the witness received a letter dated April 3, 1992 from the liquidator PVB Arnulfo B. Aurellano advising plaintiffs to address their request for the repurchase of the lot covering TCT No. 261801. The witness again wrote the Bank several follow-up letters, two (2) letters dated August 12, 1992, June 14, 1993 and March 3, 1994. He waited for the bank's action regarding his counter-proposal. Due to the defendant bank's inaction despite plaintiffs having paid the amount of P600,000.00 and their willingness to pay the balance of P400,000.00 constituting the repurchase price of the

property covered by TCT No. 261801, the latter were compelled to seek the services of counsel and institute the instant case.

On cross-examination, the witness stated that when he received the letter dated June 18, 1990 from the liquidator of PVB approving his request for the repurchase of the subject property, he wrote a reply to the bank. However, he did not agree to the amount of the repurchase price stated in the bank's letter as the amount P2,077,395.00 pertains to the two (2) titles which were foreclosed. His letter contained a counter proposal regarding the repurchase price as he only intended to repurchase the property covered by one title, particularly TCT No. 261801. He offered the amount of P999,000.00 as repurchase price for said property. Since he failed to receive any response or confirmation notice regarding his counter-proposal, he went to the Central Bank to make a follow-up on the matter. He was able to talk to a certain Mr. Amorante who informed him and his wife that their counter-proposal was approved, and who advised them to go to PVB and talk to its liquidator, Mr. Pacifico Cervantes. The witness admitted that he had no documents to show that his counter-proposal was approved by the liquidator of the bank. Relying on the information Mr. Amorante relayed to him regarding the approval of his counter-proposal for the repurchase of the property and the advice given to him to apply for a loan from other banks for the payment of the full amount of the repurchase price, the witness went to PVB and paid the initial amount of P100,000.00. Subsequently, he received a letter from the liquidator of PVB, Arnulfo B. Aurellano, directing the witness to deal with the new management of the bank regarding the matter to avoid any suspicion or anomaly.

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On May 15, 2006, the defense presented Atty. Rosario Zabalburo as first witness. He testified that he is a bank officer of PVB. He was employed by the bank on August 3, 1992, as a documentation lawyer in the Legal Division. In 1995, he was appointed as Head of the Assets Recovery and Management Department of PVB and holds the position up to the present. As such, he handles the registration, management and disposal of all the acquired assets of the bank. He came across the account of plaintiffs wherein the latter were granted a loan by the bank in the amount of P400,000.00 way back in 1980, as evidenced by a Promissory Note. The loan of plaintiffs was secured by two (2) lots located in Quezon City, as evidenced by Real Estate Mortgage thereon. The plaintiffs' account is presently under the real and other properties described by the witness as 'owned by the COA' as the subject properties are already classified under its acquired assets having been foreclosed for non-payment of the loan, as evidenced by a Certificate of Sale registered on September 1984. Thereafter, plaintiffs offered to redeem the lots, and this offer was approved by the bank on June 18, 1990 addressed to plaintiff Edgardo Cruz. Plaintiffs gave their response in a letter dated July 16, 1990 accepting the terms and conditions of the approval except as to the repurchase price. Plaintiffs gave a counter-offer in the amount of P999,417.00 for the repurchase of only one lot. The bank, however, did not accept plaintiffs' counter-offer and proceeded to consolidate the titles of the two (2) properties in its name in August 1995, as evidenced by Transfer Certificates of Title Nos. N-137520 and N-137521. Prior to the consolidation of the titles in the name of PVB, plaintiffs made various payments, all in the amount of September 3, 1991, October 28, 1991 and January 23, 1992, covered by corresponding receipts. There was a need to first secure the approval of the liquidation court because PVB was then under liquidation from 1985 to 1992. During said period, all transactions involving the disposal of the bank's properties were subject to the liquidation court's approval. There was neither approval by the liquidation court nor by the bank relative to plaintiffs' repurchase of only one property and hence, there was no consummation of the transaction.

Further, the official receipts issued by PVB for the several payments made by plaintiffs in connection with their counter-proposal for the repurchase of one of the lots bear a notation: 'Deposit on the approved repurchase price of TCT # 261801. Note: Subject to refund if transaction is not consummated.' One of the receipts bear the notation: 'Note: Release of title after full payment will be subject to approval of the PVB Liquidation Court.' A receipt also bears the notation, 'Note: Repurchase Price of property subject to approval by new liquidator.' Thus, the deposits/payments made by plaintiffs were received by PVB with the proviso that

plaintiffs have to comply with the terms and conditions stated in the bank's letter dated June 18, 1990. PVB's liquidator then sent a letter dated April 3, 1992 to plaintiffs advising them to address all their correspondence to the new management. Subsequently, after the bank's rehabilitation, it reopened in August 1992 under the new management with a new set of Board of Directors. Plaintiffs again sent several letters to PVB offering to repurchase one of the properties but the same was disapproved by the bank. In August 1995, PVB proceeded to consolidate the two (2) foreclosed lots in its name. Right after the consolidation of the titles, several offers were again made by the plaintiffs but were still not acceptable to PVB.

On cross-examination, the witness stated that one of the lots foreclosed by PVB mortgaged by plaintiffs is residential while the other property is commercial in nature. The residential lot is covered by TCT No. 261801, which was the only property plaintiffs offered to repurchase from PVB in the amount of P999,470.00. The letter dated April 3, 1992 of the liquidator of PVB sent to plaintiff Edgardo Cruz advised him to address his offer of repurchasing the residential lot to the bank's new management. Upon a review of plaintiffs' account in the capacity of the witness as Chief of the bank's Assets Recovery and Management Development, he had not come across Premiere Development Bank's letters dated March 20, 1992 and August 12, 1992 addressed to the bank. There was a series of letters sent by PVB under the new management denying plaintiffs' offer to repurchase the residential lot. Although the transaction was not consummated, PVB had not yet made a refund of the amounts paid by plaintiffs from 1991 to January 1992 in the total amount of P600,000.00.

On re-direct examination, the witness testified that when the bank was under liquidation in 1990, any disposition of its acquired assets was subject to the approval of the liquidation court. In 1992, when PVB reopened the new management under the new Board of Directors, the latter required that their approval must first be secured concerning the disposition of the bank's acquired assets. In the bank's letter dated June 18, 1990, it made no mention of the need to secure the approval by the new management as the same was inexistent yet at that time since the bank was then under liquidation but only the approval of the liquidation court. The witness came across a series of letters or communication between plaintiffs and the bank on file. After the consolidation of the titles in the name of the bank, plaintiffs continued to have possession thereof up to the present.

On re-cross examination, the witness stated that plaintiffs were informed by defendant bank, through a letter dated May 15, 1995, that the Board of Directors had decided to proceed with the consolidation of the titles of the mortgaged properties in the name of the bank. Thus, as of said date, the bank considered the repurchase of transaction as not consummated. However, at that time, the bank was still open for negotiation for the sale of the properties either to the former owners or to third parties."

After taking the parties' respective evidence into consideration, the trial court ordered the dismissal of appellant spouses' complaint for lack of merit, to wit -

"WHEREFORE, premises considered, the instant case is hereby DISMISSED for lack of merit. However, defendant bank is hereby ordered to return the amount of SIX HUNDRED THOUSAND PESOS (P600,000.00) to plaintiffs.

As regards the counterclaim, the Court hereby DISMISSES the same.

SO ORDERED."

The trial court concluded that there was no meeting of the minds between the Bank and appellant spouses and therefore no contract was perfected between them with regard to the repurchase of the property covered by TCT No. 261801. According to the trial court, there was no acceptance by the Bank of the appellant spouses' counter-offer to repurchase the property indicated in TCT No. 261801. The trial court held -

"From the foregoing, it is, therefore, clear that there was no contract perfected between the parties. There was no meeting of the minds between the parties since in the first place, the terms and conditions provided for by

defendant bank for the repurchase of the properties by plaintiffs have not been complied with. Plaintiffs instead made their own counter-proposal for the repurchase of only one of the foreclosed lots and unilaterally laid down the terms of the payment of the repurchase price. Thus, if the acceptance is qualified or not absolute, there is no concurrence of minds. There merely is a counter-offer. A counter-offer as a matter of fact extinguishes the offer. It may or may not be accepted by the original offeror. Thus, there was no valid and perfected contract to speak of pursuant to Articles 1318 and 1319 of the Civil Code.

Further, it bears emphasis that the acceptance by defendant bank of the payments made by plaintiffs was also on the condition that the repurchase price of the property covered by TCT No. 261801 was subject to the approval by the new liquidator and that the defendant bank would refund the amounts paid by plaintiffs if the transaction is not consummated. The acceptance of the payments was a qualified acceptance. Hence, plaintiffs can neither enforce any right or interest regarding the subject property nor compel defendant bank to sell the same to them."

Dissatisfied by the trial court's ruling, appellant spouses filed the instant appeal, assigning the following perceived errors:

I. The trial court erred in ruling that there was no perfected contract between the parties regarding the plaintiffs' offer to repurchase the residential property covered by Transfer Certificate of Title No. 261801 for the sum of Nine Hundred Ninety-nine Thousand Four Hundred Seventy Pesos (Php999,470.00), despite the fact that the events and circumstances, the admitted facts and evidence, the applicable laws and jurisprudence, collectively and preponderantly prove that the Philippine Veterans Bank had expressly or impliedly approved or agreed to the repurchase of the aforesaid property.

II. The trial court erred in ruling that the new management of Philippine Veterans Bank was correct in disapproving and in failing to implement. The duly approved repurchase of the residential property covered by TCT No. 261801, for Php999,470.00, despite the fact that the Philippine Veterans Bank's approval was invalid, illegal and contrary to the law of estoppel and the principles of human relations.

The appeal is bereft of merit.

The Court agrees with the trial court that there was no perfected contract between the parties.

Contracts that are consensual in nature are perfected upon mere meeting of the minds. Once there is concurrence between the offer and the acceptance upon the subject matter, consideration, and terms of payment a contract is produced. The offer must be certain. To convert the offer into a contract, the acceptance must be absolute and must not qualify the terms of the offer; it must be plain, unequivocal, unconditional, and without variance of any sort from the proposal. A qualified acceptance, or one that involves a new proposal, constitutes a counter-offer and is a rejection of the original offer. Consequently, when something is desired which is not exactly what is proposed in the offer, such acceptance is not sufficient to generate consent because any modification or variation from the terms of the offer annuls the offer.[18]

When the Bank laid down its conditions for appellant spouses' repurchase of the foreclosed properties, the latter accepted the conditions except for one, which is the purchase price for the property covered by TCT No. 261801. Appellant spouses opted to repurchase only one of the two foreclosed properties under certain conditions proposed by the couple. Because the acceptance made by appellant spouses of the conditions laid down by the Bank was qualified and not absolute, appellant spouses, in effect, made a counter-offer. This counter-offer now stands as a whole new offer subject to a fresh negotiation between the parties and acceptance by the Bank.

Apparently, no contract of sale was ever created between the parties for lack of the essential element of consent on the part of the Bank. Appellant spouses cannot rely on the June 18, 1990 letter of the Bank approving appellant spouses' request to repurchase the foreclosed properties because the purchase price that was approved by the Bank

in that letter is totally different from that offered by appellant spouses. On this score alone there had been no meeting of the minds between the parties. The Bank's approval of appellant spouses' request to repurchase the two foreclosed properties did not include the acquiescence to appellant spouses' counter-offer to buy back only one of the two foreclosed properties. Moreover, the Bank's approval of the original offer to repurchase was subject to certain conditions, one of which conditions, particularly condition No. 2, appellant spouses did not accept and instead proposed another offer. Case law holds that an offer, to be considered certain, must be definite, while an acceptance is considered absolute and unqualified when it is identical in all respects with that of the offer so as to produce consent or a meeting of the minds.[19] Appellant spouses' counter-offer was in no way similar in all respects to the conditions laid down by the Bank. Hence, consent is patently absent.

That the Bank is estopped to deny its alleged approval of appellant spouses' offer to repurchase the property covered by TCT No. 261801 is incorrect. Under Article 1431 of the Civil Code, an essential element of estoppel is that the person invoking it has been influenced and has relied on the representations or conduct of the person sought to be estopped.[20] In the case at bar, We find no evidence of any representation or conduct on the part of the Bank that manifests that it had accepted appellant spouses' counter-offer. Despite the Bank's receipt of appellant spouses' deposits for the purchase price of the property covered by TCT No. 261801, the official receipts issued by the Bank clearly indicated that the deposit is subject to refund in case the transaction is not consummated. That the Bank failed to make a refund of appellant spouses' deposits likewise does not translate into acceptance of the counter-offer. Nevertheless, the Bank should be reminded that by this time it should have made the necessary return of the amount of Php600,000.00 to appellant spouses, or their heirs in this case, as ordered by the trial court.

In view of the fact that there was no contract perfected between the parties, the action for specific performance must necessarily fail. Black's Law Dictionary defined specific performance as "(t)he remedy of requiring exact performance of a contract in the specific form in which it was made, or according to the precise terms agreed upon. The actual accomplishment of a contract by a party bound to fulfill it." Evidently, before the remedy of specific performance may be availed of, there must be a breach of the contract.[21] There can be no breach of contract where the contract is inexistent in the first place.

WHEREFORE, the instant appeal is hereby DENIED for lack of merit. The appealed judgment of the trial court is hereby AFFIRMED.

SO ORDERED.

Abdulwahid, (Chairperson), and Cruz, JJ., concur.

[1] Original Records, pp. 764-772.

[2] Ibid., pp. 1-17.

[3] Ibid., pp. 609-610.

[4] Ibid., pp. 405-406.

[5] Ibid., p. 407.

[6] Ibid., p. 408.

[7] Ibid., p. 409.

[8] Ibid., pp. 410-411.

[9] Ibid., p. 412.

[10] Ibid., p. 413.

[11] Ibid., p. 414.

[12] Ibid., p. 415.

[13] Ibid., pp. 417, 419, 421 and 423.

[14] Ibid., pp. 416, 418, 420 and 422.

[15] Ibid., p. 424.

[16] Ibid., p. 426.

[17] Ibid., pp. 59-63.

[18] ABS-CBN Broadcasting Corporation vs. Court of Appeals, et al., G.R. No. 128690, January 21, 1999.

[19] Traders Royal Bank vs. Cuison Lumber Co., Inc., et al., G.R. No. 174286, June 5, 2009.

[20] Rural Bank of Cabadbaran, Inc. vs. Jorgita A. Melencio-Tap, et al., G.R. No. 178451, July 30, 2014.

[21] Ayala Life Assurance, Inc. vs. Ray Burton Development Corporation, G.R. No. 163075, January 23, 2006.

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