

## MARILOU ALBANO, PETITIONER, VS. EVELYN NIELSEN, RESPONDENT.

Ponente: LOPEZ, J.

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### LOPEZ, J.:

Whether unjust enrichment exists is the main issue in this appeal assailing the November 17, 2011 Decision of the Regional Trial Court.

The antecedents follow.

Sometime in February 2005, Marilou Albano offered to sell her house and lot for P1,200,000.00 to Evelyn Nielsen who gave P135,000.00 as initial payment.[1] However, Evelyn withdrew from the transaction after discovering the mortgage over the property. She also demanded the return of the amount paid but to no avail. Thus, she filed an action for breach of contract with damages against Marilou before the Metropolitan Trial Court docketed as Civil Case No. 90504.[2]

In her Answer, Marilou alleged that Evelyn was aware of the encumbrance from the start of the negotiation. Furthermore, the downpayment was deemed forfeited after Evelyn reneged on her obligation and intimated lack of interest to pursue the agreement. Lastly, Marilou claimed damages because the house and lot was sold to another person for a lower selling price just to save it from foreclosure.[3]

On December 23, 2009,[4] the MeTC ruled that there is no breach of contract because Marilou disclosed to Evelyn the existing encumbrance upon the property. Nonetheless, such issue was immaterial since the non-payment of the full purchase price rendered the contract ineffective. It prevented the obligation of the vendor to convey title from acquiring an obligatory force. Anent the partial payment, the MeTC ordered Marilou to return the amount of P135,000.00 absent any forfeiture clause in the contract. Otherwise, it would result to unjust enrichment on the part of the seller at the expense of the buyer. On appeal,[5] the Regional Trial Court affirmed[6] the findings of the MeTC. Unsuccessful[7] at a reconsideration,[8] Marilou filed this petition for review questioning the basis of both the RTC and the MeTC rulings on the return of downpayment.

Prefatorily, We stress that the fundamental doctrine of unjust enrichment is the transfer of value without just cause or consideration.[9] It exists when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience.[10] It essentially contemplates payment when there is no duty to pay, and the person who receives the payment has no right to receive it.[11]

Here, the sale between the parties did not materialize after Evelyn withdrew from the agreement and Marilou subsequently transferred the property to a third person. Thus, absent any forfeiture clause in the contract, the parties must surrender whatever they may have received from the other. They must be restored, as far as practicable, to their original situation. Simply put, the duty of restitution arises if the ground justifying the retention of payment ceases.[12] The objective is to prevent one to enrich himself at the expense of another. Consequently, Marilou must return the downpayment as she no longer has the right to keep it. On the other hand,

Evelyn has nothing to refund as she has not received anything under the contract. It would be the height of inequity tantamount to judicial acquiescence of unjust enrichment if We permit Marilou to retain the amount received from Evelyn.

Similarly, Marilou is not entitled to keep the downpayment to compensate her loss when the property was sold to another person for a lower price. Suffice it to say that Evelyn is not privy to the transaction between Marilou and the second buyer. Evelyn did not participate in the negotiation of its terms and conditions much less in the determination of the purchase price. Hence, applying the principle of relativity of contracts, the second sale can neither favor nor prejudice Evelyn.[13]

In sum, Marilou must refund to Evelyn the amount of P135,000.00 which shall earn legal interest at the rate of 6% per annum computed from January 9, 2006, the date of the first demand until fully paid.[14] Also, the award of P20,000.00 as attorney's fees in favor of Evelyn is proper since she was compelled to litigate due to Marilou's unjustified refusal to return the downpayment.[15]

FOR THESE REASONS, the appeal is DENIED.

**SO ORDERED.**

Reyes, Jr., J.C., (Chairperson) and Inting, JJ., concur.

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[1] Rollo, pp. 58-60.

[2] Id., pp. 54-57.

[3] Id., pp. 66-72.

[4] Id., pp. 27-32. The MeTC Decision disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendant MARILOU ALBANO to pay plaintiff EVELYN NIELSEN the amount of P135,000.00 plus interest at the rate of 6% per annum from January 9, 2006 until the whole amount is fully paid and the amount of P20,000.00 as and by way of attorney's fees; and the costs.

SO ORDERED.

[5] Id., pp. 113-125.

[6] Id., pp. 24-26. The RTC Decision disposed as follows:

From all the foregoing, the Court finds and so holds that the trial court did not commit any error in dismissing the plaintiff's complaint.

Premises considered, the Appealed Decision is hereby AFFIRMED in toto.

SO ORDERED.

[7] Id., p. 34.

[8] Id., pp. 126-130.

[9] See *Almocera v. Ong*, G.R. No. 170479, February 18, 2008.

[10] See *Car Cool Philippines, Inc. v. Ushio Realty and Development Corporation*, G.R. No. 138088, January 23, 2006.

[11] See *Gil Miguel T. Puyat v. Ron Zabarte*, G.R. No. 141536. February 26, 2001.

[12] Article 22 of the New Civil Code provides that [e]very person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

[13] Article 1311, New Civil Code.

[14] See *Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, August 13, 2013, citing BSP-MB Circular No. 799, Series of 2013, effective July 1, 2013.

[15] Article 2208, New Civil Code.

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