

**FEDERICO SERRA, PETITIONER, VS. THE HON. COURT OF APPEALS
AND RIZAL COMMERCIAL BANKING CORPORATION, RESPONDENTS.***G.R. No. 103338. January 04, 1994*

Ponente: NOCON, J.

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A promise to buy and sell a determinate thing for a price certain is reciprocally demandable. An accepted unilateral promise to buy or to sell a determinate thing for a price certain is binding upon the promisor if the promise is supported by a consideration distinct from the price. (Article 1479, New Civil Code) The first is a mutual promise and each has the right to demand from the other the fulfillment of the obligation. While the second is merely an offer of one to another, which if accepted, would create an obligation to the offer or to make good his promise, provided the acceptance is supported by a consideration distinct from the price.

Disputed in the present case is the efficacy of a "Contract of Lease with Option to Buy," entered into between petitioner Federico Serra and private respondent Rizal Commercial Banking Corporation (RCBC).

Petitioner is the owner of a 374 square meter parcel of land located at Quezon St, Masbate, Masbate. Sometime in 1975, respondent bank, in its desire to put up a branch in Masbate, Masbate, negotiated with petitioner for the purchase of the then unregistered property. On May 20, 1975, a contract of LEASE WITH OPTION TO BUY was instead forged by the parties, the pertinent portion of which reads:

"1. The LESSOR leases unto the LESSEE, and the LESSEE hereby accepts in lease, the parcel of land described in the first WHEREAS clause,- to have and to hold the same for a period of twenty-five (25) years commencing from June 1, 1975 to June 1, 2000. The LESSEE, however, shall have the option to purchase said parcel of land within a period of ten (10) years from the date of the signing of this Contract at a price not greater than TWO HUNDRED TEN PESOS (P210.00) per square meter. For this purpose, the LESSOR undertakes, within such ten-year period, to register said parcel of land under the TORRENS SYSTEM and all expenses appurtenant thereto shall be for his sole account.

"If, for any reason, said parcel of land is not registered under the TORRENS SYSTEM within the aforementioned ten-year period, the LESSEE shall have the right, upon termination of the lease to be paid by the LESSOR the market value of the building and improvements constructed on said parcel of land.

"The LESSEE is hereby appointed attorney-in-fact for the LESSOR to register said parcel of land under the TORRENS SYSTEM in case the LESSOR, for any reason, fails to comply with his obligation to effect said registration within a reasonable time after the signing of this Agreement, and all expenses appurtenant to such registration shall be charged by the LESSEE against the rentals due to the LESSOR.

"2. During the period of the lease, the LESSEE covenants to pay the LESSOR, at the latter's residence, a monthly rental of SEVEN HUNDRED PESOS (P700.00), Philippine Currency, payable in advance on or before the fifth (5th) day of every calendar month, provided that the rentals for the first four (4) months shall be paid by the LESSEE in advance upon signing of this Contract.

"3. The LESSEE is hereby authorized to construct at its sole expense a building and such other improvements on said parcel of land, which it may need in the pursuance of its business and/or operations; provided, that if for any reason the LESSEE shall fail to exercise its option mentioned in paragraph (1) above in case the parcel of land is registered under the TORRENS SYSTEM within the ten-year period mentioned therein, said building and/or improvements, shall become the property of the LESSOR after the expiration of the 25-year lease period without right of reimbursement on the part of the LESSEE. The authority herein granted does not, however, extend to the making or allowing any unlawful, improper or offensive use of the leased premises, or any use thereof, other than banking and office purposes. The maintenance and upkeep of such building, structure and improvements shall likewise be for the sole account of the LESSEE."[1]

The foregoing agreement was subscribed before Notary Public Romeo F. Natividad.

Pursuant to said contract, a building and other improvements were constructed on the land which housed the branch office of RCBC in Masbate, Masbate. Within three years from the signing of the contract, petitioner complied with his part of the agreement by having to property registered and placed under the TORRENS SYSTEM, for which Original Certificate of Title No. 0-232 was issued by the Register of Deeds of to Province of Masbate.

Petitioner alleges that as soon as he had the property registered, he kept on pursuing the manager of the branch to effect to sale of the lot as per their agreement. It was not until September 4, 1984, however, when to respondent bank decided to exercise its option and informed petitioner, through a letter,[2] of its intention to buy the property at to agreed price of not greater than P210.00 per square meter or a total of P78,430.00. But much to the surprise of respondent, petitioner replied that he is no longer selling the property.[3]

Hence, on March 14, 1985, a complaint for specific performance and damages was filed by respondent against petitioner. In to complaint, respondent alleged that during the negotiations it made clear to petitioner that it intends to stay permanently on the property once its branch office is opened, unless the exigencies of the business requires otherwise. Aside from its prayer for specific performance, it likewise asked for an award of P50,000.00 for attorney's fees, P100,000.00 as exemplary damages and the cost of the suit.[4]

As special and affirmative defenses, petitioner contended:

- That the contract having been prepared and drawn by RCBC, it took undue advantage on him when it set lopsided terms,
- That the option was not supported by any consideration distinct from the price and hence not binding upon him.
- That as a condition for the validity and/or efficacy of the option, it should have been exercised within the reasonable time after the registration of the land under the Torrens System; that its delayed action on the option has forfeited whatever its claim to the same.
- That extraordinary inflation supervened resulting in the unusual decrease in the purchasing power of the currency that could not reasonably be foreseen or was manifestly beyond the contemplation of the parties at the time of the establishment of the obligation, thus, rendering the terms of the contract unenforceable, inequitable and to the undue enrichment of RCBC.[5]

and as counterclaim petitioner alleged that:

- The rental of P700.00 has become unrealistic and unreasonable, that justice and equity will require its adjustment.
- By the institution of the complaint he suffered moral damages which may be assessed at P100,000.00; and

award of attorney's fee of P25,000.00 and exemplary damages at P100,000.00.[6]

Initially, after trial on the merits, the court dismissed the complaint. Although it found the contract to be valid, the court nonetheless ruled that the option to buy is unenforceable because it lacked a consideration distinct from the price and that RCBC did not exercise its option within reasonable time. The prayer for readjustment of rental was denied, as well as that for moral and exemplary damages.[7]

Nevertheless, upon motion for reconsideration of respondent, the court in the order of January 9, 1989, reversed itself, the dispositive portion reads:

"WHEREFORE, the Court reconsiders its decision dated June 6, 1988, and hereby renders judgment as follows:

"1. The defendant is hereby ordered to execute and deliver the proper deed of sale in favor of plaintiff selling, transferring and conveying the property covered by and described in the Original Certificate of Title 0-232 of the Registry of Deeds of Masbate for the sum of Seventy Eight Thousand Five Hundred Forty Pesos (P78,540.00), Philippine Currency;

"2. Defendant is ordered to pay plaintiff the sum of Five Thousand (P5,000.00) Pesos as attorney's fees;

"3. The counter claim of defendant is hereby dismissed; and

"4. Defendant shall pay the costs of suit."[8]

In a decision promulgated on September 19, 1991,[9] the Court of Appeals affirmed the findings of the trial court that:

- The contract is valid and that the parties perfectly understood the contents thereof;
- The option is supported by a distinct and separate consideration as embodied in the agreement;
- There is no basis in granting an adjustment in rental.

Assailing the judgment of the appellate court, petitioner would like us to consider mainly the following:

- The disputed contract is a contract of adhesion.
- There was no consideration to support the option, distinct from the price, hence the option cannot be exercised.
- Respondent court gravely abused its discretion in not granting the currency adjustment on the already eroded value of the stipulated rentals for twenty-five years.

The petition is devoid of merit.

There is no dispute that the contract is valid and existing between the parties, as found by both the trial court and the appellate court. Neither do we find the terms of the contract unfairly lopsided to have it ignored.

A contract of adhesion is one wherein a party, usually a corporation, prepares the stipulations in the contract, while the other party merely affixes his signature or his "adhesion" thereto. These types of contracts are as binding as ordinary contracts. Because in reality, the party who adheres to the contract is free to reject it entirely. Although, this Court will not hesitate to rule out blind adherence to terms where facts and circumstances will show that it is basically one-sided.[10]

We do not find the situation in the present case to be inequitable. Petitioner is a highly educated man, who, at the time of the trial was already a CPA-Lawyer, and when he entered into the contract, was already a CPA, holding a

respectable position with the Metropolitan Manila Commission. It is evident that a man of his stature should have been more cautious in transactions he enters into, particularly where it concerns valuable properties. He is amply equipped to drive a hard bargain if he would be so minded to.

Petitioner contends that the doctrines laid down in the cases of *Atkins Kroll v. Cua Hian Tek*,^[11] *Sanchez v. Rigos*,^[12] and *Vda. de Quirino v. Palarca*^[13] were misapplied in the present case, because 1) the option given to the respondent bank was not supported by a consideration distinct from the price; and 2) that the stipulated price of "not greater than P210.00 per square meter" is not certain or definite.

Article 1324 of the Civil Code provides that when an offeror has allowed the offeree a certain period to accept, the offer may be withdrawn at anytime before acceptance by communicating such withdrawal, except when the option is founded upon consideration, as something paid or promised. On the other hand, Article 1479 of the Code provides that an accepted unilateral promise to buy and sell a determinate thing for a price certain is binding upon the promisor if the promise is supported by a consideration distinct from the price.

In a unilateral promise to sell, where the debtor fails to withdraw the promise before the acceptance by the creditor, the transaction becomes a bilateral contract to sell and to buy, because upon acceptance by the creditor of the offer to sell by the debtor, there is already a meeting of the minds of the parties as to the thing which is determinate and the price which is certain.^[14] In which case, the parties may then reciprocally demand performance.

Jurisprudence has taught us that an optional contract is a privilege existing only in one party - the buyer. For a separate consideration paid, he is given the right to decide to purchase or not, a certain merchandise or property, at any time within the agreed period, at a fixed price. This being his prerogative, he may not be compelled to exercise the option to buy before the time expires.^[15]

On the other hand, what may be regarded as a consideration separate from the price is discussed in the case of *Vda. de Quirino v. Palarca*^[16] wherein the facts are almost on all fours with the case at bar. The said case also involved a lease contract with option to buy where we had occasion to say that "the consideration for the lessor's obligation to sell the leased premises to the lessee, should he choose to exercise his option to purchase the same, is the obligation of the lessee to sell to the lessor the building and/or improvements constructed and/or made by the former, if he fails to exercise his option to buy said premises."^[17]

In the present case, the consideration is even more onerous on the part of the lessee since it entails transferring of the building and/or improvements on the property to petitioner, should respondent bank fail to exercise its option within the period stipulated.^[18]

The bugging question then is whether the price "not greater than TWO HUNDRED PESOS" is certain or definite. A price is considered certain if it is so with reference to another filing certain or when the determination thereof is left to the judgment of a specified person or persons.^[19] And generally, gross inadequacy of price does not affect a contract of sale.^[20]

Contracts are to be construed according to the sense and meaning of the terms which the parties themselves have used. In the present dispute, there is evidence to show that the intention of the parties is to peg the price at P210 per square meter. This was confirmed by petitioner himself in his testimony, as follows:

Q.

Will you please tell this Court what was the offer?

A.

It was an offer to buy the property that I have in Quezon City (sic).

Q.

And did they give you a specific amount?

x x x

A.

Well, there was an offer to buy the property at P210 per square meters (sic).

Q.

And that was in what year?

A.

1975, sir.

Q.

And did you accept the offer?

A.

Yes, sir.[21]

Moreover, by his subsequent acts of having the land titled under the Torrens System, and in pursuing the bank manager to effect the sale immediately, means that he understood perfectly well the terms of the contract. He even had the same property mortgaged to the respondent bank sometime in 1979, without the slightest hint of wanting to abandon his offer to sell the property at the agreed price of P210 per square meter.[22]

Finally, we agree with the courts a quo that there is no basis, legal or factual, in adjusting the amount of the rent. The contract is the law between the parties and if there is indeed reason to adjust the rent, the parties could by themselves negotiate for the amendment of the contract. Neither could we consider the decline of the purchasing power of the Philippine peso from 1983 to the time of the commencement of the present case in 1985, to be so great as to result in an extraordinary inflation. Extraordinary inflation exists when there is an unimaginable increase or decrease of the purchasing power of the Philippine currency, or fluctuation in the value of pesos manifestly beyond the contemplation of the parties at the time of the establishment of the obligation.[23]

Premises considered, we find that the contract of "LEASE WITH OPTION TO BUY" between petitioner and respondent bank is valid, effective and enforceable, the price being certain and mat mere was consideration distinct from the price to support the option given to the lessee.

WHEREFORE, this petition is hereby DISMISSED, and the decision of the appellate court is AFFIRMED.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Puno, JJ., concur.

[1] Annex "A" of the Complaint, Original Records, pp. 8-9.

[2] Annex "C" of the Complaint, Original Records, p. 14.

- [3] Annex "D" of the Complaint, Original Records, p. 15.
- [4] Rizal Commercial Banking Corporation v. Federico A. Serra, Civil Case No. 10054, Judge Ignacio M. Capulong, presiding judge, Regional Trial Court, Branch 134, National Capital Judicial Region, Makati.
- [5] Answer to the Complaint, Original Records, pp. 23-24
- [6] Id at p. 24.
- [7] Rollo, pp. 41, 44.
- [8] Rollo, pp. 49.
- [9] CA-G.R. CV No. 25693, Justice Celso L. Magsino, ponente, Justices Serafin Camilo and Artemon Luna, concurring; Rollo, pp. 50-63.
- [10] Pan American World Airways, Inc. v. Rapadas, G.R. No. 60673, 19 May 1992; BPI Credit Corporation v. Court of Appeals, G.R. No. 96755, 204 SCRA 601.
- [11] 102 Phil. 948.

[12] 45 SCRA 368.

[13] 29 SCRA 1.

- [14] Padilla, Ambrosio; Civil Code, Vol. 3, 6th Ed., 1974 at pp. 179-180, quoting from Aguirre v. Salazar, 13 CA rep 297.
- [15] Padilla, at p. 179, quoting from Filipinas Colleges Inc. v. Timbang, et al, (CA) 52 O.G. 3624; De la Cevada v. Diaz, 37 Phil. 982; Villamor v. C.A., G.R. No. 97332, 202 SCRA 607.
- [16] Supra.
- [17] Ibid, at p. 4-5.
- [18] As explicitly stated in the provision #3 of the contract:

"xxx provided, that if for any reason the LESSEE shall fail to exercise its option mentioned in paragraph (1) above in case the parcel of land is registered under the TORRENS SYSTEM within the ten-year period mentioned therein, said building and/or improvements, shall become the property of the LESSOR after the expiration of the 25-year lease period without right of reimbursement on the part of the LESSEE."

- [19] Article 1469, New Civil Code.
- [20] Article 1470, New Civil Code.
- [21] TSN, July 28, 1986-pp. 4-5.
- [22] TSN, July 28, 1986, p. 13.
- [23] Filipino Pipe and Foundry Corp. v. NAWASA, G.R. No. L-43446, 161 SCRA 32.

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