

**MYRENE PADILLA, ROBERTO PADILLA, ALBERTO J. PADILLA III,
AND EDUARDO PADILLA, PETITIONERS, VS. COURT OF APPEALS, SPS.
GIOVANNI AND GREGORIA ONG, SPS. VICTORIO AND ANGELINA
MANGA...**

G.R. No. 105851. March 24, 1993

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

The very concept of rebate, which is the discount or reduction in a claim made in consideration of prompt payment,[1] impels Us to modify the decision of respondent appellate court.

But even as We do, We nonetheless respect its factual findings[2] that –

“On January 28, 1981, plaintiffs Giovanni C. Ong, Gregoria S. Ong, Victorio T. Mangalindan, Angelina D. Mangalindan and Mabini S. Valentin entered into a contract with defendants Myrene Padilla, Roberto Padilla, Alberto Padilla, III, Rosalie Padilla and Eduardo Padilla, whereby the former sold to the latter 3,300 common shares of stock of GV FARMS, INC., representing the entire ownership of said corporation for and in consideration of P500,000.00, as evidenced by an Agreement and Deed of Sale (Exh. A; Exh. 1). The Agreement and Deed of Sale executed by the parties provides for the following terms and conditions:

x x x x

‘1. The BUYERS shall pay ONE HUNDRED THOUSAND (P100,000.00) PESOS, Philippine Currency, to the SELLERS upon signing of this Contract;

‘2. The BUYERS shall pay the SELLERS the balance of FOUR HUNDRED THOUSAND (P400,000.00) PESOS, Philippine Currency, upon the approval of the loan which the BUYERS are now applying with the Development Bank of the Philippines in the name of GV FARMS, INC. in the amount of ONE MILLION (P1,000,000.00) PESOS, but not later than March 31, 1981;

‘3. In the event that the loan is not approved by the Development Bank of the Philippines on or before March 31, 1981, the BUYERS undertake to mortgage their property situated at M.V. de los Santos Street, Legarda, Manila, covered by TCT No. 85441 and 85442 to secure the payment of the balance of the abovesaid purchase price;

‘4. Upon execution of this Contract, the BUYERS shall issue a postdated check in the sum of FOUR HUNDRED THOUSAND (P400,000.00) PESOS in favor of the SELLERS to be made payable to GIOVANNI C. ONG;

‘5. The BUYERS shall assume the existing debt of GV FARMS, INC. with the Development Bank of the Philippines, and shall undertake to consolidate the same with the abovesaid additional loan of ONE MILLION PESOS (P1,000,000.00), so that the SELLERS shall be free of said obligations x x x x’

“In compliance with their understanding, defendants issued upon execution of the Agreement and Deed of

Sale, a check for P100,000.00, which was encashed by plaintiffs, and another check, Interbank Check No. 01111201 (Exh. B; Exh. 2), postdated March 31, 1981, in the amount of P350,000.00, payable to Giovanni C. Ong. The check issued was only for P350,000.00, instead of P400,000.00 because defendants were given by plaintiffs a rebate of P50,000.00. Defendants, however, did not file a loan application with the Development Bank of the Philippines because when they went there to inquire, they were told that a new loan application by GV FARMS, INC. would not be given due course unless its existing loans were paid (TSN, February 13, 1984, pp. 6-7). Instead, they applied (for) a loan with the Philippine Veterans Bank (Exh. 5). When the due date arrived, defendants were not able to pay plaintiffs the unpaid balance and asked the latter to defer presentment of the check for payment. On August 3, 1981, after several attempts by plaintiffs spouses Giovanni and Gregoria Ong to settle the matter with defendants, plaintiffs finally had the chance to talk with defendant Myrene Padilla and tendered the letter, dated July 15, 1991 (should be 1981), demanding defendants to execute a mortgage in their favor on the properties mentioned in the Agreement and Deed of Sale, as a security for the payment of the unpaid purchase price (Exh. C). On the same date, defendant Myrene Padilla issued PCIB check (Exh. D; Exh. 3) for the same amount of P350,000.00, postdated August 15, 1981, in lieu of the Interbank check (Exh. B; Exh. 2). This check was accepted by plaintiffs spouses Giovanni and Gregoria Ong. The issuance of the PCIB check is evidenced by a Cash Voucher, signed by Giovanni Ong and Myrene Padilla (Exh. H; Exh. 4). Defendant Myrene Padilla also agreed to execute the mortgage, but asked plaintiffs spouses Giovanni and Gregoria Ong that the properties previously agreed upon be substituted by other set of properties. The substitution of properties was not accepted by plaintiffs and the mortgage contract, although drafted, was not executed at all. When plaintiffs spouses Giovanni and Gregoria Ong presented the PCIB check (Exh. D; Exh. 3) for collection, it was dishonored for insufficiency of funds (Exhs. D-1, D-3). Whereupon, plaintiffs renewed their demand for the execution of the mortgage on TCT Nos. 85441 and 85442, but to no avail. Because of defendants' continuous refusal to pay the unpaid balance and to execute the mortgage x x x and upon their counsel's advice, secured certified true copies of TCT Nos. 85441 and 85442, and found out that the property covered by TCT No. 85442 had already been mortgaged in favor of Perpetual Finance and Credit, Inc., per entry No. 4171, dated September 11, 1981 (Exh. F-2-A). Plaintiffs also filed an adverse claim and notice of lis pendens on the titles, and the same were inscribed on September 18, 1981 and October 14, 1981 respectively (Exhs. F & F-3). And on October 14, 1981, plaintiffs filed this case for sum of money with specific performance, against defendants.”[3]

On 9 January 1989, the Regional Trial Court of Manila, Branch 23, ruled in favor of plaintiffs therein (private respondents herein) -

“WHEREFORE, judgment is hereby rendered against the defendants and in favor of the plaintiffs, dismissing the counterclaims of the former and ordering them to pay solidarily the plaintiffs as follows: 1. the sum of P400,000.00 with legal interest from the filing of the complaint until fully paid corresponding to the balance of defendants' unpaid obligation; 2. the amount of P20,000.00 as attorney's fee; 3. to execute the mortgage contract as agreed upon on their two parcels of land with Transfer Certificates of Title Nos. 85441 and 85442 until the defendants have fully settled the obligation as ordered under paragraph (1) hereof; 4. and the adverse claims over Transfer Certificates of Title Nos. 85441 and 85442 is ordered reinstated and shall remain enforced together with the notice of lis pendens until further order from this Court x x x”[4]

The Padillas appealed to respondent Court of Appeals. On 3 February 1992, a judgment[5] was promulgated modifying the ruling of the trial court, but only insofar as the amount to be paid was concerned. Thus -

“x x x we rule that the unpaid balance is P350,000.00. We believe that a rebate of P50,000.00 was given by plaintiffs to defendants, without any condition at all. We do not subscribe to the claim of plaintiff that the rebate was given only if the Interbank check was good when presented for payment on March 31, 1981, otherwise, plaintiffs Giovanni and Gregoria Ong should not have accepted and encashed the PCIB check in the amount of P350,000.00, postdated August 15, 1981, which was issued in lieu of the Interbank check. Moreover, the Cash Voucher (Exh. H; Exh. 4), which proved the issuance of the PCIB check, and signed by

plaintiff Giovanni Ong, shows that the unpaid balance was P350,000.00. And there is nothing in said Cash Voucher which indicates that the amount of P350,000.00 is only a partial payment.”[6]

On 10 June 1992, the motion for reconsideration was denied; hence, this petition for review on certiorari.

Petitioners contend that they cannot be faulted for their failure and inability to pay the outstanding balance of P350,000.00 since they were prevented from doing so by private respondents themselves. According to petitioners, pursuant to par. 2 of the “Agreement and Deed of Sale,” payment of the balance of P350,000.00 would be taken from the proceeds of the loan from the Development Bank of the Philippines (DBP). Since neither an application for a loan with the DBP could be filed, much less approved, by reason of an outstanding overdue account of GV Farms, Inc., with the bank, nor was the application for a loan with the Philippine Veterans Bank (PVB) given due course, as private respondents had caused the annotation of an adverse claim and notice of lis pendens on the properties covered by TCT Nos. 85441 and 85442, the very same titles offered to the PVB as collateral for the loan applied for, petitioners then cannot be blamed for their failure to pay the balance of the purchase price.

Moreover, petitioners asseverate that the agreement where they undertook to mortgage their properties covered by TCT Nos. 85441 and 85442 had already been novated by a subsequent understanding embodied in the cash voucher signed by private respondent Giovanni C. Ong acknowledging receipt of the PCIB check “[i]n lieu of Interbank Check No. 01111201 dated March 31, 1981, to guarantee unpaid balance of purchase price per Contract of Sale dated Jan. 28, 1981, & to substitute for TCT Nos. 85441 and 85442 being negotiated for mortgage with Phil. Veterans Bank.”[7]

Private respondents, on the other hand, aver that the phrase “but not later than March 31, 1981” in par. 2 of the agreement was precisely included to fix the period when payment of the balance of the purchase price would become due and demandable. The obligation became due and demandable on 31 March 1981 even if the loan with DBP was not approved.[8] Furthermore, private respondents vehemently deny the authenticity of the said cash voucher (Exh. “H”).[9]

We do not subscribe to petitioners’ argument that the obligation to pay the balance was conditioned upon the approval and release of the loan by the DBP. Neither are We persuaded by their submission that the agreement where they undertook to mortgage their properties covered by TCT Nos. 85441 and 85442 was novated by a subsequent understanding.

It would be absurd to subject the payment of the balance to a conditional term of having the loan approved and released by the bank on or before 31 March 1981 the non-fulfillment of which would extinguish the obligation to pay. The contract must not be understood in the sense that should the loan from the Development Bank of the Philippines be disapproved, then the buyers could go scot-free. There is nothing in the agreement which indicates that the balance of the purchase price for the 3,300 shares of GV Farms, Inc., should be paid only out of the proceeds of the loan. Neither is there any statement that the payment of the balance is conditioned upon the approval of the loan.

What may be inferred from the agreement is that the payment may come from the proceeds of the loan from the bank. It does not in any way provide that disapproval of the loan will excuse the buyers from paying. Whether or not the loan is approved, petitioners have an outstanding obligation to pay private respondents on or before 31 March 1981.

Petitioners’ defense of novation is misplaced. Private respondents have disavowed the authenticity of the cash voucher on the ground that some provisions thereof were not present when it was signed by respondent Giovanni Ong. The unreliability of the cash voucher was confirmed by NBI Senior Document Examiner Eliodoro

Constantino. Citing Questioned Document Report No. 151-482 submitted by Mr. Constantino, respondent appellate court ruled that -

“x x x the typewritten entries reading ‘to guarantee unpaid balance of purchase price per Contract of Sale dated Jan. 28, 1981 & to substitute TCT No. 85441 and 85442 being negotiated for mortgage with Phil. Veterans Bank’ are insertions/additions (inserted/added typewritten entries or intercalations); that the inserted/intercalated entries were typed in a different setting/occasion from the typewriting setting of the main basic typewritten entries, as shown by their different horizontal and vertical alignments with those of the main typewritten entries; and that the typewritten comma (,) after year ‘1981’ is a superimposition over a previous/original typewritten period (.) (Exh. I). When called to testify in open court, Mr. Constantino confirmed what he stated in his report, and the defendants were not able to discredit his testimony. Like the trial court, we find his testimony and documentary analysis of the questioned document credible, and impressed with expertise and authority.”[10]

We find no reason to differ from these observations.

We however take exception to the ruling of respondent appellate court that the “rebate of P50,000.00 was given by plaintiffs (private respondents) to defendants (petitioners) without any condition at all.” Rebate, as We define it, is given in consideration of prompt payment. Prompt payment then is the condition for the rebate. That could not have applied to the downpayment of P100,000.00; that is absurd. It can only refer to the balance of P400,000.00. On the assumption that the balance would be paid on or before 31 March 1981, the P50,000.00 rebate would be granted. But, since up to now or more than twelve (12) years hence, no payment has been effected on the balance, We cannot find any justification for a rebate to be enjoyed by parties who have defaulted in their obligation for the past twelve (12) years. To insist that the rebate was given “without any condition at all” and that it should be granted notwithstanding non-payment of the balance of the purchase price would negate the very nature and purpose of rebate.

The acceptance by respondent Ong of the second check, PCIB check in the amount of P350,000.00 postdated 15 August 1981, in lieu of the Interbank check for the same amount postdated 31 March 1981, and the subsequent attempted encashment of the PCIB check cannot estop private respondents from demanding the entire amount of P400,000.00 as stipulated in the written agreement. Neither can private respondents be faulted for accepting without reservations a proffered amount less than that provided in the contract, thereby allegedly waiving the balance, and for accepting an amount being offered, though insufficient. If at all, private respondents were already getting exasperated running after petitioners who up to now have successfully evaded payment of their obligation. Corollarily, this does not mean that private respondents have waived their claim for any deficiency in the payment. For, after all, waiver to be effective is required to be clearly established.

Petitioners’ allegation in their Reply that the phrase “but not later than March 31, 1981” found in par. 2 of the “Agreement and Deed of Sale” (Exh. “A-2”) is not meant to determine the due date of payment of the balance but a time-table for the approval and release of the loan applied for by petitioners with DBP, is likewise untenable. If at all, this argument has been nullified by petitioners’ subsequent issuance of the PCIB check postdated 15 August 1981 to replace the Interbank check postdated 31 March 1981, an act which extended the period within which petitioners were required to pay the balance, i.e., on or before 15 August 1981. In other words, the issuance of the PCIB check merely gave petitioners a grace period, sort of a breathing spell, after which they would be considered in default. Private respondents’ acceptance of the PCIB check, in turn, confirms their acquiescence to the extension. As a consequence, petitioners should pay private respondents the full amount of P400,000.00 representing the balance stipulated in their contract of 28 January 1981, and not merely P350,000.00 as ruled by respondent appellate court.

WHEREFORE, except as herein-above modified by deleting the allowance of rebate, the Decision of respondent Court of Appeals is AFFIRMED, hereby reinstating that of the court of origin. Costs against petitioners.
SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Quiason, JJ., concur.

[1] See Black's Law Dictionary, 5th Ed., St. Paul, Minn., West Publishing Co., p. 1139; Ballantine's Law Dictionary, 3rd Ed., San Francisco, California, The Lawyers Co-operative Publishing Co., p. 1062; Bouvier's Law Dictionary, 3rd Rev., Vol. II, St. Paul, Minn., West Publishing Co., p. 2819; 75 C.J.S. 639, citing *State v. Schwarzschild*, 22 A. 164, 165, 83 Me. 261, 268; Philippine Legal Encyclopedia (1986), Quezon City, Phoenix Press, Inc., pp. 827-828.

[2] Factual findings of the Court of Appeals are conclusive upon the Supreme Court (*Gelos v. CA*, G.R. No. 86186, 8 May 1992, 208 SCRA 608, and a host of other cases). While this admits of certain exceptions, there is no reason in this case to deviate from the rule.

[3] Decision of the Court of Appeals, pp. 7-10.

[4] *Id.*, pp. 1-2.

[5] Fifth Division; Decision and Resolution penned by Associate Justice Jaime M. Lantin, concurred in by Associate Justices Reynato S. Puno and Cezar D. Francisco.

[6] *Id.*, pp. 10-11.

[7] Provisions of the Cash Voucher, as reproduced on p. 13 of the Decision of the Court of Appeals.

[8] Comment, p. 3; Rollo, p. 45.

[9] *Ibid.*, p. 8; Rollo, p. 50.

[10] Decision of the Court of Appeals, pp. 13-14.

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