

ELISCO TOOL MANUFACTURING CORPORATION, PETITIONER, VS. COURT OF APPEALS, ROLANDO LANTAN, AND RINA LANTAN, RESPONDENTS

G.R. No. 109966. May 31, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review of the decision[1] of the Court of Appeals which affirmed in toto the decision of the Regional Trial Court of Pasig, Branch 51, declaring respondent spouses Rolando Lantan and Rina Lantan owners of a 1979 model 2-door Colt Lancer car which they had acquired under a car plan for top employees of the Elizalde group of companies.

The facts are as follows:

Private respondent Rolando Lantan was employed at the Elisco Tool Manufacturing Corporation as head of its cash department. On January 9, 1980, he entered into an agreement with the company which provided as follows:[2]

That, EMPLOYER is the owner of a car Colt Lancer 2 door, Model 1979, with Serial No. 3403 under LTC Registration Certificate No. 0526558;

That, for and in consideration of a monthly rental of ONE THOUSAND TEN & 65/100 ONLY (P1,010.65) Philippine Currency, EMPLOYER desire to lease and EMPLOYEE accept in lease the motor vehicle aforementioned for a period of FIVE (5) years;

That, the EMPLOYEE agree as he hereby agreed to pay the lease rental thru salary deduction from his monthly remuneration in the amount as above specified for a period of FIVE (5) years;

That, for the duration of the lease contract, all expenses and costs of registration, insurance, repair and maintenance, gasoline, oil, part replacement inclusive of all expenses necessary to maintain the vehicle in top condition shall be for the account of the EMPLOYEE;

That, at the end of FIVE (5) year period or upon payment of the 60[th] monthly rental, EMPLOYEE may exercise the option to purchase the motor vehicle from the EMPLOYER and all monthly rentals shall be applied to the payment of the full purchase price of the car and further, should EMPLOYEE desire to exercise this option before the 5-year period lapse, he may do so upon payment of the remaining balance on the five year rental unto the EMPLOYER, it being understood however that the option is limited to the EMPLOYEE;

That, upon failure of the EMPLOYEE to pay THREE (3) accumulated monthly rentals will vest upon the EMPLOYER the full right to lease the vehicle to another EMPLOYEE;

That, in the event of resignation and or dismissal from the service, the EMPLOYEE shall return the subject motor vehicle to the EMPLOYER in its compound at Kalawaan Sur, Pasig, Metro Manila in good working and body condition.

On the same day, January 9, 1980, private respondent executed a promissory note reading as follows:[3]

PROMISSORY NOTE

P60,639.00

FOR VALUE RECEIVED, we promise to pay [to] the order of ELISCO TOOL MFG. CORP. - SPECIAL PROJECT, at its office at Napindan, Taguig, Metro Manila, Philippines, the sum of ONE THOUSAND TEN & 65/100 PESOS (P1,010.65), Philippine Currency, beginning January 9, 1980, without the necessity of notice or demand in accordance with the schedule of payment hereto attached as an integral part hereof.

In case of default in the payment of any installment on the stipulated due date, we agree to pay as liquidated damages 2% of the amount due and unpaid for every thirty (30) days of default or fraction thereof. Where the default covers two successive installments, the entire unpaid balance shall automatically become due and payable.

It is further agreed that if upon such default attorney's services are availed of, an additional sum equal to TWENTY (20%) percent of the total amount due thereon, but in no case be less than P1,000.00 shall be paid to holder(s) hereof as attorney's fees in addition to the legal costs provided for by law. We agree to submit to the jurisdiction of the proper courts of Makati, Metro Manila or the Province of Rizal, at the option of the holder(s) waiving for this purpose any other venue.

In case extraordinary inflation or deflation of the currency stipulated should occur before this obligation is paid in full, the value of the currency at the time of the establishment of the obligation will be the basis of payment.

Holder(s) may accept partial payment reserving his right of recourse against each and all endorsers who hereby waive DEMAND PRESENTMENT and NOTICE.

Acceptance by the holder(s) of payment or any part thereof after due date shall not be considered as extending the time for the payment of the aforesaid obligation or as a modification of any of the condition hereof.

After taking possession of the car, private respondent installed accessories therein worth P15,000.00.

In 1981, Elisco Tool ceased operations, as a result of which private respondent Rolando Lantan was laid off. Nonetheless, as of December 4, 1984, private respondent was able to make payments for the car in the total amount of P61,070.94.

On June 6, 1986, petitioner filed a complaint, entitled "replevin plus sum of money," against private respondent Rolando Lantan, his wife Rina, and two other persons, identified only as John and Susan Doe, before the Regional Trial Court of Pasig, Metro Manila. Petitioner alleged that private respondents failed to pay the monthly rentals which, as of May 1986, totalled P39,054.86; that despite demands, private respondents failed to settle their obligation thereby entitling petitioner to the possession of the car; that petitioner was ready to post a bond in an amount double the value of the car, which was P60,000; and that in case private respondents could not return the car, they should be held liable for the amount of P60,000 plus the accrued monthly rentals thereof, with interest at the rate of 14% per annum, until fully paid. Petitioner's complaint contained the following prayer:

WHEREFORE, plaintiffs prays that judgment be rendered as follows:

ON THE FIRST CAUSE OF ACTION

Ordering defendant Rolando Lantan to pay the plaintiff the sum of P39,054.86 plus legal interest from the date of demand until the whole obligation is fully paid;

ON THE SECOND CAUSE OF ACTION

To forthwith issue a Writ of Replevin ordering the seizure of the motor vehicle more particularly described in

paragraph 3 of the Complaint, from defendant Rolando Lantan and/or defendants Rina Lantan, John Doe, Susan Doe and other person or persons in whose possession the said motor vehicle may be found, complete with accessories and equipment, and direct deliver thereof to plaintiff in accordance with law, and after due hearing to confirm said seizure and plaintiff's possession over the same;

ON THE ALTERNATIVE CAUSE OF ACTION

In the event that manual delivery of the subject motor vehicle cannot be effected for any reason, to render judgment in favor of plaintiff and against defendant Rolando Lantan ordering the latter to pay the sum of SIXTY THOUSAND PESOS (P60,000.00) which is the estimated actual value of the above-described motor vehicle, plus the accrued monthly rentals thereof with interests at the rate of fourteen percent (14%) per annum until fully paid;

PRAYER COMMON TO ALL CAUSES OF ACTION

- Ordering the defendant Rolando Lantan to pay the plaintiff an amount equivalent to twenty-five percent (25%) of his outstanding obligation, for and as attorney's fees;
- Ordering defendants to pay the cost or expenses of collection, repossession, bonding fees and other incidental expenses to be proved during the trial; and
- Ordering defendants to pay the costs of suit.

Plaintiff also prays for such further reliefs as this Honorable Court may deem just and equitable under the premises.

Upon petitioner's posting a bond in the amount of P120,000, the sheriff took possession of the car in question and after five (5) days turned it over to petitioner.[4]

In due time, private respondents filed their answer. They claimed that the agreement on which the complaint was based had not been signed by petitioner's representative, Jose Ma. S. del Gallego, although it had been signed by private respondent Rolando Lantan; that their true agreement was "to buy and sell and not lease with option to buy" the car in question at a monthly amortization of P1,000; and that petitioner accepted the installment payments made by them and, in January 1986, agreed that the balance of the purchase price would be paid on or before December 31, 1986. Private respondents cited the provision of the agreement making respondent Rolando Lantan liable for the expenses for registration, insurance, repair and maintenance, gasoline, oil and part replacements, inclusive of all necessary expenses, as evidence that the transaction was one of sale. Private respondents further alleged that, in any event, petitioner had waived its rights under the agreement because of the following circumstances: (a) while the parties agreed that payment was to be made through salary deduction, petitioner accepted payments in cash or checks; (b) although they agreed that upon the employee's resignation, the car should be returned to the employer, private respondent Rolando Lantan was not required to do so when he resigned in September 1982; (c) petitioner did not lease the vehicle to another employee after private respondent Rolando Lantan had allegedly failed to pay three monthly "rentals"; and (d) petitioner failed to enforce the manner of payment under the agreement by its acceptance of payments in various amounts and on different dates.

In its reply, petitioner maintained that the contract between the parties was one of lease with option to purchase and that the promissory note was merely a "nominal security" for the agreement. It contended that the mere acceptance of the amounts paid by private respondents and for indefinite periods of time was not evidence that the parties' agreement was one of purchase and sale. Neither was it guilty of laches because, under the law, an action based on a written contract can be brought within ten (10) years from the time the action accrues. On August 31, 1987, the trial court[5] rendered its decision.

The trial court sustained private respondents' claim that the agreement in question was one of sale and held that

the latter had fully paid the price of the car having paid the total amount of P61,070.94 aside from installing accessories in the car worth P15,000.00. Said the trial court:

Plaintiff now comes claiming ownership of the car in question and has succeeded in repossessing the same by virtue of the writ of seizure issued in this case on July 29, 1986. Not content with recovering possession of the said car, plaintiff still asks that defendants should pay it the sum of P39,054.86, allegedly representing the rentals due on the car from the time of the last payment made by defendants to its repossession thereof. This is indeed a classic case of one having his cake and eating it too! Under the Recto law (Arts. 1484 & 1485, Civil Code), the vendor who repossesses the goods sold on installments, has no right to sue the vendee for the unpaid balance thereof.

The Court can take judicial notice of the practice wherein executives enjoy car plans in progressive companies. The agreement of January 9, 1980 between the parties is one such car plan. If defendant Rolando Lantan failed to keep up with his amortizations on the car in question, it was not because of his own liking but rather he was pushed to it by circumstances when his employer folded up and sent him to the streets. That plaintiff was giving all the chance to defendants to pay the value of the car and acquire full ownership thereof is shown by the delay in instituting the instant case. . . .

The court likewise found that the amount of P61,070.94 included a 2% penalty for late payments for which there was no stipulation in the agreement:

. . . The agreement and defendant Rolando Lantan's promissory note of January 9, 1980 do not provide even for interest on the remaining balance of the purchase price of the car. This privilege extended by corporations to their top executives is considered additional emolument to them. And so the reason for the lack of provision for interest, much less penalty charges. Therefore, all payments made by defendant should be applied to the principal account. Since the principal was only P60,639.00, the defendants have made an overpayment of P431.94 which should be returned to defendant by plaintiff.

For this reason, it ordered petitioner to pay private respondents the amount of P431.94 as excess payment, as well as rentals at the rate of P1,000 a month for depriving private respondents of the use of their car, and moral damages for the worry, embarrassment, and mental torture suffered by them on account of the repossession of the car.

The dispositive portion of the trial court's decision reads as follows:

WHEREFORE, judgment is hereby rendered in favor of defendants and against plaintiff, dismissing plaintiff's complaint; declaring defendants the lawful owners of that Colt Lancer 2-door, Model 1979 with Serial No. 3403 under Registration Certificate No. 0526558; ordering plaintiff to deliver to defendants the aforesaid motor vehicle complete with all the accessories installed therein by defendants; should for any reason plaintiff is unable to deliver the said car to defendants, plaintiff is ordered to pay to defendants the value of said car in the sum of P60,639.00 plus P15,000.00, the value of the accessories, plus interest of 12% on the said sums from August 6, 1986; and sentencing plaintiff to pay defendants the following sums:

a) P12,431.94 as actual damages broken down as follows:

1) P431.94 overpayment made by defendants to plaintiff; and

2) P12,000.00 rental on the car in question from August 6, 1986 to August 5, 1987, plus the sum of P1,000.00 a month beginning August 6, 1987 until the car is returned by plaintiff to, and is received by, defendant;

b) the sum of P20,000.00 as moral damages;

c) the sum of P5,000.00 as exemplary damages; and

d) the sum of P5,000.00 as attorney's fees.

Costs against the plaintiff.

SO ORDERED.

Petitioner appealed to the Court of Appeals. On the other hand, private respondents filed a motion for execution pending appeal. In its resolution of March 9, 1989, the Court of Appeals granted private respondents' motion and, upon the filing of a bond, in the amount of P70,000.00, it issued a writ of execution, pursuant to which the car was delivered to private respondents on April 16, 1989.[6]

On August 26, 1992, the Court of Appeals rendered its decision, affirming in toto the decision of the trial court. Hence, the instant petition for review on certiorari.

Petitioner contends that the Court of Appeals erred -

- (a) in disregarding the admission in the pleadings as to what documents contain the terms of the parties' agreement.
- (b) in holding that the interest stipulation in respondents' Promissory Note was not valid and binding.
- (c) in holding that respondents had fully paid their obligations.

It further argues that -

On the assumption that the Lease Agreement with option to buy in this case may be treated as a sale on installments, the respondent Court of Appeals nonetheless erred in not finding that the parties have validly agreed that the petitioner as seller may [i] cancel the contract upon the respondent's default on three or more installments, [ii] retake possession of the personalty, and [iii] keep the rents already paid.

First. Petitioner does not deny that private respondent Rolando Lantan acquired the vehicle in question under a car plan for executives of the Elizalde group of companies. Under a typical car plan, the company advances the purchase price of a car to be paid back by the employee through monthly deductions from his salary. The company retains ownership of the motor vehicle until it shall have been fully paid for.[7] However, retention of registration of the car in the company's name is only a form of a lien on the vehicle in the event that the employee would abscond before he has fully paid for it. There are also stipulations in car plan agreements to the effect that should the employment of the employee concerned be terminated before all installments are fully paid, the vehicle will be taken by the employer and all installments paid shall be considered rentals per agreement.[8]

This Court has long been aware of the practice of vendors of personal property of denominating a contract of sale on installment as one of lease to prevent the ownership of the object of the sale from passing to the vendee until and unless the price is fully paid. As this Court noted in *Vda. de Jose v. Barrueco*: [9]

Sellers desirous of making conditional sales of their goods, but who do not wish openly to make a bargain in that form, for one reason or another, have frequently resorted to the device of making contracts in the form of leases either with options to the buyer to purchase for a small consideration at the end of term, provided the so-called rent has been duly paid, or with stipulations that if the rent throughout the term is paid, title shall thereupon vest in the lessee. It is obvious that such transactions are leases only in name. The so-called rent must necessarily be regarded as payment of the price in installments since the due payment of the agreed amount results, by the terms of the bargain, in the transfer of title to the lessee.

In an earlier case, *Manila Gas Corporation v. Calupitan*, [10] which involved a lease agreement of a stove and a water heater, the Court said:

. . . [W]e are of the opinion, and so hold, that when in a so-called contract of lease of personal property it is stipulated that the alleged lessee shall pay a certain amount upon signing the contract, and on or before the 5[th] of every month, another specific amount, by way of rental, giving the alleged lessee the right of option to buy the said personal property before the expiration of the period of lease, which is the period necessary for the payment of the said amount at the rate of so much a month, deducting the payments made by way of advance and alleged monthly rentals, and the said alleged lessee makes the advance payment and other monthly installments, noting in his account and in the receipts issued to him that said payments are on account of the price of the personal property allegedly leased, said contract is one of sale on installment and not of lease.[11]

In *U.S. Commercial v. Halili*, [12] a lease agreement was declared to be in fact a sale of personal property by installment. Said the Court: [13]

. . . There can hardly be any question that the so-called contracts of lease on which the present action is based were veritable leases of personal property with option to purchase, and as such come within the purview of the above article [Art. 1454-A of the old Civil Code on sale of personal property by installment]. In fact the instruments (exhibits 'A' and 'B') embodying the contracts bear the heading or title 'Lease-Sale (Lease-Sale of Transportation and/or Mechanical Equipment).' The contracts fix the value of the vehicles conveyed to the lessee and expressly refer to the remainder of said value after deduction of the down payment made by the lessee as 'the unpaid balance of the purchase price of the leased equipment.' The contracts also provide that upon the full value (plus stipulated interest) being paid, the lease would terminate and title to the leased property would be transferred to the lessee. Indeed, as the defendant-appellant points out, the inclusion of a clause waiving benefit of article 1454-A of the old Civil Code is conclusive proof of the parties' understanding that they were entering into a lease contract with option to purchase which come within the purview of said article.

Being leases of personal property with option to purchase as contemplated in the above article, the contracts in question are subject to the provision that when the lessor in such case "has chosen to deprive the lessee of the enjoyment of such personal property," "he shall have no further action" against the lessee "for the recovery of any unpaid balance" owing by the latter, "agreement to the contrary being null and void."

It was held that in choosing to deprive the defendant of possession of the leased vehicles, the plaintiff waived its right to bring an action to recover unpaid rentals on the said vehicles.

In the case at bar, although the agreement provides for the payment by private respondents of "monthly rentals," the fifth paragraph thereof gives them the option to purchase the motor vehicle at the end of the 5[th] year or upon payment of the 60[th] monthly rental when "all monthly rentals shall be applied to the payment of the full purchase price of the car." It is clear that the transaction in this case is a lease in name only. The so-called monthly rentals are in truth monthly amortizations on the price of the car.

Second. The contract being one of sale on installment, the Court of Appeals correctly applied to it the following provisions of the Civil Code:

ART. 1484. In a contract of sale of personal property the price of which is payable in installments, the vendor may exercise any of the following remedies:

- (1) Exact fulfillment of the obligation, should the vendee fail to pay;
- (2) Cancel the sale, should the vendee's failure to pay cover two or more installments;
- (3)

Foreclose the chattel mortgage on the thing sold, if one has been constituted, should the vendee's failure to pay cover two or more installments. In this case, he shall have no further action against the purchaser to recover any unpaid balance of the price. Any agreement to the contrary shall be void.

ART. 1485. The preceding article shall be applied to contracts purporting to be leases of personal property with option to buy, when the lessor has deprived the lessee of the possession or enjoyment of the thing.

The remedies provided for in Art. 1484 are alternative, not cumulative. The exercise of one bars the exercise of the others.[14] This limitation applies to contracts purporting to be leases of personal property with option to buy by virtue of Art. 1485.[15] The condition that the lessor has deprived the lessee of possession or enjoyment of the thing for the purpose of applying Art. 1485 was fulfilled in this case by the filing by petitioner of the complaint for replevin to recover possession of movable property. By virtue of the writ of seizure issued by the trial court, the deputy sheriff seized the vehicle on August 6, 1986 and thereby deprived private respondents of its use.[16] The car was not returned to private respondent until April 16, 1989, after two (2) years and eight (8) months, upon issuance by the Court of Appeals of a writ of execution.[17]

Petitioner prayed that private respondents be made to pay the sum of P39,054.86, the amount that they were supposed to pay as of May 1986, plus interest at the legal rate.[18] At the same time, it prayed for the issuance of a writ of replevin or the delivery to it of the motor vehicle "complete with accessories and equipment." [19] In the event the car could not be delivered to petitioner, it was prayed that private respondent Rolando Lantan be made to pay petitioner the amount of P60,000.00, the "estimated actual value" of the car, "plus accrued monthly rentals thereof with interests at the rate of fourteen percent (14%) per annum until fully paid." [20] This prayer of course cannot be granted, even assuming that private respondents have defaulted in the payment of their obligation. This led the trial court to say that petitioner wanted to eat its cake and have it too.

Notwithstanding this impossibility in petitioner's choice of remedy, this case should be considered as one for specific performance, pursuant to Art. 1484(1), consistent with its prayer with respect to the unpaid installments as of May 1986. In this view, the prayer for the issuance of a writ of replevin is only for the purpose of insuring specific performance by private respondents.

Both the trial court and the Court of Appeals correctly ruled that private respondents could no longer be held liable for the amounts of P39,054.86 or P60,000.00 because private respondents had fulfilled their part of the obligation. The agreement does not provide for the payment of interest on unpaid monthly "rentals" or installments because it was entered into in pursuance of a car plan adopted by the company for the benefit of its deserving employees. As the trial court correctly noted, the car plan was intended to give additional benefits to executives of the Elizalde group of companies.

Petitioner contends that the promissory note provides for such interest payment. However, as the Court of Appeals held:

The promissory note in which the 2% monthly interest on delayed payments appears does not form part of the contract. There is no consideration for the promissory note. There is nothing to show that plaintiff advanced the purchase price of the vehicle for Lantan so as to make the latter indebted to the former for the amount stated in the promissory note. Thus, as stated in the complaint: "That sometime in January, 1980, defendant Rolando Lantan entered into an agreement with the plaintiff for the lease of a motor vehicle supplied by the latter, with the option to purchase at the end of the period of lease" In other words, plaintiff did not buy the vehicle for Rolando Lantan, advancing the purchase price for that purpose. There is nothing in the complaint or in the evidence to show such arrangement. Therefore, there was no indebtedness secured by a promissory note to speak of. There being no consideration for the promissory note, the same, including the penalty clause contained thereon, has no binding effect.[21]

There is no evidence that private respondents received the amount of P60,639.00 indicated in the promissory note as its value. What was proven below is the fact that private respondents received from petitioner the 2-door Colt Lancer car which was valued at P60,000 and for which private respondent Rolando Lantan paid monthly amortizations of P1,010.65 through salary deductions.

Indeed, as already stated, private respondents' default in paying installments was due to the cessation of operations of Elizalde Steel Corporation, petitioner's sister company. Petitioner's acceptance of payments made by private respondents through cash and checks could have been impelled solely by petitioner's inability to deduct the amortizations from private respondent Rolando Lantan's salary which he stopped receiving when his employment was terminated in September 1982. Apparently, to minimize the adverse consequences of the termination of private respondent's employment, petitioner accepted even late payments. That petitioner accepted payments from private respondent Rolando Lantan more than two (2) years after the latter's employment had been terminated constitutes a waiver of petitioner's right to collect interest upon the delayed payments. The 2% surcharge is not provided for in the agreement. Its collection by the company would in fact run counter to the purpose of providing "added emoluments" to its deserving employees. Consequently, the total amount of P61,070.94 already paid to petitioner should be considered payment of the full purchase price of the car or the total installments paid.

Third. Private respondents presented evidence that they "felt bad, were worried, embarrassed and mentally tortured" by the repossession of the car.[22] This has not been rebutted by petitioner. There is thus a factual basis for the award of moral damages. In addition, petitioner acted in a wanton, fraudulent, reckless and oppressive manner in filing the instant case, hence, the award of exemplary damages is justified.[23] The award of attorney's fees is likewise proper considering that private respondents were compelled to incur expenses to protect their rights.[24]

WHEREFORE, the decision of the Court of Appeals is AFFIRMED with costs against petitioner.

SO ORDERED.

Bellosillo (Chairman), Puno, Quisumbing, and Buena, JJ., concur.

[1] Per Acting Presiding Justice Santiago M. Kapunan and concurred in by Associate Justices Oscar M. Herrera and Serafin V.C. Guingona.

[2] Exh. A, Record, pp. 63-64.

[3] Exh. B, Record, p. 65.

[4] Record, pp. 35-37.

[5] Presided by Judge Eutropio Migriño.

[6] CA Rollo, pp. 43-44.

[7] *Nestle Philippines, Inc. v. NLRC*, 195 SCRA 340 (1991).

[8] *Tesorero v. Mathay*, 185 SCRA 124, 132 (1990).

[9] 67 Phil. 191, 195 (1939).

[10] 66 Phil. 747, 752 (1938).

[11] *Id.*, at 752.

[12] 93 Phil. 271 (1953).

[13] *Id.*, at 273-274.

[14] *Delta Motor Sales Corporation v. Niu Kum Duan*, G.R. No. 61043, September 2, 1992, 213 SCRA 259, 264 (1992).

[15] 5 Arturo M. Tolentino, *Civil Code of the Philippines* 33 (1992), citing *Filinvest Credit Corporation v. Court of Appeals*, 178 SCRA 188 (1989).

[16] *Record*, pp. 36-37.

[17] *CA Rollo*, pp. 43-44.

[18] *Record*, pp. 2 & 4.

[19] *Id.*, . 5.

[20] *Ibid.*

[21] *Decision*, pp. 11-12; *Rollo*, pp. 41-42.

[22] *RTC Decision*, pp. 4-5.

[23] *Civil Code*, Arts. 2232 and 2234.

[24] *Summa Insurance Corporation v. Court of Appeals*, 323 Phil. 214 (1996).

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