

**PARAÑAQUE KINGS ENTERPRISES, INCORPORATED, PETITIONER,
VS. COURT OF APPEALS, CATALINA L. SANTOS, REPRESENTED BY
HER ATTORNEY-IN-FACT, LUZ B. PROTACIO, AND DAVID A.
RAYMUNDO, RES...**

G.R. No. 111538. February 26, 1997

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Do allegations in a complaint showing violation of a contractual right of “first option or priority to buy the properties subject of the lease” constitute a valid cause of action? Is the grantee of such right entitled to be offered the same terms and conditions as those given to a third party who eventually bought such properties? In short, is such right of first refusal enforceable by an action for specific performance?

These questions are answered in the affirmative by this Court in resolving this petition for review under Rule 45 of the Rules of Court challenging the Decision[1] of the Court of Appeals[2] promulgated on March 29, 1993, in CA-G.R. CV No. 34987 entitled “Parañaque Kings Enterprises, Inc. vs. Catalina L. Santos, et al.,” which affirmed the order[3] of September 2, 1991, of the Regional Trial Court of Makati, Branch 57,[4] dismissing Civil Case No. 91-786 for lack of a valid cause of action.

Facts of the Case

On March 19, 1991, herein petitioner filed before the Regional Trial Court of Makati a complaint,[5] which is reproduced in full below:

“Plaintiff, by counsel, respectfully states that:

1. Plaintiff is a private corporation organized and existing under and by virtue of the laws of the Philippines, with principal place of business of (sic) Dr. A. Santos Avenue, Parañaque, Metro Manila, while defendant Catalina L. Santos, is of legal age, widow, with residence and postal address at 444 Plato Street, Ct., Stockton, California, USA, represented in this action by her attorney-in-fact, Luz B. Protacio, with residence and postal address at No. 12, San Antonio Street, Magallanes Village, Makati, Metro Manila, by virtue of a general power of attorney. Defendant David A. Raymundo, is of legal age, single, with residence and postal address at 1918 Kamias Street, Damariñas Village, Makati, Metro Manila, where they (sic) may be served with summons and other court processes. Xerox copy of the general power of attorney is hereto attached as Annex ‘A’.
2. Defendant Catalina L. Santos is the owner of eight (8) parcels of land located at (sic) Parañaque, Metro Manila with transfer certificate of title nos. S-19637, S-19638 and S-19643 to S-19648. Xerox copies of the said title (sic) are hereto attached as Annexes ‘B’ to ‘I’, respectively.
3. On November 28, 1977, a certain Frederick Chua leased the above-described property from defendant Catalina L. Santos, the said lease was registered in the Register of Deeds. Xerox copy of the lease is hereto attached as

Annex 'J'.

4. On February 12, 1979, Frederick Chua assigned all his rights and interest and participation in the leased property to Lee Ching Bing, by virtue of a deed of assignment and with the conformity of defendant Santos, the said assignment was also registered. Xerox copy of the deed of assignment is hereto attached as Annex 'K'.

5. On August 6, 1979, Lee Ching Bing also assigned all his rights and interest in the leased property to Parañaque Kings Enterprises, Incorporated by virtue of a deed of assignment and with the conformity of defendant Santos, the same was duly registered, Xerox copy of the deed of assignment is hereto attached as Annex 'L'.

6. Paragraph 9 of the assigned leased (sic) contract provides among others that:

'9. That in case the properties subject of the lease agreement are sold or encumbered, Lessors shall impose as a condition that the buyer or mortgagee thereof shall recognize and be bound by all the terms and conditions of this lease agreement and shall respect this Contract of Lease as if they are the LESSORS thereof and in case of sale, LESSEE shall have the first option or priority to buy the properties subject of the lease;'

7. On September 21, 1988, defendant Santos sold the eight parcels of land subject of the lease to defendant David Raymundo for a consideration of FIVE MILLION (P5,000,000.00) PESOS. The said sale was in contravention of the contract of lease, for the first option or priority to buy was not offered by defendant Santos to the plaintiff. Xerox copy of the deed of sale is hereto attached as Annex 'M'.

8. On March 5, 1989, defendant Santos wrote a letter to the plaintiff informing the same of the sale of the properties to defendant Raymundo, the said letter was personally handed by the attorney-in-fact of defendant Santos, Xerox copy of the letter is hereto attached as Annex 'N'.

9. Upon learning of this fact plaintiff's representative wrote a letter to defendant Santos, requesting her to rectify the error and consequently realizing the error, she had it reconveyed to her for the same consideration of FIVE MILLION (P5,000,000.00) PESOS. Xerox copies of the letter and the deed of reconveyance are hereto attached as Annexes 'O' and 'P'.

10. Subsequently the property was offered for sale to plaintiff by the defendant for the sum of FIFTEEN MILLION (P15,000,000.00) PESOS. Plaintiff was given ten (10) days to make good of the offer, but therefore (sic) the said period expired another letter came from the counsel of defendant Santos, containing the same tenor of (sic) the former letter. Xerox copies of the letters are hereto attached as Annexes 'Q' and 'R'.

11. On May 8, 1989, before the period given in the letter offering the properties for sale expired, plaintiff's counsel wrote counsel of defendant Santos offering to buy the properties for FIVE MILLION (P5,000,000.00) PESOS. Xerox copy of the letter is hereto attached as Annex 'S'.

12. On May 15, 1989, before they replied to the offer to purchase, another deed of sale was executed by defendant Santos (in favor of) defendant Raymundo for a consideration of NINE MILLION (P9,000,000.00) PESOS. Xerox copy of the second deed of sale is hereto attached as Annex 'T'.

13. Defendant Santos violated again paragraph 9 of the contract of lease by executing a second deed of sale to defendant Raymundo.

14. It was only on May 17, 1989, that defendant Santos replied to the letter of the plaintiff's offer to buy or two days after she sold her properties. In her reply she stated among others that the period has lapsed and the plaintiff is not a privy (sic) to the contract. Xerox copy of the letter is hereto attached as Annex 'U'.

15. On June 28, 1989, counsel for plaintiff informed counsel of defendant Santos of the fact that plaintiff is the

assignee of all rights and interest of the former lessor. Xerox copy of the letter is hereto attached as Annex 'V'.

16. On July 6, 1989, counsel for defendant Santos informed the plaintiff that the new owner is defendant Raymundo. Xerox copy of the letter is hereto attached as Annex 'W'.

17. From the preceding facts it is clear that the sale was simulated and that there was a collusion between the defendants in the sales of the leased properties, on the ground that when plaintiff wrote a letter to defendant Santos to rectify the error, she immediately have (sic) the property reconveyed it (sic) to her in a matter of twelve (12) days.

18. Defendants have the same counsel who represented both of them in their exchange of communication with plaintiff's counsel, a fact that led to the conclusion that a collusion exist (sic) between the defendants.

19. When the property was still registered in the name of defendant Santos, her collector of the rental of the leased properties was her brother-in-law David Santos and when it was transferred to defendant Raymundo the collector was still David Santos up to the month of June, 1990. Xerox copies of cash vouchers are hereto attached as Annexes 'X' to 'HH', respectively.

20. The purpose of this unholy alliance between defendants Santos and Raymundo is to mislead the plaintiff and make it appear that the price of the leased property is much higher than its actual value of FIVE MILLION (P5,000,000.00) PESOS, so that plaintiff would purchase the properties at a higher price.

21. Plaintiff has made considerable investments in the said leased property by erecting a two (2) storey, six (6) doors commercial building amounting to THREE MILLION (P3,000,000.00) PESOS. This considerable improvement was made on the belief that eventually the said premises shall be sold to the plaintiff.

22. As a consequence of this unlawful act of the defendants, plaintiff will incur (sic) total loss of THREE MILLION (P3,000,000.00) PESOS as the actual cost of the building and as such defendants should be charged of the same amount for actual damages.

23. As a consequence of the collusion, evil design and illegal acts of the defendants, plaintiff in the process suffered mental anguish, sleepless nights, bismirched (sic) reputation which entitles plaintiff to moral damages in the amount of FIVE MILLION (P5,000,000.00) PESOS.

24. The defendants acted in a wanton, fraudulent, reckless, oppressive or malevolent manner and as a deterrent to the commission of similar acts, they should be made to answer for exemplary damages, the amount left to the discretion of the Court.

25. Plaintiff demanded from the defendants to rectify their unlawful acts that they committed, but defendants refused and failed to comply with plaintiffs just and valid and (sic) demands. Xerox copies of the demand letters are hereto attached as Annexes 'KK' to 'LL', respectively.

26. Despite repeated demands, defendants failed and refused without justifiable cause to satisfy plaintiff's claim, and was constrained to engaged (sic) the services of undersigned counsel to institute this action at a contract fee of P200,000.00, as and for attorney's fees, exclusive of cost and expenses of litigation.

PRAYER

WHEREFORE, it is respectfully prayed, that judgment be rendered in favor of the plaintiff and against defendants and ordering that:

a. The Deed of Sale between defendants dated May 15, 1989, be annulled and the leased properties be sold to the

plaintiff in the amount of P5,000,000.00;

b. Dependants (sic) pay plaintiff the sum of P3,000,000.00 as actual damages;

c. Defendants pay the sum of P5,000,000.00 as moral damages;

d. Defendants pay exemplary damages left to the discretion of the Court;

e. Defendants pay the sum of not less than P200,000.00 as attorney's fees.

Plaintiff further prays for other just and equitable reliefs plus cost of suit."

Instead of filing their respective answers, respondents filed motions to dismiss anchored on the grounds of lack of cause of action, estoppel and laches.

On September 2, 1991, the trial court issued the order dismissing the complaint for lack of a valid cause of action. It ratiocinated thus:

"Upon the very face of the plaintiff's Complaint itself, it therefore indubitably appears that the defendant Santos had verily complied with paragraph 9 of the Lease Agreement by twice offering the properties for sale to the plaintiff for P15 M. The said offers, however, were plainly rejected by the plaintiff which scorned the said offer as "RIDICULOUS". There was therefore a definite refusal on the part of the plaintiff to accept the offer of defendant Santos. For in acquiring the said properties back to her name, and in so making the offers to sell both by herself (attorney-in-fact) and through her counsel, defendant Santos was indeed conscientiously complying with her obligation under paragraph 9 of the Lease Agreement. x x x

x x x x x x x x

This is indeed one instance where a Complaint, after barely commencing to create a cause of action, neutralized itself by its subsequent averments which erased or extinguished its earlier allegations of an impending wrong. Consequently, absent any actionable wrong in the very face of the Complaint itself, the plaintiff's subsequent protestations of collusion is bereft or devoid of any meaning or purpose. x x x

The inescapable result of the foregoing considerations point to no other conclusion than that the Complaint actually does not contain any valid cause of action and should therefore be as it is hereby ordered DISMISSED. The Court finds no further need to consider the other grounds of estoppel and laches inasmuch as this resolution is sufficient to dispose the matter."[6]

Petitioners appealed to the Court of Appeals which affirmed in toto the ruling of the trial court, and further reasoned that:

"x x x Appellant's protestations that the P15 million price quoted by appellee Santos was reduced to P9 million when she later resold the leased properties to Raymundo has no valid legal moorings because appellant, as a prospective buyer, cannot dictate its own price and forcibly ram it against appellee Santos, as owner, to buy off her leased properties considering the total absence of any stipulation or agreement as to the price or as to how the price should be computed under paragraph 9 of the lease contract, x x x"[7]

Petitioner moved for reconsideration but was denied in an order dated August 20, 1993.[8]

Hence this petition. Subsequently, petitioner filed an "Urgent Motion for the Issuance of Restraining Order and/or Writ of Preliminary Injunction and to Hold Respondent David A. Raymundo in Contempt of Court."[9] The motion sought to enjoin respondent Raymundo and his counsel from pursuing the ejectment complaint filed before the barangay captain of San Isidro, Parañaque, Metro Manila; to direct the dismissal of said ejectment

complaint or of any similar action that may have been filed; and to require respondent Raymundo to explain why he should not be held in contempt of court for forum-shopping. The ejectment suit initiated by respondent Raymundo against petitioner arose from the expiration of the lease contract covering the property subject of this case. The ejectment suit was decided in favor of Raymundo, and the entry of final judgment in respect thereof renders the said motion moot and academic.

Issue

The principal legal issue presented before us for resolution is whether the aforequoted complaint alleging breach of the contractual right of “first option or priority to buy” states a valid cause of action.

Petitioner contends that the trial court as well as the appellate tribunal erred in dismissing the complaint because it in fact had not just one but at least three (3) valid causes of action, to wit: (1) breach of contract, (2) its right of first refusal founded in law, and (3) damages.

Respondents Santos and Raymundo, in their separate comments, aver that the petition should be denied for not raising a question of law as the issue involved is purely factual -- whether respondent Santos complied with paragraph 9 of the lease agreement -- and for not having complied with Section 2, Rule 45 of the Rules of Court, requiring the filing of twelve (12) copies of the petitioner’s brief. Both maintain that the complaint filed by petitioner before the Regional Trial Court of Makati stated no valid cause of action and that petitioner failed to substantiate its claim that the lower courts decided the same “in a way not in accord with law and applicable decisions of the Supreme Court”; or that the Court of Appeals has “sanctioned departure by a trial court from the accepted and usual course of judicial proceedings” so as to merit the exercise by this Court of the power of review under Rule 45 of the Rules of Court. Furthermore, they reiterate estoppel and laches as grounds for dismissal, claiming that petitioner’s payment of rentals of the leased property to respondent Raymundo from June 15, 1989, to June 30, 1990, was an acknowledgment of the latter’s status as new owner-lessor of said property, by virtue of which petitioner is deemed to have waived or abandoned its first option to purchase.

Private respondents likewise contend that the deed of assignment of the lease agreement did not include the assignment of the option to purchase. Respondent Raymundo further avers that he was not privy to the contract of lease, being neither the lessor nor lessee adverted to therein, hence he could not be held liable for violation thereof.

The Court’s Ruling

Preliminary Issue: Failure to File Sufficient Copies of Brief

We first dispose of the procedural issue raised by respondents, particularly petitioner’s failure to file twelve (12) copies of its brief. We have ruled that when non-compliance with the Rules was not intended for delay or did not result in prejudice to the adverse party, dismissal of appeal on mere technicalities – in cases where appeal is a matter of right -- may be stayed, in the exercise of the court’s equity jurisdiction.[10] It does not appear that respondents were unduly prejudiced by petitioner’s nonfeasance. Neither has it been shown that such failure was intentional.

Main Issue: Validity of Cause of Action

We do not agree with respondents’ contention that the issue involved is purely factual. The principal legal question, as stated earlier, is whether the complaint filed by herein petitioner in the lower court states a valid cause of action. Since such question assumes the facts alleged in the complaint as true, it follows that the determination thereof is one of law, and not of facts. There is a question of law in a given case when the doubt or

difference arises as to what the law is on a certain state of facts, and there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts[11].

At the outset, petitioner concedes that when the ground for a motion to dismiss is lack of cause of action, such ground must appear on the face of the complaint; that to determine the sufficiency of a cause of action, only the facts alleged in the complaint and no others should be considered; and that the test of sufficiency of the facts alleged in a petition or complaint to constitute a cause of action is whether, admitting the facts alleged, the court could render a valid judgment upon the same in accordance with the prayer of the petition or complaint.

A cause of action exists if the following elements are present: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right, and (3) an act or omission on the part of such defendant violative of the right of plaintiff or constituting a breach of the obligation of defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[12]

In determining whether allegations of a complaint are sufficient to support a cause of action, it must be borne in mind that the complaint does not have to establish or allege facts proving the existence of a cause of action at the outset; this will have to be done at the trial on the merits of the case. To sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist, rather than that a claim has been defectively stated, or is ambiguous, indefinite or uncertain.[13]

Equally important, a defendant moving to dismiss a complaint on the ground of lack of cause of action is regarded as having hypothetically admitted all the averments thereof.[14]

A careful examination of the complaint reveals that it sufficiently alleges an actionable contractual breach on the part of private respondents. Under paragraph 9 of the contract of lease between respondent Santos and petitioner, the latter was granted the “first option or priority” to purchase the leased properties in case Santos decided to sell. If Santos never decided to sell at all, there can never be a breach, much less an enforcement of such “right.” But on September 21, 1988, Santos sold said properties to Respondent Raymundo without first offering these to petitioner. Santos indeed realized her error, since she repurchased the properties after petitioner complained. Thereafter, she offered to sell the properties to petitioner for P15 million, which petitioner, however, rejected because of the “ridiculous” price. But Santos again appeared to have violated the same provision of the lease contract when she finally resold the properties to respondent Raymundo for only P9 million without first offering them to petitioner at such price. Whether there was actual breach which entitled petitioner to damages and/or other just or equitable relief, is a question which can better be resolved after trial on the merits where each party can present evidence to prove their respective allegations and defenses.[15]

The trial and appellate courts based their decision to sustain respondents’ motion to dismiss on the allegations of Parañaque Kings Enterprises that Santos had actually offered the subject properties for sale to it prior to the final sale in favor of Raymundo, but that the offer was rejected. According to said courts, with such offer, Santos had verily complied with her obligation to grant the right of first refusal to petitioner.

We hold, however, that in order to have full compliance with the contractual right granting petitioner the first option to purchase, the sale of the properties for the amount of P9 million, the price for which they were finally sold to respondent Raymundo, should have likewise been first offered to petitioner.

The Court has made an extensive and lengthy discourse on the concept of, and obligations under, a right of first refusal in the case of *Guzman, Bocaling & Co. vs. Bonnevie*.^[16] In that case, under a contract of lease, the lessees (Raul and Christopher Bonnevie) were given a “right of first priority” to purchase the leased property in

case the lessor (Reynoso) decided to sell. The selling price quoted to the Bonnevies was P600,000.00 to be fully paid in cash, less a mortgage lien of P100,000.00. On the other hand, the selling price offered by Reynoso to and accepted by Guzman was only P400,000.00 of which P137,500.00 was to be paid in cash while the balance was to be paid only when the property was cleared of occupants. We held that even if the Bonnevies could not buy it at the price quoted (P600,000.00), nonetheless, Reynoso could not sell it to another for a lower price and under more favorable terms and conditions without first offering said favorable terms and price to the Bonnevies as well. Only if the Bonnevies failed to exercise their right of first priority could Reynoso thereafter lawfully sell the subject property to others, and only under the same terms and conditions previously offered to the Bonnevies.

Of course, under their contract, they specifically stipulated that the Bonnevies could exercise the right of first priority, “all things and conditions being equal.” This Court interpreted this proviso to mean that there should be identity of terms and conditions to be offered to the Bonnevies and all other prospective buyers, with the Bonnevies to enjoy the right of first priority. We hold that the same rule applies even without the same proviso if the right of first refusal (or the first option to buy) is not to be rendered illusory.

From the foregoing, the basis of the right of the first refusal* must be the current offer to sell of the seller or offer to purchase of any prospective buyer. Only after the grantee** fails to exercise its right of first priority under the same terms and within the period contemplated, could the owner validly offer to sell the property to a third person, again, under the same terms as offered to the grantee***.

This principle was reiterated in the very recent case of Equatorial Realty vs. Mayfair Theater, Inc.[17] which was decided en banc. This Court upheld the right of first refusal of the lessee Mayfair, and rescinded the sale of the property by the lessor Carmelo to Equatorial Realty “considering that Mayfair, which had substantial interest over the subject property, was prejudiced by its sale to Equatorial without Carmelo conferring to Mayfair every opportunity to negotiate within the 30-day stipulated period” (underscoring supplied).

In that case, two contracts of lease between Carmelo and Mayfair provided “that if the LESSOR should desire to sell the leased premises, the LESSEE shall be given 30 days exclusive option to purchase the same.” Carmelo initially offered to sell the leased property to Mayfair for six to seven million pesos. Mayfair indicated interest in purchasing the property though it invoked the 30-day period. Nothing was heard thereafter from Carmelo. Four years later, the latter sold its entire Recto Avenue property, including the leased premises, to Equatorial for P11,300,000.00 without priorly informing Mayfair. The Court held that both Carmelo and Equatorial acted in bad faith: Carmelo for knowingly violating the right of first refusal* of Mayfair, and Equatorial for purchasing the property despite being aware of the contract stipulation. In addition to rescission of the contract of sale, the Court ordered Carmelo to allow Mayfair to buy the subject property at the same price of P11,300,000.00.

No cause of action under P.D. 1517

Petitioner also invokes Presidential Decree No. 1517, or the Urban Land Reform Law, as another source of its right of first refusal. It claims to be covered under said law, being the “rightful occupant of the land and its structures” since it is the lawful lessee thereof by reason of contract. Under the lease contract, petitioner would have occupied the property for fourteen (14) years at the end of the contractual period.

Without probing into whether petitioner is rightfully a beneficiary under said law, suffice it to say that this Court has previously ruled that under Section 6[18] of P.D. 1517, “the terms and conditions of the sale in the exercise of the lessee’s right of first refusal to purchase shall be determined by the Urban Zone Expropriation and Land Management Committee. Hence, x x x certain prerequisites must be complied with by anyone who wishes to avail himself of the benefits of the decree.”[19] There being no allegation in its complaint that the prerequisites were complied with, it is clear that the complaint did fail to state a cause of action on this ground.

Deed of Assignment included the option to purchase

Neither do we find merit in the contention of respondent Santos that the assignment of the lease contract to petitioner did not include the option to purchase. The provisions of the deeds of assignment with regard to matters assigned were very clear. Under the first assignment between Frederick Chua as assignor and Lee Ching Bing as assignee, it was expressly stated that:

“x x x the ASSIGNOR hereby CEDES, TRANSFERS and ASSIGNS to herein ASSIGNEE, all his rights, interest and participation over said premises afore-described, x x x”[20](underscoring supplied)

And under the subsequent assignment executed between Lee Ching Bing as assignor and the petitioner, represented by its Vice President Vicenta Lo Chiong, as assignee, it was likewise expressly stipulated that:

“x x x the ASSIGNOR hereby sells, transfers and assigns all his rights, interest and participation over said leased premises, x x x”[21] (underscoring supplied)

One of such rights included in the contract of lease and, therefore, in the assignments of rights was the lessee’s right of first option or priority to buy the properties subject of the lease, as provided in paragraph 9 of the assigned lease contract. The deed of assignment need not be very specific as to which rights and obligations were passed on to the assignee. It is understood in the general provision aforequoted that all specific rights and obligations contained in the contract of lease are those referred to as being assigned. Needless to state, respondent Santos gave her unqualified conformity to both assignments of rights.

Respondent Raymundo privy to the Contract of Lease

With respect to the contention of respondent Raymundo that he is not privy to the lease contract, not being the lessor nor the lessee referred to therein, he could thus not have violated its provisions, but he is nevertheless a proper party. Clearly, he stepped into the shoes of the owner-lessor of the land as, by virtue of his purchase, he assumed all the obligations of the lessor under the lease contract. Moreover, he received benefits in the form of rental payments. Furthermore, the complaint, as well as the petition, prayed for the annulment of the sale of the properties to him. Both pleadings also alleged collusion between him and respondent Santos which defeated the exercise by petitioner of its right of first refusal.

In order then to accord complete relief to petitioner, respondent Raymundo was a necessary, if not indispensable, party to the case.[22] A favorable judgment for the petitioner will necessarily affect the rights of respondent Raymundo as the buyer of the property over which petitioner would like to assert its right of first option to buy.

Having come to the conclusion that the complaint states a valid cause of action for breach of the right of first refusal and that the trial court should thus not have dismissed the complaint, we find no more need to pass upon the question of whether the complaint states a cause of action for damages or whether the complaint is barred by estoppel or laches. As these matters require presentation and/or determination of facts, they can be best resolved after trial on the merits.

While the lower courts erred in dismissing the complaint, private respondents, however, cannot be denied their day in court. While, in the resolution of a motion to dismiss, the truth of the facts alleged in the complaint are theoretically admitted, such admission is merely hypothetical and only for the purpose of resolving the motion. In case of denial, the movant is not to be deprived of the right to submit its own case and to submit evidence to rebut the allegations in the complaint. Neither will the grant of the motion by a trial court and the ultimate reversal thereof by an appellate court have the effect of stifling such right.[23] So too, the trial court should be given the opportunity to evaluate the evidence, apply the law and decree the proper remedy. Hence, we remand the instant

case to the trial court to allow private respondents to have their day in court.

WHEREFORE, the petition is GRANTED. The assailed decisions of the trial court and Court of Appeals are hereby REVERSED and SET ASIDE. The case is REMANDED to the Regional Trial Court of Makati for further proceedings.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 75-80.

[2] Fifteenth Division, composed of J. Emeterio C. Cui, Chairman and ponente, with JJ. Jainal D. Rasul and Eduardo G. Montenegro, concurring.

[3] Rollo, pp. 67-72.

[4] Judge Francisco X. Velez, presiding.

[5] Rollo, pp. 63-65.

[6] Rollo, pp. 71-72.

[7] Ibid., p. 80.

[8] Ibid., p. 82.

[9] Ibid., pp. 195-205.

[10] Soriano vs. Court of Appeals, 222 SCRA 545, May 25, 1993. See also Goulds Pumps (Phils.), Inc. vs. Court of Appeals, 224 SCRA 127, June 30, 1993; Insular Bank of Asia and America vs. Court of Appeals, 228 SCRA 420, December 14, 1993.

[11] Paras, Rules of Court Annotated, 1989 Ed., Vol. I, p. 790.

[12] Dulay vs. Court of Appeals, 243 SCRA 220, April 3, 1995.

[13] Ibid.

[14] Rava Development Corporation vs. Court of Appeals, 211 SCRA 143, July 3, 1992.

[15] Dulay, supra.

[16] 206 SCRA 668, March 2, 1992.

* In this Decision, we used right of "first option" and right of "first refusal" interchangeably -- only because the subject contract so used them interchangeably. However, we are not unmindful of the fact that legally, an "option" is different from "right of first refusal" or "right of first priority."***

** "optionee" is being changed to "grantee"

*** "or "right of first priority" is being added.

[17] G.R. No. 106063, November 21, 1996. See also the Concurring Opinion of the undersigned ponente on why and under what circumstances a right of first refusal may be enforced by an action for specific performance.

* "option" is being changed to "refusal".

[18] Sec. 6 of P.D. No. 1517 provides:

“SECTION 6. Land Tenancy in Urban Land Reform Areas.-- Within the Urban Zones legitimate tenants who have resided on the land for ten years or more who have built their homes on the lands and residents who have legally occupied the lands by contract, continuously for the last ten years shall not be dispossessed of the land and shall be allowed the right of first refusal to purchase the same within a reasonable time and at reasonable prices, under terms and conditions to be determined by the Urban Zone Expropriation and Land Management Committee created by section 8 of this Decree.”

[19] Lagmay vs. Court of Appeals, 199 SCRA 501, July 23, 1991.

[20] Rollo, p. 37.

[21] Rollo, p. 40.

[22] Sec. 8, Rule 3, Rules of Court.

[23] Home Savings Bank vs. Court of Appeals, 237 SCRA 360, October 6, 1994.

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