JUANA ALMIRA, RENATO GARCIA, ROGELIO GARCIA, RODOLFO GARCIA, ROSITA GARCIA, RHODORA GARCIA, ROSALINDA GARCIA, ROLANDO GARCIA AND RAFAEL GARCIA REPRESENTED IN THIS SUIT BY EDGARD...

G.R. No. 115966. March 20, 2003

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before us is a petition for review on certiorari assailing the decision rendered by the Court of Appeals in C.A. G.R. CV No. 40954[1] which reversed the decision of the Regional Trial Court, Branch 32, of San Pedro, Laguna that rescinded the Kasunduan ng Pagbibilihan[2] entered into between petitioners and private respondent over a portion of a parcel of land situated in Sta. Rosa, Laguna.

The facts of the case are as follows:

Petitioners are the wife and the children of the late Julio Garcia who inherited from his mother, Maria Alibudbud, a portion of a 90,655 square-meter property denominated as Lot 1642 of the Sta. Rosa Estate in Barangay Caingin, Sta. Rosa, Laguna and covered by TCT No. RT-1076. Lot 1642 was co-owned and registered in the names of three persons with the following shares: Vicente de Guzman (½), Enrique Hemedes (¼), and Francisco Alibudbud, the father of Maria Alibudbud (¼). Although there was no separate title in the name of Julio Garcia, there were tax declarations in his name to the extent of his grandfather's share covering an area of 21,460 square meters. On July 5, 1984, petitioners, as heirs of Julio Garcia, and respondent Federico Briones entered into a Kasunduan ng Pagbibilihan (Kasunduan for brevity) over the 21,460 square-meter portion for the sum of P150,000.00. Respondent paid P65,000.00 upon execution of the contract while the balance of P85,000.00 was made payable within six (6) months from the date of the execution of the instrument. At the time of the execution of the Kasunduan, petitioners allegedly informed respondent that TCT No. RT-1076 was in the possession of their cousin, Conchalina Alibudbud who having bought Vicente de Guzman's ½ share, owned the bigger portion of Lot 1642. This notwithstanding, respondent willingly entered into the Kasunduan provided that the full payment of the purchase price will be made upon delivery to him of the title.[3]

The Kasunduan provides:

> Na ang UNANG BAHAGI ay siyang magkakamayari (co-owners), bilang tagapagmana ng yumaong Julio Garcia sa isang lagay na lupang taniman ng palay, matatagpuan sa nayon ng Caingin, Santa Rosa, Laguna, may buong lawak na 21,460 metrong parisukat, humigi't kumulang, na lalong makikilala sa mga katangiang inilalahad sa pahayag ng Buwis Bilang 3472 na ganito ang natutunguhan: Mga kahanggan: Hilaga-1641-Nazario Lauriles; Timog-Barique Hemedez; Silangan- Vicente de Guzman; at Kanluran-Francisco Alibudbod; hinalagahan para sa pagbabayad ng buwis pampamahalaan ng P12,720.00; at kasalukuyang may nabibinbing kahilingan sa hukuman upang magkaroon ng sariling titulo; nalilibot ng batong mohon na nagsisilbing hanganan sa bawa't sulok.

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> Na ang UNANG BAHAGI ay inialok sa IKALAWANG BAHAGI upang bilihin ang lupang nabanggit sa kabuuang halagang ISANG DAAN AT LIMAMPUNG LIBONG (P150,000.00) PISO, Salaping Pilipino, at ang IKALAWANG BAHAGI ay sumangayon na bilhin ang naulit na lupa batay sa sumusunod na mga pasubali at Kasunduan:
>
> (1)
>
> Na pinatutunayan ng UNANG BAHAGI na tinanggap nila sa buong kasiyahan ng kalooban buhat sa IKALAWANG BAHAGI ang halagang ANIMNAPU AT LIMANG LIBONG (P65,000.00) PISO, salaping Pilipino, bilang paunang bayad, at ang nalalabing WALUMPU AT LIMANG LIBONG (85,000.00) PISO, ay babayaran ng IKALAWANG BAHAGI sa UNANG BAHAGI sa loob ng anim na buwan simula sa takda ng kasulatang ito, sa pasubali na ang kaukulang titulo sa lupang nabanggit ay maipagkakaloob ng UNANG BAHAGI;
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> (2)
>
> Na ang UNANG BAHAGI ang siyang mananagot tungkol sa anumang kasulatang inihanda ukol sa pagbibilihang ito, gayundin sa gastos sa notaryo publiko, capital gains tax at pagpapatala ng kasulatan sa lalawigan ng Laguna;
>
> (3)
>
> Na ang UNANG BAHAGI ay lalagda sa isang "Kasulatan ng Bilihang Tuluyan" matapos na mabayarang lahat ng IKALAWANG BAHAGI ang kaukulang kabuuang halaga ng lupang nabanggit.

Respondent took possession of the property subject of the Kasunduan and made various payments to petitioners amounting to P58,500.00. However, upon failure of petitioners to deliver to him a separate title to the property in the name of Julio Garcia, he refused to make further payments, prompting petitioners to file a civil action before the Regional Trial Court of San Pedro, Laguna, Branch 32, on May 13, 1991 for (a) rescission of the Kasunduan; (b) return by respondent to petitioners of the possession of the subject parcel of land; and (c) payment by respondent of damages in favor of petitioners.

Petitioners alleged that respondent was bound to pay the balance of the purchase price within six (6) months from the date of the execution of the Kasunduan and upon delivery to him of TCT No. RT-1076. Petitioners claimed that they approached respondent several times to deliver TCT No. RT-1076 but respondent told them that he did not have money to pay the balance of the purchase price.[4] Respondent, on the other hand, filed a counterclaim for damages and averred that he refused to make further payments because of petitioners' failure to deliver to him a separate title in the name of Julio Garcia.

On November 26, 1992, the trial court rendered a decision, the dispositive portion of which reads:

> WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant decreeing the rescission of the "Kasunduan ng Pagbibilihan" dated July 5, 1984 and ordering the defendant to return and restore possession of the property subject of the Kasunduan ng Pagbibilihan to the plaintiffs. For paucity of evidence, no judgment can be rendered on the other reliefs prayed for in the complaint.
>
> On the other hand, plaintiffs are hereby ordered to refund to the defendant the downpayment of P65,000.00 and the partial payment of the balance totaling to P58,500.00 plus legal interest. Defendant's counterclaim is hereby dismissed for lack of merit. Costs against defendant.[5]

In its decision, the trial court noted that proceedings for the issuance of a separate title covering the property subject of sale entail time and the parties could not have intended delivery by petitioners to respondent of a separate title in the name of Julio Garcia as a condition for respondent's payment of the full purchase price within

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six months from the time of the execution of the Kasunduan. Said court observed that even if petitioners were obliged to deliver a separate title in the name of Julio Garcia to respondent, the latter appeared to have insufficient funds to settle his obligation as indicated by the fact that his payments amounting to P58,500.00 were made in "trickles," having been given on thirty-nine occasions within a span of two years from the time of the execution of the Kasunduan. It concluded that respondent refused to complete payment of the full purchase price not because of the failure of petitioners to deliver a separate title in the name of Julio Garcia but because respondent simply did not have sufficient funds at hand.

The Court of Appeals, however, noting that the Kasunduan made no reference to TCT No. RT-1076, reversed the decision of the trial court, and dismissed the complaint. The appellate court opined that the parties intended to refer to a separate title over the 21,460 square meter lot when the Kasunduan mentioned a "kaukulang titulo ng lupang nabanggit" since it was the portion which was covered by a separate tax declaration in the name of Julio Garcia and it was the portion that petitioners could sell. The appellate court noted that the actuations of the parties subsequent to the execution of the Kasunduan confirmed respondent's claim that a separate title to the property subject of the Kasunduan should be delivered to him. Nevertheless, respondent's counterclaim for damages was dismissed on the ground that the filing of the complaint for rescission was not attended by malice, there being an honest difference of opinion between the parties as to the interpretation of the Kasunduan.

Feeling aggrieved by the aforesaid decision, petitioners filed before us the instant petition for certiorari, raising issues which may essentially be summarized as follows: (1) whether payment of the balance of the purchase price is conditioned upon delivery of a separate title in the name of Julio Garcia; (2) whether petitioners are entitled to rescind the Kasunduan for failure of respondent to complete payment of the purchase price; and (3) whether the Court of Appeals should have dismissed respondent's appeal for failure to comply with Circular 28-91.

Petitioners contend that the Kasunduan never made a reference to a "title in the name of Julio Garcia" and that there was nothing in the actuations of the parties which would indicate that full payment of the purchase price is conditioned upon the delivery to respondent of said title. Petitioners allege that respondent refused to give further payments not because of their failure to deliver a separate title in the name of Julio Garcia but because he simply did not have sufficient funds to complete payment of the purchase price. Petitioners ask for rescission of the Kasunduan pursuant to Article 1191 of the Civil Code on the ground that respondent failed to complete payment of the purchase price. They further aver that the appellate court should have dismissed respondent's appeal in the first place for failure of respondent to comply with Circular No. 28-91[6] requiring parties to submit a certification of non-forum shopping in petitions filed before the Supreme Court and the Court of Appeals. Petitioners lament that although they raised the issue regarding respondent's procedural lapse early on at the appellate court, the latter still entertained respondent's appeal.

As a rule, our jurisdiction in cases brought before us from the Court of Appeals under Rule 45 of the Rules of Court is limited to reviewing errors of law. Factual findings of the appellate court are generally binding on us.[7] However, this principle is subject to certain exceptions such as the situation in this case where the trial court and the appellate court arrived at diverse factual findings.[8]

The subject of conflicting interpretations between the parties pertains to the provision in the Kasunduan which states:

> (1) Na pinatutunayan ng UNANG BAHAGI na tinanggap nila sa buong kasiyahan ng kalooban buhat sa IKALAWANG BAHAGI ang halagang ANIMNAPU AT LIMANG LIBO (P65,000.00) PISO, Salaping Pilipino, bilang paunang bayad, at ang nalalabing WALUMPU AT LIMANG LIBONG (85,000.00) PISO ay babayaran ng IKALAWANG BAHAGI sa UNANG BAHAGI sa loob ng anim na buwan simula sa takda ng kasulatang ito, sa pasubali na ang kaukulang titulo ng lupang nabanggit ay maipagkakaloob ng UNANG

> BAHAGI sa IKALAWANG BAHAGI”

Petitioners allege that the kaukulang titulo ng lupang nabanggit refers to TCT No. RT-1076 and not to a separate title in the name of Julio Garcia. Petitioners stress the implausibility of delivering the separate title to respondent within six (6) months from the time of the execution of the Kasunduan considering that issuance of the title required prior settlement of the estates of Francisco Alibudbud, Vicente de Guzman and Enrique Hemedes; partition of Lot 1642; and segregation of the portion pertaining to the share acquired by Julio Garcia. Respondent, for his part, insists that the kaukulang titulo ng lupang nabanggit refers to a separate title in the name of Julio Garcia. He argues that he only acceded to the Kasunduan upon having been assured by petitioners that they would be able to deliver to him a separate title in the name of Julio Garcia. Petitioners allegedly told respondent that there was a pending petition in the court of Biñan for the issuance of a separate title to the subject property.[9]

It is basic in the interpretation and construction of contracts that the literal meaning of the stipulations shall control if the terms of the contract are clear and leave no doubt on the intention of the contracting parties. However, if the terms of the agreement are ambiguous, resort is made to contract interpretation which is the determination of the meaning attached to written or spoken words that make the contract.[10] To ascertain the true intention of the parties, their subsequent or contemporaneous actions must be principally considered.

The tenor of the correspondence between petitioners and respondent shows that the parties intended that a separate title to the property in the name of Julio Garcia shall be delivered to respondent as a condition for the latter’s payment of the balance of the purchase price. Thus, petitioner Juana Almira’s letter dated July 24, 1986 to respondent reads:

> Ang totoo po ngayon ay kailangan naming ang halagang LABING LIMANG LIBO (P15,000.00) PISO, yan po ang dahilan kung bakit kami ay sumulat sa inyo, sapagkat sa mga unang naghawak at nag-ayos ng papeles ng lupang ito ay hindi nila naayos at hindi nila natapos, kaya po kami ay nakakita at malaki po ang nagastos naming sa una na walang nangyari, kaya nga itong huli ay lalong lumaki
> Unawain po naman ninyo kami sa halagang kailangan naming para sa huling gumagawa ng Titulo ng lupa para naman po maayos na ito.[11]

Respondent signified his willingness to pay the balance of the purchase price but reminded petitioners of their obligation to deliver title to the property in the following reply:

> Hindi lingid sa inyong kaalaman na sa ilalim ng naubit na “Kasunduan ng Pagbibilihan” ay maliwanag ang inyong tungkulin na ipagkaboob sa amin ang kaukulang titulo ng lupa sa boob ng anim (6) na buwan simula sa takda ng nasabing kasulatan at kami naman ay nahahandang magbayad ng lahat ng nalababing kabayaran x x x at tuwing kayo ay kukuha ng pera ang lagi niyong idinadahilan ay ang diumano ay paglalakad tungkol sa titulo. x x x[12]

Had the parties intended that petitioners deliver TCT No. RT-1076 instead of a separate title in the name of Julio Garcia to respondent, then there would have been no need for petitioners to ask for partial sums on the ground that this would be used to pay for the processing of the title to the property. Petitioners had only to present the existing title, TCT No. RT-1076, to respondent and demand the balance of the purchase price. This, petitioners did not do. Instead, they were content to ask small sums from respondent on thirty-nine occasions for two years before filing an action in court for rescission of the Kasunduan another five years later. It is readily discernible from the tenor of various receipts[13] issued by petitioners that the sums given by respondent on these thirty-nine occasions were made upon request of petitioners seeking respondent’s indulgence. A letter[14] dated October 11, 1984 and addressed to respondent’s father, Tata Omy, whom respondent authorized to give payments during the time he was working abroad reads:

> Tata Omy,
>
> Ako si Rogelio A. Garcia ang sumulat nito at ang maydala ay si Rolando Garcia na kapatid kong bunso at ito ay pinagawa ng aking ina si Juana Garcia. Ang dahilan ay mayroon silang nabiling t.v. 17 inches at ngayon ay naririto sa amin. Kaya ako ay labis na nahihiya sa inyo ni Viring ngunit ano ang magagawa ko para diyan kaya kayo na ang bahalang magpasensiya sa amin. Ang kailangan nila ay halagang P800.00 at para mabili nila ang T. V. + P200.00
>
> Ang gumagalang,
>
> (Sgd.) Rogelio Garcia
>
> Received: P1,000.00
>
> By(Sgd). Rosita Garcia

There is thus no basis to conclude that insufficiency of funds rather than failure of petitioners to deliver a separate title in the name of Julio Garcia prevented respondent from completing payment of the purchase price.

That the parties agreed on delivery of a separate title in the name of Julio Garcia as a condition for respondent's payment of the balance of the purchase price is bolstered by the fact that there was already an approved subdivision plan of the 21,460 square-meter lot years before petitioners filed an action in court for rescission.[15] The parties evidently assumed petitioners would be able to deliver a separate title in the name of Julio Garcia to respondent within six (6) months from the time of the execution of the Kasunduan since there was already a pending petition in court for the issuance of a separate title to 21,460 square-meter lot at that time. Unfortunately, the petitioners were not able to secure a separate title in the name of Julio Garcia within the stipulated period.

Finally, we note that, as quoted earlier, the Kasunduan itself in its opening paragraph refers to the subject property being sold as "buong lawak na 21,640 metrong parisukat, x x x at sa kasalukuyan may nabibinbing kahilingan sa hukuman upang magkaroon ng sariling titulo; x x x." The next paragraph of the Kasunduan, therefore, which speaks of "ang kaukulang titulo sa lupang nabanggit," clearly refers to the separate title being applied for, even without resort to extraneous evidence.

Petitioners, however, insist that it was respondent's counsel who prepared the Kasunduan and any ambiguity therein should be construed against respondent pursuant to Article 1377 of the Civil Code which states that the interpretation of obscure words or stipulations in a contract shall not favor the party who caused the obscurity.

We find no reason to apply Article 1377 of the Civil Code in this case where the evident intention of the parties can be readily discerned by their subsequent and contemporaneous acts. While it is true that the Kasunduan was prepared by the counsel of respondent, there is no indication that respondent took unfair advantage of petitioners when he had the terms of the Kasunduan drawn by his counsel. Petitioners freely assented to the Kasunduan which is written entirely in a language spoken and understood by both parties. That petitioners were fully aware of the terms of the Kasunduan is evidenced by their attempts to comply with their obligation by securing a subdivision plan and technical description[16] of the property subject of sale.

Having ruled that the kaukulang titulo ng lupang nabanggit refers to a separate title in the name of Julio Garcia, we proceed to the issue as to whether petitioners may rescind the Kasunduan pursuant to Article 1191 of the Civil Code for failure of respondent to give full payment of the balance of the purchase price.

The rights of the parties are governed by the terms and the nature of the contract they enter into. Hence, although the nature of the Kasunduan was never placed in dispute by both parties, it is necessary to ascertain whether the Kasunduan is a contract to sell or a contract of sale before the issue as to whether petitioners may ask for

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rescission of the contract may be resolved. In a contract to sell, ownership is, by agreement, reserved to the vendor and is not to pass until full payment of the purchase price; whereas, in contract of sale, title to the property passes to the vendee upon delivery of the thing sold.[17] Non-payment by the vendee in a contract of sale entitles the vendor to demand specific performance or rescission of the contract, with damages, under Article 1191 of the Civil Code.

Although both parties have consistently referred to the Kasunduan as a contract to sell, a careful reading of the provisions of the Kasunduan reveals that it is a contract of sale. A deed of sale is absolute in nature in the absence of any stipulation reserving title to the vendor until full payment of the purchase price. In such cases ownership of the thing sold passes to the vendee upon actual or constructive delivery thereof.[18] There is nothing in the Kasunduan which expressly provides that petitioners retain title or ownership of the property, until full payment of the purchase price. The absence of such stipulation in the Kasunduan coupled with the fact that respondent took possession of the property upon the execution of the Kasunduan indicate that the parties have contemplated a contract of absolute sale.

Stated otherwise, there was a perfected contract of sale. The parties agreed on the sale of a determinate object, i.e., 21, 460 square meters of Lot 1642, covered by a tax declaration in the name of Julio Garcia, and the price certain therefor, without any reservation of title on the part of petitioners. Ownership was effectively conveyed by petitioners to respondent, who was given possession of the property. The delivery of a separate title in the name of Julio Garcia was a condition imposed on respondent's obligation to pay the balance of the purchase price. It was not a condition imposed on the perfection of the contract of sale. In Laforteza v. Machuca,[19] we stated that the fact that the obligation to pay the balance of the purchase price was made subject to the condition that the seller first deliver the reconstituted title of the property does not make the agreement a contract to sell for such condition is not inconsistent with a contract of sale.

Addressing now the issue as to whether rescission of the Kasunduan by petitioners may prosper, we rule in the negative. The power to rescind is only given to the injured party. The injured party is the party who has faithfully fulfilled his obligation or is ready and willing to perform with his obligation. In the case at bar, petitioners were not ready, willing and able to comply with their obligation to deliver a separate title in the name of Julio Garcia to respondent. Therefore, they are not in a position to ask for rescission of the Kasunduan. Moreover, respondent's obligation to pay the balance of the purchase price was made subject to delivery by petitioners of a separate title in the name of Julio Garcia within six (6) months from the time of the execution of the Kasunduan, a condition with which petitioners failed to comply. Failure to comply with a condition imposed on the performance of an obligation gives the other party the option either to refuse to proceed with the sale or to waive that condition under Article 1545 of the Civil Code.[20] Hence, it is the respondent who has the option either to refuse to proceed with the sale or to waive the performance of the condition imposed on his obligation to pay the balance of the purchase price.

It follows that, not having established that they were ready, able and willing to comply with their obligation to deliver to respondent a separate title in the name of Julio Garcia, petitioners may not ask for rescission of the Kasunduan nor recover damages.

As regards the issue that the appellate court should have dismissed respondent's appeal for failure of respondent to comply with Circular No. 28-91 requiring the submission of a certificate of non-forum shopping in petitions filed before us and the Court of Appeals, suffice it to say that when technicality deserts its function of being an aid to justice, the courts are justified in exempting from its operations a particular case.[21] Procedural rules are intended to insure the orderly conduct of litigation, because of the higher objective they seek, which is to protect the parties' substantive rights.[22]

WHEREFORE, the petition is DENIED and the decision rendered by the Court of Appeals in CA G.R. No. 40954 entitled, "Juana Almira, et al., plaintiffs-appellees v. Federico Briones, defendant-appellant" is AFFIRMED. No costs.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Vitug, and Carpio, JJ., concur.
Ynares-Santiago, J., on leave.

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[1] Entitled "Juana Almira, et al., plaintiffs-appellees v. Federico Briones, defendant-appellant" and penned by then Associate Justice Minerva P. Gonzaga-Reyes with Justices Eduardo G. Montenegro and Conrado M. Vasquez, Jr. of the Sixteenth Division of the Court of Appeals concurring.

[2] Exhibit 1, Records, pp. 6-7.

[3] TSN, February 6, 1992, pp. 15-16.

[4] TSN, February 6, 1992, pp. 28-30.

[5] Records, p. 226.

[6] ADDITIONAL REQUISITES FOR PETITIONS FILED WITH THE SUPREME COURT AND COURT OF APPEALS TO PREVENT FORUM SHOPPING OR MULTIPLE FILING OF PETITIONS AND COMPLAINTS. Circular No. 28-91 was amended by Administrative Circular No. 09-94 which took effect April 1, 1994.

[7] Rizal Surety and Insurance Company v. Court of Appeals, 336 SCRA 12, 19 (2000); Estate of the late Mena Bolanos v. CA, 345 SCRA 125, 130 (2000); Atillo v. Court of Appeals, 266 SCRA 596, 605-606 (1997).

[8] Siguan v. Lim, 318 SCRA 725, 734 (1999); Yobido v. Court of Appeals, 281 SCRA 1,7-8. (1997) citing Philippine Rabbit Bus Lines, Inc. v. IAC, 189 SCRA 158, 159 (1990). See also Sabinosa v. Court of Appeals, 175 SCRA 552, 556 (1989).

[9] TSN, May 21, 1992, p. 10.

[10] Buce v. Court of Appeals, et al., 332 SCRA 151, 158 (2000) citing National Irrigation Administration v. Gamit, 215 SCRA 436, 453-454 (1992).

[11] Records, p. 183.

[12] Records, p. 182.

[13] Records, Exhibit 10 - Exhibit 10-A-3, pp. 158-177.

[14] Records, Exhibit 10-A-3, p. 160.

[15] Records, Exhibit 3, p. 147.

[16] Records, Exhibit 4, p. 149.

[17] Ong v. Court of Appeals, 310 SCRA 1, 10 (1999) citing PNB v. Court of Appeals, 262 SCRA 464, 479 (1996) and Salazar v. Court of Appeals, 258 SCRA 317, 325 (1996).

[18] Laforteza v. Machuca, 333 SCRA 643, 659 (2000) citing Babasa v. CA, 290 SCRA 532, 540 (1998).

[19] See note 18, supra.

[20] Article 1545. Where the obligation of either party to a contract of sale is subject to any condition which is not performed, such party may refuse to proceed with the contract or he may waive performance of the condition. If the other party has promised that the condition should happen or be performed, such first mentioned party may also treat the nonperformance of the condition as a breach of warranty.

Where the ownership in the things has not passed, the buyer may treat the fulfillment by the seller of his obligation to deliver the same as described and as warranted expressly or by implication in the contract of sale as a condition of the obligation of the buyer to perform his promise to accept and pay for the thing.

[21] PHHC v. Tiongco, 12 SCRA 471,474-475 (1964).

[22] Leyte, et al. v. Judge Cusi, Jr., 152 SCRA, 496, 499 (1987). See also BA Savings Bank v. Roger T. Sia, 336 SCRA 484, 490 (2000).

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