

**FERNANDO A. FROILAN, PLAINTIFF AND APPELLEE, VS.
PAN-ORIENTAL SHIPPING COMPANY, DEFENDANT AND APPELLANT,
REPUBLIC OF THE PHILIPPINES AND COMPANIA MARITIMA,
INTERVENORS AND...**

G.R. No. 11897. October 31, 1964

Ponente: BARRERA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11897/>

BARRERA, J.:

On March 7, 1947, Fernando A. Froilan purchased from the Shipping Administration a boat described as MV/FS-197 for the sum of P200,000.00, with a down payment of P50,000.00. To secure payment of the unpaid balance of the purchase price, a mortgage was constituted on the vessel in favor of the Shipping Administration in a contract which provides, among others, the following:

"XV—

"In the event that the first party should elect to exercise its rights to rescind under the terms of this contract, it shall have the right to take possession of the vessel herein sold in the condition that it is at the time of rescission but in no case in a worse condition than when originally delivered to the second party, 'ordinary wear and tear excepted; and in case at the time of rescission the condition of the vessel is not satisfactory to the FIRST PARTY, it shall have the right to have the vessel reconditioned, repaired, dry-docked at the expense of the SECOND PARTY. The same right is hereby granted to the first party in case the second party should for any reason refuse or fail to comply with this condition not satisfactory to the FIRST PARTY.

"The right of rescission shall be considered as a cumulative remedy granted to the FIRST PARTY and shall not in any way prejudice his right to demand immediate and complete payment of the purchase price of the vessel under the terms herein provided, and to demand and collect from the SECOND PARTY such damages caused by the non-compliance with this contract."

This contract was duly approved by the President of the Philippines.

Froilan appeared to have defaulted in spite of demands, not only in the payment of the first installment on the unpaid balance of the purchase price and the interest thereon when they fell due, but also failed in his express undertaking to pay the premiums on the insurance coverage of the vessel, obliging the Shipping Administration to advance such payment to the insurance company. Consequently, the Shipping Administration requested the Commissioner of Customs on June 1, 1948 to refuse clearance on the vessel, and the voyage thereof was ordered suspended.

Thereafter, Froilan asked for a reconsideration of the action taken by the Shipping Administration, claiming that his failure to pay the required installments was due to the fact that he was awaiting the decision of the President on the petition of the shipowners for an extension of the period of payment of the purchaser vessels, which petition was favorably acted upon.

On July 3, 1948, the Shipping Administration and Froilan entered into an agreement whereby tlio later undertook to liquidate immediately all of his outstanding accounts, including the insurance premiums, within 30 days, and have the vessel overhauled, and promised that in case of his default, he shall "waive any formal notice of demand and to redeliver the vessel peaceably and amicably without any other proceedings." (Exh. 39).

Again, Froilan failed to settle his accounts within the prescribed period, thus, the Shipping Administration threatened to rescind the contract unless payment be immediately made. On August 28, 1948, upon Froilan's request, the Shipping Administration agreed to release the vessel on condition that the same would be overhauled and repaired, and the accrued interest on the first installment would be paid. The Administration also allowed the mortgagor to pay his overdue accounts, amounting now to P48,500.00 in monthly installments, with warning that in case of further default, it would immediately repossess the vessel and rescind the contract. Froilan failed to pay. On January 17, 1949, the Shipping Administration required him to return the vessel or else file a bond for P25,000.00 in five days. In a letter dated January 28, 1949, Froilan requested that the period for filing the bond be extended to February 15, 1949, upon the express condition and understanding that:

"x x x If I fail to file the required bond on the said, date, February 15, 1949, to the satisfaction of the Shipping Administration, I am willing to relinquish and I do hereby relinquish any and all rights I have or may have on the said vessel including any payments made thereon to the Shipping Administration, without prejudice to other rights the Shipping Administration may have against me under the contract of sale executed in my favor.

x x x x x x x x x

"I wish to reiterate that if I fail to file the bond within the period I have requested, any and all rights I have on the vessel and any payments made to the Shipping Administration shall be considered automatically forfeited in favor of the Shipping Administration and the ownership of the said vessel will be as it is hereby automatically transferred to the Shipping Administration which is then hereby authorized to take immediate possession of said vessel." (Exh. 66).

This letter of Froilan was submitted by the General Manager of the Shipping Administration to the board of directors for proper consideration. By resolution of January 31, 1949, the petition was granted subject specifically to the conditions set forth therein. Froilan again failed to make good of his promises. Hence, on February 18, 1949, the General Manager of the Shipping Administration wrote the Collector of Customs of Manila, advising the latter that the Shipping Administration, by action of its board, terminated the contract with Froilan, and requesting the suspension of the clearance of the boat effective that date. (Exh. 70).

On February 21, 1949, the General Manager directed its officers, Capt. Laconico and others, to take immediate possession of the vessel and to suspend the unloading of all cargoes on the same until the owners thereof made the corresponding arrangement with the Shipping Administration. Pursuant to these instructions, the boat was, not only actually repossessed, but the title thereto was registered again in the name of the Shipping Administration, thereby re-transferring the ownership thereof to the government.

On February 22, 1949, Pan Oriental Shipping Co., hereinafter referred to as Pan Oriental, offered to charter said vessel FS-197 for a monthly rent of P3,000.00. Because the government was then spending for the guarding of the boat and subsistence of the crew-members since repossession, the Shipping Administration on April 1, 1949, accepted Pan Oriental's offer "in principle" subject to the condition that the latter shall cause the repair of the vessel, advancing the cost of labor and drydocking thereof, and the Shipping Administration to furnish the necessary spare parts. In accordance with this charter contract, the vessel was delivered to the possession of Pan Oriental.

In the meantime, or on February 22, 1949, Froilan tried to explain his failure to comply with the obligations he

assumed and asked that he be given another extension up to March 15, 1949 to file the necessary bond. Then on March 8, Froilan offered to pay all his overdue accounts. However, as he failed to fulfill even these offers made by him in these two communications, the Shipping Administration denied his petition for reconsideration (of the rescission of the contract) on March 22, 1949. It should be noted that while his petition for reconsideration was denied on March 22, 1949, it does not appear when he formally formulated his appeal. In the meantime, as already stated, the boat has been repossessed by the Shipping Administration and the title thereto re-registered in the name of the government, and delivered to the Pan Oriental in virtue of the charter agreement. On June 2, 1949, Froilan protested to the President against the charter of the vessel.

On the same date, the Executive Office advised the Administration and the Commissioner of Customs not to dispose of the vessel in favor of another party pending final decision by the President on the appeal of Froilan. (Exhs. 93-A and 93-D). But since the vessel was already cleared in favor of Pan Oriental prior to the receipt of the foregoing communication, and allegedly in order to prevent its being made answerable for damages, the General Manager of the Shipping Administration advised the Collector of Customs not to suspend the voyage of the vessel pending final decision on the appeal of Froilan. Similar manifestation, to allow the Pan Oriental's operation of the vessel without prejudice to whatever action the President may take in the case, was also made by the Administration to the Executive Secretary.

On June 4, 1949, the Shipping Administration and the Pan Oriental formalized the charter agreement and signed a bareboat contract with option to purchase, containing the following pertinent provision:

"III. Charter Hire, Time of Payment.—The Charter shall Pay to the owner a monthly charter hire of three thousand (P3,000.00) pesos from date of delivery of the vessel, payable in advance on or before the 5th of every current month until the return of the vessel to owner or purchase of the vessel by CHARTERER.

x x x x x x x x x

"XII. Right of Option to Purchase.—The right of option to purchase the vessel at the price of P150,000.00 plus the amount expended for its present repairs is hereby granted to the CHARTERER within 120 days from the execution of this contract, unless otherwise extended by the OWNER. This right shall be deemed exercised only if, before the expiration of the said period, or its extension by the OWNER, the CHARTERER completes the payment, including any amount paid as Charter hire, of a total sum of not less than twenty-five percentum (25%) of said price of the vessel.

"The period of option may be extended by the owner without in any way affecting the other provisions, stipulations, and terms of this contract.

"If, for any reason whatsoever, the charterer fails to exercise its option to purchase within the period stipulated, or within the extension thereof by the owner, its right of option to purchase shall be deemed terminated, without prejudice to the continuance of the Charter Party provisions of this contract. The right to dispose of the vessel or terminate the CHARTER PARTY at its discretion is reserved to the OWNER.

"XIII. Transfer of Ownership of the Vessel.—After the Charterer has exercised his right of option as provided in the preceding paragraph (XII), the vessel shall be deemed conditionally sold to the purchaser, but the ownership thereof shall not be deemed transferred unless and until all the price of the vessel, together with the interests thereon, and any other obligation due and payable to the owner under this contract, have been fully paid by the CHARTERER.

x x x x x x x x x

"XXI. Approval of the President.—This contract shall take effect only upon approval of His Excellency, the President."

On September 6, 1949, the Cabinet revoked the cancellation of Froilan's contract of sale and restored to him all his rights thereunder, on condition that he would give not less than P10,000.00 to settle partially his overdue accounts, and that reimbursement of the expenses incurred for the repair and drydocking of the vessel performed by Pan Oriental was to be made in accordance with the future adjustment between him and the Shipping Administration. (Exit. 1). Later, pursuant to this reservation, Froilan's request to the Executive Secretary that the Administration advance the payment of the expenses incurred by Pan Oriental in the drydocking and repair of the vessel, was granted on condition that Froilan assume to pay the same and file a bond to cover said undertaking. (Exh. 111).

On September 7, 1949, the formal bareboat charter with option to purchase filed on June 4, 1949, in favor of the Tan Oriental was returned to the General Manager of the Shipping Administration without action (not disapproval) only because of the cabinet resolution of September 6, 1949 restoring Froilan to his rights under the conditions set forth therein, namely, the payment of P10,000.00 to settle partially his overdue accounts and the filing of a bond to guarantee the reimbursement of the expenses incurred by the Pan Oriental in the drydocking and repair of the vessel. But Froilan again failed to comply with these conditions. And so the cabinet, considering Froilan's consistent failure to comply with his obligations, including those imposed in the resolution of September 6, 1949, resolved to reconsider said previous resolution restoring him to his previous rights. And, in a letter dated December 3, 1949, the Executive Secretary authorized the Administration to continue its charter contract with Pan Oriental in respect to FS-197 and enforce whatever rights it may still have under the original contract with Froilan. (Exh. 118).

Froilan, for his part, petitioned anew for reconsideration of this action of the Cabinet, claiming that other ship purchasers, including the President-Treasurer of the Pan Oriental himself, had also defaulted in payment and yet no action to rescind their contracts had been taken against them. He also offered to make a cash partial payment of P10,000.00 on his overdue accounts and reimburse Pan Oriental of all its necessary expenses on the vessel. Pan Oriental, however, not only- expressed its unwillingness to relinquish possession of the vessel, but also tendered the sum of P15,000.00, which together with its allcjyod expenses already made in the vessel, cover 25% of the cost of the vessel, as Provided in the option wanted in the bareboat contract. (Exh. 122). This amount was accepted by the Administration as deposit, subject to the final determination of Froilan's appeal by the President. The Executive Secretary was also informed of the exercise by Pan Oriental of said option to purchase.

On August 25, 1950, the Cabinet resolved once more to restore Froilan to his rights under the original contract of sale, on condition that he shall pay the sum of P10,000.00 upon delivery of the vessel to him, said amount to be credited to his outstanding accounts; that he shall continue paying the remaining installments due, and that he shall assume the expenses incurred for the repair and drydocking of the vessel. (Exh. 134). Pan Oriental protested to this restoration of Froilan's rights under the contract of sale, for the reason that when the vessel was delivered to it, the Shipping Administra- tion had authority to dispose of the said property, Froilan having already relinquished whatever rights he may have thereon, Froilan paid the required cash of P10,000.00, and as Pan Oriental refused to surrender possession of the vessel, he filed an action for replevin in the Court of First Instance of Manila (Civil Case No. 13196) to recover possession thereof and to have him declared the rightful owner of said property.

Upon plaintiff's filing a bond of P400,000.00, the court ordered the seizure of the vessel from Pan Oriental and its delivery to the plaintiff. Pan Oriental tried to question the validity of this order in a petition for certiorari filed in this Court (G. R. No. L-4577), but the same was dismissed for lack of merit by resolution of February 22, 1951. Defendant accordingly filed an answer, denying the averments of the complaint.

The Republic of the Philippines, having been allowed to intervene in the proceeding, also prayed for the possession of the vessel in order that the chattel mortgage constituted thereon may be foreclosed. Defendant Pan

Orinetal resisted said intervention, claiming to have a better right to the possession of the vessel by reason of a valid and subsisting contract in its favor, and of its right of retention, in view of the expenses it had incurred for the repair of the said vessel. As counterclaim, defendant demanded of the intervenor to comply with the latter's obligation to deliver the vessel pursuant to the provisions of the charter contract.

Thereafter, and upon plaintiff's presenting proof that he had made payment to the intervenor Republic of the Philippines, of the sum of P162,576.96, covering the insurance premiums, unpaid balance of the purchase price of the vessel and interest thereon, the lower court by order of February 8, 1952, dismissed the complaint in intervention on the ground that the claim or demand therein had already been released. Said dismissal, however, was made without prejudice to the determination of defendant's right, and that the release and cancellation of the chattel mortgage did not "prejudge the question involved between the plaintiff and the defendant which is still the subject of determination in this case."

In view of the dismissal of its complaint, intervenor Republic of the Philippines also moved for the dismissal of the defendant's counterclaims against it, which was granted by the court. On appeal by Pan Oriental to this Court (G.R. No. L—6060), said order was reversed- and the case remanded to the lower court for further' proceedings.

Subsequently, Compania Maritima, as purchaser of the vessel from Froilan, was allowed to intervene in the proceedings (in the lower court), said intervenor taking: common cause with plaintiff Froilan. In its answer to the complaint in intervention, defendant set up a counter-claim for damages in the sum of P50,000.00, alleging that plaintiff secured the Cabinet resolutions and the writ of replevin, resulting in its deprivation of possession of the vessel, at the instigation and inducement of Compañia Maritima. This counterclaim was denied by both plaintiff and intervenor Maritima.

On September 28, 1956, the lower court rendered a decision upholding Froilan's (and Compañia Maritima's) right to the ownership and possession of the FS-197. It was ruled that Froilan's violations of the conditions of the contract of sale in his favor did not automatically deprive him of his right of ownership of the vessel, which passed to him upon execution of the contract, but merely gave rise to the Shipping Administration's right either to foreclose the mortgage or rescind the contract by court action. As the Shipping Administration failed to avail of any of these remedies, Froilan's right of ownership remained unaffected. And the subsequent resolutions of the Cabinet, restoring him to his rights under the said contract reaffirmed the same. The charter contract between the Shipping Administration and defendant was declared null and void, not only because the former could not have legally bound the vessel, but also due to the fact that said agreement has not been perfected for lack of approval by the President of the Philippines. And, even assuming that the said charter contract was valid, the lower court held that, as the owner (Republic of the Philippines) under the same agreement was given the right to terminate the charter or dispose of the vessel anytime, the action of the Cabinet in cancelling or withdrawing the rescission of Froilan's contract, had the effect of terminating the charter agreement with the defendant. The court also dismissed (1) defendant's counterclaims against plaintiff Froilan and intervenor Compañia Maritima, on the ground that it (defendant) was a possessor in bad faith, and consequently, not entitled to damages; (2) plaintiff's counterclaims against defendant, for the reason that the same should have been directed against intervenor Republic of the Philippines; and (3) defendant's counterclaim against said intervenor Republic, on the ground that the order dismissing the complaint in intervention had already become final and it was materially impossible for the latter to secure possession of the vessel. From this decision, Pan Oriental brought the instant appeal.

Contrary to appellant's contention, the ruling of the lower court that under the contract of sale with mortgage, ownership of the vessel passed to Froilan, upon delivery of the property to the latter, must be sustained. It is to be noted that unlike in the charter contract where it was specifically prescribed that ownership of the vessel shall be transferred to the vendee only upon full payment of the purchase price, no similar provision appears in the

contract of sale in favor of Froilan. In the absence of stipulation to the contrary, the ownership of the thing sold passes to the vendee upon the actual or constructive delivery thereof. (Art. 1477, new Civil Code). It is for this reason that Froilan was able to constitute a mortgage on the vessel in favor of the Administration, to secure payment of the unpaid balance of the purchase price.

There is no gainsaying the fact that there was continuous violation by Froilann of the terms of said contract of sale. The records conclusively show that notwithstanding the numerous opportunities given him, Froilan had been remiss in the fulfillment of his obligation thereunder. Nevertheless, the lower court upheld his allegation that the Administration may not legally rescind the contract without filing the corresponding complaint in court.

Under Article 1191 [1] of the Civil Code, in case of reciprocal obligations, the power to rescind the contract

where a party incurs in default, is impliedly given to the injured party. Appellee maintains, however, that the law contemplates of rescission of contract by judicial action and not a unilateral act by the injured party, consequently, the action of the Shipping Administration contravenes said provision of the law. This is not entirely correct, because there is also nothing in the law that prohibits the parties from entering into agreement that violation of the terms of the contract would cause cancellation thereof, even without court intervention. In other words, it is not always necessary for the injured party to resort to court for rescission of the contract. As already held,[2] judicial action is needed where there is absence of special provision in the contract granting to a party the right of rescission.

In the instance case, while it may be true that the contract of sale did not expressly give to the mortgagee the right to cancel the agreement, it was, nevertheless, provided therein that said party may rescind the contract as it may see fit in case a breach of the terms thereof by the mortgagor. Taking into account the promises, waivers and representations made by Froilan, to the extent that he agreed to the automatic transfer of ownership of the vessel to the Administration, should he fail to fulfill what was incumbent upon him, which did happen, the rescission of the contract without judicial action is proper.

The next question to be determined is whether there had been a valid and enforceable charter contract in favor of appellant Pan Oriental, and what was the effect thereon of the subsequent restoration to Froilan, by the Cabinet, of his rights under the original contract of sale with mortgage.

It is not disputed that appellant Pan Oriental took possession of the vessel in question after it had been repossessed by the Shipping Administration and title thereto reacquired by the government, and operated the same from June 2, 1949 after it had repaired the vessel until it was dispossessed of the property on February 3, 1951, in virtue of a bareboat charter contract entered into between said company and the Shipping Administration. In the same agreement, appellant as charterer, was given the option to purchase the vessel, which may be exercised upon payment of a certain amount within a specified period. The President and Treasurer of the appellant company tendered the stipulated initial payment on January 16, 1950. Appellant now contends that having exercised the option, the subsequent Cabinet resolutions restoring Froilan's rights on the vessel, violated its existing rights over the same property. To the contention of plaintiff Froilan that the charter contract never became effective because it never received presidential approval, as required therein, Pan Oriental answers that the letter of the Executive Secretary dated December 3, 1949 (Exh. 118), authorizing the Shipping Administration to continue its charter contract with appellant, satisfies such requirement (of presidential approval). It is to be noted, however that said letter was signed by the Executive Secretary only and not under authority of the President. The same, therefore, cannot be considered to have attached unto the charter contract the required consent of the Chief Executive for its validity.

Upon the other hand, the Cabinet resolutions purporting to restore Froilan to his former rights under the deed of

sale, cannot also be considered as an act of the President which is specifically required in all contracts relating to these vessels. (Executive Order No. 31, series of 1946). Actions of the Cabinet are merely recommendatory or advisory in character. Unless afterwards specifically adopted by the President as his own executive act, they cannot be considered as equivalent to the act of approval of the President expressly required in cases involving disposition of these vessels.

In the circumstances of this case, therefore, the resulting situation is that neither Froilan nor the Pan Oriental holds a valid contract over the vessel. However, since the intervenor Shipping Administration, representing the government practically ratified its proposed contract with Froilan by receiving the full consideration of the sale to the latter, for which reason the complaint in intervention was dismissed as to Froilan, and since Pan Oriental has no capacity to question this actuation of the Shipping Administration because it had no valid contract in its favor, the decision of the lower court adjudicating the vessel to Froilan and its successor Compania Maritima, must be sustained. Nevertheless, under the circumstances already adverted to, Pan Oriental cannot be considered a possessor in bad faith until after the institution of the instant case. However, since it is not disputed that said appellant is entitled to the refund of such express with the right to retain the vessel until he has been reimbursed therefor. (Art. 546, Civil Code). As it is by the concerted acts of defendants and intervenor Republic of the Philippines that appellant was deprived of the possession of the vessel over which appellant had a lien for his expenses, appellees Froilan, Compania Maritima, and the Republic of the Philippines[3] are declared liable for the reimbursement to appellant of its legitimate expenses, as allowed by law, with legal interest from the time of disbursement.

Modified in this manner, the decision appealed from is affirmed, without costs. Case is remanded to the lower court for further proceedings in the matter of expenses.

SO ORDERED.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J B. L., Paredes, Bengzon, J. P. and Zaldivar, JJ., concur.

[1.] Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he had chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

[2.] De la Rama Steamship Co. vs. Tan, G.R. No. L-8784, May 21, 1956.

[3.] Although the complaint in intervention by the Republic of the Philippines was dismissed by order of the Court of February 8, 1952, such dismissal was held not to preclude the determination of defendant's rights (95 Phil., 905, Froilan vs. Pan Oriental- Shipping, Sept. 30, 1954), and said intervenor may be held liable for defendant's counterclaim.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.