

SPOUSES RODOLFO CAOILI AND IMELDA CAOILI, PETITIONERS, VS. COURT OF APPEALS AND ROSITA VDA. DE SANTIAGO, RESPONDENTS.

G.R. No. 128325. September 14, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Before this Court is a petition for review on certiorari which seeks to set aside the Decision dated December 9, 1996 of the Court of Appeals[1] in CA-G.R. CV No. 48363 and prays for the reinstatement of the Decision[2] dated January 9, 1995 of the Regional Trial Court of Manila, Branch 31 in Civil Case No. 93-65569.

Petitioners spouses Rodolfo and Imelda Caoili were lessees of a parcel of land with an area of 42.90 square meters including a one (1) door apartment unit located at 1752 Tecson de Guia St., Tondo, Manila belonging to private respondent Rosita Vda. de Santiago. On March 30, 1987, private respondent secured a loan from petitioners in the amount of P30,000.00 with the understanding that the latter shall not pay their monthly rentals as long as the loan is not paid.[3] On or about July 10, 1990, an agreement was made between the parties herein for the sale of the property being occupied by petitioners, although it was not “formal or written”. [4]

On December 14, 1990, a “Receipt” denominated as an “Addendum to Agreement dated August 8, 1990” was signed by private respondent in the presence of Alicia B. Ay-ay and Benilda Miller and acknowledged before notary public Crispulo B. Ducusin for the sale of the subject property to petitioners in the amount of P250,000.00. It was stated therein that private respondent received from petitioners the sum of P140,000.00, in addition to the partial payment of P60,000.00, the “balance payable when the good title in the name of herein vendor is delivered to the spouses.”[5]

Petitioners sent two (2) letters[6] to private respondent demanding delivery of the title or corresponding transfer certificate of title over the subject property within 15 days or make a refund “double (the) amount you have received as agreed or the total amount of Four Hundred Thirty Thousand (P430,000.00) pesos”.

Private respondent refused to comply. Hence, a complaint for collection of sum of money was filed with the Regional Trial Court of Manila, Branch 31 by herein petitioners against private respondent praying, inter alia, that the latter be ordered to pay the former the amount of P489,520.00 with interest. The case was docketed as Civil Case No. 93-65569.

Private respondent Rosita Vda. de Santiago filed her Answer alleging, as special and affirmative defenses, that plaintiffs were mere lessees of the apartment and lot in question; that sometime in March 1987, she obtained a loan in the amount of P30,000.00 from plaintiffs, the same to be offset by the monthly rental of P1,300.00 and that said loan in fact had been offset by January 1989, or after 23 months; that since plaintiffs have not been paying the monthly rentals even after January 1989, defendant again obtained from the spouses another loan of P60,000.00 on July 10, 1990, which was totally set off by the monthly rentals as of October 26, 1993 when she filed her answer to the complaint. On the matter of the receipt, Exhibit “B”, she denied having received the

amount of P140,000.00 which was the alleged value of the improvements introduced by plaintiffs on the leased premises and that it was only upon the assurance of plaintiffs that they would give to her the receipts showing the actual amounts spent for the improvements that she signed Exhibit “B” even without the opportunity of first reading it but the receipts for expenses of the improvements were never shown to her.[7]

On January 9, 1995, the Regional Trial Court of Manila, Branch 31 rendered judgment, the dispositive portion[8] of which reads:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendant ordering the latter to pay:

1. The amount of P489,520.00 (P244,760.00 x 2) with legal interest until the full amount is fully paid;
2. Attorney’s fees in the amount of P20,000.00 plus P1,000.00 per appearance;
3. That the status quo is maintained until the aforesaid amounts are fully paid by the defendant; and
4. The costs of this suit.”

Defendant-appellant interposed an appeal and the Court of Appeals rendered judgment on December 9, 1996, the dispositive portion[9] of which decision reads, to wit:

“WHEREFORE, the appealed decision dated January 9, 1995 is hereby SET ASIDE and judgment is hereby rendered ORDERING defendant-appellant Rosita Vda. de Santiago to PAY plaintiffs-appellees, the spouses Rodolfo Caoili and Imelda Caoili, the amount of P33,600.00, with legal interest until fully paid. No costs.”

On January 2, 1997, plaintiffs-appellees Caoili filed a Motion for Reconsideration[10] of the decision of the Court of Appeals arguing that they were able to substantiate the causes of action in their complaint; that they were able to establish material, pertinent and relevant documentary evidences supported by the unrefuted oral testimonies of both spouses; that the findings of fact of the court a quo were based and founded on unrefuted documents and oral testimonies of plaintiffs-appellees in contrast with the general denials and oral testimony of defendant-appellant which were self-serving and therefore inadmissible; that defendant-appellant had been in absolute bad faith in dealing with plaintiffs-appellees on the transaction between them; and that since the subject property is still subject to successional rights of the children of defendant-appellant, it was highly impossible for defendant-appellant to deliver a good title to plaintiffs-appellees.

On January 27, 1997, plaintiffs-appellees Caoili filed a Supplemental Motion for Reconsideration with Leave of Court. Said Supplemental Motion for Reconsideration was denied and expunged from the record as it “would, in effect, render nugatory the mandatory procedural rule that a motion for reconsideration should be filed within a reglementary period of 15 days from receipt of the judgment or order sought to be reconsidered.”[11]

The Court of Appeals in a Resolution[12] dated January 18, 1997 denied plaintiffs-appellees’ Motion for Reconsideration.

Hence, the present petition interposed by plaintiffs Caoili raising the issue that:

“THE HONORABLE COURT OF APPEALS ERRED IN MODIFYING THE DECISION OF THE COURT A QUO IN REDUCING THE AMOUNT OF THE AWARDED CLAIM FOR P489,520.00 (P244,760.00 x 2) WITH INTEREST UNTIL THE FULL AMOUNT IS FULLY PAID TO P33,600.00 WITH LEGAL INTEREST UNTIL FULLY PAID NO COST.”

In their petition, petitioners Caoili contend that there was no legal justification for the Court of Appeals to reduce the amount awarded to them by the trial court. Petitioner Imelda Caoili allegedly testified and identified how

partial payments were made to private respondent through Exhibits “C” to “J” in the total amount of P95,700.00 - which amount did not include the first payment of P30,000.00 – and other advances reaching a total of P200,000.00. Petitioners further argue that private respondent, on cross-examination, admitted having received the amounts of P60,000.00; P49,000.00 and P35,000.00 covered by different checks in the total sum of P144,000.00 and that the amount of P35,000.00 was received by private respondent for “effecting or finishing papers contemplated for the house and lot.” Petitioners aver that the purported sale did not materialize because of the death of private respondent’s husband Francisco Santiago; thus private respondent remained indebted to petitioners in accordance with the terms and conditions of Exhibit “B”. Finally, petitioners argue that private respondent was placed under estoppel in denying the terms and conditions of the agreement and the receipt of payments when she admitted having received the two (2) letters of demand, Exhibits “K” and “L”, respectively.

In their Comment/Opposition, private respondent alleged that while petitioners insist that the receipt dated December 9, 1990 is an addendum to an alleged agreement made on August 8, 1990, petitioners nonetheless failed to present the alleged Agreement of August 8, 1990 or any evidence that would prove the sale of the subject property to them. Private respondent submits that there was really no sale as the transaction between the parties was a simple loan.

In their Reply, petitioners argue that the absence of a written contract in their initial agreement was cured when the receipt marked as Exhibit “B” was executed on December 14, 1990 wherein private respondent acknowledged having sold the property to petitioners and having received the amount of P140,000.00 from the latter, in addition to partial payments of P60,000.00, for the agreed total amount of P250,000.00, the balance of the price being payable when good title will be delivered to petitioners.

The main issue raised by petitioners in their petition is whether or not the Court of Appeals erred in reducing the amount awarded by the court a quo.

At the outset, it must be stated that this petition for review on certiorari was filed pursuant to Rule 45 of the Revised Rules of Court wherein a review is not a matter of right but of sound judicial discretion and will be granted only when there are special and important reasons therefor.[13] It is not the function of this Court to re-examine the evidence submitted by the parties unless the findings of fact of the Court of Appeals are not supported by evidence on record or the judgment is based on a misapprehension of facts.[14] This Court is limited to the review or revision of errors of law and not to analyze or weigh the evidence all over again.[15]

The issue of whether or not the Court of Appeals erred in reducing the amount awarded by the court a quo raised a question of fact as it involves an examination of the probative value of the evidence presented by the parties. In the case of *Reyes vs. Court of Appeals*,[16] we held:

“Clearly, the main issue to be resolved is the authenticity of the Deed of Extrajudicial Partition and Settlement which is a question of fact rather than of law. In the case of *Manila Bay Club Corporation v. Court of Appeals*,[17] this Court held that for a question to be one of law, it must involve no examination of the probative value of the evidence presented by the litigants or any of them. To reiterate the distinction between the two types of questions: there is a question of law in a given case when the doubt or difference arises as to what the law is pertaining to certain state of facts, and there is a question of fact when the doubt arises as to the truth or the falsity of alleged facts.” (underscoring supplied).

However, the rule that findings of fact of the lower court are not reviewable on appeal by this Court is subject to exceptions. Thus:

“Settled is the rule that the jurisdiction of this Court in cases brought before it from the Court of Appeals via Rule 45 of the Rules of Court is limited to reviewing errors of law. Findings of fact of the latter are conclusive,

except in the following instances: (1) when the findings are grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.”[18] (underscoring supplied).

The instant petition is an admitted exception under no. 7 above-quoted.

The trial court considered Exhibit “B” as valid and binding between the parties therein and ruled that the same belies the posture of private respondent herein that she merely obtained a loan from petitioners which is to be offset by the monthly rentals.[19]

On the other hand, the Court of Appeals ruled that Exhibit “B”, which is the “Addendum to the Agreement dated August 8, 1990”, is “not a true and faithful documentation of the alleged receipt of P140,000.00 and the alleged sale of the property on July 10, 1990.” It stated, however, that Exhibit “B” contemplated two (2) separate obligations, namely: (1) the obligation of petitioners to pay the balance upon delivery of the title; and (2) the obligation of private respondent to make a refund in double the amount agreed upon, if the title to the property is not good and cannot be made good within a reasonable time.[20] The Court of Appeals likewise ruled that since petitioners have not complied with their obligation to present the receipts of expenses for improvements made, then private respondent had been released from the obligation to refund double the amount claimed by petitioners.[21] The ruling seems to be inconsistent because if the said Exhibit “B” is not a true and faithful documentation of the alleged receipt of P140,000.00 and the alleged sale of the property, as the Court of Appeals held, then there can be no separate obligations that can be ascribed to the parties therein.

In resolving the issue of whether or not the Court of Appeals erred in reducing the amount awarded to petitioners, we should first determine whether there was a contract for the sale of the subject property, as petitioners claim, or merely a loan, as asserted by private respondent.

There is no question that the parties initially entered into a contract of lease. The notarized “Kasunduan” dated March 30, 1987[22] evidences the relationship between petitioners, as lessees, and private respondent, as lessor, wherein the latter borrowed from the former the amount of P30,000.00 on condition that petitioners will not pay the monthly rentals as long as the said amount is not fully paid by private respondent. Private respondent admitted that there was an agreement for the purchase of the subject premises but the same was not made in writing.[23] The absence of a formal deed of sale does not render the agreement null and void or without any effect. The provision of Article 1358 of the Civil Code[24] on the necessity of a public document is only for convenience, not for validity or enforceability.[25] It does not mean that no contract has been perfected[26] so long as the essential requisites of consent of the contracting parties, object, and cause of the obligation concur.[27]

There is the “Receipt” marked as Exhibit “B”, reproduced hereunder, which states:

“R E C E I P T

Addendum to Agreement dated August 8, 1990.

Received from the Spouses RODOLFO CAOILI and IMELDA CAOILI, both Filipino, both of legal ages, the sum of ONE HUNDRED FORTY (P140,000.00) THOUSAND PESOS, Philippine Currency, in addition to the partial payment of Six (sic) Thousand (P60,000.00) pesos for the purchase of a parcel of land together with its improvement situated at 1752 Tecson de Guia St., Tondo, Manila, containing an area of more or less 42.90

square meters which I have sold on July 10, 1990 and agreed to convey to said spouses for the sum of P250,000.00, balance payable when the good title in the name of herein vendor is delivered to the spouses. A reasonable time, after delivery of title, is to be allowed for examination thereof. It is agreed that, if the title to said premises is not good and cannot be made good within a reasonable time then this agreement shall be null and void and the above amount in double the amount shall be refunded and paid to the vendee.

Manila, December 14, 1990.

(SIGNED)

ROSITA ROBLES VDA. DE SANTIAGO

Vendor

SIGNED IN THE PRESENCE OF:

(signed) Alicia B. Ay-ay

(signed) Benilda Miller"[28]

Exhibit "B", which was signed by private respondent herself[29] indubitably shows that the agreement was to convey the subject premises to petitioners for the sum of P250,000.00. It confirms that there was a meeting of the minds upon the subject property, which is the object of the contract and upon the price, which is P250,000.00.[30] The agreement is subject to the condition that the balance is "payable when the good title in the name of herein vendor is delivered to the spouses" and a "reasonable time, after delivery of title, is to be allowed for examination thereof." The obligation to deliver title is likewise subject to a penal clause that "if the title to said premises is not good and cannot be made good within a reasonable time then this agreement shall be null and void" and a sum double the "above amount" shall be refunded and paid to the vendee." The said document clearly acknowledges that petitioners have paid the amount of P140,000.00 "in addition to the partial payment of P60,000.00" and the balance is payable "when the good title in the name of the vendor is delivered to the spouses." Verily, under the agreement, private respondent was obligated to deliver a good title to petitioners and this condition is the operative act which would give rise to the corresponding obligation of petitioners to pay the balance of the purchase price.[31] Since it is not disputed that private respondent has not delivered a good title, petitioners have by law the right to either refuse to proceed with the agreement or to waive that condition pursuant to Article 1545 of the Civil Code.[32]

Furthermore, subsequent developments show that the parties indeed agreed on a contract for the sale of the subject premises. Private respondent herself admitted[33] having received advances and payments from petitioners after December 14, 1990 (the date of execution of Exhibit "B") as shown by receipts marked as Exhibits "C" to "J", to wit:

1. Exhibit "C"[34] is a Far East Bank check dated January 4, 1991 payable to the order of private respondent signed by petitioner Imelda Caoili in the amount P49,000.00;
2. Exhibit "D"[35] is a receipt dated May 30, 1991 signed by private respondent for the sum of P15,000.00 as "partial payment House & Lot";
3. Exhibit "E"[36] is a receipt dated September 3, 1992 signed by private respondent in the amount of P12,000.00 also as "partial payment";
4. Exhibit "F"[37] is a receipt dated September 3, 1991 signed by private respondent in the amount of P5,000.00 as "Partial payment re papers transfer";
5. Exhibit "G"[38] is a receipt dated November 11, 1992 signed by private respondent in the amount of P3,500.00 as "advance payment";

6. Exhibit “H”[39] is a receipt dated November 27, 1992 signed by private respondent in the amount of P2,000.00 as “advance payment”;

7. Exhibit “I”[40] is a receipt dated July 23, 1992 signed by private respondent in the amount of P5,000.00 as “additional payment”; and

8. Exhibit “J”[41] is a check dated July 23, 1992 payable to the order of private respondent signed by petitioner Imelda Caoili in the amount of P4,200.00.

It is to be observed that Exhibit “D”, for instance, is a receipt in the amount of P15,000.00 expressly denominated as partial payment for “House & Lot”[42], while Exhibit “F” is a receipt in the amount of P5,000.00 as “partial payment re papers transfer.”[43] These receipts corroborate the fact that there was an agreement for the sale of the subject property.

The evidence shows that private respondent received payments from petitioners in the following amounts: a total of P95,700.00 as shown in Exhibits “C” to “J”; P200,000.00 as shown in Exhibit “B”; and P30,000.00 as shown in Exhibit “A”. However, the amount of P30,000.00 (Exhibit “A”) was clearly a loan by private respondent with the understanding that petitioners will not pay the rentals until the amount of loan is not paid (“hanggang hindi ko nababayaran ang nasabing halaga”). The receipt evidencing payment of P30,000.00 was made in 1987, several years before the agreement for the sale of the subject property was made.

Private respondent claims that the amount of P60,000.00 mentioned in Exhibit “B” as partial payment was a loan which she incurred and which was offset by the monthly rentals. However, aside from private respondent’s bare allegation,[44] no proof to that effect was presented.

As regards the amount of P140,000.00 also mentioned in Exhibit “B”, petitioners claim that it “represents the loan of P30,000.00 plus the deposits I made in the house plus the repairs of the faucets”[45] while private respondent averred that it was spent for “renovation and building of an additional room of the house”.[46] Whatever the amount represented, what is confirmed is that it was acknowledged as part of the purchase price in the document signed by private respondent herself.

As stated, Exhibit “B”, above-quoted, which is denominated as a “Receipt” and “Addendum to Agreement dated August 8, 1990” bolsters the claim of petitioners that there was indeed an agreement for the sale of the subject property. This “Receipt” was acknowledged before a notary public on December 28, 1990[47] and as such is considered a public document.[48] Being a public document, it is a prima facie evidence of the facts therein stated.[49] It may be presented without further proof, the certificate of acknowledgment being prima facie evidence of the execution of the instrument or document involved.[50] Exhibit “B” being a notarized document has in its favor the presumption of regularity, and to contradict the same, there must be evidence that is clear, convincing and more than merely preponderant.[51] Otherwise the document should be upheld.[52] There being no proof to the contrary, the parties are therefor bound to comply with the clear and unequivocal terms under Exhibit “B” and in view of the failure of private respondent to deliver a good title to petitioners, she is under obligation to pay double the amount which private respondent received from petitioners as acknowledged in Exhibit “B”.

As regards the amount to be awarded to petitioners, from the evidence thus presented, private respondent has received from petitioners the amount of P95,700.00 as shown in Exhibits “C” to “J” and P140,000.00 in addition to P60,000.00 as shown in Exhibit “B”, or an aggregate amount of P295,700.00. It should be noted, however, that in their demand letter,[53] petitioners claim that a total of P215,000.00 has been received by private respondent and in their complaint,[54] petitioners alleged that per their latest computation, they have paid private respondent

the amount of P244,760.00. This being the case, petitioners should be deemed under estoppel to claim an amount more than what they had prayed for. Accordingly, the trial court's decision ordering private respondent to pay petitioners the amount of P489,520.00, which is double the amount of P244,760.00, is upheld.

Finally, petitioners contend that their Supplemental Motion for Reconsideration was submitted after the main Motion for Reconsideration had been filed within the required period and which motion had not yet been timely resolved. They argue that had the Supplemental Motion for Reconsideration been admitted, the meritorious allegations therein would have been given due course.

The rule is well-settled that the admission or non-admission of a supplemental pleading is not a matter of right but is discretionary on the court.[55] As differentiated from an amended pleading which takes the place of the original pleading, a supplemental pleading does not extinguish the existence of the original; it only serves to bolster or adds something to the primary pleading. A supplement exists side by side with the original; it does not replace that which it supplements;[56] it does not supersede the original but assumes that the original pleading is to stand and the issues joined under the original pleading remain as issues to be tried in the action.[57] A supplemental pleading supplies deficiencies in aid of an original pleading, not to entirely substitute the latter.[58]

A perusal of the Supplemental Motion for Reconsideration reveals that the arguments raised by petitioners in the supplemental motion are matters which have already been substantially discussed, considered, and passed by the Court of Appeals in its decision. Thus, even assuming a *grati argumenti* that the supplemental motion was admitted as part of the record, the Court of Appeals would not have decided otherwise.

WHEREFORE, the Decision dated December 9, 1996 of the Court of Appeals in CA-G.R. CV No. 48363 is hereby SET ASIDE. Accordingly, the Decision dated January 9, 1995 of the Regional Trial Court of Manila, Branch 31 in Civil Case No. 93-65569 is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Composed of Justice Oswaldo D. Agcaoili (ponente) with Justices Jorge S. Imperial and Buenaventura J. Guerrero, concurring.

[2] Written by Judge Regino T. Veridiano II.

[3] "Kasunduan", Exhibits "A" & "2", p. 74, Record of Civil Case No. 93-65569.

[4] TSN, May 17, 1994 at pp. 17-18 cited in p. 3 of Private Respondent's Comment/Opposition, p. 76, Rollo.

[5] Exhibit "B", p. 75, Record of Civil Case No. 93-65569.

[6] Exhibits "K" & "L", pp. 85-87, *ibid*.

[7] p. 2, RTC-Decision, p. 140, Record of Civil Case No. 93-65569; p. 3, CA-Decision, Annex "A" of the Petition, p. 33, Rollo.

[8] p. 5, RTC-Decision, p. 143, Record of Civil Case No. 93-65569.

[9] p. 12, CA-Decision, p. 42, Rollo.

[10] Annex "B", Petition, pp. 43-46, Rollo.

[11] CA-Resolution dated January 29, 1997, Annex "D", Petition, p. 59, Rollo.

[12] Annex “E”, Petition, p. 59, Rollo.

[13] Section 4, Rule 45.

[14] National Steel Corporation vs. Court of Appeals, 283 SCRA 45; Tañedo vs. Court of Appeals, 252 SCRA 80; New Testament Church of God vs. Court of Appeals, 246 SCRA 266.

[15] De la Cruz vs. Court of Appeals, 265 SCRA 299.

[16] 258 SCRA 651.

[17] 245 SCRA 715.

[18] Sta. Maria vs. Court of Appeals, 285 SCRA 351; Villanueva vs. Court of Appeals, 267 SCRA 89.

[19] p. 4, RTC-Dcision, p. 142, Record of Civil Case No. 93-65569.

[20] p. 8, CA-Dcision, p. 38, Rollo.

[21] p. 9, CA-Dcision, p. 39, Rollo.

[22] Exhibit “A” & “2”, p. 74, Record of Civil Case No. 93-65569.

[23] TSN, May 17, 1994 at pp. 17-18 quoted in p. 3 of Private respondent’s Comment/Opposition, p. 76, Rollo.

[24] ART. 1358: The following must appear in a public document:

(1) Acts and contracts which have for their object the creation, transmission, modification or extinguishment of real rights over immovable property; sales of real property or of an interest therein are governed by articles 1403, No. 2, and 1405;

(2) The cession, repudiation or renunciation of hereditary rights or of those of the conjugal partnership of gains;

(3) The power to administer property, or any other power which has for its object an act appearing or which should appear in a public document, or should prejudice a third person;

(4) The cession of actions or rights proceeding from an act appearing in a public document.

All other contracts where the amount involved exceeds five hundred pesos must appear in writing, even a private one. But sales of goods, chattels or things in action are governed by articles 1403, No. 2 and 1405.

[25] Balatbat vs. Court of Appeals, 261 SCRA 128.

[26] Limketkai Sons Milling, Inc. vs. Court of Appeals, 250 SCRA 523.

[27] Vda. de Jomoc vs. Court of Appeals, 200 SCRA 74.

[28] Exhibit “B”, p. 75, Record of Civil Case No. 93-65569.

[29] Exhibit “B-2”, p. 75, Records of Civil Case No. 93-65569.

[30] ART. 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

[31] Romero vs. Court of Appeals, 250 SCRA 223.

[32] ART. 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 thing 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.

[33]p. 5, CA-Decision, p. 35, Rollo.

[34] p. 76, Records of Civil Case No. 93-65569.

[35] p. 77, *ibid.*

[36] p. 79, *ibid.*

[37] p. 80, *ibid.*

[38] p. 81, *ibid.*

[39] p. 82, *ibid.*

[40] p. 83, *ibid.*

[41] p. 84, *ibid.*

[42] p. 77, *ibid.*

[43] p. 80, *ibid.*

[44] p. 3, CA-Decision. p. 35, Rollo; par. c), p. 2 of the RTC-Decision, p. 140, Records of Civil Case No. 93-65569.

[45] TSN, March 3, 1994, pp. 15-16 quoted in p. 7, CA-Decision, p. 37, Rollo.

[46] TSN, May 17, 1994, pp. 15-16, *ibid.*

[47] Exhibit “B-3”, p. 75, Records of Civil Case No. 93-65569.

[48] Section 19 (b), Rule 132.

[49] Section 23, Rule 132.

[50] Section 30, Rule 132.

[51] *Salame vs. Court of Appeals*, 239 SCRA 356.

[52] *Causapin vs. Court of Appeals*, 233 SCRA 615.

[53] Exhibit “K”, p. 86, Records of Civil Case No. 93-65569.

[54] p. 2, CA-Decision, p. 32, Rollo.

[55] *British Traders Co. vs. Commissioner of Internal Revenue*, 13 SCRA 719.

[56] *Aznar III vs. Bernad*, 161 SCRA 276.

[57] *Delbros Hotel Corporation vs. IAC*, 159 SCRA 533.

[58] Shoemart, Inc. vs. Court of Appeals, 190 SCRA 189.

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