OLIVERIO LAPERAL AND FILIPINAS GOLF & COUNTRY CLUB INC., PETITIONERS, VS. SOLID HOMES, INC., RESPONDENT. SOUTHRIDGE VILLAGE HOMEOWNERS ASSOCIATION, INTERVENOR.

G.R. NO. 130913. June 21, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Before us is this petition for review on certriorari under Rule 45 of the Rules of Court to nullify and set aside the following issuances of the Court of Appeals in CA-G.R. CV No. 37853, to wit:

- Decision dated September 18, 1996,[1] affirming with modification an earlier decision of the Regional Trial Court at Laguna, Br. XXV, in an action for reformation of document thereat commenced by herein respondent Solid Homes, Inc. against the petitioners; and

- Resolution dated September 23, 1997,[2] denying the parties' respective motions for reconsideration.

As found by the Court of Appeals in the decision under review, the material facts may be briefly stated, as follows:

On June 6, 1981, Filipinas Golf Sales and Development Corporation (FGSDC), predecessor-in-interest of petitioner Filipinas Golf and Country Club, Inc. (FGCCI), represented by its then President, the other petitioner herein, Oliverio Laperal, entered into a Development and Management Agreement[3] (Agreement, for short) with herein respondent Solid Homes, Inc., a registered subdivision developer, involving several parcels of land owned by Laperal and FGSDC with an aggregate area of approximately 42 hectares and located at Bo. San Antonio, San Pedro, Laguna.

Under the terms and conditions of the aforementioned Agreement and the Supplement[4] thereto dated January 19, 1982, respondent Solid Homes, Inc., undertook to convert at its own expense the land subject of the agreement into a first-class residential subdivision, in consideration of which respondent will get 45% of the lot titles of the saleable area in the entire project.

On different dates, or more specifically on June 8, 1983, June 22, 1983 and July 29, 1983, Victorio V. Soliven, President and General Manager of respondent Solid Homes, Inc., wrote Oliverio Laperal, President of FGSDC, requesting Laperal to furnish Solid Homes, Inc., with the owner's duplicate copies of the Torrens titles covering the subject land in order to facilitate the processing of respondent's application with the Human Settlements Regulatory Commission (HSRC) for a license to sell subdivision lots, as required under Presidential Decree No. 957.

Despite repeated requests, however, Laperal did not comply.

On October 7, 1983, the aforementioned Agreement was cancelled by the parties, and, in lieu thereof, two (2) contracts identically denominated Revised Development and Management Agreement[5] (Revised Agreements,

for short) were entered into by respondent with the two (2) successors-in-interest of FGSDC, to wit: (1) one, with petitioner Oliverio Laperal as owner of the 181,075-square meter area of the subject land; and (2) another, with petitioner FGCCI as owner of the 399,075-square meter area thereof.

Unlike the original agreement, both Revised Agreements omitted the obligation of herein petitioners Laperal and FGCCI to make available to respondent Solid Homes, Inc. the owner's duplicate copies of the titles covering the subject parcels of land.

And, because there were still other matters which were inadvertently omitted in the said Revised Agreements, the parties executed an Addendum[6] thereto dated November 11, 1983.

In addition to the provision on the automatic rescission of the Revised Agreements in case of breach of the terms and conditions thereof under paragraph 10 of the same, the parties further agreed in the Addendum that upon a showing that respondent deliberately abandoned or discontinued work in the subject project, all improvements of whatever nature and kind it may have introduced in the property and existing as of the date of the violation shall be forfeited in favor of the petitioners without any obligation on their part to pay respondent therefor. Likewise, the parties agreed in the same Addendum to a forfeiture of all advances made and remittances of proceeds from reservations and sales upon occurrence of the aforesaid default or violation of any of the terms and conditions of the Revised Agreements and the Addendum. Under the Addendum, abandonment is deemed to have occurred upon failure or absence of any work for development for any ten (10) days.

It appears, however, that even as the Revised Agreements already provided for the non-surrender of the owner's duplicate copies of the titles, respondent persisted in its request for the delivery thereof, explaining that said owner's duplicate copies were necessary for: (1) the issuance by the HSRC of the license to sell; (2) the segregation of the golf course portion from the rest of the subdivision area; (3) the segregation of the individual titles for portions which are supposed to be made available for PAG-IBIG take-outs; and (4) the preparation of the technical description of nine (9) blocks already approved by the Bureau of Lands.

Then, in a letter dated December 7, 1983 addressed to herein petitioners, respondent, through its Executive Vice-President and Treasurer, Purita R. Soliven, explained that it was unable to meet the November 30, 1983 deadline for the payment of P1 Million as provided for in the Revised Agreements because there was delay in the processing of its license to sell, which, in turn, is due to petitioners' continued refusal to deliver the owner's duplicate copies of the titles, contrary to what was allegedly agreed upon by the parties. Respondent reiterated in the same letter that in the absence of such license from HSRC, it would not be able to comply with the rest of its undertakings within the allotted periods since the projected collection of amounts from sales and reservations of the subdivision lots did not materialize. Nonetheless, in order to demonstrate that it was not reneging on its commitments under the Revised Agreements despite its difficulties to generate more funds, respondent proposed that it be allowed to assign to petitioners P1Million out of its receivables worth P1,209,000.00 from loan proceeds due in its favor under the PAG-IBIG housing program, which it expected to receive for some of the completed housing units.

In separate letters both dated December 9, 1983, however, petitioners rejected respondent's proposal and instead insisted on the payment of P1Million to each of them.

It was only at this point, as alleged in respondent's reply letter dated December 13, 1983, that respondent supposedly realized that instead of providing for the payment of only P500,000.00 in each contract, or a total of P1Million for both Revised Agreements, the total amount of P1Million was erroneously carried over in each of the Revised Agreements, with the consequence that under said two (2) Revised Agreements, it was bound to pay a total of P2Million to the petitioners.

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Meanwhile, in subsequent letters dated January 6, 1984, January 17, 1984 and February 6, 1984, respondent continued to press petitioners for the delivery of the owner's duplicate copies of their titles covering the subject parcel of land.

Then, on March 9, 1984, petitioners served on respondent notices of rescission of the Revised Agreements with a demand to vacate the subject properties and yield possession thereof to them. In the same letter, petitioners made it clear that they are enforcing the rescission clause of the Revised Agreements on account of respondents' failure to: (1) pay them P1Million each on November 30, 1983; (2) complete the development of Phase I-A of the project not later than February 15, 1984; and (3) obtain from the HSRC the license to sell subdivision lots.

In its response-letter dated March 14, 1984, respondent, through counsel, objected to the announced rescission, arguing that the proximate cause of its inability to meet its contractual obligations was petitioners' own failure and refusal to deliver their owner's duplicate copies of the titles for processing by the HSRC, PAG-IBIG, accredited banks, and other government agencies, adding that on account of petitioners' failure to do so, it was not issued the necessary license to sell, thus resulting in the slowdown in the development works in the project due to its inability to generate additional funds and to the slackening of its sales campaign.

Such was the state of things when, on April 2, 1984, in the Regional Trial Court (RTC) at Biñan, Laguna respondent Solid Homes, Inc. instituted the complaint in this case praying for the reformation of the Revised Agreements and the Addendum on the ground that these contracts failed to express the true intent of the parties. In the same complaint, respondent prayed for the issuance of a temporary restraining order (TRO) and a writ of preliminary injunction to prevent petitioners from exercising their rights as owners of the subject properties. Docketed with the same court as Civil Case No. B-2069, the complaint was raffled to Branch XXV thereof.

On the very day that the complaint was filed, the trial court issued a TRO to prevent petitioners from implementing the unilateral rescission of the Revised Agreements and the Addendum.

Later, in an order dated May 23, 1984,[7] the same court granted respondent's application for a writ of preliminary injunction upon its posting of a bond in the amount of P1Million.

On April 18, 1985,[8] the Southridge Village Homeowner's Association filed a complaint-in-intervention praying that the rights and preferential status of its members who have been occupying some of the completed units in the subdivision project be respected by whoever between the principal litigants may later be adjudged as the prevailing party.

Both the petitioners and respondent filed their respective answers to the aforesaid complaint-in-intervention, commonly alleging intervenor's lack of capacity to sue. Petitioners added in their answer that it should be respondent which must be made solely liable to the intervenor for whatever claims its members may be entitled to. For its part, respondent prayed for the cancellation, in whole or in part, of its contracts with the members of the intervenor Association to the extent compatible with prevailing economic conditions.

Upon petitioners' motion, the trial court issued an order on May 20, 1985 lifting the writ of preliminary injunction over the entire property except as to Phase I-A thereof, and reducing respondent's injunction bond from P1Million to only P200,000.00.

Petitioners then filed a motion for reconsideration. Finding merit in the motion, the trial court, in its order of August 15, 1985,[9] as clarified in its order of September 27, 1985,[10] completely lifted the writ of preliminary injunction so as to include the area covered by Phase I-A, and cancelled the bond of P200,000.00 earlier posted by respondent.

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To these orders, both parties filed their respective motions for reconsideration. In its subsequent order dated November 8, 1985,[11] the trial court modified its August 15, 1985 order by maintaining the complete lifting of the writ of preliminary injunction but ordering the restoration of respondent's P1Million bond or its substitution with another if the same had already been cancelled, to answer for whatever damages that may be proven by the petitioners during the trial of the case.

The above-mentioned orders, namely, orders dated May 20, 1985, August 15, 1985, September 27, 1985 and November 8, 1985 involving the dissolution of the writ of preliminary injunction over the entire property and the maintenance of the P1Million bond against respondent, became the subject of a petition for certiorari filed by respondent before the Court of Appeals docketed therein as CA-G.R. SP No. 47885.

In a decision dated October 9, 1987, the Court of Appeals dismissed the petition.

Therefrom, respondent went to this Court in G.R, No. 80290 but later abandoned the same, prompting this Court, in its Resolution dated February 22, 1988, to consider the Court of Appeals' dismissal of respondent's petition final and executory.

Meanwhile, upon respondent's application, a notice of lis pendens was annotated on the Torrens titles covering the properties in litigation. Said notice, however, was lifted by the trial court in its orders of April 12, 1988 and May 21, 1991.

Eventually, after due proceedings in the main case, the trial court, in a decision dated December 19, 1991,[12] rendered judgment dismissing respondent's complaint for reformation. We quote the dispositive portion of the same decision:

> IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered in favor of the defendants and against the plaintiff dismissing the complaint with costs:
>
> On defendants' recovery upon the bond posted by the plaintiff to answer to whatever damages that the party enjoined may suffer by reason of the injunction, resolution as to the propriety of its award is hereby held in abeyance until after proper application by the defendants and hearing thereon, as reserved by the defendants in their memorandum.
>
> As regards the Intervenors, the defendants are directed to respect and acknowledge their preferential rights over said Intervenors' occupied houses and lots.
>
> SO ORDERED.

Therefrom, respondent went to the Court of Appeals via ordinary appeal in CA-G.R. CV No. 37853.

As stated at the threshold hereof, the Court of Appeals, in a decision dated September 18, 1996,[13] affirmed with modification the appealed decision of the trial court, thus:

> WHEREFORE, IN VIEW OF ALL THE FOREGOING, the decision appealed from is AFFIRMED with the modification that [petitioners] are ordered to reimburse [respondent], jointly and severally, the amount of Five Million Two Hundred Thousand Eight Hundred Thirty Three Pesos and Twenty Seven Centavos (P5,200,833.27) representing the actual cost of the development and the completed improvements on the project. In all other respects, the judgment of the trial court is AFFIRMED.
>
> SO ORDERED.

Both parties separately moved for reconsideration, but their respective motions were denied by the appellate court in its resolution of September 23, 1997.[14]

And, as they did not agree with the judgment, petitioners are now appealing to this Court for relief via the present recourse, it being their submission that the Court of Appeals erred-

> I.
>
> xxx IN HOLDING THAT PETITIONERS' TERMINATION OF THE REVISED AGREEMENT AND ADDENDUM, BECAUSE OF THE CONTRACTUAL BREACH COMMITTED BY RESPONDENT SOLID HOMES, CARRIED WITH IT THE EFFECT PROVIDED UNDER ARTICLE 1385 OF THE NEW CIVIL CODE.
>
> II.
>
> xxx IN VOIDING THE FORFEITURE CLAUSES OF THE ADDENDUM, AND IN ORDERING THE REFUND OF THE SUM OF P5,200,833.27 TO RESPONDENT SOLID HOMES.
>
> III.
>
> xxx IN HOLDING, IN EFFECT, THAT PETITIONERS ARE NOT ENTITLED TO DAMAGES.

The Court finds merit in the petition.

While this Court does not agree with petitioners that the right to rescind under Article 1191 of the Civil Code does not carry with it the corresponding obligation for restitution, we do not subscribe to the Court of Appeals' conclusion that: (1) "the forfeiture/penalty clause under paragraphs Nos. 2 and 3 of the 'Addendum to the Revised Development and Management Agreements' is, under the factual milieu of this case, unreasonable and unconscionable and, therefore, void for being contrary to morals and good customs"[15]; and (2) petitioners must reimburse respondent the actual cost of development and completed improvements on the project in the total amount of P5,200,833.27.[16]

It is petitioners' thesis that inasmuch as the rescission of the Revised Agreements and its Addendum was made pursuant to Article 1191 of the Civil Code, the provision of Article 1385[17] of the same Code, which requires mutual restitution – should not apply because Article 1385 applies only if the rescission is made under the instances enumerated in Article 1381[18] of the Code.

We do not agree.

Mutual restitution is required in cases involving rescission under Article 1191. In Velarde vs. Court of Appeals,[19] this Court, in no uncertain terms, squarely ruled on this matter:

> Considering that the rescission of the contract is based on Article 1191 of the Civil Code, mutual restitution is required to bring back the parties to their original situation prior to the inception of the contract. Accordingly, the initial payment of P800,000 and the corresponding mortgage payments in the amounts of P27,225, P23,000 and P23,925 (totaling P874,150.00) advanced by petitioners should be returned by private respondents, lest the latter unjustly enrich themselves at the expense of the former.
>
> Rescission creates the obligation to return the object of the contract. It can be carried out only when the one who demands rescission can return whatever he may be obliged to restore (citing Co v. Court of Appeals, 312 SCRA 528, August 17, 1999; and Vitug, Compendium of Civil Law and Jurisprudence, 1993 revised ed., p. 556). To rescind is to declare a contract void at its inception and to put an end to it as though it never was. It is not merely to terminate it and release the parties from further obligations to each other, but to abrogate it from the beginning and restore the parties to their relative positions as if no contract has been made (citing Ocampo v. Court of Appeals, 233 SCRA 551, June 30, 1994).

Article 1191 of the Civil Code provides:

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> 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 has chosen fulfillment, if the latter should become impossible.
>
> The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of the period.
>
> This is understood without prejudice to the rights of third persons who have acquired the thing, in accordance with articles 1385 and 1388 and the Mortgage Law. (1124)

Despite the fact that Article 1124 of the old Civil Code from whence Article 1191 was taken, used the term "resolution", the amendment thereto (presently, Article 1191) explicitly and clearly used the term "rescission". Unless Article 1191 is subsequently amended to revert back to the term "resolution", this Court has no alternative but to apply the law, as it is written.

Again, since Article 1385 of the Civil Code expressly and clearly states that "rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest," the Court finds no justification to sustain petitioners' position that said Article 1385 does not apply to rescission under Article 1191.

In Palay, Inc. vs. Clave,[20] this Court applied Article 1385 in a case involving "resolution" under Article 1191, thus:

> Regarding the second issue on refund of the installment payments made by private respondent. Article 1385 of the Civil Code provides:
> "ART. 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.
>
> "Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.
>
> "In this case, indemnity for damages may be demanded from the person causing the loss."

As a consequence of the resolution by petitioners, rights to the lot should be restored to private respondent or the same should be replaced by another acceptable lot. However, considering that the property had already been sold to a third person and there is no evidence on record that other lots are still available, private respondent is entitled to the refund of installments paid plus interest at the legal rate of 12% computed from the date of the institution of the action. It would be most inequitable if petitioners were to be allowed to retain private respondent's payments and at the same time appropriate the proceeds of the second sale to another.

Applying the clear language of the law and the consistent jurisprudence on the matter, therefore, the Court rules that rescission under Article 1191 in the present case, carries with it the corresponding obligation of restitution.

This notwithstanding, the Court does not agree with the Court of Appeals that, as a consequence of the obligation of mutual restitution in this case, petitioners should return the amount of P5,200,833.27 to respondent.

Article 1191 states that "the injured party may choose between fulfillment and rescission of the obligation, with the payment of damages in either case." In other words, while petitioners are indeed obliged to return the said amount to respondent under Article 1385, assuming said figure is correct, respondent is at the same time liable to petitioners in the same amount as liquidated damages by virtue of the forfeiture/penalty clause as freely stipulated

upon by the parties in the Addendum, paragraphs 1 and 2[21] of which respectively read:

> WHEREAS, included as part of said agreement are the following:
>
> - Further to the stipulations on paragraph 10, upon default of performances, violations and/or non-compliance with the terms and conditions herein agreed upon by the DEVELOPER wherein it appears that the DEVELOPER deliberately abandoned or discontinued the work on the project, said party shall lose any entitlement, if any, to any refund and/or advances it may have incurred in connection with or relative to previous development works in the subdivision; likewise, all improvements of whatever nature and kind introduced by the DEVELOPER on the property, existing as of the date of default or violation, shall automatically belong to the OWNER without obligation on his part to pay for the costs thereof.
>
> - Similarly with the same condition of default or violation obtaining, as stated in paragraph 10 of said agreement, all advances made and remittances of proceeds from reservations and sales given by the DEVELOPER to the OWNER as provided for in this agreement shall be deemed absolutely forfeited in favor of the OWNER, resulting to waiver of DEVELOPER's rights, if any, with respect to said amount(s).

If this Court recognized the right of the parties to stipulate on an extrajudicial rescission[22] under Article 1191, there is no reason why this Court will not allow the parties to stipulate on the matter of damages in case of such rescission under Book IV, Title VIII, Chapter 3, Section 2 of the Civil Code governing liquidated damages.[23]

For sure, we find no factual and legal justification to sustain the appellate court's conclusion that the agreed forfeiture/penalty clause is unreasonable and unconscionable unless respondent had sufficiently shown that it had completely accounted for the proceeds of the sale of subdivision lots it made during the effectivity of the agreement. It must be stressed that the lots sold by respondent were owned by petitioners Laperal and FGCCI. How then could there be unjust enrichment in favor of petitioners in such a case?

Furthermore, a substantial part of the funds spent by respondent in the construction works which by the Court of Appeals required to be reimbursed by petitioners admittedly came from the proceeds of the sale of the real property still owned by petitioners. This may be gleaned from the fact that one of the main reasons respondent raised in its complaint for reformation before the trial court was that it was unable to proceed with the construction works due to lack of funds on account of the slackening of its sales campaign resulting from the alleged refusal, which is after all justified, of the petitioners to surrender their titles to respondent.

Finally, even assuming that the foregoing forfeiture/penalty clause in the "Addendum" would result in considerable losses on the part of respondent, it is not for this Court to release said party from its obligation. Our pronouncement in Esguerra vs. Court of Appeals[24] is apt and pertinent:

> xxx. It is a long established doctrine that the law does not relieve a party from the effects of an unwise, foolish, or disastrous contract, entered into with all the required formalities and with full awareness of what he was doing. Courts have no power to relieve parties from obligations voluntarily assumed, simply because their contracts turned out to be disastrous deals or unwise investments." xxx.

WHEREFORE, the petition is hereby GRANTED. Accordingly, the assailed decision and resolution of the Court of appeals are REVERSED and SET ASIDE and the decision dated December 19, 1991 of the Regional Trial Court in Civil Case No. B-2069 REINSTATED.

No pronouncement as to costs.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Corona, and CarpioMorales, JJ., concur.

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[1] Penned by former Associate Justice Fermin A. Martin, Jr. with former Presiding Justice Nathanael P. De Pano, Jr. and former Associate Justice Maximiano C. Asuncion, concurring; Rollo, pp. 45-92.

[2] Rollo, pp. 74-76.

[3] Records, Volume I, pp. 15, et seq.

[4] Records, Volume I, pp. 32, et seq.

[5] Records, Volume I, pp. 40, et seq.

[6] Records, Volume I, pp. 189, et seq.

[7] Records, Volume I, p. 153.

[8] Records, Volume II, p. 424.

[9] Records, Volume II, p. 493.

[10] Records, Volume II, p. 494.

[11] Records, Volume II, p. 516.

[12] Rollo, pp. 88, et seq.

[13] Rollo, pp. 45, et seq.

[14] Rollo, pp. 74-76.

[15] Decision, p. 25; Rollo, p. 69.

[16] Decision, p. 27; Rollo, p. 71.

[17] “Article 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interests; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.

xxx xxx xxx”

[18] “Article 1381. The following contracts are rescissible:

(1) Those which are entered into by guardians whenever the wards whom they represent suffer lesion by more than one-fourth of the value of the things which are the object thereof;

(2) Those agreed upon in representation of absentees, if the latter suffer the lesion stated in the preceding number;

(3) Those undertaken in fraud of creditors when the latter cannot in any other manner collect the claims due them;

(4) Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority;

(5) All other contracts specially declared by law to be subject to rescission.”

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[19] 361 SCRA 56, 69-70 [2001].

[20] 124 SCRA 638, 647-648 [1983].

[21] Quoted in CA Decision dated September 18, 1996, pp. 24-25; Rollo, pp. 68-69.

[22] See: Angeles vs. Calasanz, 135 SCRA 323, 329-330 [1985], to wit:

Article 1191 is explicit. In reciprocal obligations, either party has the right to rescind the contract upon the failure of the other to perform the obligation assumed thereunder. Moreover, there is nothing in the law that prohibits the parties from entering into an agreement that violation of the terms of the contract would cause its cancellation even without court intervention (Froilan v. Pan Oriental Shipping, Co., 12 SCRA 276) –

> "Well settled is, however, the rule that a judicial action for the rescission of a contract is not necessary where the contract provides that it may be revoked and cancelled for violation of any of its terms and conditions' (Lopez v. Commissioner of Customs, 37 SCRA 327, 334, and cases cited therein).
>
> "Resort to judicial action for rescission is obviously not contemplated... The validity of the stipulation can not be seriously disputed. It is in the nature of a facultative resolutory condition which in marry cases has been upheld by this Court. (Ponce Enrile v. Court of Appeals, 29 SCRA 504)."

The rule that it is not always necessary for the injured party to resort to court for rescission of the contract when the contract itself provides that it may be rescinded for violation of its terms and conditions, was qualified by this Court in University of the Philippines v. De los Angeles, (35 SCRA 102) where we explained that:

> "Of course, it must be understood that the act of a party in treating a contract as cancelled or resolved on account of infractions by the other contracting party must be made known to the other and is always provisional, being ever subject to scrutiny and review by the proper court. If the other party denies that rescission is justified, it is free to resort to judicial action in its own behalf, and bring the matter to court. Then, should the court, after due hearing, decide that the resolution of the contract was not warranted, the responsible party will be sentenced to damages; in the contrary case, the resolution will be affirmed, and the consequent indemnity awarded to the party prejudiced.
>
> "In other words, the party who deems the contract violated many consider it resolved or rescinded, and act accordingly, without previous court action, but it proceeds at its own risk. For it is only the final judgment of the corresponding court that will conclusively and finally settle whether the action taken was or was not correct in law. xxx .
>
> "We see no conflict between this ruling and the previous jurisprudence of this Court invoked by respondent declaring that judicial action is necessary for the resolution of a reciprocal obligation, (Ocejo, Perez & Co. v. International Banking Corp., 37 Phil. 631; Republic v. Hospital de San Juan de Dios, et al., 84 Phil. 820) since in every case where the extrajudicial resolution is contested only the final award of the court of competent jurisdiction can conclusively settle whether the resolution was proper or not. It is in this sense that judicial action will be necessary, as without it, the extrajudicial resolution will remain contestable and subject to judicial invalidation, unless attack thereon should become barred by acquiescence, estoppel or prescription." (Emphasis supplied.)

[23] Art. 2226. Liquidated damages are those agreed upon by the parties to a contract, to be paid in case of breach thereof.

Art. 2227. Liquidated damages, whether intended as an indemnity or a penalty, shall be equitably reduced of they are iniquitous or unconscionable.

Art. 2228. When the breach of the contract committed by the defendant is not the one contemplated by the parties in agreeing upon the liquidated damages, the law shall determine the measure of damages, and not the stipulation.

[24] 335 Phils. 58, 69 [1997].

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