

SPOUSES DOMINGO AND LOURDES PAGUYO, PETITIONERS, VS. PIERRE ASTORGA AND ST. ANDREW REALTY, INC., RESPONDENTS.

G.R. NO. 130982. September 16, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.

. . . Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by them – indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of the law, the commission of what the law knows as an actionable wrong, before the courts are authorized to lay hold of the situation and remedy it.[1]

The case at bar demonstrates a long drawn-out litigation between parties who already entered into a valid contract that has subsisted for almost twenty (20) years but one of them later balks from being bound by it, alleging fraud, gross inadequacy of consideration, mistake, and undue influence.

This is a petition for review on certiorari where petitioner Spouses Domingo and Lourdes Paguyo seek the reversal of the Decision[2] and the Resolution,[3] dated 30 April 1997 and 12 September 1997, respectively, of the Court of Appeals in CA-G.R. CV No. 47034, affirming in toto the Decision[4] dated 21 April 1994 of the Regional Trial Court (RTC), Branch 142 of Makati City.

The Antecedents

The undisputed facts, per summary of the Court of Appeals, follow.

Herein petitioners, Spouses Domingo Paguyo and Lourdes Paguyo, were the owners of a small five-storey building known as the Paguyo Building located at Makati Avenue, corner Valdez Street, Makati City. With one (1) unit per floor, the building has an average area of 100 square meters per floor and is constructed on a land belonging to the Armas family.[5]

This lot on which the Paguyo Building stands was the subject of Civil Case No. 5715 entitled, Armas, et al., v. Paguyo, et al., wherein the RTC of Makati City, Branch 57, rendered a decision on 20 January 1988 approving a Compromise Agreement made between the Armases and the petitioners. The compromise agreement provided that in consideration of the total sum of One Million Seven Hundred Thousand Pesos (P1,700,000.00), the Armases committed to execute in favor of petitioners a deed of sale and/or conveyance assigning and transferring unto said petitioners all their rights and interests over the parcel of land containing an area of 299 square meters.[6]

In order for the petitioners to complete their title and ownership over the lot in question, there was an urgent need to make complete payment to the Armases, which at that time stood at P917,470.00 considering that petitioners had previously made partial payments to the Armases.

On 29 November 1988, in order to raise the much needed amount, petitioner Lourdes Paguyo entered into an

agreement captioned as Receipt of Earnest Money with respondent Pierre Astorga, for the sale of the former's property consisting of the lot which was to be purchased from the Armases, together with the improvements thereon, particularly, the existing building known as the Paguyo Building, under the following terms and conditions as stated in the document, to wit:

RECEIVED from MR. PIERRE M. ASTORGA the sum of FIFTY THOUSAND (P50,000.00) PESOS (U.C.P.B. Manager's Check No. 013085 dated November 29, 1988) as earnest money for the sale of our property consisting of a parcel of land designated as Lot 12 located at Makati Avenue, Makati, Metro Manila, covered by and described in T.C.T. No. 154806 together with the improvements thereon particularly the existing building known as the Paguyo Bldg. under the following terms and conditions:

- The earnest money (Exh. "D") shall be good for fifteen (15) days from date of this document during which period the owner is bound to sell the property to the buyer;
- Should the buyer decide not to buy the subject property within the earnest/option period, the seller has the right to forfeit Fifteen Thousand (P15,000.00) pesos, and return the difference to the buyer;
- The agreed total purchase price is seven million (P7,000,000.00) pesos Philippine Currency;
- Within fifteen (15) days from execution of this document, the buyer shall pay Fifty (50%) percent of the total purchase price less the aforesaid earnest money, upon payment of which the following documents shall be executed or caused to be executed as the case may be, namely:
 - Deed of Absolute Sale of the Paguyo Bldg., in favor of the buyer.
 - Deed of Absolute Sale to be executed by the Armases who still appear as the registered owners of the lot in favor of the buyer.
 - Deed of Real Estate Mortgage of the same subject lot and Bldg. to secure the 50% balance of the total purchase price to be executed by the buyer in favor of the herein seller.
- The Deed of Real Estate Mortgage shall contain the following provisions, namely:
 - payment of the 50% balance of the purchase price shall be payable within fifteen (15) days from actual vacating of the Armases from the subject lot.
 - During the period commencing from the execution of the documents mentioned under paragraph 4 (which should be done simultaneously) the buyer is entitled to one-half (1/2) of the rental due and actually received from the tenants of the Paguyo Bldg. plus the use of the penthouse while the seller shall retain possession and use of the basement free of rent until the balance of the purchase price is fully paid in accordance with the herein terms and conditions. The one-half (1/2) of the tenants' deposits shall be credited in favor of the buyer.[7]

However, contrary to their express representation with respect to the subject lot, petitioners failed to comply with their obligation to acquire the lot from the Armas family despite the full financial support of respondents. Nevertheless, the parties maintained their business relationship under the terms and conditions of the above-mentioned Receipt of Earnest Money.[8]

On 12 December 1988, petitioners asked for and were given by respondents an additional P50,000.00 to meet the former's urgent need for money in connection with their construction business. Due also to the urgent necessity of obtaining money to finance their construction business, petitioner Lourdes Paguyo, who was also the attorney-in-fact of her husband, proposed to the respondents the separate sale of the building in question while she continued to work on the acquisition of the lot from the Armas family, assuring the respondents that she would succeed in doing so.[9]

Aware of the risk of buying an improvement on the lot of a third party who appeared ambivalent on whether to dispose their property in favor of the respondents, respondents took a big business gamble and, relying on the assurance of petitioners that they would eventually acquire the lot and transfer the same to respondents in accordance with their undertaking in the Receipt of Earnest Money, respondents agreed to petitioner Lourdes Paguyo's proposal to buy the building first. Thus, on 5 January 1989, the parties executed the four documents in question namely, the Deed of Absolute Sale of the Paguyo Building, the Mutual Undertaking, the Deed of Real Estate Mortgage, and the Deed of Assignment of Rights and Interest.[10] Simultaneously with the signing of the four documents, respondents paid petitioners the additional amount of P500,000.00.[11] Thereafter, the respondents renamed the Paguyo Building into GINZA Bldg. and registered the same in the name of respondent St. Andrew Realty, Inc. at the Makati Assessor's Office after paying accrued real estate taxes in the total amount of P169,174.95. Since 1990, respondents paid the real estate taxes on subject building as registered owners thereof. Further, respondents obtained fire insurance and applied for the conversion of Paguyo Building into a condominium. All of these acts of ownership exercised by respondents over the building were with the express knowledge and consent of the petitioners.[12]

Pursuant to their agreement contained in the aforecited documents, particularly in the Mutual Undertaking,[13] respondent company filed an ejectment case and obtained a favorable decision against petitioners in the Metropolitan Trial Court (MeTC) of Makati in Civil Case No. 40050. The case reached this Court which affirmed the decision of the MeTC in favor of respondent company. This decision had already been executed and the respondent company is now in possession of the building. Accordingly, respondents continued to exercise acts of full ownership, possession and use over the building.[14]

On 06 October 1989, petitioners filed a Complaint for the rescission of the Receipt of Earnest Money[15] with the undertaking to return the sum of P763,890.50. They also sought the rescission of the Deed of Real Estate Mortgage,[16] the Mutual Undertaking, the Deed of Absolute Sale of Building,[17] and the Deed of Assignment of Rights and Interest.[18]

In their complaint, petitioners alleged that respondents Astorga and St. Andrew Realty, Inc., led them to believe that they would advance the P917,470.00, which was needed by petitioners to complete payment with the Armases, with the understanding that said amount would simply be deducted from the P7 Million total consideration due them for the sale of the lot and the building as agreed upon in their Receipt of Earnest Money. The same, however, did not materialize because instead of making available the check for the said amount, respondents did not produce the amount and even ordered the "stop payment" of the same before it could be deposited in court.[19]

Respondents, in their Answer, however, interjected that as gleaned from the Receipt of Earnest Money, the Mutual Undertaking, the Deed of Assignment of Rights and Interest, their original intention was to purchase the Paguyo Building and the lot on which it stands simultaneously. Respondents interposed that at the time the decision on the compromise agreement between petitioners and Armases was rendered, petitioners were badly in need of money because they were financing their construction business and, with the balance payable to the Armases, the former were in a huff to produce an amount sufficient to cover both transactions. Thus, petitioners prevailed upon respondents to purchase the Paguyo Building first with the lot to follow after petitioners have successfully acquired it from the Armas family.

Respondents, likewise, stated in their Answer that sometime in July of 1989, petitioners asked respondent corporation to execute a check in the amount of P917,470.00[20] for the final execution of the Deed of Conveyance of the lot, saying that they were finally able to negotiate the purchase of the lot owned by the Armases. To settle the transaction, respondent corporation again complied. After investigation, however,

respondents learned that petitioners were not in the position to deliver the land, all the rights and interest thereof having allegedly been transferred already to spouses Rodolfo and Aurora Bacani. They were able to confirm this after obtaining a copy of a letter dated 22 September 1989 of petitioners' counsel (same counsel representing them presently) to the Register of Deeds of Makati a month prior to the filing of the instant case. The letter stated:

Ms. Mila Flores
Register of Deeds
Makati, Metro Manila

Dear Ms. Flores:

We represent the spouses Rodolfo and Aurora Bacani, who happen to be the assignees of all the rights and interests that the couple Domingo and Lourdes Paguyo have over that parcel of land located along Makati Avenue, the particulars and description of which are indicated on TCT No. 154806 which, for reasons we perceive to be not legitimate, was cancelled.

...

(SGD.) HECTOR B. ALMEYDA
For the Firm[21]

(Emphasis supplied.)

Respondents further explained in their Answer that because of this development, they were constrained to order "stop payment" of the P917,470.00 check, which was duly communicated to petitioners in a letter dated 14 July 1989, to wit:

I am very sorry to inform you that I have to stop payment on Philtrust Check No. 006759 because I was just reliably informed that you are no longer in a position to deliver the lot subject of our agreement. While the financier had already advanced half million pesos which was already placed in my account, I discouraged her from putting another million pesos to cover my check with you. I therefore find myself with no alternative but to order stop payment on my check to protect my rights and interests.[22]

The Ruling of the Trial Court

After trial, the RTC ruled in favor of respondents in a Decision[23] dated 21 April 1994, the dispositive portion of which reads:

Judgment is hereby rendered dismissing the complaint for lack of cause of action, the petition for preliminary injunction is hereby denied, judgment is rendered in favor of the defendants and ordering the plaintiff spouses Domingo and Lourdes Paguyo to pay the defendants Pierre Astorga and St. Andrew Realty, Inc. on their counterclaim.

- P400,000.00 for moral damages;
- P200,000.00 as exemplary damages;
- P100,00.00 for attorney's fees and litigation expenses and pay the cost of suit.[24]

The Ruling of the Court of Appeals

On appeal, the Court of Appeals promulgated its Decision[25] dated 30 April 1997 in CA-G.R. CV No. 47034 affirming the decision of the trial court, the dispositive portion of which reads as follows:

WHEREFORE, We find the lower court's decision in full accord with the facts and the law. Judgment is hereby rendered affirming the assailed decision dated April 21, 1994 in toto.[26]

Aggrieved by the ruling, petitioners elevated the matter to us via the instant petition, contending that the Court of Appeals erred:

- In concluding that the supposed acts of ownership and possession of respondents preclude petitioners from seeking rescission and declaration of nullity of documents signed and executed under mistaken premises that were not all true and accurate;
- IN FAILING to find that fraud, mistake and undue influence had been exerted on petitioner Lourdes Paguyo to make her a party to the assailed documents;
- In reading the documents involved without regard to the contemporaneous acts of the parties prior, during and immediately after the signing process;
- In affirming the dismissal of the complaint; and
- In awarding damages and attorneys fees in favor of the respondents.[27]

The questions the Court is now tasked to answer are: (1) Did the Court of Appeals err in upholding the trial courts decision denying petitioner's complaint for rescission? (2) Was the award of damages and attorney's fees to respondents proper?

On the first issue, petitioners claim that the 05 January 1989 documents, particularly the Deed of Absolute Sale of Building, Mutual Undertaking, Real Estate Mortgage, and Assignment of Rights and Interests read together with the 29 November 1988 Receipt of Earnest Money, were all designed, per the respondents' representations, to secure their exposure in the total sum of P763,890.50 which constituted their outlay in the projected purchase of the Paguyo lot and building.

Respondents dispute petitioners' line of reasoning. They say that the Deed of Absolute Sale over the building was absolute and unconditional.

Our Ruling

Petitioners' contentions lack merit.

The right to rescind a contract involving reciprocal obligations is provided for in Article 1191 of the Civil Code. Article 1191 states:

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 a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

The law speaks of the right of the "injured party" to choose between rescission or fulfillment of the obligation, with the payment of damages in either case.[28]

Here, petitioners claim to be the injured party and consequently seek the rescission of the Deed of Absolute Sale of the Building and the other documents in question. Petitioners aver that they are entitled to cancel the Deed of Sale altogether in view of fraud, gross inadequacy of price, mistake, and undue influence.

To boost their claim that the Deed of Absolute Sale was intended merely to document the cash outlays of respondents, petitioners say that the P600,000.00 consideration as contained in the Deed of Absolute Sale of the 5-storey Paguyo building is a far cry from the P3 Million valuation attached to it by respondent Astorga himself and the building's fair market value of P2,848,000.00 assessed by the Cuervo Appraisers, Inc.

We find no such inadequacy of consideration in the case at bar. For one, on top of the P600,000.00 which petitioners received, respondents had to shoulder the accrued real estate taxes of P169,174.95. For another, respondent Pierre Astorga explained that said price was what St. Andrew Realty, Inc., believed as value for their money inasmuch as the building stands on the lot owned by another and there were separate owners of the land, who appear reluctant to sell it. For a third, said amount was arrived at considering the depreciated value of the building and in view of the economic and political uncertainties in the country at that time, marked by a series of coup d'etat, which caused real estate prices to plummet. Respondent Astorga was explicit on this score –

ATTY. JOSE

Q: There was statement here by Mrs. Paguyo that this document entitled the deed of absolute sale of a building marked Exhibit "9" was not expressive of the intention of the parties meaning to say that she did not intend to sell the said building and one of the reasons she tried to raise was the fact that the building was only sold for P500,000.00, what can you say to that?

A: Well, the P500,000.00 amount that she would want to impress to be an inadequate amount is what we in St. Andrew's end believed as value for money for the reason that the building stands on the lot she does not own and there were separate owners and apparent conflict between them even the seeming impossibility of getting the lot ...

Q: By the way, before the plaintiffs decided to dispose the building or sell the building by virtue of this deed of sale marked Exhibit "98" was your company ever interested in acquiring the said building?

A: The building alone, no. In fact, on December 21 when we had the problem as to acquiring the lot, we did not part with any payment to Mrs. Paguyo demonstrating that we had really and truly intended a simultaneous buy of the building and the lot to acquire the property simultaneously the building and as well as the lot.

Q: Now, you mentioned that you are a realtor, I will ask you the same question, which Atty. Almeyda asked me when I was on the witness stand, as a realtor will you please tell the court what would be your appraisal of the value of the building?

ATTY. COLOMA

-Objection, your Honor. May we know if the witness is going to express an opinion or is he testifying now as an expert realtor?

COURT

-As an opinion but it would not bind the Court.

WITNESS

-I can explain to you.

ATTY. JOSE

-Yes, please explain.

WITNESS

A: Okay, appraisal can take many forms if its appraised value based on the construction cost it could be

different from appraising per se the building. That is now existing in that address also appraisal will depend on where the building is and there is only one owner of the building and the lot. As the case here is, the building in a manner of speaking stands on thin air. That is so including depreciation and timing that we were doing in this transaction which was 1989, my appraisal will be in the range of a Million may be.

Q: You made mentioned the word timing in 1989, why did you mention that?

A: Well, '89 was not the best real estate year. In fact, we have a boom in 1988 but prices were already deep during this year such that it is in 1988 when it could have been another price. But this transaction happened or entered into in 1989, there were no interested buyers during that time, sir.

Q: Why?

A: coup de etat was one, and many other issue on hand that causes value to take deep.

Q: You mentioned that word depreciation, will you please explain to us what that depreciation has got to do with that building?

A: In appraisal terms the building is in an economic line in every year of which a certain value is allocated as depreciation for wear and tear for breakdowns and all that is depreciation. This is deductible from the amount of the building (sic).

Q: Before you went into this agreement with the plaintiff Paguyo have you inspected the building?

A: Yes, sir. Thoroughly, sir.

Q: Will you please explain to the court the size of the building and the description of the building?

A: That building is five (5) storey it has only one (1) unit per floor, sir. There is a narrow stairway that leads up to the penthouse. It is, I would say, in an advance deteriorating stage, it needed some renovations here and there.[29] (Emphasis supplied.)

Moreover, Articles 1355 and 1470 of the Civil Code state:

Art. 1355. Except in cases specified by law, lesion or inadequacy of cause shall not invalidate a contract, unless there has been fraud, mistake or undue influence. (Emphasis supplied)

Art. 1470. Gross inadequacy of price does not affect a contract of sale, except as may indicate a defect in the consent, or that the parties really intended a donation or some other act or contract. (Emphasis supplied)

Petitioners herein failed to prove any of the instances mentioned in Articles 1355 and 1470 of the Civil Code, which would invalidate, or even affect, the Deed of Sale of the Building and the related documents. Indeed, there is no requirement that the price be equal to the exact value of the subject matter of sale.[30]

In *Sps. Buenaventura v. Court of Appeals*,[31] the Court was unequivocal:

Courts cannot follow one every step of his life and extricate him from bad bargains, protect him from unwise investments, relieve him from one-sided contracts, or annul the effects of foolish acts. Courts cannot constitute themselves guardians of persons who are not legally incompetent. Courts operate not because one person has been defeated or overcome by another, but because he has been defeated or overcome illegally. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by them – indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of the law, the commission of what the law knows as an actionable wrong, before the courts are authorized to lay hold of the situation and remedy it. (Emphases in the original)

What is more, petitioners would wish to convince this Court that petitioner Lourdes Paguyo was naïve enough to

accept at face value the assurance of respondent Astorga that the Deed of Sale was merely to document respondents' cash outlay.

Far from being the naïve and easy to fleece lady that she wants this Court to perceive her to be, evidence on record reveals that petitioner Lourdes Paguyo is in reality an astute businesswoman, having insured that legal minds would be available at her disposal at the time she entered into the transactions she now impugns. As she herself admitted in her testimony before the trial court, during her receipt of the earnest money and during the transactions subject of the instant case, her lawyers, one Atty. Lalin and a certain Atty. Cariño, assisted her. She testified as follows:

ATTY. JOSE

Wait, wait, your Honor. I have one question. Now, madam witness, you mentioned that you were accompanied by a certain Atty. Molina when you executed the receipt of the earnest money with me. Now, during the transaction of this subject matter, you will also recall that at times you were represented in dealing with me as counsel for defendant corporation by Atty. Lalin and Atty. Carino?

A. Yes, sir.[32]

Neither does the fact that the subject contracts have been prepared by respondents ipso facto entail that their validity and legality be strictly interpreted against them. Petitioner Lourdes Paguyo's insinuation that she was disadvantaged will not hold. True, Article 24 of the New Civil Code provides that "(i)n all contractual, property or other relations, when one of the parties is at a disadvantage on account of his moral dependence, ignorance, indigence, mental weakness, tender age or other handicap, the courts must be vigilant for his protection." [33] Thus, the validity and/or enforceability of the impugned contracts will have to be determined by the peculiar circumstances obtaining in each case and the situation of the parties concerned.

Here, petitioner Lourdes Paguyo, being not only cultured but a person with great business acumen as well, cannot claim to be the weaker or disadvantaged party in the subject contract so as to call for a strict interpretation against respondents. More importantly, the parties herein went through a series of negotiations before the documents were signed and executed.[34]

Further, we find the stipulations in the subject documents plain and unambiguous. For instance, the Deed of Sale provides in no uncertain terms-

WHEREAS, the VENDOR is the true and absolute owner, free from any lien or encumbrance, of a concrete building presently known as the Paguyo Building, constructed on Lot 12, Blk. 4 (described in T.C.T No. 154806-Makati) located at No. 7856 Makati Ave. corner Valdez St., Makati, Metro Manila, covered by and described in Tax Declaration No. 93762 for the year 1984, and more particularly described as follows:

...

WHEREAS, the VENDOR is desirous of selling and the VENDEE is willing to buy the aforescribed building;

NOW THEREFORE, for and in consideration of the foregoing premises and of the sum of SIX HUNDRED THOUSAND (P600,000.00) PESOS, Philippine currency, the receipt of which is hereby acknowledged, the VENDOR hereby cedes, transfers, and conveys, by way of absolute sale, unto and in favor of the VENDEE, his successors and assigns, the aforementioned building with all the improvements therein.

The Municipal Assessor of Makati is therefore hereby authorized to register this sale in the new Tax Declaration in the name of the VENDEE.

IN WITNESS WHEREOF, the VENDOR hereby affixed his signature by his wife and attorney-in-fact, LOURDES S. Paguyo, this 5[th] day of January, 1989, in Pasay City.[35]

Inasmuch as the stipulations in the aforesaid contract and in the other contracts being questioned leave no room for interpretation, there was no cause for applying Article 24 of the New Civil Code.

In sum, in the case at bar, petitioners pray for rescission of the Deed of Sale of the building and offer to repay the purchase price after their liquidity position would have improved and after respondents would have refurbished the building, updated the real property taxes, and turned the building into a profitable business venture. This Court, however, will not allow itself to be an instrument to the dissolution of contract validly entered into. A party should not, after its opportunity to enjoy the benefits of an agreement, be allowed to later disown the arrangement when the terms thereof ultimately would prove to operate against its hopeful expectations.[36]

On the matter of damages, the Court of Appeals affirmed the trial court's award of damages and attorney's fees to respondents, namely P400,000 as moral damages, P200,000 as exemplary damages, P100,000 as attorney's fees and the costs of suit.

We have held that moral damages may be recovered in cases where one willfully causes injury to property, or in cases of breach of contract where the other party acts fraudulently or in bad faith.[37] There is no hard and fast rule in the determination of what would be a fair amount of moral damages, since each case must be governed by its own peculiar circumstances.[38] Exemplary damages, on the other hand, are imposed by way of example or correction for the public good, when the party to a contract acts in a wanton, fraudulent, oppressive or malevolent manner.[39] Attorney's fees are allowed when exemplary damages are awarded and when the party to a suit is compelled to incur expenses to protect his interest.[40]

While it has been sufficiently proven that the respondents are entitled to damages, the actual amounts awarded by the lower court must be reduced because damages are not intended for a litigant's enrichment, at the expense of the petitioners.[41] Judicial discretion granted to the courts in the assessment of damages must always be exercised with balanced restraint and measured objectivity.[42]

Thus, the amount of moral damages should be set at only P30,000.00, and the award of exemplary damages at only P20,000.00. The award of attorney's fees should also be reduced to P20,000.00 which, under the circumstances of this case, appears justified and reasonable.

All told, we find no reason to reverse the assailed decision of respondent court. The factual findings of the appellate court are conclusive on the parties and carry greater weight when they coincide with the factual findings of the trial court.[43] This Court will not weigh the evidence anew lest there is a showing that the findings of the lower court are totally devoid of support or are clearly erroneous so as to constitute serious abuse of discretion. In the instant case, the trial court found that the documents, which petitioners seek to rescind, were entered into as a result of an arms-length transaction. These are factual findings that are now conclusive upon us.[44]

WHEREFORE, the Decision and the Resolution dated 30 April 1997 and 12 September 1997, respectively, of the Court of Appeals in CA-G.R. CV No. 47034, are hereby AFFIRMED with MODIFICATION as to the amount of damages and attorney's fees recoverable, as follows: (1) moral damages is reduced to P30,000.00, (2) exemplary damages is reduced to P20,000.00, and (3) attorney's fees is reduced to P20,000.00. Costs against petitioners.

SO ORDERED.

Puno (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Sps. Buenaventura v. Court of Appeals, G.R. No. 126376, 20 November 2003, 416 SCRA 263, citing Vales v. Villa, 35 Phil. 769 (1916).

[2] Rollo, pp. 41-57. Penned by Associate Justice Corona Ibay-Somera with Associate Justices Emeterio C. Cui and Salvador J. Valdez, Jr., concurring.

[3] Rollo, p. 66.

[4] CA Rollo, pp. 13-22. Penned by Judge Gil P. Fernandez, Sr.

[5] Rollo, p. 42.

[6] Rollo, pp. 43-44.

[7] Records, pp. 20-21; Annex "B."

[8] Rollo, pp. 44-45.

[9] Rollo, pp. 45-46.

[10] FOR AND IN CONSIDERATION of us having sold our building known as the PAGUYO BUILDING, located along Makati Avenue, Metro Manila, particularly on Lot No. 12, Blk. No. 4 covered by TRANSFER CERTIFICATE OF TITLE NO. 154806, in favor of the herein ASSIGNEE, ST. ANDREW REALTY, INC., a corporation duly organized and existing pursuant to the laws of the Republic of the Philippines with postal address at Ground Floor, Holiday Plaza, Libertad St., Pasay City, represented by its President, PLARIDEL C. JOSE, WE, the ASSIGNORS, DOMINGO PAGUYO represented by his wife and Attorney-in-Fact, LOURDES PAGUYO, of legal Age, Filipinos, with postal address at 7836 Makati Avenue, Makati, Metro Manila, do hereby CEDE, CONVEY, ASSIGN, AND TRANSFER by way of absolute assignment all our rights and interests over the said lot under the Compromise Agreement or Decision issued in Civil Case No. 5715, entitled Virginia Armas, et al., vs. Domingo Paguyo, et al., unto and in favor of the said VENDEE, ST. ANDREW REALTY, INC., its successors, administrators and assigns.

It is understood however that this deed shall take effect on the Five Hundred Forty-First (541[st]) day from date of execution of this document. However, within NINETY (90) days from and after said effectivity of this Deed, we, the undersigned Paguyo spouses will vacate from the basement of the said building which we are presently occupying without payment of any rental. (Records, p. 66)

[11] As provided in the Deed of Absolute Sale of Building, the total consideration for the building is P600,000.00 broken down as: P50,000.00 earnest money, P50,000.00 advanced on 12 December 1988, and P500,000.00 paid on the date of signing of the document.

[12] Rollo, p. 47.

[13] KNOW ALL MEN BY THESE PRESENTS:

This undertaking executed by and between:

ST. ANDREW REALTY, INC. . . .

-and -

DOMINGO G. PAGUYO, . . .**WITNESSETH:**

WHEREAS, the SECOND PARTY sold to the FIRST PARTY simultaneously with the execution of this document, the former's concrete building known as the Paguyo Building located at the corner of Makati Avenue and Valdez St., Makati, Metro Manila;

WHEREAS, while the said Paguyo Building had already been sold to the FIRST PARTY, the SECOND PARTY agreed to undertake to shoulder or pay within the period herein stipulated the following amounts: P917,470.00 for the acquisition of the Armases' lot on which the Paguyo Building is erected payable to the Armases and the amount of P1,982,530.00 to be paid to the SECOND PARTY;

NOW, THEREFORE, for and in consideration of the foregoing premises, the herein contracting parties have mutually agreed to be bound as follows:

- Upon execution of this document, the SECOND PARTY shall become the tenant/lessee of the FIRST PARTY of the 1[st], 2[nd], 3[rd], and 4[th] floors of the Paguyo Building with right to sublease at a monthly rental of Twenty Thousand (P20,000.00) Pesos, a month for a period of Five Hundred-Forty (540) Days from the date of execution of this document payable either at the end of the corresponding month or deductible from the obligation of the FIRST PARTY as herein provided;
- Within ninety (90) days from date of execution of this document, the SECOND PARTY shall completely vacate the basement of the Paguyo Building which she has been occupying free of rent provided that should she continue to occupy the same, the FIRST PARTY shall be paid a monthly rental of P5,000.00 retroactive from the date of the execution of this document up to for a period of 540 days likewise payable or deductible from the FIRST PARTY'S obligation as provided in the preceding paragraph;
- In the event that the SECOND PARTY is successful in causing the transfer of the Armases parcel of land on which the Paguyo Building is erected, which property is known and designated as Lot 12, Block 4 (covered by and described in T.C.T. No. 154806-Makati) in the name of the FIRST PARTY within Five Hundred Forty (540) Days from and after the date of execution of this document, then the FIRST PARTY is obliged to pay within thirty (30) days from notice to the Armases the amount of Nine Hundred Seventeen Thousand Four Hundred Seventy (P917,470.00) Pesos, Philippine Currency, simultaneously with the said transfer or sale plus an additional amount of One Million Nine Hundred Eighty-Two Thousand Five Hundred Thirty (P1,982,530.00) Pesos, Philippine Currency, payable unto and in favor of the SECOND PARTY, or a total of Two Million Nine Hundred Thousand (P2,900,000.00) Pesos, less whatever payments made, if any, by the SECOND PARTY and/or penalties incurred by the SECOND PARTY as herein provided;
- Should the SECOND PARTY refuse and/or for any reason fail to cause or effect the transfer of the Armases' property in the name of the FIRST PARTY within Seventy-Five (75) days from and after the execution of this document, then the SECOND PARTY shall be bound to pay the FIRST PARTY a penalty for delay as liquidated damages in the amount of Twelve Thousand (P12,000.00) Pesos per month commencing on the 76[th] day up to and until the 540[th] day from and after the date of execution of this document, deductible from the P2,900,000.00 which the FIRST PARTY obliged themselves to pay as mentioned in the preceding paragraph;
- In the event however that the SECOND PARTY successfully comply with the transfer of the Armases' property within the herein agreed period, the lease agreement mentioned in paragraph 1 hereof as well as the payment of P5,000.00 a month shall automatically be terminated and the parties shall then execute and sign the intended Real Estate Mortgage, a copy of which is hereto attached as Annex "A";

- Irrespective of whether there is any amount due or payable to either of the herein contracting parties after computing the respective obligation herein provided, the Deed of Assignment of Rights and Interest over the Armases' property simultaneously executed with this document by the SECOND PARTY in favor of the FIRST PARTY shall take effect automatically on the Five Hundred Forty-First (541st) day from and after the execution of this document, and consequently there is no need to pursue and execute the Deed of Real Estate Mortgage (Annex "A") mentioned in the preceding paragraph.

[14] Rollo, p. 48.

[15] Records, pp. 20-21.

[16] Records, pp. 27-30.

[17] Records, pp. 22-23.

[18] Records, p. 31.

[19] Records, pp. 5-7.

[20] Records, p. 64, Annex "3."

[21] Records, pp. 61-62.

[22] Records, p. 36.

[23] CA Rollo, pp. 13-22.

[24] CA Rollo, p. 22.

[25] Rollo, pp. 41-57.

[26] Rollo, p. 57.

[27] Rollo, p. 27.

[28] *Central Bank v. Spouses Bichara*, G.R. No. 131074, 27 March 2000, 328 SCRA 807.

[29] TSN, 29 June 1993, pp. 32-39.

[30] *Sps. Buenaventura v. Court of Appeals*, *supra*, note 1.

[31] *Ibid.*

[32] TSN, 29 October 1992, p. 5.

[33] *Sps. Litonjua v. L & R Corporation*, G.R. No. 130722, 27 March 2000, 328 SCRA 796, citing *Ayala Corporation v. Ray Burton Development Corporation*, G.R. No. 126699, 07 August 1998, 294 SCRA 48.

[34] TSN, 29 June 1993, p. 11.

[35] Records, p. 22.

[36] *Dela Cruz v. Court of Appeals*, G.R. No. 151298, 17 November 2004, 442 SCRA 492, citing *Philippine Aluminum Wheels, Inc v. FASGI Enterprises, Inc.*, G.R. No. 137378, 12 October 2000, 342 SCRA 722.

[37] *Rivera v. Del Rosario*, G.R. No. 144934, 15 January 2004, 414 SCRA 626, citing *Insular Life Assurance Company, Ltd. v. Young*, G.R. Nos. 140964 & 142267, 16 January 2002, 373 SCRA 626, 642; Article 2220, Civil Code.

[38] German Marine Agencies, Inc. v. NLRC, G.R. No. 142049, 30 January 2001, 350 SCRA 629.

[39] Rivera v. Del Rosario, *supra*, note 37, citing BPI Investment Corp. v. D.G. Careon Commercial Corp., G.R. No. 126524, 29 November 2001, 371 SCRA 58, 70; Article 2229, Civil Code; and Aurillo, Jr. v. Rabi, G.R. No. 120014, 26 November 2002, 392 SCRA 595; Article 2232, Civil Code.

[40] *Ibid.*, citing Bañas, Jr. v. Court of Appeals, G.R. No. 102967, 10 February 2000, 325 SCRA 259, 283; Article 2208, Civil Code.

[41] *Ibid.*, citing Northwest Airlines v. Laya, G.R. No. 145956, 29 May 2002, 382 SCRA 730, 739; Insular Life Assurance Company Ltd. v. Young, *supra*, note 37.

[42] People v. Francisco, G.R. No. 135200, 07 February 2001, 351 SCRA 351.

[43] Sps. Buenaventura v. Court of Appeals, *supra*, note 1.

[44] *Id.*

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