

CENTRAL BANK OF THE PHILIPPINES, PETITIONER, VS. SPOUSES ALFONSO AND ANACLETA BICHARA, RESPONDENTS.*G.R. No. 131074. March 27, 2000*

Ponente: DE LEON, JR., J.

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Before us is a petition for review on certiorari praying for the reversal of the Decision[1] and Resolution[2] dated February 28, 1997 and October 17, 1997, respectively, rendered by the Former Special Fourteenth Division[3] of the Court of Appeals in CA-G.R. CV No. 44448. The appellate court reversed the judgment of the trial court and decreed the contract of sale entered into by the opposing parties as rescinded.

The facts are:

Respondents SPOUSES ALFONSO and ANACLETA BICHARA were the former registered owners of Lots 621-C-1 and 621-C-2 situated in Legazpi City and covered by Transfer Certificates of Title Nos. 18138[4] and 18139.[5] The two properties have an aggregate area of 811 square meters. On July 19, 1983, the respondents sold the two properties to petitioner CENTRAL BANK OF THE PHILIPPINES for the sum of P405,500. 00, or at P500.00 per square meter.[6] The deed of sale contained the following pertinent stipulations:

xxx xxx xxx xxx

2. The VENDEE by virtue of the sale of real property agreed upon shall pay to the VENDORS at the rate of FIVE HUNDRED PESOS (P500.00) per square meter or at a total price of FOUR HUNDRED FIVE THOUSAND FIVE HUNDRED PESOS (P405,500.00), such payment to be effected only after this Deed of Sale shall have been duly registered and a clean title issued in the name of VENDEE. It is agreed that all fees and expenses, cost of documentary and science stamps necessary for the registration of the property with the Registry of Deeds and the transfer of title of the parcels of the land herein sold to the VENDEE as well as the transfer tax due under this transaction shall be borne by the VENDORS;

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4. The VENDORS hereby likewise undertake at their expense to fill the parcels of land with an escombros free from waste materials compacted to the street level upon signing of the Deed of Sale to suit the ground for the construction of the regional office of the Central Bank of the Philippines thereat.

Petitioner caused the two properties to be consolidated, with several other parcels of land, into a single estate having a total area of 6,700 square meters. Lots 621-C-1 and 621-C-2, shaped roughly like a right triangle, represent twelve per cent of the total area and, more importantly, provide access to Calle Rizal.[7]

The record discloses that despite respondents' failure to pay the capital gains tax and other transfer fees, Transfer Certificate of Title No. 25267[8] was nonetheless issued in petitioner's name on September 6, 1983. Two annotations were recorded in the memorandum of encumbrances. The first was a notice of adverse claim in favor of the heirs of Lutgarda Arcos Rempillo filed under Entry No. 58127 dated December 27, 1983. The second was a

notice of lis pendens in favor of one Jaime Rempillo, in connection with Civil Case No. 7253 pending before the Court of First Instance of Albay filed under Entry No. 58336 dated January 24, 1984. Both were subsequently cancelled pursuant to a decision in Civil Case No. 7253, per Entry No. 60214 dated September 12, 1984.

Despite the issuance of the title, petitioner failed to pay respondent. On its part, respondents did not fill up the lot with escombros despite several demands made by petitioner. Petitioner was thus constrained to undertake the filling up of the said lots, by contracting the services of BGV Construction. The filling up of the lots cost petitioner P45,000.00.[9] Petitioner deducted the said amount from the purchase price payable to respondents.[10]

Petitioner, however, still did not pay the respondents. Consequently, on September 7, 1992, respondents commenced Civil Case No. 8645, an action for rescission or specific performance with damages, against petitioner before the Regional Trial Court, Fifth Judicial Region, Branch 7, of Legazpi City. Respondents alleged that petitioner failed to pay the purchase price despite demand. They prayed for the rescission of the contract of sale and the return of the properties, or in the alternative that petitioner be compelled to pay the purchase price plus interest at the rate of 12 % per annum from July 19, 1983, until fully paid, and to pay the capital gains and documentary stamp taxes with the Bureau of Internal Revenue and registration fees with the Register of Deeds.

Petitioner tendered payment to respondents[11] by Central Bank check no. 483008[12] in the amount of P360,500.00. Respondents refused the tender, however, in view of their complaint for rescission. After receipt of summons, petitioner filed its answer[13] averring that it was justified in delaying payment of the purchase price in view of respondents' breach of several conditions in the contract. First, petitioner alleged that respondents failed to deliver to the former free and legal possession of the two properties, in view of the encumbrances noted in the title, in addition to the presence of squatters who were not evicted by respondents. Second, it claimed that respondents did not fill up the lots with escombros free from waste materials, as agreed upon. Petitioner counterclaimed for damages of P8,000,000.00 representing payments for rentals for the lease of premises it used as a temporary regional office; P100,000.00 as exemplary damages; P50,000.00 as attorney's fees; and costs.

On January 22, 1993, petitioner filed a motion for consignment[14] before the trial court. The motion was granted per an Order dated January 26, 1993.[15]

After trial, the trial court issued its Decision dated October 26, 1993, [16] the dispositive portion of which states:

WHEREFORE, in view of the foregoing, decision is hereby rendered as follows:

- The plaintiffs are ordered to accept the deposited amount of P360,500.00 in February 1993 at the Office of the RTC Clerk of Court as full payment for the properties in question, considering that the sum of P45,000.00 expended by defendant in undertaking the filling up of the properties is credited to the original purchase price of P405,500.00;
- The defendant is ordered to pay the plaintiffs legal interest at the rate of six (6) per cent per annum on the original purchase price of P405,000.00 from September 6, 1983 up to July 13, 1992, when the P45,000.00 was credited to the original purchase price (Exhibit 12-c);
- The defendant is ordered to pay the plaintiffs legal interest at the rate of six (6) per cent per annum on the remaining amount of P360,500.00 from July 14, 1992 up to February 1993, when said amount was deposited at the Office of the RTC Clerk of Court;
- And other forms of damages sustained by either plaintiffs or defendant are to be borne or shouldered by the respective party.

With costs against defendant.

Both parties appealed the decision to the Court of Appeals. Initially, petitioner's appeal was dismissed for failure to file the docket fees, per a Resolution dated August 22, 1994.[17] The dismissal was recalled subsequently upon petitioner's filing of a Manifestation[18] informing the appellate court that it had withdrawn its appeal at the trial court level. Said manifestation was duly noted.[19]

On February 28, 1997, the appellate court rendered judgment[20] reversing the decision of the trial court. Instead, it ordered the rescission of the contract of sale and the reconveyance of the properties to respondents. The appellate court likewise ordered respondents to reimburse petitioner the cost of filling up the lot with escombros, and petitioner to pay respondents attorney's fees and costs. The motion for reconsideration filed by petitioner was denied in the assailed Resolution of October 17, 1997.[21]

Aggrieved by the ruling, petitioner elevated the matter to us via the instant petition, contending that:

I

THE COURT OF APPEALS FAILED TO RULE THAT PRIVATE RESPONDENTS DID NOT COMPLY WITH THEIR OBLIGATIONS TO CBP IN GOOD FAITH THUS PRIVATE RESPONDENTS ARE NOT ENTITLED AS A MATTER OF RIGHT TO RESCISSION.

II

THE COURT OF APPEALS FAILED TO RULE THAT CBP WAS JUSTIFIED IN WITHHOLDING PAYMENT OF THE PURCHASE PRICE OF THE SUBJECT LOT SOLD TO THEM BY PRIVATE RESPONDENTS.

III

THE COURT OF APPEALS FAILED TO RULE THAT THE TRIAL COURT DID NOT COMMIT A REVERSIBLE ERROR WHEN IT ORDERED SPECIFIC PERFORMANCE INSTEAD OF RESCISSION.[22]

The right to rescind a contract involving reciprocal obligations is provided for in Article 1191 of the Civil Code, which 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 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. Here, respondents claim to be the injured party and consequently seek the rescission of the deed of sale, or in the alternative, its fulfillment but on terms different from those previously agreed upon. Respondents aver that they are entitled to cancel the obligation altogether in view of petitioner's failure to pay the purchase price when the same became due. Petitioner disputes respondent's stand, claiming that if anyone was at fault, it was the latter who dismally failed to comply with their contractual obligations. Hence, it was entitled to withhold payment of the purchase price.

An instance where the law clearly allows the vendee to withhold payment of the purchase price is Article 1590 of the Civil Code, which provides:

Should the vendee be disturbed in the possession or ownership of the thing acquired, or should he have reasonable grounds to fear such disturbance, by a vindicatory action or a foreclosure of mortgage, he may suspend the payment of the price until the vendor has caused the disturbance or danger to cease, unless the latter gives security for the return of the price in a proper case, or it has been stipulated that, notwithstanding any such contingency, the vendee shall be bound to make the payment. A mere act of trespass shall not authorize the suspension of the payment of the price.

This is not, however, the only justified cause for retention or withholding the payment of the agreed price. A noted authority on civil law states that the vendee is nonetheless entitled if the vendor fails to perform any essential obligation of the contract. Such right is premised not on the aforequoted article, but on general principles of reciprocal obligations.[23]

This view is consistent with our rulings in earlier cases[24] that resolution is allowed only for substantial breaches and not for those which are slight or casual. Consider our pronouncement in *Borromeo v. Franco*: [25]

The contract in question contains various clauses and stipulations but the defendants refused to fulfill their promise to sell on the ground that the vendee had not perfected the title papers to the property in question within the six months agreed upon in clause (c). That stipulation was not an essential part of the contract and a failure to comply therewith is no obstacle to the fulfillment of the promise to sell.

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The obligations which the purchaser, *Borromeo*, imposed upon himself, to perfect the papers to the property within a period of six months, is not correlative with the obligation to sell the property. These obligations do not arise from the same cause. They create no reciprocal rights between the contracting parties, so that a failure to comply with the stipulation contained in clause (c) on the part of the plaintiff purchaser within the period of six months provided for in the said contract, as he, the plaintiff himself admits, does not give the defendants the right to cancel the obligation which they imposed upon themselves to sell the two houses in question in accordance with the provisions of article 1124 of the Civil Code, since no real juridical bilaterality or reciprocity existed between the two obligations, because the obligation to perfect the title papers to the houses in question is not correlative with the obligation to fulfill the promise to sell such property. One obligation is entirely independent of the other. The latter obligation is not subordinated to nor does it depend upon the fulfillment of the obligation to perfect the title deeds of the property.

Certainly, non-payment of the purchase price constitutes a very good reason to rescind a sale, for it violates the very essence of the contract of sale.

By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.[26]

We have consequently held that the nonpayment of the purchase price is a resolutive condition, for which the remedy is either rescission or specific performance under Article 1191.[27] This is true for reciprocal obligations, where the obligation of one is a resolutive condition of the other.[28]

In reversing the trial court, the Court of Appeals in the case at bench held that:

The trial court committed a reversible error when it ordered appellants to accept the amount consigned by appellee with the Clerk of Court as full payment for the two lots sold by appellants to appellee. Appellee's deliberate refusal to pay appellants the purchase price for the two lots for nine (9) long years can not just be regarded as a casual, but substantial and fundamental breach of obligation which defeats the object of the

parties. Such substantial and fundamental breach of obligation committed by appellee gave appellants, under the law, the right to rescind the contract or ask for its specific performance, in either case with right to demand performance [sic].

In the case at bench, appellants were justified in electing rescission instead of specific performance. The deliberate failure of appellee to pay the purchase price for nine (9) long years after the registration of the Deed of Absolute Sale, and the subsequent issuance of a clean title to appellee constitutes a serious and unjustified breach of obligation. In the case of *Siy vs. Court of Appeals*, 138 SCRA 536, the Supreme Court held:

It is noteworthy to mention that in their answer to the petitioner's complaint, the respondents prayed for the annulment of both the Deed of Conditional Sale (Exh. 'A') and the Deed of Sale with Assumption of Mortgage (Exh. 'G') which are the very bases of the supplemental agreements (Exhs. '1', '2' and '5') executed between the petitioner and the respondent. The technical argument that the respondents never prayed for the rescission of the contracts and that the trial court and the appellate court should never have rescinded the same has no merit. Furthermore, by failing to pay the amount of P12,000.00 and the balance of P4,376.00 as stipulated in the contract within the forty-five (45) days period, the petitioner clearly committed a breach of contract which sufficiently and justly entitled the respondents to ask for the rescission of the contracts. In the case of *Nagarmull v. Binalbagan Isabel Sugar Co., Inc.* (33 SCRA 52), we ruled that "x x x The breach of contract committed by appellee gave appellant, under the law and even under general principles of fairness, the right to rescind the contract or to ask for its specific performance, in either case with right to demand damages x x x". It is evident, in the case at bar, that the respondents chose to rescind the contracts after the petitioner repeatedly failed to pay not only the balance but the initial amount as downpayment in consideration of which the contracts or agreements were executed. As a matter of fact, the petitioner later asked the SSS to cancel his loan application. He thereby abandoned his own claim for specific performance. Therefore, the appellate court correctly affirmed the rescission of the above-mentioned contracts. It also correctly affirmed the payment of attorney's fees. While the petitioner may not have acted in bad faith in filing his complaint, still the payment of attorney's fees is warranted in this case because of the environmental circumstances which compelled the respondents to litigate for the protection of their interests [citations omitted].

While appellants are entitled to their claim for attorney's fees, they are not entitled to an award of damages because they were not able to substantiate their claim for damages to have suffered due to the failure of appellee to pay the purchase price of the two lots after the registration of the Deed of absolute Sale with the Register of Deeds of Legaspi City, and the issuance of a clean title to appellee covering the two lots. xxxx

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In order that damages may be recovered, the best evidence obtainable by the injured party must be presented. Actual or compensatory damages cannot be presumed, but must be proved with reasonable degree of certainty. A court cannot [sic] rely on speculation, conjecture or guesswork as to the fact and amount of damages, but must depend upon competent proof that they have been suffered and on evidence of the actual amount. If the proof is flimsy and unsubstantial, no damages will be awarded [citation omitted].[29]

We disagree with the appellate court.

By law, "[t]he vendee is bound to accept the delivery and to pay the price of the thing sold at the time and place stipulated in the contract." [30] In the case at bench, petitioner's obligation to pay arose as soon as the deed of sale was registered and a clean title was issued. However, petitioner justifies non-payment on respondents' breach of several stipulations in the contract. We have examined these alleged violations vis-a-vis the pertinent provisions of the deed of sale, keeping in mind that only a substantial breach of the terms and conditions thereof will warrant rescission. Whether a breach is substantial is largely determined by the attendant circumstances.[31]

Petitioner contends that it was entitled to retain the purchase price due to respondents' failure to pay the capital

gains and documentary stamp taxes and other transfer fees. We have read and examined the contract of sale and we have found nothing therein to show that payment of the said taxes and fees to be conditions precedent to petitioner's duty to pay. The stipulation is a standard clause in most contracts of sale and is nothing more than a specification of the party who shall bear such fees and taxes.

Petitioner likewise insists that its delay in paying the purchase price was justified since a squatters occupied the premises, contravening the stipulation that the respondent vendors shall convey the properties free from liens and encumbrances. Again, we cannot support petitioner's view. The squatter's illegal occupation cannot be deemed a lien or encumbrance. By the express terms of Article 1590 of the Civil Code, a mere act of trespass will not authorize the suspension of payment of the price. Be that as it may, the usurpation became moot and academic when the squatters left of their own volition in 1988 following a storm.[32]

So far, what emerges as clear is that petitioner's obligation to pay was not subject to the foregoing "conditions," only that its demandability is suspended until the opportune time. That arrived upon the registration of the deed of sale and the issuance of a clean title in favor of the petitioner. Relative thereto, the notice of adverse claim and lis pendens became moot issues[33] because they were cancelled less than a year after their inscription.

We now consider petitioner's final argument, to wit, that it was not obliged to pay until respondents compact the lots to street level with escombros free from waste material. Taking into account the facts of the case, we find that particular argument of petitioner to be well-taken. The use to which the parcels of land was to be devoted was no secret between the parties. The consolidated estate, which incorporated the lots sold by respondents to petitioner, was intended as the site of petitioner's regional office to serve the Bicol region. The project had its peculiar requirements, not the least of which was that since a substantial edifice was to be built on the property, the site had to be made suitable for the purpose. Thus, petitioner specified that the lots be filled up in the manner specified in paragraph 4 of the contract. The importance thereof could not have been lost on respondents.

Evidently then, respondents were guilty of non-performance of said stipulation. The deed of sale expressly stipulated that the vendors were to undertake, at their expense, the filling up of the lots with escombros free from waste material compacted to the street level. This was to be accomplished upon the signing of the contract and insofar as petitioner was concerned, respondents' obligation was demandable at once. Other than his testimony, Alfonso Bichara offered no proof tending to show that he had complied in the manner agreed upon. Although he did state that he saw no need to comply with the stipulation because the parcels of land were already level with the street,[34] it was still not shown that the same were in a condition suitable for the construction of petitioner's regional office. We find it hard to believe that the deed of sale would have specified the nature, quantity and quality of the filling material were it not to prepare the lots for the construction. Where the terms of a contract are clear, they should be fulfilled according to the literal tenor of their stipulation.[35] If indeed it were true that the lots were already at street level, petitioner would not have incurred the additional cost of P45,000.00 for having them filled up by the BGV Corporation.

On the other hand, respondents argue that, as proof of petitioner's bad faith, the latter could have undertaken the filling up of the lots as early as 1989,[36] when it would have cost only about P9,000.00.[37] The trial court concurred with this view.[38] But we disagree. Petitioner was under no duty to have done, at the least cost to the latter, what was clearly respondents' obligation from the very beginning. If petitioner was forced to have the subject parcels of land filled up by another party, and subsequently bill respondents, the former was entitled to do so by right.[39] Respondents are not in a position to question the resulting expense. Had they performed their obligation under the contract of sale at the proper time, the expense would surely have been even less than the P9,000.00 estimate in 1989.

In this context, the appellate court erred in decreeing the rescission, otherwise called resolution, of the the subject deed of sale. Respondents should not be allowed to rescind the contract where they themselves did not perform their essential obligation thereunder. It should be emphasized that a contract of sale involves reciprocity between the parties. Since respondents were in bad faith, they may not seek the rescission of the agreement they themselves breached.[40] Consequently, the decision rendered by the trial court should be reinstated as being just and proper under the premises.

WHEREFORE, judgment is hereby rendered REVERSING and SETTING ASIDE the Decision dated February 28, 1997 of the Court of Appeals. The Decision dated October 26, 1993 rendered by the Regional Trial Court of Legazpi City in Civil Case No. 8645 is hereby REINSTATED. No pronouncement as to costs.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Rollo, pp. 17-30.

[2] Rollo, pp. 32-33.

[3] Justice Demetrio G. Demetria, ponente, and Justices Salome A. Montoya and Oswaldo D. Agcaoili, members.

[4] Annex "A" of the Complaint, Record, p. 6.

[5] Annex "B" of the Complaint, Record, p. 7.

[6] Deed of Absolute Sale, Annex "C" of the Complaint, Record, pp. 7-9.

[7] See sketch, Exhibit 11, Defendant's formal Offer of Evidence, p. 17.

[8] Annex "D" of Complaint, Record, pp. 10-10-A.

[9] Exhibit 12, Defendant's Formal Offer of Evidence, p. 18.

[10] Letter dated July 16, 1992, Annex 7 of Answer, Record, p. 34.

[11] Letter dated October 20, 1992, Defendant's Formal Offer of Evidence, p. 9.

[12] Defendant's Formal Offer of Evidence, p. 10.

[13] Record, pp. 17-34.

[14] Record, pp. 65-66.

[15] Record, p. 67.

[16] Record, pp. 149-161.

[17] CA Rollo, p. 13.

[18] CA Rollo, pp. 14-15.

[19] Resolution dated August 10, 1995, CA Rollo, p. 27.

[20] Decision, CA Rollo, pp. 155-169.

[21] CA Rollo, pp. 183-184.

- [22] Petition, Rollo, pp. 5-6.
- [23] V A. Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines 137 (1992)
- [24] Massive Construction, Inc., et al. v. Intermediate Appellate Court, 223 SCRA 1, 10 (1993); Delta Motor Corporation, v. Genuino, et. al., 170 SCRA 29, 34-35 (1989)
- [25] 5 Phil. 49, 54-55 (1905)
- [26] Civil Code, art. 1458.
- [27] Jacinto v. Kaparaz, et. al., 209 SCRA 246, 255 (1992)
- [28] Songcuan v. Intermediate Appellate Court , et. al., 191 SCRA 28, 35 (1990)
- [29] CA Rollo, pp. 165-168.
- [30] Civil Code, art. 1582.
- [31] Vermen Realty Development Corporation v. Court of appeals, et. al., 224 SCRA 549, 555 (1993)
- [32] TSN, August 19, 1993, p. 11.
- [33] If they ever were. The trial court found that both notices did not pertain to the subject properties (Decision, Record, pp. 154-155)
- [34] TSN, June 15, 1993, pp. 16-17.
- [35] Salvatierra v. Court of Appeals, 261 SCRA 45, 56-57 (1996)
- [36] Plaintiffs' Memorandum, Record, pp. 123-124.
- [37] Exhibit "E-3," Plaintiffs' Formal Offer of Evidence, p. 4.
- [38] Decision, Record, p. 157.
- [39] Per Article 1167 of the Civil Code, which provides: "If a person obliged to do something fails to do it, the same shall be executed at his cost. xxxx"
- [40] IV. E. Paras, Civil Code of the Philippines annotated 212 (13th Ed., 1994)

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