

**DAVID REYES (SUBSTITUTED BY VICTORIA R. FABELLA),
PETITIONER, VS. JOSE LIM, CHUY CHENG KENG AND HARRISON
LUMBER, INC., RESPONDENTS.**

G.R. No. 134241. August 11, 2003

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for review on certiorari of the Decision[1] dated 12 May 1998 of the Court of Appeals in CA-G.R. SP No. 46224. The Court of Appeals dismissed the petition for certiorari assailing the Orders dated 6 March 1997, 3 July 1997 and 3 October 1997 of the Regional Trial Court of Paranaque, Branch 260[2] ("trial court") in Civil Case No. 95-032.

The Facts

On 23 March 1995, petitioner David Reyes ("Reyes") filed before the trial court a complaint for annulment of contract and damages against respondents Jose Lim ("Lim"), Chuy Cheng Keng ("Keng") and Harrison Lumber, Inc. ("Harrison Lumber").

The complaint[3] alleged that on 7 November 1994, Reyes as seller and Lim as buyer entered into a contract to sell ("Contract to Sell") a parcel of land ("Property") located along F.B. Harrison Street, Pasay City. Harrison Lumber occupied the Property as lessee with a monthly rental of P35,000. The Contract to Sell provided for the following terms and conditions:

- The total consideration for the purchase of the aforescribed parcel of land together with the perimeter walls found therein is TWENTY EIGHT MILLION (P28,000,000.00) PESOS payable as follows:

(a) TEN MILLION (P10,000,000.00) PESOS upon signing of this Contract to Sell;

(b) The balance of EIGHTEEN MILLION (P18,000,000.00) PESOS shall be paid on or before March 8, 1995 at 9:30 A.M. at a bank to be designated by the Buyer but upon the complete vacation of all the tenants or occupants of the property and execution of the Deed of Absolute Sale. However, if the tenants or occupants have vacated the premises earlier than March 8, 1995, the VENDOR shall give the VENDEE at least one week advance notice for the payment of the balance and execution of the Deed of Absolute Sale.

- That in the event, the tenants or occupants of the premises subject of this sale shall not vacate the premises on March 8, 1995 as stated above, the VENDEE shall withhold the payment of the balance of P18,000,000.00 and the VENDOR agrees to pay a penalty of Four percent (4%) per month to the herein VENDEE based on the amount of the downpayment of TEN MILLION (P10,000,000.00) PESOS until the complete vacation of the premises by the tenants therein.[4]

The complaint claimed that Reyes had informed Harrison Lumber to vacate the Property before the end of January 1995. Reyes also informed Keng[5] and Harrison Lumber that if they failed to vacate by 8 March 1995,

he would hold them liable for the penalty of P400,000 a month as provided in the Contract to Sell. The complaint further alleged that Lim connived with Harrison Lumber not to vacate the Property until the P400,000 monthly penalty would have accumulated and equaled the unpaid purchase price of P18,000,000.

On 3 May 1995, Keng and Harrison Lumber filed their Answer[6] denying they connived with Lim to defraud Reyes. Keng and Harrison Lumber alleged that Reyes approved their request for an extension of time to vacate the Property due to their difficulty in finding a new location for their business. Harrison Lumber claimed that as of March 1995, it had already started transferring some of its merchandise to its new business location in Malabon.[7]

On 31 May 1995, Lim filed his Answer[8] stating that he was ready and willing to pay the balance of the purchase price on or before 8 March 1995. Lim requested a meeting with Reyes through the latter's daughter on the signing of the Deed of Absolute Sale and the payment of the balance but Reyes kept postponing their meeting. On 9 March 1995, Reyes offered to return the P10 million down payment to Lim because Reyes was having problems in removing the lessee from the Property. Lim rejected Reyes' offer and proceeded to verify the status of Reyes' title to the Property. Lim learned that Reyes had already sold the Property to Line One Foods Corporation ("Line One") on 1 March 1995 for P16,782,840. After the registration of the Deed of Absolute Sale, the Register of Deeds issued to Line One TCT No. 134767 covering the Property. Lim denied conniving with Keng and Harrison Lumber to defraud Reyes.

On 2 November 1995, Reyes filed a Motion for Leave to File Amended Complaint due to supervening facts. These included the filing by Lim of a complaint for estafa against Reyes as well as an action for specific performance and nullification of sale and title plus damages before another trial court.[9] The trial court granted the motion in an Order dated 23 November 1995.

In his Amended Answer dated 18 January 1996,[10] Lim prayed for the cancellation of the Contract to Sell and for the issuance of a writ of preliminary attachment against Reyes. The trial court denied the prayer for a writ of preliminary attachment in an Order dated 7 October 1996.

On 6 March 1997, Lim requested in open court that Reyes be ordered to deposit the P10 million down payment with the cashier of the Regional Trial Court of Parañaque. The trial court granted this motion.

On 25 March 1997, Reyes filed a Motion to Set Aside the Order dated 6 March 1997 on the ground the Order practically granted the reliefs Lim prayed for in his Amended Answer.[11] The trial court denied Reyes' motion in an Order[12] dated 3 July 1997. Citing Article 1385 of the Civil Code, the trial court ruled that an action for rescission could prosper only if the party demanding rescission can return whatever he may be obliged to restore should the court grant the rescission.

The trial court denied Reyes' Motion for Reconsideration in its Order[13] dated 3 October 1997. In the same order, the trial court directed Reyes to deposit the P10 million down payment with the Clerk of Court on or before 30 October 1997.

On 8 December 1997, Reyes[14] filed a Petition for Certiorari[15] with the Court of Appeals. Reyes prayed that the Orders of the trial court dated 6 March 1997, 3 July 1997 and 3 October 1997 be set aside for having been issued with grave abuse of discretion amounting to lack of jurisdiction. On 12 May 1998, the Court of Appeals dismissed the petition for lack of merit.

Hence, this petition for review.

The Ruling of the Court of Appeals

The Court of Appeals ruled the trial court could validly issue the assailed orders in the exercise of its equity jurisdiction. The court may grant equitable reliefs to breathe life and force to substantive law such as Article 1385[16] of the Civil Code since the provisional remedies under the Rules of Court do not apply to this case.

The Court of Appeals held the assailed orders merely directed Reyes to deposit the P10 million to the custody of the trial court to protect the interest of Lim who paid the amount to Reyes as down payment. This did not mean the money would be returned automatically to Lim.

The Issues

Reyes raises the following issues:

- Whether the Court of Appeals erred in holding the trial court could issue the questioned Orders dated March 6, 1997, July 3, 1997 and October 3, 1997, requiring petitioner David Reyes to deposit the amount of Ten Million Pesos (P10,000,000.00) during the pendency of the action, when deposit is not among the provisional remedies enumerated in Rule 57 to 61 of the 1997 Rules on Civil Procedure.
- Whether the Court of Appeals erred in finding the trial court could issue the questioned Orders on grounds of equity when there is an applicable law on the matter, that is, Rules 57 to 61 of the 1997 Rules on Civil Procedure.[17]

The Court's Ruling

Reyes' contentions are without merit.

Reyes points out that deposit is not among the provisional remedies enumerated in the 1997 Rules of Civil Procedure. Reyes stresses the enumeration in the Rules is exclusive. Not one of the provisional remedies in Rules 57 to 61[18] applies to this case. Reyes argues that a court cannot apply equity and require deposit if the law already prescribes the specific provisional remedies which do not include deposit. Reyes invokes the principle that equity is "applied only in the absence of, and never against, statutory law or x x x judicial rules of procedure." [19] Reyes adds the fact that the provisional remedies do not include deposit is a matter of *dura lex sed lex*. [20]

The instant case, however, is precisely one where there is a hiatus in the law and in the Rules of Court. If left alone, the hiatus will result in unjust enrichment to Reyes at the expense of Lim. The hiatus may also imperil restitution, which is a precondition to the rescission of the Contract to Sell that Reyes himself seeks. This is not a case of equity overruling a positive provision of law or judicial rule for there is none that governs this particular case. This is a case of silence or insufficiency of the law and the Rules of Court. In this case, Article 9 of the Civil Code expressly mandates the courts to make a ruling despite the "silence, obscurity or insufficiency of the laws." [21] This calls for the application of equity, [22] which "fills the open spaces in the law." [23]

Thus, the trial court in the exercise of its equity jurisdiction may validly order the deposit of the P10 million down payment in court. The purpose of the exercise of equity jurisdiction in this case is to prevent unjust enrichment and to ensure restitution. Equity jurisdiction aims to do complete justice in cases where a court of law is unable to adapt its judgments to the special circumstances of a case because of the inflexibility of its statutory or legal jurisdiction. [24] Equity is the principle by which substantial justice may be attained in cases where the prescribed or customary forms of ordinary law are inadequate. [25]

Reyes is seeking rescission of the Contract to Sell. In his amended answer, Lim is also seeking cancellation of the Contract to Sell. The trial court then ordered Reyes to deposit in court the P10 million down payment that Lim made under the Contract to Sell. Reyes admits receipt of the P10 million down payment but opposes the order to deposit the amount in court. Reyes contends that prior to a judgment annulling the Contract to Sell, he has the "right to use, possess and enjoy" [26] the P10 million as its "owner" [27] unless the court orders its preliminary

attachment.[28]

To subscribe to Reyes' contention will unjustly enrich Reyes at the expense of Lim. Reyes sold to Line One the Property even before the balance of P18 million under the Contract to Sell with Lim became due on 8 March 1995. On 1 March 1995, Reyes signed a Deed of Absolute Sale[29] in favor of Line One. On 3 March 1995, the Register of Deeds issued TCT No. 134767[30] in the name of Line One.[31] Reyes cannot claim ownership of the P10 million down payment because Reyes had already sold to another buyer the Property for which Lim made the down payment. In fact, in his Comment[32] dated 20 March 1996, Reyes reiterated his offer to return to Lim the P10 million down payment.

On balance, it is unreasonable and unjust for Reyes to object to the deposit of the P10 million down payment. The application of equity always involves a balancing of the equities in a particular case, a matter addressed to the sound discretion of the court. Here, we find the equities weigh heavily in favor of Lim, who paid the P10 million down payment in good faith only to discover later that Reyes had subsequently sold the Property to another buyer.

In *Eternal Gardens Memorial Parks Corp. v. IAC*,[33] this Court held the plaintiff could not continue to benefit from the property or funds in litigation during the pendency of the suit at the expense of whomever the court might ultimately adjudge as the lawful owner. The Court declared:

In the case at bar, a careful analysis of the records will show that petitioner admitted among others in its complaint in Interpleader that it is still obligated to pay certain amounts to private respondent; that it claims no interest in such amounts due and is willing to pay whoever is declared entitled to said amounts. x x x

Under the circumstances, there appears to be no plausible reason for petitioner's objections to the deposit of the amounts in litigation after having asked for the assistance of the lower court by filing a complaint for interpleader where the deposit of aforesaid amounts is not only required by the nature of the action but is a contractual obligation of the petitioner under the Land Development Program (Rollo, p. 252).

There is also no plausible or justifiable reason for Reyes to object to the deposit of the P10 million down payment in court. The Contract to Sell can no longer be enforced because Reyes himself subsequently sold the Property to Line One. Both Reyes and Lim are now seeking rescission of the Contract to Sell. Under Article 1385 of the Civil Code, rescission creates the obligation to return the things that are the object of the contract. Rescission is possible only when the person demanding rescission can return whatever he may be obliged to restore. A court of equity will not rescind a contract unless there is restitution, that is, the parties are restored to the status quo ante.[34]

Thus, since Reyes is demanding to rescind the Contract to Sell, he cannot refuse to deposit the P10 million down payment in court.[35] Such deposit will ensure restitution of the P10 million to its rightful owner. Lim, on the other hand, has nothing to refund, as he has not received anything under the Contract to Sell.[36]

In *Government of the Philippine Islands v. Wagner and Cleland Wagner*,[37] the Court ruled the refund of amounts received under a contract is a precondition to the rescission of the contract. The Court declared:

The Government, having asked for rescission, must restore to the defendants whatever it has received under the contract. It will only be just if, as a condition to rescission, the Government be required to refund to the defendants an amount equal to the purchase price, plus the sums expended by them in improving the land. (Civil Code, art. 1295.)

The principle that no person may unjustly enrich himself at the expense of another is embodied in Article 22[38] of the Civil Code. This principle applies not only to substantive rights but also to procedural remedies. One condition for invoking this principle is that the aggrieved party has no other action based on contract, quasi-contract, crime, quasi-delict or any other provision of law.[39] Courts can extend this condition to the hiatus

in the Rules of Court where the aggrieved party, during the pendency of the case, has no other recourse based on the provisional remedies of the Rules of Court.

Thus, a court may not permit a seller to retain, *pendente lite*, money paid by a buyer if the seller himself seeks rescission of the sale because he has subsequently sold the same property to another buyer.[40] By seeking rescission, a seller necessarily offers to return what he has received from the buyer. Such a seller may not take back his offer if the court deems it equitable, to prevent unjust enrichment and ensure restitution, to put the money in judicial deposit.

There is unjust enrichment when a person unjustly retains a benefit to the loss of another, or when a person retains money or property of another against the fundamental principles of justice, equity and good conscience.[41] In this case, it was just, equitable and proper for the trial court to order the deposit of the P10 million down payment to prevent unjust enrichment by Reyes at the expense of Lim.[42]

WHEREFORE, we AFFIRM the Decision of the Court of Appeals.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Ynares-Santiago, and Azcuna, JJ., concur.

[1] Penned by Associate Justice Quirino D. Abad Santos, Jr., with Associate Justices Ruben T. Reyes and Eloy R. Bello, Jr. concurring.

[2] Presided by Judge Helen Bautista-Ricafort.

[3] Rollo, pp. 47-52.

[4] *Ibid.*, pp. 53-54.

[5] Chuy Cheng Keng is the General Manager of Harrison Lumber.

[6] Rollo, pp. 56-65.

[7] According to the Stipulation of Facts agreed upon by the parties, defendant Harrison Lumber vacated the leased premises on 30 April 1995. Rollo, p. 119.

[8] Rollo, pp. 66-81.

[9] Upon a joint motion to dismiss filed by Lim and Line One and a separate motion to dismiss filed by Reyes, the Regional Trial Court of Pasay City dismissed on 17 January 1996 the action for specific performance and nullification of sale and title plus damages filed by Lim. Rollo, pp. 144, 191-197.

[10] Rollo, pp. 121-143.

[11] *Ibid.*, pp. 155-159.

[12] *Ibid.*, p. 165.

[13] *Ibid.*, p. 166.

[14] Reyes died on 4 November 1999. In a Resolution dated 14 June 2000, the Court granted Lim's petition to substitute deceased Reyes with his eldest daughter Victoria R. Fabella. Rollo, pp. 406-426.

[15] Rollo, pp. 177-203.

[16] 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.

xxx.

[17] Rollo, p. 26.

[18] These are preliminary attachment, preliminary injunction, receivership, replevin and support pendente lite.

[19] Zabat, Jr. v. CA, 226 Phil. 489 (1986).

[20] Petition for Review, p. 17. Rollo, p. 24.

[21] Article 9 of the Civil Code provides: "No judge or court shall decline to render judgment by reason of the silence, obscurity or insufficiency of the laws."

[22] 1 ARTURO M. TOLENTINO, CIVIL CODE OF THE PHILIPPINES 43 (1990) citing Camus.

[23] JUSTICE BENJAMIN N. CARDOZO, THE NATURE OF THE JUDICIAL PROCESS 113 (1921).

[24] Agcaoili v. Government Service Insurance System, G.R. No. L-30056, 30 August 1988, 165 SCRA 1; Air Manila, Inc. v. Court of Industrial Relations, G.R. No. L-39742, 9 June 1978, 83 SCRA 579.

[25] American Life Ins. Co. v. Stewart, 300 U.S. 203, 81 L. Ed. 605 (1936); Davis v. Wallace, 257 U.S. 478, 66 L. Ed. 325 (1921).

[26] Petition for Review, pp. 32-33. Rollo, pp. 39-40.

[27] Ibid.

[28] Memorandum for Petitioner, p. 32. Rollo, p. 462.

[29] Rollo, pp. 88-90.

[30] CA Rollo, pp. 159-160.

[31] In the Stipulation of Facts agreed upon by the parties to this case, the existence of the Deed of Absolute Sale between David Reyes and Line One Foods Corporation and the TCT No. 134767 in the name of One Line Foods Corporation (sic) was admitted. Rollo, p. 119.

[32] CA Rollo, pp. 206-211.

[33] G.R. No. L-73794, 19 September 1988, 165 SCRA 439.

[34] Grymes v. Sanders, 93 U.S. 55, 23 L.Ed. 798 (1876).

[35] See Spouses Velarde v. Court of Appeals, 413 Phil. 360 (2001). See also Binalbagan Tech., Inc. v. Court of Appeals, G.R. No. 100594, 10 March 1993, 219 SCRA 777.

[36] See Spouses Co v. Court of Appeals, 371 Phil. 445 (1999).

[37] 49 Phil. 944 (1927).

[38] Article 22 of the Civil Code provides: "Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him."

[39] 1 TOLENTINO, supra note 22, at 77, 82.

[40] See *Bonzon v. Standard Oil Co. and Osorio*, 27 Phil. 141 (1914), where the Court held: "In this jurisdiction (even in the absence of the statute), under the general principle that one person may not enrich himself at the expense of another, a judgment creditor would not be permitted to retain the purchase price of land sold as the property of the judgment debtor after it has been made to appear that the judgment debtor had no title to the land and that the purchaser had failed to secure title thereto, and we find no difficulty therefore in accepting a liberal construction of the statute which arrives at the same equitable result."

[41] 66 Am. Jur. 2D Restitution and Implied Contracts § 3 (1973).

[42] See *Ong Yong v. Tiu*, G.R. No. 144476, 1 February 2002, 375 SCRA 614.

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