GENEROSO V. VILLANUEVA AND RAUL C. VILLANUEVA, JR., PETITIONERS, VS. STATE OF GERARDO L. GONZAGA/MA. VILLA GONZAGA, IN HER CAPACITY AS ADMINISTRATRIX, RESPONDENTS.

G.R. NO. 157318. August 09, 2006

Ponente: PUNO, J.

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PUNO, J.:

Before us is a petition for review on certiorari assailing the Decision dated January 16, 2003[1] of the Court of Appeals in CA-G.R. CV No. 46865 which affirmed with modification the Decision dated December 29, 1993[2] of the Regional Trial Court (RTC) of Bacolod City in Civil Case No. 6552. The RTC-Bacolod City declared the Memorandum of Agreement (MOA) between petitioners and respondents as rescinded, and ordered petitioners to pay moral damages and attorney's fees to respondents. The Court of Appeals deleted the award for moral damages.

The antecedent facts are as follows:

On January 15, 1990, petitioners Generoso Villanueva and Raul Villanueva, Jr., business entrepreneurs engaged in the operation of transloading stations and sugar trading, and respondent Estate of Gerardo L. Gonzaga, represented by its Judicial Administratrix, respondent Ma. Villa J. Gonzaga, executed a MOA[3] which reads:

> KNOW ALL MEN BY THESE PRESENTS:
>
> This Memorandum made and entered into by and between:
>
> THE ESTATE OF GERARDO L. GONZAGA represented in the act by its Administratrix, MA. VILLA J. GONZAGA, Filipino, of legal age, widow and resident of Bacolod City, hereinafter referred to as the FIRST PARTY,
>
> - a n d -
>
> RAUL VILLANUEVA, JR. and GENEROSO V. VILLANUEVA, Filipinos, of legal age, married and residents of Bacolod City, hereinafter jointly referred to as the SECOND PARTY.
>
> W I T N E S S E T H:

- WHEREAS, the FIRST PARTY is the true and lawful owner of a parcel of land, Lot No. 1362, covered by TCT No. T-131872 situated at Brgy. Granada, Bacolod City and known as Hda. San Dionisio Norte;

- WHEREAS, the aforesaid property is presently mortgaged with the Philippine National Bank (PNB) as collateral for a loan;

- WHEREAS, the aforesaid property is already subdivided into sub-lots although separate titles for each lot is not yet issued;

- WHEREAS, the herein SECOND PARTY agrees to purchase portions of the aforesaid property equivalent to

3,240 sq. meters which portions are designated as Lots Nos. 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38 & 39 in phase 11 of the subdivision plan;

- WHEREAS, the SECOND PARTY agrees to purchase the aforesaid lots at the price of ONE HUNDRED FIFTY (P150.00) PESOS per sq. meter or for a total price of FOUR HUNDRED EIGHTY SIX THOUSAND (P486,000.00) PESOS subject to the following conditions:

> A.) That the FIRST PARTY shall cause the release of the aforementioned lots from the Philippine National Bank (PNB) at the earliest possible time.B.) That the SECOND PARTY agrees to pay the amount of P486,000.00 as follows:P100,000.00 - upon the signing of this agreement.P191,600.00 - on or before January 10, 1990.P194,400.00 - upon the approval by the PNB of the release of the lots.

C.) That it is hereby agreed that the ONE HUNDRED THOUSAND (P100,000.00) PESOS down payment shall at the same time be considered as earnest money which shall be forfeited in the event the SECOND PARTY withdraws from this agreement.

D.) That upon payment of 60% of the purchase price, the SECOND PARTY may start to introduce improvements in the area if they so desire.

E.) That upon the release by the Philippine National Bank (PNB) of the lots subject of this agreement, the FIRST PARTY shall immediately execute a Deed of Sale in favor of the SECOND PARTY. All expenses for documentation and capital gains shall be borne by the FIRST PARTY, while expenses for transfer of title to the SECOND PARTY shall be borne by the latter.

IN WITNESS WHEREOF, the parties have hereunto set their hands this 15[th] day of January, 1990 in this City of Bacolod, Philippines. [emphases added]

As stipulated in the agreement, petitioners introduced improvements after paying P291,600.00 constituting sixty (60%) percent of the total purchase price of the lots. Petitioners then requested permission from respondent Administratrix to use the premises for the next milling season. Respondent refused on the ground that petitioners cannot use the premises until full payment of the purchase price. Petitioners informed respondent that their immediate use of the premises was absolutely necessary and that any delay will cause them substantial damages. Respondent remained firm in her refusal, and demanded that petitioners stop using the lots as a transloading station to service the Victorias Milling Company unless they pay the full purchase price. In a letter-reply dated April 5, 1991, petitioners assured respondent of their readiness to pay the balance but reminded respondent of her obligation to redeem the lots from mortgage with the Philippine National Bank (PNB).[4] Petitioners gave respondent ten (10) days within which to do so.[5]

On April 10, 1991, respondent Administratrix wrote petitioners informing them that the PNB had agreed to release the lots from mortgage. She demanded payment of the balance of the purchase price. Enclosed with the demand letter was the PNB's letter of approval dated April 8, 1991,[6] marked as Exhibit "3-B," which reads -

> Mrs. Ma. Villa J. Gonzaga
> Judicial Administratrix
> Int. Est. of Gerardo L. Gonzaga
> La Salle Subdivision
> Bacolod City
>
> Dear Mrs. Gonzaga:
>
> We are pleased to inform you that your request for the partial release of securities, particularly the 3,240 sq. m. agricultural land x x x covered by TCT No. T-31113 has been approved by our Senior Management Credit

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> Committee I on April 1, 1991 subject to the following conditions:
>
> - The sale be approved by the Court insofar as the interest of the estate is concerned;
>
> - Payment of two (2) annual amortizations of the restructured accounts in addition to P50,000.00 to be derived from sale of lot sought to be released;
>
> - Such terms and conditions that our Legal Dept. may impose to protect the interest of the Bank.
>
> Please see us for the preparation of the covering documents. [emphases added]
>
> Very truly yours,
>
> (signed)
>
> CECILIA S. GAYENALO
>
> Asst. Manager

In their letter-reply dated April 18, 1991,[7] petitioners demanded that respondent show the clean titles to the lots first before they pay the balance of the purchase price. Respondent merely reiterated the demand for payment. Petitioners stood pat on their demand.

On May 28, 1991, respondent Administratrix executed a Deed of Rescission rescinding the MOA on two grounds: (1) petitioners failed to pay the balance of the purchase price despite notice of the lots' release from mortgage, and (2) petitioners violated the MOA by using the lots as a transloading station without permission from the respondents.

In their Letter dated June 13, 1991, petitioners, through counsel, formally demanded the production of the titles to the lots before they pay the balance of the purchase price. The demand was ignored. Consequently, on June 19, 1991, petitioners filed a complaint against respondents for breach of contract, specific performance and damages before the RTC-Bacolod City, docketed as Civil Case No. 6552. Petitioners alleged that respondents delayed performance of their obligation by unreasonably failing to secure the release of the lots from mortgage with the PNB within the earliest possible time, as stipulated in the MOA. Petitioners prayed that respondents be ordered to produce the clean titles to the lots before they pay the balance of the purchase price.

The trial court decided the case in favor of respondents. The dispositive portion of the decision reads-

> (1) Declaring the Memorandum of Agreement, Exh. "C" rescinded; consequently ownership and possession of Lots 28 to 39, inclusive, of Phase II of the subdivision plan covered by TCT No. T-31113 are hereby restored to defendants, and defendants (sic) are thereby ordered to vacate the premises of said lots;
>
> (2) Ordering plaintiffs to jointly and severally pay defendants: P20,000.00 as moral damages; and P15,000.00 as attorney's fees;
>
> (3) Ordering defendants to solidarily pay or refund plaintiffs: the sum of P100,000.00 paid by the latter as down payment on the aforesaid Memorandum of Agreement on December 18, 1989, with legal interest at 6% per annum from said date up to and until the amount is fully paid or refunded; and another sum of P191,600.00 paid by the latter to the former in connection with the said Memorandum of Agreement on January 10, 1990, with the same rate of interest at 6% per annum from said date up to and until the amount is fully paid or refunded; and
>
> (4) Condemning plaintiffs to pay the cost of suit.[8]

Petitioners filed a petition for review before the Court of Appeals. On January 16, 2003, the Court of Appeals

affirmed the trial court's decision but deleted the award for moral damages on the ground that petitioners were not guilty of bad faith in refusing to pay the balance of the purchase price.[9] Hence, this petition.

Petitioners raise the following issues:

> - Whether x x x respondents failed to comply with their reciprocal obligation of securing the release of the subject lots from mortgage indebtedness with the Philippine National Bank.
>
> - Whether x x x the delivery of the titles corresponding to the twelve (12) lots subject of the Memorandum of Agreement is a precondition to the payment by the petitioners of the balance of the consideration.
>
> - Whether x x x petitioners did incur (sic) delay in the performance of their reciprocal obligation under the Memorandum of Agreement.
>
> - Whether x x x there is legal, or even a factual, ground for the rescission of the Memorandum of Agreement.[10]

We will resolve first the procedural objections raised by the respondents.

Respondents contend that the petition should be dismissed for late filing, and irregular execution of the affidavit of service attached to the petition. Respondents allege that the petition was filed late as there was no evidence to show that petitioners' motion for extension of time to file the petition has been granted by the Court. Petitioners allegedly received a copy of the assailed Court of Appeals' decision on January 28, 2003 but filed the petition for review on March 12, 2003 only, contrary to Section 2, Rule 45 of the 1997 Rules of Civil Procedure.[11] In addition, the Affidavit of Service attached to the petition was irregularly executed on March 13, 2003, a day after the petition has been filed in Court.

Respondents' contentions are not meritorious. The records show that petitioners' motion for 30 days' extension of time to file the petition for review has been granted in our Resolution dated March 26, 2003. Petitioners were given thirty (30) days from the expiration of the original period, or until March 13, 2003, within which to file the petition for review. Although our resolution is dated after the extension prayed for has already expired, we specifically conditioned the grant of extension upon the timeliness of the filing of the petition and payment by petitioners of the correct docket and other filing fees. Petitioners did so. The petition for review was posted by registered mail on March 13, 2003, as shown by the date appearing on the first page of the original copy of the petition filed with the Court.[12] The Affidavit of Service was thus regularly executed on March 13, 2003, the same day that the petition was posted by registered mail. No reason exists therefore for the dismissal of the petition on technical grounds, as respondents erroneously contend.

On the merits of the case, we agree with the petitioners that the Court of Appeals erred in ruling that respondents had already fulfilled their obligation to cause the release of the lots from mortgage with the PNB at the time they demanded payment of the balance of the purchase price. The finding of the appellate court is refuted by Exh. "3-B" and by the testimonial evidence on record.

A reading of Exhibit "3-B,"[13] which is the PNB's letter of approval dated April 8, 1991, clearly shows that the approval was conditional. Three (3) conditions were laid down by the bank before the lots could be finally released from mortgage. The three conditions were: (1) that respondents secure approval of the sale from the intestate court insofar as the interest of the estate is concerned; (2) that respondents pay two annual amortizations of their restructured accounts with the PNB plus P50,000.00 to be derived from the sale of the lots sought to be released; and (3) that respondents comply with such other terms and conditions as the PNB's Legal Department may impose. Cecilia S. Gayenalo, the Assistant Manager of PNB Bacolod City Branch, herself testified that it was in July 1991 that the final release papers were prepared by the bank because it was only at that time that

respondents complied with the three conditions.[14] It was therefore premature for respondents to demand payment of the balance of the purchase price from the petitioners in April 1991 and, failing in that, to "rescind" the MOA in May 1991.

Moreover, there is no legal basis for the rescission. The remedy of rescission under Art. 1191 of the Civil Code[15] is predicated on a breach of faith by the other party that violates the reciprocity between them.[16] We have held in numerous cases that the remedy does not apply to contracts to sell.[17] We explained the reason in Santos v. Court of Appeals,[18] viz -

> x x x [I]n a contract to sell, title remains with the vendor and does not pass on to the vendee until the purchase price is paid in full. Thus, in a contract to sell, the payment of the purchase price is a positive suspensive condition. Failure to pay the price agreed upon is not a mere breach, casual or serious, but a situation that prevents the obligation of the vendor to convey title from acquiring an obligatory force. This is entirely different from the situation in a contract of sale, where non-payment of the price is a negative resolutory condition. The effects in law are not identical. In a contract of sale, the vendor has lost ownership of the thing sold and cannot recover it, unless the contract of sale is rescinded and set aside. In a contract to sell, however, the vendor remains the owner for as long as the vendee has not complied fully with the condition of paying the purchase price. If the vendor should eject the vendee for failure to meet the condition precedent, he is enforcing the contract and not rescinding it. x x x x Article 1592 speaks of non-payment of the purchase price as a resolutory condition. It does not apply to a contract to sell. As to Article 1191, it is subordinated to the provisions of Article 1592 when applied to sales of immovable property. Neither provision is applicable [to a contract to sell]. (emphasis added)

The MOA between petitioners and respondents is a conditional contract to sell. Ownership over the lots is not to pass to the petitioners until full payment of the purchase price. Petitioners' obligation to pay, in turn, is conditioned upon the release of the lots from mortgage with the PNB to be secured by the respondents. Although there was no express provision regarding reserved ownership until full payment of the purchase price, the intent of the parties in this regard is evident from the provision that a deed of absolute sale shall be executed only when the lots have been released from mortgage and the balance paid by petitioners. Since ownership has not been transferred, no further legal action need have been taken by the respondents, except an action to recover possession in case petitioners refuse to voluntarily surrender the lots.[19]

The records show that the lots were finally released from mortgage in July 1991. Petitioners have always expressed readiness to pay the balance of the purchase price once that is achieved. Hence, petitioners should be allowed to pay the balance now, if they so desire, since it is established that respondents' demand for them to pay in April 1991 was premature. However, petitioners may not demand production by the respondents of the titles to the lots as a condition for their payment. It was not required under the MOA. The MOA merely states that petitioners shall pay the balance "upon approval by the PNB of the release of the lots" from mortgage. Petitioners may not add further conditions now. Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith.[20]

IN VIEW WHEREOF, the petition is GRANTED. The assailed Decision dated January 16, 2003 of the Court of Appeals in CA-G.R. CV No. 46865 is REVERSED and SET ASIDE. Petitioners and respondents are restored to the status quo ante before the execution of the Deed of Rescission dated May 28, 1991which is declared of no legal effect.

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SO ORDERED.

Sandoval-Gutierrez, Corona, Azcuna and Garcia, JJ., concur.

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[1] Rollo, pp. 33-42.

[2] Id. at 47-62.

[3] Annex "B," Id. at 43-44.

[4] Exh. "6," rollo, pp. 101-102.

[5] Id.

[6] Annex "E" of the petition; Id. at 63.

[7] Annex "G," Id. at 65.

[8] Supra note 2.

[9] Supra note 1.

[10] See Memorandum for the Petitioners, rollo, pp. 145-146.

[11] SEC. 2. Time for filing extension.- The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

[12] Rollo, p. 9.

[13] Supra note 6.

[14] TSN, May 27, 1993, pp. 14-15; records, pp. 183-184.

[15] 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. x x x x

[16] Velarde v. Court of Appeals, G.R. No. 108346, July 11, 2001, 361 SCRA 56; Uy v. Court of Appeals, G.R. No. 120465, September 9, 1999, 314 SCRA 69; Romero v. Court of Court of Appeals, G.R. No. 107207, November 23, 1995, 250 SCRA 223.

[17] Gomez v. Court of Appeals, G.R. No. 120747, September 21, 2000, 340 SCRA 720; Padilla v. Paredes, G.R. No. 124874, March 17, 2000, 328 SCRA 434; Valarao v. Court of Appeals, G.R. No. 130347, March 3, 1999, 304 SCRA 155; Pangilinan v. Court of Appeals, G.R. No. 83588, September 29, 1997, 279 SCRA 590; Rillo v. Court

of Appeals, G.R. No. 125347, June 19, 1997, 274 SCRA 461.

[18] G.R. No. 120820, August 1, 2000, 337 SCRA 67, 77.

[19] See Cesar L. Villanueva, LAW ON SALES, 492 (2004).

[20] Transfield Philippines, Inc. v. Luzon Hydro Corporation, G.R. No. 146717, November 22, 2004, 443 SCRA 307.

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