

SPOUSES FAUSTINO AND JOSEFINA GARCIA, SPOUSES MELITON GALVEZ AND HELEN GALVEZ, AND CONSTANCIA ARCAIRA REPRESENTED BY THEIR ATTORNEY-IN-FACT JULIANA O. MOTAS, PETITIONERS, VS. CO...

G.R. No. 172036. April 23, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

G.R. No. 172036 is a petition for review[1] assailing the Decision[2] promulgated on 25 January 2006 as well as the Resolution[3] promulgated on 16 March 2006 of the Court of Appeals (appellate court) in CA-G.R. CV No. 63651. The appellate court reversed and set aside the decision of Branch 23 of the Regional Trial Court of Trece Martires City, Cavite (trial court) in Civil Case No. TM-622. The appellate court ordered Emerlita Dela Cruz (Dela Cruz) to return to spouses Faustino and Josefina Garcia, spouses Meliton and Helen Galvez, and Constancia Arcaira (collectively, petitioners) the amount in excess of one-half percent of P1,500,000. Dela Cruz's co-defendant, Diogenes Bartolome (Bartolome), did not incur any liability.

The appellate court narrated the facts as follows:

On May 28, 1993, plaintiffs spouses Faustino and Josefina Garcia and spouses Meliton and Helen Galvez (herein appellees) and defendant Emerlita dela Cruz (herein appellant) entered into a Contract to Sell wherein the latter agreed to sell to the former, for Three Million One Hundred Seventy Thousand Two Hundred Twenty (P3,170,220.00) Pesos, five (5) parcels of land situated at Tanza, Cavite particularly known as Lot Nos. 47, 2768, 2776, 2767, 2769 and covered by Transfer Certificate of Title Nos. T-340674, T-340673, T-29028, T-29026, T-29027, respectively. At the time of the execution of the said contract, three of the subject lots, namely, Lot Nos. 2776, 2767, and 2769 were registered in the name of one Angel Abelida from whom defendant allegedly acquired said properties by virtue of a Deed of Absolute Sale dated March 31, 1989.

As agreed upon, plaintiffs shall make a down payment of Five Hundred Thousand (P500,000.00) Pesos upon signing of the contract. The balance of Two Million Six Hundred Seventy Thousand Two Hundred Twenty (P2,670,220.00) Pesos shall be paid in three installments, viz: Five Hundred Thousand (P500,000.00) Pesos on June 30, 1993; Five Hundred Thousand (P500,000.00) Pesos on August 30, 1993; One Million Six Hundred Seventy Thousand Two Hundred Twenty (P1,670,220.00) Pesos on December 31, 1993.

On its due date, December 31, 1993, plaintiffs failed to pay the last installment in the amount of One Million Six Hundred Seventy Thousand Two Hundred Twenty (P1,670,220.00) Pesos. Sometime in July 1995, plaintiffs offered to pay the unpaid balance, which had already been delayed by one and [a] half year, which defendant refused to accept. On September 23, 1995, defendant sold the same parcels of land to intervenor Diogenes G. Bartolome for Seven Million Seven Hundred Ninety Three Thousand (P7,793,000.00) Pesos.

In order to compel defendant to accept plaintiffs' payment in full satisfaction of the purchase price and, thereafter, execute the necessary document of transfer in their favor, plaintiffs filed before the RTC a complaint for specific performance.

In their complaint, plaintiffs alleged that they discovered the infirmity of the Deed of Absolute Sale covering Lot Nos. 2776, 2767 and 2769, between their former owner Angel Abelida and defendant, the same being spurious because the signature of Angel Abelida and his wife were falsified; that at the time of the execution of the said deed, said spouses were in the United States; that due to their apprehension regarding the authenticity of the document, they withheld payment of the last installment which was supposedly due on December 31, 1993; that they tendered payment of the unpaid balance sometime in July 1995, after Angel Abelida ratified the sale made in favor [of] defendant, but defendant refused to accept their payment for no justifiable reason.

In her answer, defendant denied the allegation that the Deed of Absolute Sale was spurious and argued that plaintiffs failed to pay in full the agreed purchase price on its due date despite repeated demands; that the Contract to Sell contains a proviso that failure of plaintiffs to pay the purchase price in full shall cause the rescission of the contract and forfeiture of one-half (1/2%) percent of the total amount paid to defendant; that a notarized letter stating the intended rescission of the contract to sell and forfeiture of payments was sent to plaintiffs at their last known address but it was returned with a notation "insufficient address."

Intervenor Diogenes G. Bartolome filed a complaint in intervention alleging that the Contract to Sell dated May 31, 1993 between plaintiffs and defendant was rescinded and became ineffective due to unwarranted failure of the plaintiffs to pay the unpaid balance of the purchase price on or before the stipulated date; that he became interested in the subject parcels of land because of their clean titles; that he purchased the same from defendant by virtue of an Absolute Deed of Sale executed on September 23, 1995 in consideration of the sum of Seven Million Seven Hundred Ninety Three Thousand (P7,793,000.00) Pesos.[4]

The Decision of the Trial Court

In its Decision dated 15 April 1999, the trial court ruled that Dela Cruz's rescission of the contract was not valid. The trial court applied Republic Act No. 6552 (Maceda Law) and stated that Dela Cruz is not allowed to unilaterally cancel the Contract to Sell. The trial court found that petitioners are justified in withholding the payment of the balance of the consideration because of the alleged spurious sale between Angel Abelida and Emerlita Dela Cruz. Moreover, intervenor Diogenes Bartolome (Bartolome) is not a purchaser in good faith because he was aware of petitioners' interest in the subject parcels of land.

The dispositive portion of the trial court's decision reads:

ACCORDINGLY, defendant Emerlita dela Cruz is ordered to accept the balance of the purchase price in the amount of P1,670,220.00 within ten (10) days after the judgment of this Court in the above-entitled case has become final and executory and to execute immediately the final deed of sale in favor of plaintiffs.

Defendant is further directed to pay plaintiffs the amount of P400,000.00 as moral damages and P100,000.00 as exemplary damages.

The deed of sale executed by defendant Emerlita dela Cruz in favor of Atty. Diogenes Bartolome is declared null and void and the amount of P7,793,000.00 which was paid by intervenor Bartolome to Emerlita dela Cruz as the consideration of the sale of the five (5) parcels of land is hereby directed to be returned by Emerlita dela Cruz to Atty. Diogenes Bartolome within ten (10) days from the finality of judgment.

Further, defendant is directed to pay plaintiff the sum of P100,000.00 as attorney's fees.

SO ORDERED.[5]

Dela Cruz and Bartolome appealed from the judgment of the trial court.

The Decision of the Appellate Court

The appellate court reversed the trial court's decision and dismissed Civil Case No. TM-622. Dela Cruz's

obligation under the Contract to Sell did not arise because of petitioners' undue failure to pay in full the agreed purchase price on the stipulated date. Moreover, judicial action for the rescission of a contract is not necessary where the contract provides that it may be revoked and cancelled for violation of any of its terms and conditions. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of all the foregoing, the appealed decision of the Regional Trial Court is hereby REVERSED and SET ASIDE and Civil Case No. TM-622 is, consequently, DISMISSED. Defendant is however ordered to return to plaintiffs the amount in excess of one-half (1/2%) percent of One Million Five Hundred Thousand (P1,500,000.00) Pesos which was earlier paid by plaintiffs.

SO ORDERED.[6]

The appellate court likewise resolved to deny petitioners' Motion for Reconsideration for lack of merit.[7]

Hence, this petition.

Issues

Petitioners raised the following grounds for the grant of their petition:

- The Honorable Court of Appeals erred when it failed to consider the provisions of Republic Act 6552, otherwise known as the Maceda Law.
- The Honorable Court of Appeals erred when it failed to consider that Respondent Dela Cruz could not pass title over the three (3) properties at the time she entered to a Contract to Sell as her purported ownership was tainted with fraud, thereby justifying Petitioners Spouses Garcia, Spouses Galvez and Arcaira's suspension of payment.
- The Honorable Court of Appeals gravely erred when it failed to consider that Respondent Dela Cruz's "rescission" was done in evident bad faith and malice on account of a second sale she entered with Respondent Bartolome for a much bigger amount.
- The Honorable Court of Appeals erred when it failed to declare Respondent Bartolome is not an innocent purchaser for value despite the presence of evidence as to his bad faith.[8]

The Court's Ruling

The petition has no merit.

Both parties admit the following: (1) the contract between petitioners and Dela Cruz was a contract to sell; (2) petitioners failed to pay in full the agreed purchase price of the subject property on the stipulated date; and (3) Dela Cruz did not want to accept petitioners' offer of payment and did not want to execute a document of transfer in petitioners' favor.

The pertinent provisions of the contract, denominated Contract to Sell, between the parties read:

Failure on the part of the vendees to comply with the herein stipulation as to the terms of payment shall cause the rescission of this contract and the payments made shall be returned to the vendees subject however, to forfeiture in favor of the Vendor equivalent to 1/2% of the total amount paid.

x x x

It is hereby agreed and covenanted that possession shall be retained by the VENDOR until a Deed of Absolute Sale shall be executed by her in favor of the Vendees. Violation of this provision shall authorize/empower the VENDOR [to] demolish any construction/improvement without need of judicial action or court order.

That upon and after the full payment of the balance, a Deed of Absolute Sale shall be executed by the Vendor in favor of the Vendees.

That the duplicate original of the owner's copy of the Transfer Certificate of Title of the above subject parcels of land shall remain in the possession of the Vendor until the execution of the Deed of Absolute Sale.[9]

Contracts are law between the parties, and they are bound by its stipulations. It is clear from the above-quoted provisions that the parties intended their agreement to be a Contract to Sell: Dela Cruz retains ownership of the subject lands and does not have the obligation to execute a Deed of Absolute Sale until petitioners' payment of the full purchase price. Payment of the price is a positive suspensive condition, failure of which is not a breach but an event that prevents the obligation of the vendor to convey title from becoming effective. Strictly speaking, there can be no rescission or resolution of an obligation that is still non-existent due to the non-happening of the suspensive condition.[10] Dela Cruz is thus not obliged to execute a Deed of Absolute Sale in petitioners' favor because of petitioners' failure to make full payment on the stipulated date.

We ruled thus in *Pangilinan v. Court of Appeals*:[11]

Article 1592 of the New Civil Code, requiring demand by suit or by notarial act in case the vendor of realty wants to rescind does not apply to a contract to sell but only to contract of sale. In contracts to sell, where ownership is retained by the seller and is not to pass until the full payment, such payment, as we said, is a positive suspensive condition, the failure of which is not a breach, casual or serious, but simply an event that prevented the obligation of the vendor to convey title from acquiring binding force. To argue that there was only a casual breach is to proceed from the assumption that the contract is one of absolute sale, where non-payment is a resolutive condition, which is not the case.

The applicable provision of law in instant case is Article 1191 of the New Civil Code which provides as follows:

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 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. (1124)

Pursuant to the above, the law makes it available to the injured party alternative remedies such as the power to rescind or enforce fulfillment of the contract, with damages in either case if the obligor does not comply with what is incumbent upon him. There is nothing in this law which prohibits the parties from entering into an agreement that a violation of the terms of the contract would cause its cancellation even without court intervention. The rationale for the foregoing is that in contracts providing for automatic revocation, judicial intervention is necessary not for purposes of obtaining a judicial declaration rescinding a contract already deemed rescinded by virtue of an agreement providing for rescission even without judicial intervention, but in order to determine whether or not the rescission was proper. Where such propriety is sustained, the decision of the court will be merely declaratory of the revocation, but it is not in itself the revocatory act. Moreover, the vendor's right in contracts to sell with reserved title to extrajudicially cancel the sale upon failure of the vendee to pay the stipulated installments and retain the sums and installments already received has long been recognized by the well-established doctrine of 39 years standing. The validity of the stipulation in the contract providing for

automatic rescission upon non-payment cannot be doubted. It is in the nature of an agreement granting a party the right to rescind a contract unilaterally in case of breach without need of going to court. Thus, rescission under Article 1191 was inevitable due to petitioners' failure to pay the stipulated price within the original period fixed in the agreement.

Petitioners justify the delay in payment by stating that they had notice that Dela Cruz is not the owner of the subject land, and that they took pains to rectify the alleged defect in Dela Cruz's title. Be that as it may, Angel Abelida's (Abelida) affidavit^[12] confirming the sale to Dela Cruz only serves to strengthen Dela Cruz's claim that she is the absolute owner of the subject lands at the time the Contract to Sell between herself and petitioners was executed. Dela Cruz did not conceal from petitioners that the title to Lot Nos. 2776, 2767 and 2769 still remained under Abelida's name, and the Contract to Sell ^[13] even provided that petitioners should shoulder the attendant expenses for the transfer of ownership from Abelida to Dela Cruz.

The trial court erred in applying R.A. 6552,^[14] or the Maceda Law, to the present case. The Maceda Law applies to contracts of sale of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants. The subject lands, comprising five (5) parcels and aggregating 69,028 square meters, do not comprise residential real estate within the contemplation of the Maceda Law.^[15] Moreover, even if we apply the Maceda Law to the present case, petitioners' offer of payment to Dela Cruz was made a year and a half after the stipulated date. This is beyond the sixty-day grace period under Section 4 of the Maceda Law.^[16] Petitioners still cannot use the second sentence of Section 4 of the Maceda Law against Dela Cruz for Dela Cruz's alleged failure to give an effective notice of cancellation or demand for rescission because Dela Cruz merely sent the notice to the address supplied by petitioners in the Contract to Sell.

It is undeniable that petitioners failed to pay the balance of the purchase price on the stipulated date of the Contract to Sell. Thus, Dela Cruz is within her rights to sell the subject lands to Bartolome. Neither Dela Cruz nor Bartolome can be said to be in bad faith.

WHEREFORE, we DENY the petition. We AFFIRM in toto the Court of Appeals' Decision promulgated on 25 January 2006 as well as the Resolution promulgated on 16 March 2006 in CA-G.R. CV No. 63651.

Costs against petitioners.

SO ORDERED.

Brion, Del Castillo, Abad, and Perez, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 59-69. Penned by Associate Justice Sesonando E. Villon, with Associate Justices Edgardo P. Cruz and Rosalinda Asuncion-Vicente, concurring.

[3] Id. at 71-72. Penned by Associate Justice Sesonando E. Villon, with Associate Justices Edgardo P. Cruz and Rosalinda Asuncion-Vicente, concurring.

[4] Id. at 60-62.

[5] Id. at 135.

[6] Id. at 69.

[7] Id. at 71-72.

[8] Id. at 39-40.

[9] Id. at 94-95.

[10] See *Jacinto v. Kaparaz*, G.R. No. 81158, 22 May 1992, 209 SCRA 246.

[11] 345 Phil. 93, 99-101 (1997).

[12] *Rollo*, p. 87.

[13] Id. at 82. The pertinent provision in the Contract to Sell reads: All expenses, such as notarial fees, 5% commission of the agents, capital gains tax, documentary stamps tax, registration fees and transfer tax and others shall be for the account of the vendees, including the transfer of ownership from Angel Abelida to Emerlita Dela Cruz (emphasis added).

[14] An Act to Provide Protection to Buyers of Real Estate on Installment Payments.

[15] *Spouses Dela Cruz v. Court of Appeals*, 485 Phil. 168 (2004); See also *Active Realty & Development Corp. v. Daroya*, 431 Phil. 753 (2002).

[16] SEC. 4. In case where less than two years of installments were paid, the seller shall give the buyer a grace period of not less than sixty days from the date the installment became due. If the buyer fails to pay the installments due at the expiration of the grace period, the seller may cancel the contract after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act.

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