

G.G. SPORTSWEAR MFG. CORP., PETITIONER, VS. WORLD CLASS PROPERTIES, INC., RESPONDENT.

G.R. No. 182720. March 02, 2010

Ponente: BRION, J.

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BRION, J.:

Through its petition for review on certiorari, the petitioner G.G. Sportswear Mfg. Corp. (GG Sportswear) seeks to reverse the December 19, 2007 decision[1] and the January 2, 2008 resolution[2] of the Court of Appeals (CA) denying: (1) the rescission of its Reservation Agreement with the respondent, World Class Properties, Inc. (World Class) and (2) a refund of the payments made pursuant to this Agreement.

The facts, as culled from the records, are briefly summarized below.

World Class is the owner/developer of Global Business Tower (now Antel Global Corporate Center), an office condominium project located on Julia Vargas Avenue and Jade Drive, Ortigas Center, Pasig City slated for completion on December 15, 1998.

GG Sportswear, a domestic corporation, offered to purchase the 38th floor penthouse unit and 16 parking slots for 32 cars in World Class's condominium project for the discounted, pre-selling price of P89,624,272.82. After GG Sportswear paid the P500,000.00 reservation fee, the parties, on May 15, 1996, signed a Reservation Agreement (Agreement)[3] that provides for the schedule of payments, including the stipulated monthly installments on the down payment and the balance on the purchase price, as follows:[4]

Item

Amount to be paid

Monthly Installment

Duration

20% Down Payment

P 17,924,854.56

less: 500,000.00

(Reservation Fee)

P 1,742,485.45

May 1996 to Feb 1997

P 17,424,854.56

60% Payment

53,774,563.69

1,792,485.45

Mar 1997 to Aug 1999

20% Final Payment

17,924,854.56

Upon turn-over

TOTAL PRICE

P 89,624,272.82

Based on the Agreement, the contract to sell pertaining to the entire 38th floor Penthouse unit and the parking slots would be executed upon the payment of thirty percent (30%) of the total purchase price.[5] It also stipulated that all its provisions would be deemed incorporated in the contract to sell and other documents to be executed by the parties thereafter. The Agreement also specified that the failure of the buyer to pay any of the installments on the stipulated date would give the developer the right either to: (1) charge 3% interest per month on all unpaid receivables, or (2) rescind and cancel the Agreement without the need of any court action and, upon cancellation, automatically forfeit the reservation fee and other payments made by the buyer.[6]

From May to December 1996, GG Sportswear timely paid the installments due; the eight monthly installment payments amounted to a total of P19,717,339.50, or 21% of the total contract price.

In a letter dated January 30, 1997,[7] GG Sportswear requested the return of the outstanding postdated checks it previously delivered to World Class because it (GG Sportswear) intended to replace these old checks with new ones from the corporation's new bank. World Class acceded, but suggested the execution of a new Reservation Agreement to reflect the arrangement involving the replacement checks, with the retention of the other terms and conditions of the old Agreement.[8] GG Sportswear did not object to the execution of a new Reservation Agreement, but requested that World Class defer the deposit of the replacement checks for 90 days.[9] World Class denied this request, contending that a deferment would delay the subsequent monthly installment payments.[10] It likewise demanded that GG Sportswear immediately pay its overdue January 1997 installment to avoid the penalties[11] provided in the Agreement.[12]

On March 5, 1997, GG Sportswear delivered the replacement checks and paid the January 1997 installment payment which had been delayed by two months. World Class in turn issued a second Reservation Agreement, which it transmitted to GG Sportswear for the latter's conformity. World Class also sent GG Sportswear a provisional Contract to Sell,[13] which stated that the condominium project would be ready for turnover to the buyer not later than December 15, 1998.

GG Sportswear did not sign the second Reservation Agreement. Instead, it sent a letter[14] to World Class, requesting that its check dated April 24, 1997 be deposited on May 15, 1997 because it was experiencing financial difficulties. When World Class rejected GG Sportswear's request, GG Sportswear sent another letter informing World Class that the second Reservation Agreement was incomplete because it did not expressly provide the time of completion of the condominium unit.[15] World Class countered that the provisional Contract to Sell it previously submitted to GG Sportswear expressly provided for the completion date (December 15, 1998) and insisted that GG Sportswear pay its overdue account.[16]

On June 10, 1997, GG Sportswear filed a Complaint[17] with the Housing and Land Use Regulatory Board

(HLURB) claiming a refund of the installment payments made to World Class because it was dissatisfied with the completion date found in the Contract to Sell.

In its Answer,[18] World Class countered that: (1) it is not guilty of breach of contract since it is the petitioner that committed a breach; (2) the complaint is an afterthought since GG Sportswear is suffering from financial difficulties; (3) the petitioner's dissatisfaction with the expected date of completion of the unit as indicated in the proposed Contract to Sell is not a valid and sufficient ground for refund; (4) a refund is justified only in cases where the owner/developer fails to develop the project within the specified period of time under Presidential Decree (P.D.) No. 957,[19] which period has not yet arrived; and (5) the petitioner was already in default when it filed the complaint and therefore came to court with unclean hands.

On September 12, 2005, HLURB Arbiter Atty. Dunstan T. San Vicente (Arbiter) rendered a decision[20] rescinding the Agreement, after finding that World Class violated Sections 4 and 5 of P.D. No. 957 by entering into the Agreement without the required Certificate of Registration and License to Sell (CR/LS).[21] He also implied that a refund is proper in this case under Article 1416 of the Civil Code. As a consequence, he ordered World Class to refund the amount of P19,717,339.50 paid by GG Sportswear with 6% legal interest thereon, and to pay 10% of the principal amount as attorney's fees. He likewise found World Class administratively liable and ordered it to pay a fine of P10,000.00.

World Class appealed to the HLURB Board of Commissioners (Board). On January 31, 2006, the Board modified the Arbiter's decision by ruling that the Agreement could no longer be rescinded for lack of a CR/LS because World Class had already been issued a License to Sell on August 1, 1996, or before the complaint was filed.[22] Notwithstanding this pronouncement, the Board still awarded a refund in GG Sportswear's favor. The Board reasoned that World Class had only until August 1998 to complete the project under its first License to Sell. However, World Class, by its own actions, impliedly admitted that it would be incapable of completing its project by this time; it repackaged the project and had applied for and been issued a new License to Sell, which granted World Class until December 1999 to complete the project.[23] In essence, the Board equated World Class's "incapability" to finish the project within the time specified in its first License to Sell with a developer's "failure to develop" a condominium project - an omission sanctioned under P.D. No. 957 and entitled a buyer to a refund of all payments made.[24]

In its decision[25] of September 11, 2006, the Office of the President (OP) denied World Class's appeal by quoting extensively from the Arbiter's decision. The OP subsequently denied World Class's motion for reconsideration in its November 13, 2006 order.[26]

In its petition for review[27] before the CA, World Class essentially argued that the OP committed a grave abuse of discretion when it upheld the Board's ruling that GG Sportswear was entitled to a refund.

The CA, in its decision[28] of December 19, 2007, reversed the OP decision and denied GG Sportswear's prayers for rescission of the Agreement and refund of the payments made. It explained that the OP should have given weight to the Board's modified finding that "the absence of the certificate of registration and license to sell no longer existed at the time of the filing of the complaint and could no longer be used as basis to demand rescission." Since GG Sportswear never appealed this finding, it had already attained finality and must bind the OP.

On the awarded refund, the CA held that the OP erroneously based GG Sportswear's right to recovery of payments on Article 1416 of the Civil Code (as what the Arbiter's decision[29] suggested), which entitles a plaintiff to recover the amounts paid under a contract that violates mandatory or prohibitory laws. Since World Class already had a CR/LS when GG Sportswear filed its complaint, GG Sportswear could no longer demand

rescission and refund under Sections 4 and 5 of P.D. No. 957.

The appellate court also found no merit in GG Sportswear's argument that it was entitled to rescind the Agreement and demand a refund because World Class failed to provide a Contract to Sell for the subject units. Under the Agreement, the Contract to Sell would be executed only upon payment of thirty (30%) of the total value of the sale; since GG Sportswear had only paid 21% of the total contract price, it could not demand the execution of the Contract to Sell. The CA likewise denied GG Sportswear's motion for reconsideration.[30]

Hence, GG Sportswear filed with this Court the present petition for review on certiorari,[31] claiming that the CA erred when: (1) it relied heavily on the Board's finding that the Agreement could no longer be rescinded because the CR/LS had already been issued at the time the complaint was filed, which was a mere obiter dictum; and (2) it held that GG Sportswear was not entitled to the execution of a Contract to Sell because it had not yet paid 30% of the total value of the sale.

THE RULING OF THE COURT

We find the petition devoid of merit.

The Board ruling that the Agreement could not be rescinded based on lack of a CR/LS had already attained finality.

We explained the concept of an obiter dictum in Villanueva v. Court of Appeals[32] by saying:

It has been held that an adjudication on any point within the issues presented by the case cannot be considered as obiter dictum, and this rule applies to all pertinent questions, although only incidentally involved, which are presented and decided in the regular course of the consideration of the case, and led up to the final conclusion, and to any statement as to matter on which the decision is predicated. Accordingly, a point expressly decided does not lose its value as a precedent because the disposition of the case is, or might have been, made on some other ground, or even though, by reason of other points in the case, the result reached might have been the same if the court had held, on the particular point, otherwise than it did. A decision which the case could have turned on is not regarded as obiter dictum merely because, owing to the disposal of the contention, it was necessary to consider another question, nor can an additional reason in a decision, brought forward after the case has been disposed of on one ground, be regarded as dicta. So, also, where a case presents two (2) or more points, any one of which is sufficient to determine the ultimate issue, but the court actually decides all such points, the case as an authoritative precedent as to every point decided, and none of such points can be regarded as having the status of a dictum, and one point should not be denied authority merely because another point was more dwelt on and more fully argued and considered, nor does a decision on one proposition make statements of the court regarding other propositions dicta.[33] [emphasis supplied.]

The Board's pronouncement in its January 31, 2006 decision - that the Agreement could no longer be rescinded because the CR/LS had already been issued at the time the complaint was filed - cannot be considered a mere obiter dictum because it touched upon a matter squarely raised by World Class in its petition for review, specifically, the issue of whether GG Sportswear was entitled to a refund on the ground that it did not have a CR/LS at the time the parties entered into the Agreement.

With this ruling, the Board reversed the Arbiter's ruling on this particular issue, expressly stating that "the absence of the certificate of registration and license to sell no longer existed at the time of the filing of the complaint and could no longer be used as basis to demand rescission." This ruling became final when GG Sportswear chose not to file an appeal with the OP. Thus, even if the Board ultimately awarded a refund to GG Sportswear based entirely on another ground, the Board's ruling on the non-rescissible character of the Agreement is binding on the

parties.

Consequently, the OP had no jurisdiction to revert to the Arbiter's earlier declaration that the Agreement was void due to World Class's lack of a CR/LS, a finding that clearly contradicted the Board's final and executory ruling.

There was no breach on the part of World Class to justify the rescission and refund.

GG Sportswear likewise has no legal basis to demand either the rescission of the Agreement or the refund of payments it made to World Class under the Agreement.

Unless the parties stipulated it, rescission is allowed only when the breach of the contract is substantial and fundamental to the fulfillment of the obligation.[34] Whether the breach is slight or substantial is largely determined by the attendant circumstances.[35]

GG Sportswear anchors its claim for rescission on two grounds: (a) its dissatisfaction with the completion date; and (b) the lack of a Contract to Sell. As to the first ground, World Class makes much of the fact that the completion date is not indicated in the Agreement, maintaining that this lack of detail renders the Agreement void on the ground that the intention of the parties cannot be ascertained. We disagree with this contention.

In the first place, GG Sportswear cannot claim that it did not know the time-frame for the project's completion when it entered into the Agreement with World Class. As World Class points out, it is absurd and unbelievable that Mr. Gidwani, the president of GG Sportswear and an experienced businessman, did not have an idea of the expected completion date of the condominium project before he bought the condominium units for P89,624,272.82. Even assuming that GG Sportswear was not aware of the exact completion date, we note that GG Sportswear signed the Agreement despite the Agreement's omission to expressly state a specific completion date. This directly implies that a specific completion date was not a material consideration for GG Sportswear when it executed the Agreement. Thus, even if we believe GG Sportswear's contention that it was dissatisfied with the completion date subsequently indicated in the provisional Contract to Sell, we cannot consider this dissatisfaction a breach so substantial as to render the Agreement rescissible. The grant, too, to World Class of a first License to Sell up to August 1998 and a second License to Sell up to December 1999, to our mind, served as a clear notice of when the project was to be completed. As we discussed above, the initial lack of a License to Sell is not a basis to cancel the Agreement and has in fact effectively been cured even if it may be considered an initial defect.

Moreover, the provisional Contract to Sell that accompanied the second Reservation Agreement explicitly provided that the condominium project would be ready for turnover no later than December 15, 1998, a clear expression of the project's completion date. While GG Sportswear claims dissatisfaction with this completion date, it never alleged that the given December 15, 1998 completion date violates the completion date previously agreed upon by the parties. In fact, nowhere does GG Sportswear allege that the parties ever agreed upon an earlier completion date. We therefore find no reason for GG Sportswear to be dissatisfied with the indicated completion date. Even if it had been unhappy with the completion date, this ground, standing alone, is not sufficient basis to rescind the Agreement; unhappiness is a state of mind, not a defect available in law as a basis to rescind a contract.

As a last point on this topic, we cannot help but view with suspicion GG Sportswear's decision to question the second Reservation Agreement's lack of an express completion date as this question only came up after World Class had rejected GG Sportswear's request to defer the deposit of its check in light of the financial difficulties it was then encountering. Also by this time, GG Sportswear had already defaulted on its monthly installment

payments to World Class. Under these circumstances, we are more inclined to believe World Class's contention that GG Sportswear's complaint was simply an attempt to evade its obligations to World Class under the Agreement. This is a ploy we cannot accept.

On the second ground, we note that the Agreement expressly provides that GG Sportswear shall be entitled to a Contract to Sell only upon its payment of at least 30% of the total contract price.[36] Since GG Sportswear had only paid 21% of the total contract price, World Class's obligation to execute a Contract to Sell had not yet arisen. Accordingly, GG Sportswear had no basis to claim that World Class breached this obligation.

Even if we apply Article 1191 of the Civil Code, which provides:

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. x x x x.

no reason still exists to rescind the contract. Under the Agreement, World Class's obligation was to finish the project and turn over the purchased units to GG Sportswear on or before the completion date. Notably, at the time GG Sportswear filed its complaint on June 10, 1997, the agreed completion date of December 15, 1998, or even August 1998, the date appearing on World Class's first License to Sell, was still a long way out. In other words, when GG Sportswear filed its complaint, World Class had not yet breached its obligation, and rescission under this provision of the Civil Code was premature.

Rescission of contracts of sale of
commercial condominium units on
installment is governed by P.D. No.
957.

Neither can GG Sportswear find recourse through P.D. No. 957, or the "Subdivision and Condominium Buyers' Protective Decree." This law covers all sales and purchases of subdivision or condominium units, and provides that the buyer's installment payments shall not be forfeited in favor of the developer or owner if the latter fails to develop the subdivision or condominium project. Section 23 of P.D. No. 957 provides:

Section 23. Non-Forfeiture of Payments. No installment payment made by a buyer in a subdivision or condominium project for the lot or unit he contracted to buy shall be forfeited in favor of the owner or developer when the buyer, after due notice to the owner or developer, desists from further payment due to the failure of the owner or developer to develop the subdivision or condominium project according to the approved plans and within the time limit for complying with the same. Such buyer may, at his option, be reimbursed the total amount paid including amortization interests but excluding delinquency interests, with interest thereon at the legal rate. [Emphasis supplied.]

Upon the developer's failure to develop, the buyer may choose either: (1) to continue with the contract but suspend payments until the developer complies with its obligation to finish the project; or (2) to cancel the contract and demand a refund of all payments made, excluding delinquency interests. Notably, a buyer's cause of action against a developer for failure to develop ripens only when the developer fails to complete the project on the lapse of the completion period stated on the sale contract or the developer's License to Sell.

To recall, the completion date of the Antel Global Corporate Center was either in August 1998 (based on World Class's first License to Sell), on December 15, 1998 (based on the provisional Contract to Sell), or on December 1999 (based on World Class's second License to Sell). At the time GG Sportswear filed its complaint against World Class on June 10, 1997, the Antel Global Corporate Center was still in the course of development[37] and none of these projected completion dates had arrived. Hence, any complaint for refund was premature.

Significantly, World Class completed the project in August 1999, or within the time period granted by the HLURB for the completion of the condominium project under the second License to Sell. This completion, undertaken while the case was pending before the Arbiter, rendered the issue of World Class's failure to develop the condominium project moot and academic.

As a side note, we observe that GG Sportswear, not World Class, substantially breached its obligations under the Agreement when it was remiss in the timely payment of its obligations, such that its January 1997 installment was paid only in March 1997, or two months after due date. GG Sportswear did not pay the succeeding installment dated April 1997 (presumably for February 1997) until it had filed its complaint in June 1997. A substantial breach of a reciprocal obligation, like failure to pay the price in the manner prescribed by the contract, entitles the injured party to rescind the obligation.[38] Under this contractual term, it was World Class, not GG Sportswear, which had the ground to demand the rescission of the Agreement, as well as the prerogative to secure the forfeiture of all the payments already made by GG Sportswear. However, whether the Agreement between World Class and Sportswear should now be rescinded is a question we do not decide, as this is not a matter before us.

The lack of a Certificate of
Registration/License to Sell
merely subjects the developer
to administrative sanctions.

On a final note, we choose to reiterate, for the benefit of the HLURB, our ruling in *Co Chien v. Sta. Lucia Realty & Development, Inc.*,[39] that the requirements of Sections 4 and 5 of P.D. No. 957 are intended merely for administrative convenience in order to allow for a more effective regulation of the industry and do not go into the validity of the contract such that the absence thereof would automatically render the contract null and void. We said:

A review of the relevant provisions of P.D. 957 reveals that while the law penalizes the selling of subdivision lots and condominium units without prior issuance of a Certificate of Registration and License to Sell by the HLURB, it does not provide that the absence thereof will automatically render a contract, otherwise validly entered, void. The penalty imposed by the decree is the general penalty provided for the violation of any of its provisions. It is well-settled in this jurisdiction that the clear language of the law shall prevail. This principle particularly enjoins strict compliance with provisions of law which are penal in nature, or when a penalty is provided for the violation thereof. With regard to P.D. 957, nothing therein provides for the nullification of a contract to sell in the event that the seller, at the time the contract was entered into, did not possess a certificate of registration and license to sell. Absent any specific sanction pertaining to the violation of the questioned provisions (Sections 4 and 5), the general penalties provided in the law shall be applied. The general penalties for the violation of any provisions in P.D. 957 are provided for in Sections 38 and 39. As can clearly be seen in the cited provisions, the same do not include the nullification of contracts that are otherwise validly entered.

x x x x

The lack of certificate and registration, without more, while penalized under the law, is not in and of itself sufficient to render a contract void.[40] (Emphasis supplied.)

We see no reason to depart from this ruling, and so hold that the Arbiter erred in declaring the Agreement void due to the absence of a CR/LS at the time the Agreement was executed.

WHEREFORE, we DENY the present petition for review on certiorari and AFFIRM the assailed CA Decision and Resolution dated December 19, 2007 and January 2, 2008, respectively. Accordingly, the complaint of G.G. Sportswear Mfg. Corp. is DISMISSED. Costs against petitioner G.G. Sportswear Mfg. Corp.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Abad, and Perez, JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino, and concurred in by Associate Justice Lucenito N. Tagle and Associate Justice Agustin S. Dizon; rollo, pp. 41-52.

[2] Id. at 53-54.

[3] Id. at 175-177.

[4] Per the Reservation Agreement, id., quoted in the Court of Appeals Decision of December 19, 2007; id., p. 42, the terms are as follows: (1) Total purchase price is P89,624,272.82; (2) Down payment (20%) of P17,924,854.56, payable on May 9, 1996, less the Reservation Fee of P 500,000, or a sum of P17,424,854.56; (3) The down payment is payable in 10 equal monthly installments of P1,742,484.45 per month from May 30, 1996 to February 28, 1997; (4) The Balance of P71,699,418.25 shall be paid in the following manner: 80% of the balance payable in 30 equal monthly installments on the dates and as covered by the post-dated checks (PDCs) delivered by GG Sportswear to World Class and which checks appear in the Reservation Agreement; the remaining 20% of the balance shall be payable upon the turn-over of the unit.

[5] Id. at 176. The Reservation Agreement provides that "[t]he Contract to Sell will be executed upon payment of Thirty percent (30%) of the total value of the sale."

[6] Id.

[7] Id. at 178.

[8] World Class's letter dated February 3, 1997, id. at 179.

[9] GG Sportswear's letter dated February 8, 1997, id. at 180.

[10] World Class's letter dated February 11, 1997, id. at 181.

[11] The Agreement provided for surcharges on unpaid installments, acceleration and forfeiture clauses.

[12] World Class's letter dated February 11, 1997, supra note 10.

[13] Rollo, pp. 151-156.

[14] Dated April 23, 1997; id. at 186.

[15] Dated April 30, 1997; id. at 147.

[16] World Class's letter dated May 28, 1997; id. at 149-150.

[17] Id. at 136-139.

[18] Id. at 159-174.

[19] Entitled "Regulating the Sale of Subdivision Lots and Condominiums, Providing Penalties for Violations Thereof," otherwise known as "The Subdivision and Condominium Buyers' Protective Decree."

[20] Rollo, pp. 74-81.

[21] Id. at 74-81. The decision stated in part:

Pursuant to Sections 4 and 5 of P.D. No. 957, the owner/developer of a subdivision or condominium project is beforehand required to secure a Certificate of Registration and License to Sell from this Board before selling subdivision lots or condominium units in the project. x x x.

A verification of the records of the subject condominium project would show that the project was issued a License to Sell only on 01 August 1996, whereas the Reservation Agreement in question was executed on or about May 15, 1996 when the respondent had no License to Sell yet.

x x x x

As correctly pointed out by complainant, the absence of a License to Sell by the owner or developer at the time of the execution of the Reservation Agreement would consequently translate into a lack of guarantee for completion of the project which a 'performance bond' addresses as mandated under Section 6 of P.D. No. 957. Without a guarantee for completion or absence of performance bond, which is a prerequisite in the issuance of a License to Sell then there is indeed no assurance of a specific date when the project would be completed. Devoid of specific date of completion of the condominium project in a Contract to Sell and as prescribed in the License to Sell, the buying public would indeed be subject to the mercy, whims, caprices, and even negligence of the owner/developer. (emphasis supplied)

x x x x

Confronted now by respondent's act/s of selling to the complainant the units at Antel Global Corporate Center without license to sell, which is contrary to the mandatory provisions of P.D. No. 957, this Office is left with no sound option but to rule as void the subject transaction.

In this situation, the complainant-buyer may recover its payments as provided in Article 1416 of the Civil Code, thus:

Art. 1416. When the Agreement is not illegal per se but is merely prohibited and the prohibition by the law is designed for the protection of the plaintiff, he may, if public policy is thereby enhanced, recover what he has paid or delivered.

[22] Rollo, pp. 82-86.

[23] Id. at 84-85.

[24] Section 23, P.D. No. 957.

[25] Rollo, pp. 87-100.

[26] Id. at 101-103.

[27] Under Rule 43 of the 1997 Rules of Civil Procedure.

[28] Rollo, pp. 41-52.

[29] Supra note 20.

[30] Resolution of April 29, 2008. Rollo, pp. 53-54.

[31] Under Rule 45 of the 1997 Rules of Civil Procedure, id. at 8-37.

[32] G.R. No. 142947, March 19, 2002, 379 SCRA 463.

[33] Rollo, pp. 469-470.

[34] Del Castillo vda. de Mistica v. Naguiat, G.R. No. 137909, December 11, 2003, 418 SCRA 73.

[35] Vermen Realty Development Corporation v. Court of Appeals, G.R. No. 101762, July 6, 1993, 224 SCRA 549, 555.

[36] Supra note 5.

[37] Per the provisional Contract to Sell, the construction of the project was to commence not later than March 30, 1996.

[38] Sps. Velarde v. Court of Appeals, G.R. No. 108346, July 11, 2001, 361 SCRA 56, 57.

[39] G.R. No. 162090, January 31, 2007, 513 SCRA 570.

[40] Id. at 578-580.

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