

**MILA A. REYES, PETITIONER, VS. VICTORIA T. TUPARAN,
RESPONDENT.***G.R. No. 188064. June 01, 2011*

Ponente: MENDOZA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-188064/>**MENDOZA, J.:**

Subject of this petition for review is the February 13, 2009 Decision[1] of the Court of Appeals (CA) which affirmed with modification the February 22, 2006 Decision[2] of the Regional Trial Court, Branch 172, Valenzuela City (RTC), in Civil Case No. 3945-V-92, an action for Rescission of Contract with Damages.

On September 10, 1992, Mila A. Reyes (petitioner) filed a complaint for Rescission of Contract with Damages against Victoria T. Tuparan (respondent) before the RTC. In her Complaint, petitioner alleged, among others, that she was the registered owner of a 1,274 square meter residential and commercial lot located in Karuhatan, Valenzuela City, and covered by TCT No. V-4130; that on that property, she put up a three-storey commercial building known as RBJ Building and a residential apartment building; that since 1990, she had been operating a drugstore and cosmetics store on the ground floor of RBJ Building where she also had been residing while the other areas of the buildings including the sidewalks were being leased and occupied by tenants and street vendors.

In December 1989, respondent leased from petitioner a space on the ground floor of the RBJ Building for her pawnshop business for a monthly rental of P4,000.00. A close friendship developed between the two which led to the respondent investing thousands of pesos in petitioner's financing/lending business from February 7, 1990 to May 27, 1990, with interest at the rate of 6% a month.

On June 20, 1988, petitioner mortgaged the subject real properties to the Farmers Savings Bank and Loan Bank, Inc. (FSL Bank) to secure a loan of P2,000,000.00 payable in installments. On November 15, 1990, petitioner's outstanding account on the mortgage reached P2,278,078.13. Petitioner then decided to sell her real properties for at least P6,500,000.00 so she could liquidate her bank loan and finance her businesses. As a gesture of friendship, respondent verbally offered to conditionally buy petitioner's real properties for P4,200,000.00 payable on installment basis without interest and to assume the bank loan. To induce the petitioner to accept her offer, respondent offered the following conditions/concessions:

1. That the conditional sale will be cancelled if the plaintiff (petitioner) can find a buyer of said properties for the amount of P6,500,000.00 within the next three (3) months provided all amounts received by the plaintiff from the defendant (respondent) including payments actually made by defendant to Farmers Savings and Loan Bank would be refunded to the defendant with additional interest of six (6%) monthly;
2. That the plaintiff would continue using the space occupied by her and drugstore and cosmetics store without any rentals for the duration of the installment payments;
3. That there will be a lease for fifteen (15) years in favor of the plaintiff over the space for drugstore and cosmetics store at a monthly rental of only P8,000.00 after full payment of the stipulated installment payments are made by the defendant;

4. That the defendant will undertake the renewal and payment of the fire insurance policies on the two (2) subject buildings following the expiration of the then existing fire insurance policy of the plaintiff up to the time that plaintiff is fully paid of the total purchase price of P4,200,000.00.[3]

After petitioner's verbal acceptance of all the conditions/concessions, both parties worked together to obtain FSL Bank's approval for respondent to assume her (petitioner's) outstanding bank account. The assumption would be part of respondent's purchase price for petitioner's mortgaged real properties. FSL Bank approved their proposal on the condition that petitioner would sign or remain as co-maker for the mortgage obligation assumed by respondent.

On November 26, 1990, the parties and FSL Bank executed the corresponding Deed of Conditional Sale of Real Properties with Assumption of Mortgage. Due to their close personal friendship and business relationship, both parties chose not to reduce into writing the other terms of their agreement mentioned in paragraph 11 of the complaint. Besides, FSL Bank did not want to incorporate in the Deed of Conditional Sale of Real Properties with Assumption of Mortgage any other side agreement between petitioner and respondent.

Under the Deed of Conditional Sale of Real Properties with Assumption of Mortgage, respondent was bound to pay the petitioner a lump sum of P1.2 million pesos without interest as part of the purchase price in three (3) fixed installments as follows:

- a) P200,000.00 - due January 31, 1991
- b) P200,000.00 - due June 30, 1991
- c) P800,000.00 - due December 31, 1991

Respondent, however, defaulted in the payment of her obligations on their due dates. Instead of paying the amounts due in lump sum on their respective maturity dates, respondent paid petitioner in small amounts from time to time. To compensate for her delayed payments, respondent agreed to pay petitioner an interest of 6% a month. As of August 31, 1992, respondent had only paid P395,000.00, leaving a balance of P805,000.00 as principal on the unpaid installments and P466,893.25 as unpaid accumulated interest.

Petitioner further averred that despite her success in finding a prospective buyer for the subject real properties within the 3-month period agreed upon, respondent reneged on her promise to allow the cancellation of their deed of conditional sale. Instead, respondent became interested in owning the subject real properties and even wanted to convert the entire property into a modern commercial complex. Nonetheless, she consented because respondent repeatedly professed friendship and assured her that all their verbal side agreement would be honored as shown by the fact that since December 1990, she (respondent) had not collected any rentals from the petitioner for the space occupied by her drugstore and cosmetics store.

On March 19, 1992, the residential building was gutted by fire which caused the petitioner to lose rental income in the amount of P8,000.00 a month since April 1992. Respondent neglected to renew the fire insurance policy on the subject buildings.

Since December 1990, respondent had taken possession of the subject real properties and had been continuously collecting and receiving monthly rental income from the tenants of the buildings and vendors of the sidewalk fronting the RBJ building without sharing it with petitioner.

On September 2, 1992, respondent offered the amount of P751,000.00 only payable on September 7, 1992, as full payment of the purchase price of the subject real properties and demanded the simultaneous execution of the corresponding deed of absolute sale.

Respondent's Answer

Respondent countered, among others, that the tripartite agreement erroneously designated by the petitioner as a Deed of Conditional Sale of Real Property with Assumption of Mortgage was actually a pure and absolute contract of sale with a term period. It could not be considered a conditional sale because the acquisition of contractual rights and the performance of the obligation therein did not depend upon a future and uncertain event. Moreover, the capital gains and documentary stamps and other miscellaneous expenses and real estate taxes up to 1990 were supposed to be paid by petitioner but she failed to do so.

Respondent further averred that she successfully rescued the properties from a definite foreclosure by paying the assumed mortgage in the amount of P2,278,078.13 plus interest and other finance charges. Because of her payment, she was able to obtain a deed of cancellation of mortgage and secure a release of mortgage on the subject real properties including petitioner's ancestral residential property in Sta. Maria, Bulacan.

Petitioner's claim for the balance of the purchase price of the subject real properties was baseless and unwarranted because the full amount of the purchase price had already been paid, as she did pay more than P4,200,000.00, the agreed purchase price of the subject real properties, and she had even introduced improvements thereon worth more than P4,800,000.00. As the parties could no longer be restored to their original positions, rescission could not be resorted to.

Respondent added that as a result of their business relationship, petitioner was able to obtain from her a loan in the amount of ₱400,000.00 with interest and took several pieces of jewelry worth P120,000.00. Petitioner also failed and refused to pay the monthly rental of P20,000.00 since November 16, 1990 up to the present for the use and occupancy of the ground floor of the building on the subject real property, thus, accumulating arrearages in the amount of P470,000.00 as of October 1992.

Ruling of the RTC

On February 22, 2006, the RTC handed down its decision finding that respondent failed to pay in full the P4.2 million total purchase price of the subject real properties leaving a balance of P805,000.00. It stated that the checks and receipts presented by respondent refer to her payments of the mortgage obligation with FSL Bank and not the payment of the balance of P1,200,000.00. The RTC also considered the Deed of Conditional Sale of Real Property with Assumption of Mortgage executed by and among the two parties and FSL Bank a contract to sell, and not a contract of sale. It was of the opinion that although the petitioner was entitled to a rescission of the contract, it could not be permitted because her non-payment in full of the purchase price "may not be considered as substantial and fundamental breach of the contract as to defeat the object of the parties in entering into the contract." [4] The RTC believed that the respondent's offer stated in her counsel's letter dated September 2, 1992 to settle what she thought was her unpaid balance of P751,000.00 showed her sincerity and willingness to settle her obligation. Hence, it would be more equitable to give respondent a chance to pay the balance plus interest within a given period of time.

Finally, the RTC stated that there was no factual or legal basis to award damages and attorney's fees because there was no proof that either party acted fraudulently or in bad faith.

Thus, the dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Allowing the defendant to pay the plaintiff within thirty (30) days from the finality hereof the amount of P805,000.00, representing the unpaid purchase price of the subject property, with interest thereon at 2% a month from January 1, 1992 until fully paid. Failure of the defendant to pay said amount within the said period shall cause the automatic rescission of the contract (Deed of Conditional Sale of Real Property with

Assumption of Mortgage) and the plaintiff and the defendant shall be restored to their former positions relative to the subject property with each returning to the other whatever benefits each derived from the transaction;

2. Directing the defendant to allow the plaintiff to continue using the space occupied by her for drugstore and cosmetic store without any rental pending payment of the aforesaid balance of the purchase price.

3. Ordering the defendant, upon her full payment of the purchase price together with interest, to execute a contract of lease for fifteen (15) years in favor of the plaintiff over the space for the drugstore and cosmetic store at a fixed monthly rental of P8,000.00; and

4. Directing the plaintiff, upon full payment to her by the defendant of the purchase price together with interest, to execute the necessary deed of sale, as well as to pay the Capital Gains Tax, documentary stamps and other miscellaneous expenses necessary for securing the BIR Clearance, and to pay the real estate taxes due on the subject property up to 1990, all necessary to transfer ownership of the subject property to the defendant.

No pronouncement as to damages, attorney's fees and costs.

SO ORDERED.[5]

Ruling of the CA

On February 13, 2009, the CA rendered its decision affirming with modification the RTC Decision. The CA agreed with the RTC that the contract entered into by the parties is a contract to sell but ruled that the remedy of rescission could not apply because the respondent's failure to pay the petitioner the balance of the purchase price in the total amount of P805,000.00 was not a breach of contract, but merely an event that prevented the seller (petitioner) from conveying title to the purchaser (respondent). It reasoned that out of the total purchase price of the subject property in the amount of P4,200,000.00, respondent's remaining unpaid balance was only P805,000.00. Since respondent had already paid a substantial amount of the purchase price, it was but right and just to allow her to pay the unpaid balance of the purchase price plus interest. Thus, the decretal portion of the CA Decision reads:

WHEREFORE, premises considered, the Decision dated 22 February 2006 and Order dated 22 December 2006 of the Regional Trial Court of Valenzuela City, Branch 172 in Civil Case No. 3945-V-92 are AFFIRMED with MODIFICATION in that defendant-appellant Victoria T. Tuparan is hereby ORDERED to pay plaintiff-appellee/appellant Mila A. Reyes, within 30 days from finality of this Decision, the amount of P805,000.00 representing the unpaid balance of the purchase price of the subject property, plus interest thereon at the rate of 6% per annum from 11 September 1992 up to finality of this Decision and, thereafter, at the rate of 12% per annum until full payment. The ruling of the trial court on the automatic rescission of the Deed of Conditional Sale with Assumption of Mortgage is hereby DELETED. Subject to the foregoing, the dispositive portion of the trial court's decision is AFFIRMED in all other respects.

SO ORDERED.[6]

After the denial of petitioner's motion for reconsideration and respondent's motion for partial reconsideration, petitioner filed the subject petition for review praying for the reversal and setting aside of the CA Decision anchored on the following

ASSIGNMENT OF ERRORS

A. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN DISALLOWING THE OUTRIGHT RESCISSION OF THE SUBJECT DEED OF CONDITIONAL SALE OF REAL PROPERTIES WITH ASSUMPTION OF MORTGAGE ON THE GROUND THAT RESPONDENT

TUPARAN'S FAILURE TO PAY PETITIONER REYES THE BALANCE OF THE PURCHASE PRICE OF P805,000.00 IS NOT A BREACH OF CONTRACT DESPITE ITS OWN FINDINGS THAT PETITIONER STILL RETAINS OWNERSHIP AND TITLE OVER THE SUBJECT REAL PROPERTIES DUE TO RESPONDENT'S REFUSAL TO PAY THE BALANCE OF THE TOTAL PURCHASE PRICE OF P805,000.00 WHICH IS EQUAL TO 20% OF THE TOTAL PURCHASE PRICE OF P4,200,000.00 OR 66% OF THE STIPULATED LAST INSTALLMENT OF P1,200,000.00 PLUS THE INTEREST THEREON. IN EFFECT, THE COURT OF APPEALS AFFIRMED AND ADOPTED THE TRIAL COURT'S CONCLUSION THAT THE RESPONDENT'S NON-PAYMENT OF THE P805,000.00 IS ONLY A SLIGHT OR CASUAL BREACH OF CONTRACT.

B. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN DISREGARDING AS GROUND FOR THE RESCISSION OF THE SUBJECT CONTRACT THE OTHER FRAUDULENT AND MALICIOUS ACTS COMMITTED BY THE RESPONDENT AGAINST THE PETITIONER WHICH BY THEMSELVES SUFFICIENTLY JUSTIFY A DENIAL OF A GRACE PERIOD OF THIRTY (30) DAYS TO THE RESPONDENT WITHIN WHICH TO PAY TO THE PETITIONER THE P805,000.00 PLUS INTEREST THEREON.

C. EVEN ASSUMING ARGUENDO THAT PETITIONER IS NOT ENTITLED TO THE RESCISSION OF THE SUBJECT CONTRACT, THE COURT OF APPEALS STILL SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN REDUCING THE INTEREST ON THE P805,000.00 TO ONLY "6% PER ANNUM STARTING FROM THE DATE OF FILING OF THE COMPLAINT ON SEPTEMBER 11, 1992" DESPITE THE PERSONAL COMMITMENT OF THE RESPONDENT AND AGREEMENT BETWEEN THE PARTIES THAT RESPONDENT WILL PAY INTEREST ON THE P805,000.00 AT THE RATE OF 6% MONTHLY STARTING THE DATE OF DELINQUENCY ON DECEMBER 31, 1991.

D. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN THE APPRECIATION AND/OR MISAPPRECIATION OF FACTS RESULTING INTO THE DENIAL OF THE CLAIM OF PETITIONER REYES FOR ACTUAL DAMAGES WHICH CORRESPOND TO THE MILLIONS OF PESOS OF RENTALS/FRUITS OF THE SUBJECT REAL PROPERTIES WHICH RESPONDENT TUPARAN COLLECTED CONTINUOUSLY SINCE DECEMBER 1990, EVEN WITH THE UNPAID BALANCE OF P805,000.00 AND DESPITE THE FACT THAT RESPONDENT DID NOT CONTROVERT SUCH CLAIM OF THE PETITIONER AS CONTAINED IN HER AMENDED COMPLAINT DATED APRIL 22, 2006.

E. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN THE APPRECIATION OF FACTS RESULTING INTO THE DENIAL OF THE CLAIM OF PETITIONER REYES FOR THE P29,609.00 BACK RENTALS THAT WERE COLLECTED BY RESPONDENT TUPARAN FROM THE OLD TENANTS OF THE PETITIONER.

F. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN DENYING THE PETITIONER'S EARLIER "URGENT MOTION FOR ISSUANCE OF A PRELIMINARY MANDATORY AND PROHIBITORY INJUNCTION" DATED JULY 7, 2008 AND THE "SUPPLEMENT" THERETO DATED AUGUST 4, 2008 THEREBY CONDONING THE UNJUSTIFIABLE FAILURE/REFUSAL OF JUDGE FLORO ALEJO TO RESOLVE WITHIN ELEVEN (11) YEARS THE PETITIONER'S THREE (3) SEPARATE "MOTIONS FOR PRELIMINARY INJUNCTION/ TEMPORARY RESTRAINING ORDER, ACCOUNTING AND DEPOSIT OF RENTAL INCOME" DATED MARCH 17, 1995, AUGUST 19, 1996 AND JANUARY 7, 2006 THEREBY PERMITTING THE RESPONDENT TO UNJUSTLY ENRICH HERSELF BY CONTINUOUSLY COLLECTING ALL THE RENTALS/FRUITS OF THE SUBJECT REAL PROPERTIES WITHOUT ANY ACCOUNTING AND COURT DEPOSIT OF THE COLLECTED RENTALS/FRUITS AND THE PETITIONERS "URGENT MOTION TO DIRECT DEFENDANT VICTORIA TUPARAN TO PAY THE ACCUMULATED UNPAID REAL ESTATE TAXES AND SEF TAXES ON THE SUBJECT REAL PROPERTIES" DATED JANUARY 13, 2007 THEREBY

EXPOSING THE SUBJECT REAL PROPERTIES TO IMMINENT AUCTION SALE BY THE CITY TREASURER OF VALENZUELA CITY.

G. THE COURT OF APPEALS SERIOUSLY ERRED AND ABUSED ITS DISCRETION IN DENYING THE PETITIONER'S CLAIM FOR MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES AGAINST THE RESPONDENT.

In sum, the crucial issue that needs to be resolved is whether or not the CA was correct in ruling that there was no legal basis for the rescission of the Deed of Conditional Sale with Assumption of Mortgage.

Position of the Petitioner

The petitioner basically argues that the CA should have granted the rescission of the subject Deed of Conditional Sale of Real Properties with Assumption of Mortgage for the following reasons:

1. The subject deed of conditional sale is a reciprocal obligation whose outstanding characteristic is reciprocity arising from identity of cause by virtue of which one obligation is correlative of the other.
2. The petitioner was rescinding - not enforcing - the subject Deed of Conditional Sale pursuant to Article 1191 of the Civil Code because of the respondent's failure/refusal to pay the P805,000.00 balance of the total purchase price of the petitioner's properties within the stipulated period ending December 31, 1991.
3. There was no slight or casual breach on the part of the respondent because she (respondent) deliberately failed to comply with her contractual obligations with the petitioner by violating the terms or manner of payment of the ₱1,200,000.00 balance and unjustly enriched herself at the expense of the petitioner by collecting all rental payments for her personal benefit and enjoyment.

Furthermore, the petitioner claims that the respondent is liable to pay interest at the rate of 6% per month on her unpaid installment of P805,000.00 from the date of the delinquency, December 31, 1991, because she obligated herself to do so.

Finally, the petitioner asserts that her claim for damages or lost income as well as for the back rentals in the amount of P29,609.00 has been fully substantiated and, therefore, should have been granted by the CA. Her claim for moral and exemplary damages and attorney's fees has been likewise substantiated.

Position of the Respondent

The respondent counters that the subject Deed of Conditional Sale with Assumption of Mortgage entered into between the parties is a contract to sell and not a contract of sale because the title of the subject properties still remains with the petitioner as she failed to pay the installment payments in accordance with their agreement.

Respondent echoes the RTC position that her inability to pay the full balance on the purchase price may not be considered as a substantial and fundamental breach of the subject contract and it would be more equitable if she would be allowed to pay the balance including interest within a certain period of time. She claims that as early as 1992, she has shown her sincerity by offering to pay a certain amount which was, however, rejected by the petitioner.

Finally, respondent states that the subject deed of conditional sale explicitly provides that the installment payments shall not bear any interest. Moreover, petitioner failed to prove that she was entitled to back rentals.

The Court's Ruling

The petition lacks merit.

The Court agrees with the ruling of the courts below that the subject Deed of Conditional Sale with Assumption of Mortgage entered into by and among the two parties and FSL Bank on November 26, 1990 is a contract to sell and not a contract of sale. The subject contract was correctly classified as a contract to sell based on the following pertinent stipulations:

8. That the title and ownership of the subject real properties shall remain with the First Party until the full payment of the Second Party of the balance of the purchase price and liquidation of the mortgage obligation of P2,000,000.00. Pending payment of the balance of the purchase price and liquidation of the mortgage obligation that was assumed by the Second Party, the Second Party shall not sell, transfer and convey and otherwise encumber the subject real properties without the written consent of the First and Third Party.

9. That upon full payment by the Second Party of the full balance of the purchase price and the assumed mortgage obligation herein mentioned the Third Party shall issue the corresponding Deed of Cancellation of Mortgage and the First Party shall execute the corresponding Deed of Absolute Sale in favor of the Second Party.[7]

Based on the above provisions, the title and ownership of the subject properties remains with the petitioner until the respondent fully pays the balance of the purchase price and the assumed mortgage obligation. Thereafter, FSL Bank shall then issue the corresponding deed of cancellation of mortgage and the petitioner shall execute the corresponding deed of absolute sale in favor of the respondent.

Accordingly, the petitioner's obligation to sell the subject properties becomes demandable only upon the happening of the positive suspensive condition, which is the respondent's full payment of the purchase price. Without respondent's full payment, there can be no breach of contract to speak of because petitioner has no obligation yet to turn over the title. Respondent's failure to pay in full the purchase price is not the breach of contract contemplated under Article 1191 of the New Civil Code but rather just an event that prevents the petitioner from being bound to convey title to the respondent. The 2009 case of *Nabus v. Joaquin & Julia Pacson*[8] is enlightening:

The Court holds that the contract entered into by the Spouses Nabus and respondents was a contract to sell, not a contract of sale.

A contract of sale is defined in Article 1458 of the Civil Code, thus:

Art. 1458. 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.

xxx

Sale, by its very nature, is a consensual contract because it is perfected by mere consent. The essential elements of a contract of sale are the following:

- a) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- b) Determinate subject matter; and
- c) Price certain in money or its equivalent.

Under this definition, a Contract to Sell may not be considered as a Contract of Sale because the first essential element is lacking. In a contract to sell, the prospective seller explicitly reserves the transfer of title to the prospective buyer, meaning, the prospective seller does not as yet agree or consent to transfer ownership of the property subject of the contract to sell until the happening of an event, which for present purposes we shall take as the full payment of the purchase price. What the seller agrees or obliges himself to do is to fulfill his promise to sell the subject property when the entire amount of the purchase price is delivered to him. In other words, the full payment of the purchase price partakes of a suspensive condition, the non-fulfillment of which

prevents the obligation to sell from arising and, thus, ownership is retained by the prospective seller without further remedies by the prospective buyer.

xxx xxx xxx

Stated positively, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, the prospective seller's obligation to sell the subject property by entering into a contract of sale with the prospective buyer becomes demandable as provided in Article 1479 of the Civil Code which states:

Art. 1479. A promise to buy and sell a determinate thing for a price certain is reciprocally demandable.

An accepted unilateral promise to buy or to sell a determinate thing for a price certain is binding upon the promisor if the promise is supported by a consideration distinct from the price.

A contract to sell may thus be defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, that is, full payment of the purchase price.

A contract to sell as defined hereinabove, may not even be considered as a conditional contract of sale where the seller may likewise reserve title to the property subject of the sale until the fulfillment of a suspensive condition, because in a conditional contract of sale, the first element of consent is present, although it is conditioned upon the happening of a contingent event which may or may not occur. If the suspensive condition is not fulfilled, the perfection of the contract of sale is completely abated. However, if the suspensive condition is fulfilled, the contract of sale is thereby perfected, such that if there had already been previous delivery of the property subject of the sale to the buyer, ownership thereto automatically transfers to the buyer by operation of law without any further act having to be performed by the seller.

In a contract to sell, upon the fulfillment of the suspensive condition which is the full payment of the purchase price, ownership will not automatically transfer to the buyer although the property may have been previously delivered to him. The prospective seller still has to convey title to the prospective buyer by entering into a contract of absolute sale.

Further, *Chua v. Court of Appeals*, cited this distinction between a contract of sale and a contract to sell:

In a contract of sale, the title to the property passes to the vendee upon the delivery of the thing sold; in a contract to sell, ownership is, by agreement, reserved in the vendor and is not to pass to the vendee until full payment of the purchase price. Otherwise stated, in a contract of sale, the vendor loses ownership over the property and cannot recover it until and unless the contract is resolved or rescinded; whereas, in a contract to sell, title is retained by the vendor until full payment of the price. In the latter contract, 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.

It is not the title of the contract, but its express terms or stipulations that determine the kind of contract entered into by the parties. In this case, the contract entitled "Deed of Conditional Sale" is actually a contract to sell. The contract stipulated that "as soon as the full consideration of the sale has been paid by the vendee, the corresponding transfer documents shall be executed by the vendor to the vendee for the portion sold." Where the vendor promises to execute a deed of absolute sale upon the completion by the vendee of the payment of the price, the contract is only a contract to sell." The aforesaid stipulation shows that the vendors reserved title to the subject property until full payment of the purchase price.

xxx

Unfortunately for the Spouses Pacson, since the Deed of Conditional Sale executed in their favor was merely a

contract to sell, the obligation of the seller to sell becomes demandable only upon the happening of the suspensive condition. The full payment of the purchase price is the positive suspensive condition, the failure of which is not a breach of contract, but simply an event that prevented the obligation of the vendor to convey title from acquiring binding force. Thus, for its non-fulfilment, there is no contract to speak of, the obligor having failed to perform the suspensive condition which enforces a juridical relation. With this circumstance, there can be no rescission or fulfillment of an obligation that is still non-existent, the suspensive condition not having occurred as yet. Emphasis should be made that the breach contemplated in Article 1191 of the New Civil Code is the obligor's failure to comply with an obligation already extant, not a failure of a condition to render binding that obligation. [Emphases and underscoring supplied]

Consistently, the Court handed down a similar ruling in the 2010 case of *Heirs of Atienza v. Espidol*, [9] where it was written:

Regarding the right to cancel the contract for non-payment of an installment, there is need to initially determine if what the parties had was a contract of sale or a contract to sell. In a contract of sale, the title to the property passes to the buyer upon the delivery of the thing sold. In a contract to sell, on the other hand, the ownership is, by agreement, retained by the seller and is not to pass to the vendee until full payment of the purchase price. In the contract of sale, the buyer's non-payment of the price is a negative resolutory condition; in the contract to sell, the buyer's full payment of the price is a positive suspensive condition to the coming into effect of the agreement. In the first case, the seller has lost and cannot recover the ownership of the property unless he takes action to set aside the contract of sale. In the second case, the title simply remains in the seller if the buyer does not comply with the condition precedent of making payment at the time specified in the contract. Here, it is quite evident that the contract involved was one of a contract to sell since the Atienzas, as sellers, were to retain title of ownership to the land until respondent Espidol, the buyer, has paid the agreed price. Indeed, there seems no question that the parties understood this to be the case.

Admittedly, Espidol was unable to pay the second installment of P1,750,000.00 that fell due in December 2002. That payment, said both the RTC and the CA, was a positive suspensive condition failure of which was not regarded a breach in the sense that there can be no rescission of an obligation (to turn over title) that did not yet exist since the suspensive condition had not taken place. x x x. [Emphases and underscoring supplied]

Thus, the Court fully agrees with the CA when it resolved: "Considering, however, that the Deed of Conditional Sale was not cancelled by Vendor Reyes (petitioner) and that out of the total purchase price of the subject property in the amount of P4,200,000.00, the remaining unpaid balance of Tuparan (respondent) is only P805,000.00, a substantial amount of the purchase price has already been paid. It is only right and just to allow Tuparan to pay the said unpaid balance of the purchase price to Reyes." [10]

Granting that a rescission can be permitted under Article 1191, the Court still cannot allow it for the reason that, considering the circumstances, there was only a slight or casual breach in the fulfillment of the obligation.

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. Whether the breach is slight or substantial is largely determined by the attendant circumstances. [11] In the case at bench, the subject contract stipulated the following important provisions:

2. That the purchase price of P4,200,000.00 shall be paid as follows:

a) P278,078.13 received in cash by the First Party but directly paid to the Third Party as partial payment of the mortgage obligation of the First Party in order to reduce the amount to P2,000,000.00 only as of November 15, 1990;

b) P721,921.87 received in cash by the First Party as additional payment of the Second Party;

c) P1,200,000.00 to be paid in installments as follows:

- P200,000.00 payable on or before January 31, 1991;
- P200,000.00 payable on or before June 30, 1991;
- P800,000.00 payable on or before December 31, 1991;

Note: All the installments shall not bear any interest.

d) P2,000,000.00 outstanding balance of the mortgage obligation as of November 15, 1990 which is hereby assumed by the Second Party.

x x x

3. That the Third Party hereby acknowledges receipts from the Second Party P278,078.13 as partial payment of the loan obligation of First Party in order to reduce the account to only P2,000,000.00 as of November 15, 1990 to be assumed by the Second Party effective November 15, 1990.[12]

From the records, it cannot be denied that respondent paid to FSL Bank petitioner's mortgage obligation in the amount of P2,278,078.13, which formed part of the purchase price of the subject property. Likewise, it is not disputed that respondent paid directly to petitioner the amount of P721,921.87 representing the additional payment for the purchase of the subject property. Clearly, out of the total price of ₱4,200,000.00, respondent was able to pay the total amount of P3,000,000.00, leaving a balance of ₱1,200,000.00 payable in three (3) installments.

Out of the P1,200,000.00 remaining balance, respondent paid on several dates the first and second installments of P200,000.00 each. She, however, failed to pay the third and last installment of P800,000.00 due on December 31, 1991. Nevertheless, on August 31, 1992, respondent, through counsel, offered to pay the amount of P751,000.00, which was rejected by petitioner for the reason that the actual balance was P805,000.00 excluding the interest charges.

Considering that out of the total purchase price of P4,200,000.00, respondent has already paid the substantial amount of P3,400,000.00, more or less, leaving an unpaid balance of only P805,000.00, it is right and just to allow her to settle, within a reasonable period of time, the balance of the unpaid purchase price. The Court agrees with the courts below that the respondent showed her sincerity and willingness to comply with her obligation when she offered to pay the petitioner the amount of P751,000.00.

On the issue of interest, petitioner failed to substantiate her claim that respondent made a personal commitment to pay a 6% monthly interest on the P805,000.00 from the date of delinquency, December 31, 1991. As can be gleaned from the contract, there was a stipulation stating that: "All the installments shall not bear interest." The CA was, however, correct in imposing interest at the rate of 6% per annum starting from the filing of the complaint on September 11, 1992.

Finally, the Court upholds the ruling of the courts below regarding the non-imposition of damages and attorney's fees. Aside from petitioner's self-serving statements, there is not enough evidence on record to prove that respondent acted fraudulently and maliciously against the petitioner. In the case of *Heirs of Atienza v. Espidol*,[13] it was stated:

Respondents are not entitled to moral damages because contracts are not referred to in Article 2219 of the Civil Code, which enumerates the cases when moral damages may be recovered. Article 2220 of the Civil Code allows the recovery of moral damages in breaches of contract where the defendant acted fraudulently or in bad faith. However, this case involves a contract to sell, wherein full payment of the purchase price is a positive

suspensive condition, the non-fulfillment of which is not a breach of contract, but merely an event that prevents the seller from conveying title to the purchaser. Since there is no breach of contract in this case, respondents are not entitled to moral damages.

In the absence of moral, temperate, liquidated or compensatory damages, exemplary damages cannot be granted for they are allowed only in addition to any of the four kinds of damages mentioned.

WHEREFORE, the petition is DENIED.

SO ORDERED.

Carpio, (Chairperson), Nachura, Peralta, and Abad, JJ., concur.

[1] Rollo, pp. 72-102; penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justice Juan Q. Enriquez, Jr. and Associate Justice Normandie B. Pizarro.

[2] Id. at 147-162.

[3] Paragraph 11 of the Complaint, id. at 176.

[4] Id. at 160.

[5] Id. at 162.

[6] Id. at 101-102.

[7] Memorandum for Respondent, id. at 395.

[8] G.R. No. 161318, November 25, 2009, 605 SCRA 334, 348-353.

[9] G.R. No. 180665, August 11, 2010, 628 SCRA 256, 262-263.

[10] CA Decision, rollo, p. 100.

[11] GG Sportswear Mfg. Corp. v. World Class Properties, Inc., G.R. No. 182720, March 2, 2010, 614 SCRA 75, 87.

[12] Rollo, pp. 25-26.

[13] Supra note 9.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.