

NIEVES SELERIO AND ALICIA SELERIO, PETITIONERS, VS. TREGIDIO B. BANCASAN, RESPONDENT.*G.R. No. 222442. June 23, 2020*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-222442/>**CAGUIOA, J:**

This is a Petition for Review on Certiorari[1] (Petition) under Rule 45 of the Rules of Court assailing the Decision[2] dated March 6, 2015 (Assailed Decision) and Resolution[3] dated November 25, 2015 (Assailed Resolution) of the Court of Appeals, Twenty-Second Division (CA), in CA-G.R. CV No. 03014-MIN. The CA reversed the March 17, 2009[4] and March 22, 2010[5] Orders of the Regional Trial Court, Branch 11, Davao City (RTC) and held that respondent's action has not prescribed.

The Facts and Antecedent Proceedings

The sole issue for resolution in the instant case is whether or not respondent's action for recovery of possession has prescribed. The CA summarized the facts as follows:

[Petitioner] Nieves Selerio (Nieves) is the claimant, occupant, and possessor of a parcel of land identified as Lot 2, Block 14 located at Garcia Heights, Bajada, Davao City with an area of Six Hundred Square Meters (600 sq. m.). On September 18, 1993, Nieves executed a Deed of Transfer and Waiver of Rights, Interests and Improvements [(Deed)] over the subject land in favor of [respondent] Tregidio [Bancasan] (Tregidio) conveying, ceding, and selling the property including all improvements found thereon.

Nieves [supposedly] sold the subject property to Tregidio for Two Hundred Thousand Pesos ([P]200,000.00); and the former acknowledged to have received fifty percent (50%) of the amount from the latter. In the Deed, the parties agreed that the fifty percent 50% balance of the total consideration shall be paid only when Nieves and her family shall have vacated the subject premises which shall not go beyond April 30, 1994, viz.:

x x x x

That for and in consideration of the sum of TWO HUNDRED THOUSAND PESOS ([P]200,000.00), Philippine Currency[,] (50%) PERCENT of which amount is [hereby] acknowledged and confessed received by, and to the full satisfaction of, TRANSFEROR from, and in hand paid by, TRANSFEREE, TRANSFEROR hereby cede[s], sell[s], transfers] and convey[s], and by these presents, has ceded, sold, transferred and conveyed to TRANSFEREE, his heirs, assigns and successors, the entirety of said Lot 2, Block 14, together with all the improvements found and existing, whether constructed or erected, and sown or planted therein;

That to allow sufficient time for TRANSFEROR for an orderly transfer of residence out of the lot, TRANSFEROR may reside in her former house which is included in this conveyance up to and until APRIL 30, 1994;

That the fifty (50%) percent balance in the herein consideration shall be given and paid to [the] TRANSFEROR only when she and her family shall have vacated the premises;

XXX X.][6]

After the [supposed] conveyance, however, Jose Selerio, and Cecilia Ababo filed a case docketed as Civil Case

No. 22,601-94 for Partition, Accounting of Property Income and Attorney's Fees against Nieves, Tregidio and others. Jose Selerio and Cecilia Selerio Ababa claimed to be the illegitimate children of Nieves' husband. In that case, the parties executed a Compromise Agreement on September 2, 1997 duly approved by the RTC wherein the parties agreed to proceed with the sale over the subject property[, viz.:

x x x x

5. That plaintiffs expressly waived and relinquish all their rights and interest in the house and lot (600 sq. m.) at Garcia Heights, Bajada, Davao City, and the sale of the house and lot to Defendants spouses Teddy and Mrs. Emy [Bancasan] [herein respondents] shall proceed as agreed and approved by the parties.

xxxx][7]

On February 2, 2007, Tregidio, through counsel, sent a letter to [petitioners] demanding the latter to vacate the subject property. The demand remained unheeded.

Consequently, on February 28, 2007, Tregidio filed a Complaint for Recovery of Possession, Damages and Attorney's Fees [(Complaint)] against [petitioners] Nieves and Alicia Selerio (Alicia)[, Nieves' daughter-in-law,] alleging that he is entitled to the possession of the property by virtue of the Deed executed in his favor. On May 17, 2007, [petitioners] filed their Answer to the Complaint. They countered that Nieves was forced to affix her signature on the document upon which she readily acceded as she was in dire need of money at th[at] time; that she did not appear before the notary public indicated in the Deed as during those years, she was incapable of engaging any travel to any far place, much less to Compostela, Davao del Norte which was very far from Davao City; that Nieves did not know that the document she signed is a transfer of rights, interests and improvements [as she was purportedly suffering from a very serious eye illness and she could neither see nor read];[8] and that although the total consideration of the land is [P]200,000.00, which is in fact very low, what she actually received was only [P]50,000.00 and small amounts of money she spent for Civil Case No. 22,601-94.

On February 14, 2008, Nieves and Alicia filed their Amended Answer. This time, they alleged, as an affirmative defense, that based on the Deed itself, there was no absolute transfer of rights considering that there are conditions set therein; and that the Deed must be appreciated as similar to a contract to sell rather than a contract of sale due to the conditions set therein. They furthermore argued that Tregid[i]o's cause of action had already prescribed; that in effect, he is enforcing a written contract which prescribes in 10 years from the time the right of action accrued; that as stipulated in the contract, Nieves and Alicia had to vacate the property not later than April 30, 1994; and that since he filed his Complaint only on March 14, 2007, he had slept on his rights for more than 12 years.

The [RTC] a quo [, in its March 12, 2008 Order,[9]] ordered the parties to submit their respective position papers on the affirmative defense of prescription.[10]

The Ruling of the RTC

After the submission of the parties' position papers on the issue of prescription, the RTC dismissed respondent's Complaint and held that his cause of action had prescribed.[11]

The RTC agreed with petitioners that although respondent filed a case for recovery of possession, he actually sought to enforce the Deed in order to gain possession over the property.[12] As such, the action was actually one for specific performance based on a written contract,[13] which prescribes in 10 years pursuant to Article 1144 of the Civil Code.[14] As the case was filed only on March 14, 2007 or after almost 13 years from the time petitioners were obliged to vacate the property on April 30, 1994, the action was already barred by prescription.[15]

In fact, the RTC went so far as to hold that no sale was perfected as petitioner Nieves never delivered the property[16] and respondent never fully paid the price.[17]

Respondent filed a motion for reconsideration, which the RTC subsequently denied.[18] Thus, respondent filed his appeal before the CA.

The Ruling of the CA

In the Assailed Decision, the CA reversed the order of the RTC and held that the action was filed within the prescriptive period.[19] The dispositive portion of the Assailed Decision stated:

WHEREFORE, the appeal is hereby GRANTED. The Orders dated March 17, 2009 and March 22, 2010 of the Regional Trial Court, Branch 11, Davao City in Civil Case No. 31772-01 are REVERSED and SET ASIDE. Let this case be REMANDED to the trial court which is DIRECTED to proceed and hear [respondent's] Complaint.

SO ORDERED.[20]

Contrary to the conclusions of the RTC, the CA held that the parties entered into a contract of sale.[21] Further, the CA held that based on the express terms of the Deed, i.e., that the "x x x TRANSFEROR hereby cede[s], sell[s], transfers] and convey[s], and by these presents, has ceded, sold, transferred and conveyed, to TRANSFEREE, his heirs, assigns and successors, the entirety of said Lot 2, Block 14, x x x",[22] petitioners already "transferred ownership of the subject property [to respondent] in exchange for the amount of [P]200,000.00." [23]

As respondent was already the owner of the subject property, the CA held that the prescriptive period for the latter's action to recover the property did not commence to run until February 2, 2007, i.e., when petitioners refusal to vacate the property despite demand, respondent's cause of action accrued.[24] It was of no moment that petitioners stayed well beyond the April 30, 1994 deadline prescribed under the Deed as their possession of the property was by mere tolerance of respondent.[25] Since the instant complaint was filed on February 28, 2007, the CA held that respondent's cause of action for recovery of possession was filed well-within the prescriptive period.[26]

In the Assailed Resolution, the CA denied petitioners' motion for reconsideration.[27]

Hence, this Petition.

Issues

Whether or not respondent's cause of action has prescribed.

The Court's Ruling

The Court agrees with the CA that the action has not prescribed, albeit for a different reason.

At this juncture, the Court finds it proper to first stress that the RTC grossly erred in holding that no sale was perfected as petitioner Nieves never delivered the property[28] and respondent never fully paid the price.[29] It is elementary that a contract of sale is perfected by mere consent. In *Beltran v. Spouses Cangayda, Jr.*, [30] the Court held:

A contract of sale is consensual in nature, and is perfected upon the concurrence of its essential requisites, thus: The essential requisites of a contract under Article 1318 of the New Civil Code are: (1) consent of the contracting parties; (2) object certain which is the subject matter of the contract; and (3) cause of the obligation which is established. Thus, contracts, other than real contracts are perfected by mere consent which is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute

the contract. Once perfected, they bind other contracting parties and the obligations arising therefrom have the force of law between the parties and should be complied with in good faith. The parties are bound not only to the fulfillment of what has been expressly stipulated but also to the consequences which, according to their nature, may be in keeping with good faith, usage and law.

Being a consensual contract, sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price. From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts. A perfected contract of sale imposes reciprocal obligations on the parties whereby the vendor obligates himself to transfer the ownership of and to deliver a determinate thing to the buyer who, in turn, is obligated to pay a price certain in money or its equivalent. Failure of either party to comply with his obligation entitles the other to rescission as the power to rescind is implied in reciprocal obligations.[31]

As a contract of sale is consensual in nature, the Court, in *Buenaventura v. Court of Appeals*,^[32] explained:

It is not the [sic] payment of [the] price that determines the validity of a contract of sale. Payment of the price has nothing to do with the perfection of the contract. Payment of the price goes into the performance of the contract. Failure to pay the consideration is different from lack of consideration. The former results in a right to demand the fulfillment or cancellation of the obligation under an existing valid contract while the latter prevents the existence of a valid contract.[33]

Similarly, noted legal expert Dean Cesar L. Villanueva likewise explained:

Under Article 1475 of the Civil Code, from the moment of perfection of the sale, the parties may reciprocally demand performance, even when the parties have not affixed their signatures to the written form of such sale, but subject to the provisions of the law governing the form of contracts. Consequently, the actual delivery of the subject matter or payment of the price agreed upon are not necessary components to establish the existence of a valid sale; and their non- performance do not also invalidate or render "void" a sale that has begun to exist as a valid contract at perfection; non-performance, merely becomes the legal basis for the remedies of either specific performance or rescission, with damages in either case[34]

Nevertheless, although the terms of the Deed suggest that a contract of sale was perfected, the validity of said agreement has not been duly proven.

To reiterate, the RTC dismissed respondent's Complaint solely on the ground of prescription after petitioners filed their answer but before trial on the merits and without ruling on petitioners' alternative defenses.[35] These alternative defenses appear to include allegations of fraud, undue influence, and/or mistake.[36]

As such, the Court finds it proper to clarify that the CA's unqualified statements: 1) that the parties validly entered into a contract of sale;^[37] 2) that upon the execution of the Deed in question, the ownership of the subject property was constructively delivered to respondent;^[38] and 3) that petitioners thereafter possessed the property only by mere tolerance,^[39] were all premature.

It is settled that "[t]he purpose of an action or suit and the law to govern it, including the period of prescription, is to be determined by the complaint itself, its allegations and prayer for relief."^[40] While it is true that by raising the affirmative defense of prescription, a defendant hypothetically admits the material allegations in the complaint,^[41] said hypothetical admission, and any ruling on the basis thereof, extends only to the specific affirmative defense raised. In other words, the procedural tool does not dispense with plaintiffs burden of actually proving his cause of action, should the affirmative defenses raised prove unmeritorious.

In other words, allegations as to the validity of the sale, the transfer of ownership, and the nature of petitioners' possession were deemed hypothetically admitted only for the purpose of determining whether the action had

prescribed. To extend the effect of such hypothetical admission for the purpose of determining who between the parties has the real right of possession, the very issue to be proved during trial with actual evidence, amounts to a prejudgment of the main case without trial on the merits and to a violation of petitioners' due process rights.

In *Samartino v. Raon*,^[42] the Court explained that "[t]he essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of his defense."^[43] Although petitioners have been given an opportunity to answer the claims against them, they have not been given the opportunity to present evidence to substantiate their alternative defenses. As such, the CA's pronouncements should not extend to a disposition on the merits as this prematurely accepts as proven disputed facts that have not been established in the crucible of trial. The CA recognized as much when it correctly remanded the case and directed the RTC to proceed to hear respondent's Complaint.

Notwithstanding the foregoing, the Court agrees with the CA that the action has not prescribed. The Complaint alleged the following facts:

- In the Deed executed by herein petitioner Nieves and respondent on September 18, 1993, the former agreed to vacate the property on April 30, 1994.^[44]
- On January 14, 1994, the illegitimate children of petitioner Nieves' husband filed an action for partition, accounting, and attorney's fees against her and respondent.^[45] In said case, the court rendered judgment based on a Compromise Agreement^[46] dated September 5, 1997 (where the parties agreed to proceed with the sale), as follows:
That plaintiffs expressly waived and relinquish all their rights and interest in the house and lot (600 sq. m.) at Garcia Heights, Bahada, Davao City and the sale of the house and lot to defendant spouses Teddy and Emy Bangcasan [herein respondents] shall proceed as agreed and approved by the parties.^[47]
- On February 2, 2007, or within 10 years from the execution of the Compromise Agreement, respondent sent a letter requesting that petitioners vacate the subject property.^[48]
- On February 28, 2007, respondent filed a Complaint for recovery of possession, damages, and attorney's fees.^[49]

Article 1144^[50] of the Civil Code provides that an action based on a written contract must be brought within 10 years from the time the right of action accrues. In *Nabus v. Court of Appeals* ^[51] the Court explained:

A cause of action has three elements, namely: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and, (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff. It is only when the last element occurs or takes place that it can be said in law that a cause of action has arisen. Translated in terms of a hypothetical situation regarding a written contract, no cause of action arises until there is a breach or violation thereof by either party. Conversely, upon the occurrence of a breach, a cause of action exists and the concomitant right of action may then be enforced.^[52]

Stated simply, a cause of action based on a written contract accrues when the right of the plaintiff is violated. In this regard, the Court agrees with the RTC that respondent's cause of action to obtain possession or to enforce the sale accrued on May 1, 1994, when petitioners breached the Deed by failing or refusing to vacate the subject property on the date agreed upon, i.e., April 30, 1994.^[53] The allegations in the Complaint unequivocally show that respondent anchors his purported right to own and to possess the property on the Deed. Indeed, even the supposed constructive delivery^[54] of the subject property emanates from the said Deed. Pursuant to Article 1144 of the Civil Code therefore, respondent had 10 years from May 1, 1994 to file the appropriate action.

Article 1144, however, must be read in conjunction with Article 1155 of the Civil Code. Article 1155 states that "[t]he prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor."

Jurisprudence holds that an interruption of the prescriptive period wipes out the period that has elapsed, sets the same running anew, and creates a fresh period for the filing of an action.^[55] Thus, in *Republic v. Bañez*,^[56] the Court held that a written acknowledgment of a debt by the debtor effectively restarts the prescriptive period, viz.:

x x x [A] written acknowledgment of [a] debt or obligation effectively interrupts the running of the prescriptive period and sets the same running anew. Hence, because Hojilia's letter dated 15 August 1984 served as a written acknowledgement of the respondents' debt or obligation, it interrupted the running of the prescriptive period and set the same running anew with a new expiry period of 15 August 1994."^[57]

Applying the foregoing rules, the 10-year period that commenced to run on May 1, 1994 was interrupted when the parties executed the Compromise Agreement dated September 2, 1997. Undoubtedly, the Compromise Agreement is a written acknowledgment of petitioner Nieves' obligation to deliver ownership and/or possession of the subject property and of respondent's correlative obligation to pay the unpaid balance of the purchase price once said petitioner vacates the property.^[58] Precisely, the parties expressly agreed that the "sale of the house and lot to [defendant spouses Teddy and Emy [Bancasan] shall proceed as agreed and approved by the parties."^[59]

In fine, the period to enforce the Deed has not prescribed. The 10-year period, which commenced on May 1, 1994, was interrupted when the parties executed the Compromise Agreement on September 2, 1997. This interruption wiped out the period that already elapsed and started a fresh prescriptive period from September 2, 1997 to September 2, 2007. Thus, the written extrajudicial demand sent by respondent on February 2, 2007 was made within the prescriptive period. In fact, said written demand likewise interrupted the prescriptive period, which commenced anew when petitioners received said demand.^[60] Undoubtedly therefore, the Complaint filed on February 28, 2007 was made within the prescriptive period.

In sum, the RTC grossly erred in dismissing the Complaint on the ground of prescription. Further, the ground for dismissal not being indubitable, the RTC should have deferred determination of the issue of prescription until after trial of the case on the merits.^[61] Flad it done so, the CA and the Court could have reviewed the merits of the case and finally disposed of the same.

WHEREFORE, the Petition is DENIED. The case is accordingly REMANDED to the Regional Trial Court, Branch 11, Davao City for trial on the merits. The Regional Trial Court, Branch 11, Davao City is hereby DIRECTED to resolve the dispute with immediate dispatch.

SO ORDERED.

Peralta, C.J., (Chairperson), J. Reyes, Jr., Lazaro-Javier, and Lopez, JJ., concur.

[1]Rollo, pp. 13-32.

[2]Id. at 34-45. Penned by Associate Justice Henri Jean Paul B. luting (now a Member of this Court) and concurred in by Associate Justices Edgardo A. Camello and Pablito A. Perez.

[3]Id. at 47-49.

[4]CA rollo, pp. 33-36. Penned by Presiding Judge Virginia Hofileña-Europa.

[5]Id. at 37-38.

[6]Records, p. 8.

[7]Id. at 17.

[8]Id. at 28.

[9]Id. at 93.

[10]Rollo, pp. 34-36. Underscoring supplied.

[11]CA rollo, p. 36.

[12]Id. at 35.

[13]Supra note 11.

[14]Id.

[15]Id.

[16]Supra note 12.

[17]Supra note 11.

[18]Id. at 37.

[19]Rollo, p. 39.

[20]Id. at 44.

[21]Id. at 42.

[22]Supra note 6.

[23]Rollo, p. 41.

[24]Id.

[25]Id. at 43.

[26]Art. 555, Civil Code, provides:

Art. 555. A possessor may lose his possession:

- (1) By the abandonment of the thing;
- (2) By an assignment made to another either by onerous or gratuitous title;
- (3) By the destruction or total loss of the thing, or because it goes out of commerce;
- (4) By the possession of another, subject to the provisions of Article 537, if the new possession has lasted longer than one year. But the real right of possession is not lost till after the lapse of ten years. (460a)

[27]Rollo, p. 47.

[28]Supra note 18.

[29]Supra note 11.

[30]G.R. No. 225033, August 15, 2018, 877 SCRA 252.

[31]Id. at 594-595. Emphasis omitted.

[32]G.R. No. 126376, November 20, 2003, 416 SCRA 263.

[33]Id. at 271.

[34]Cesar L. Villanueva, Law on Sales, 2016 ed., p. 7. Underscore supplied.

[35]Rule 16, Sec. 6, RULES OF COURT, provides:

SEC. 6. Pleading grounds as affirmative defenses. — If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed. (5a)

The dismissal of the complaint under this section shall be without prejudice to the prosecution in the same or separate action of a counterclaim pleaded in the answer, (n) (Underscore supplied)

[36]See supra note 8.

[37]Supra note 23.

[38]Id.

[39]Supra note 25.

[40]See Felix Gochan and Sons Realty Corporation v. Heirs of Raymundo Baba, G.R. No. 138945, August 19, 2003, 409 SCRA 306, 307; Rone v. Claro, 91 Phil. 250, 252-253 (1952).

[41]Rule 6, Sec. 5, Rules of Court, provides:

SEC. 5. Defenses. — Defenses may either be negative or affirmative.

(a) A negative defense is the specific denial of the material fact or facts alleged in the pleading of the claimant essential to his cause or causes of action.

(b) An affirmative defense is an allegation of a new matter which, while hypothetically admitting the material allegations in the pleading of the claimant, would nevertheless prevent or bar recovery by him. The affirmative defenses include fraud, statute of limitations, release, payment, illegality, statute of frauds, estoppel, former recovery, discharge in bankruptcy, and any other matter by way of confession and avoidance. (5a)

[42]G.R. No. 131482, July 3, 2002, 383 SCRA 664.

[43]Id. at 672.

[44]Records, p. 4; supra note 23.

[45]Supra note 12.

[46]Id. at 17-18; supra note 12.

[47]Supra note 7.

[48]Supra note 44; rollo, p. 45.

[49]Id. at 2; supra note 12.

[50]Art. 1144, Civil Code, provides:

Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment, (n)

[51]G.R. No. 91670, February 7, 1991, 193 SCRA 732.

[52]Id. at 747.

[53]Rollo, pp. 36-37.

[54]Supra note 6: "That for and in consideration of the sum of TWO HUNDRED THOUSAND PESOS (P200,000.00), Philippine currency, (50%) PERCENT of which amount is hereby acknowledged and confessed received by and to the full satisfaction of, TRANSFEROR from, and in hand paid by, TRANSFEREE, TRANSFEROR hereby cede[s], sell[s], transfers] and convey[s], and by these presents, has ceded, sold, transferred and conveyed, to TRANSFEREE, his heirs, assigns and successors, the entirety of said Lot 2, Block 14, together with all the improvements found and existing, whether constructed or erected and sown or planted therein; x x x"

[55]See *Overseas Bank of Manila v. Geratdez*, No. L-46541, December 28, 1979, 94 SCRA 937; *Permanent Savings and Loan Dank v. Velarde*, G.R. No. 140608, September 23, 2004, 439 SCRA 1; *Domestic Petroleum Retailer Corp. v. Manila International Airport Authority*, G.R. No. 210641, March 27, 2019; *Solid Homes, Inc. v. Spouses Jurado*, G.R. No. 219673, September 2, 2019; *Ledesma v. Court of Appeals*, G.R. No. 106646, June 30, 1993, 224 SCRA 175.

[56]G.R. No. 169442, October 14, 2015, 772 SCRA 297.

[57]Id. at 310; citing *Philippine National Railways v. NLRC*, G.R. No. 81231, September 19, 1989, 177 SCRA 740

[58]Supra note 10.

[59]Supra note 7.

[60]*Domestic Petroleum Retailer Corp. v. Manila International Airport Authority*, supra note 55.

[61]See *Philippine National Bank v. Hipotito*, G.R. No. L-16463, January 30, 1965, 13 SCRA 20; *Sison v. McQuaid*, 94 Phil. 201 (1953).

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