

ENRIQUE T. YUCHENGCO, INC., A. T. YUCHENGCO, INC., ANNABELLE Y. PUEY AND MONA LISA Y. ABAYA, PLAINTIFFS-APPELLEES, VS. CONRADO M. VELAYO, DEFENDANT-APPELLANT.

G.R. No. 50439. July 20, 1982

Ponente: DE CASTRO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-50439/>

DE CASTRO, J.:

This case is certified to Us by the Court of Appeals in its Resolution dated March 6, 1976, on the ground that it involves purely question of law, as raised in the appeal of the decision of the Court of First Instance of Rizal (Pasig Branch in Civil Case No. 21031, the dispositive portion of which reads as follows:

"FROM THE FOREGOING, this court rules that the Stock Purchase Agreement, Exhibit "A", is not merely annulable, but null and void ab initio, and it is hereby so declared, and as a consequence, defendant is ordered to return to the plaintiffs the sum of P367,500.00 together with its interests at the legal rate from July 22, 1974, which is the date of the Stock Purchase Agreement, Exhibit "A". Defendant is also ordered to pay attorney's fees of P10,000.00, and the costs."[1]

The records show that sometime in June 1974, defendant-appellant Conrado M. Velayo offered to sell to the plaintiffs-appellees 2,265 shares of common stock of the RIC Tours Philippines, Inc. ("Ric Tours Phil., for short) a Philippine Corporation then duly licensed as a tourist operator, constituting 70% of the subscribed and outstanding capital stock of the said corporation. Appellees paid the entire purchase price of P367,500.00 to appellant Velayo, and the latter, on his part, delivered to the former all the 2,265 shares of stock of Ric Tours Phil. On July 5, 1974, appellees took possession of all the assets of Ric Tours Phil.

On August 5, 1975, appellant received a letter from the Director of Bureau of Special Services, Department of Tourism (now Ministry of Tourism) directing him "to explain within seventy-two (72) hours from receipt of said letter why the Department of Tourism should not cancel the Local Tour Operator's License of Ric Tours Phil. for having sold to another group the shares of stock of Ric Tours Phil. without prior notice and approval from the Department of Tourism which is a violation of Part II, Sec. 10, Part IV, Sec. 4 of the Rules and Regulations Governing the Business of Tour Operators and Tour Guides."

In his answer, appellant claims that the shares of stock of Ric Tours Phil. were sold to another group without previous clearance from the Department of Tourism because he really was not aware of the rule requiring prior approval by the Department of Tourism for the validity of transfers of shares of local tour operators. On August 12, 1974, appellant received a letter from Director Jose Clemente of the Bureau of Special Services, informing him that "the license to operate the business as Tour Operator of the Ric Tours Phil. is cancelled effective upon receipt of this letter." On August 18, 1974, appellant wrote a letter addressed to Hon. Jose Aspiras, Secretary of Tourism, requesting for a reconsideration of the order of August 12, 1974 of Director Jose Clemente. On August 20, 1974, Director Jose Clemente issued Circular No. 11 informing all concerned "that the provisional license of Ric Tours Phil. has been cancelled as of August 12, 1974 for violation of the Rules and Regulations Governing

the Business of Tour Operators and that by virtue of said cancellation, Ric Tours Phil. has been ordered to close shop and to cease from further engaging in any business transaction immediately."

On September 3, 1974, appellees wrote a letter to appellant demanding rescission of the contract, the restitution of the sum of P367,500.00 representing the purchase price of 2,265 shares of Ric Tours Phil. and offering delivery of the certificates of stock representing the 2,265 shares upon receipt of the P367,500.00. On September 13, 1974, appellant received a letter from the Department of Tourism denying his request for reconsideration. On September 18, 1974, appellant filed a formal appeal to the Secretary of Tourism from the order dated February 5, 1975. On February 24, 1976, appellant filed a formal appeal to the Office of the President, which, however affirmed the decisions and orders of the Director of Special Services and the Secretary of Tourism cancelling the license of Ric Tours Phil. as a tour operator.

On April 4, 1975, appellees brought a complaint before the Court of First Instance of Rizal (Pasig Branch) praying for the annulment of contract, the return of P367,500.00 plus interest and the payment of damages. On October 4, 1976, the parties agreed to submit the case for decision on the basis of their Joint Stipulation of Facts wherein they admitted the facts set forth above, and the pleadings on record without the necessity of oral evidence. On March 17, 1977, the trial court rendered its decision favorable to appellees. Hence, this appeal.

The only issue presented in this case is whether or not the "Stock Purchase Agreement" entered into by the appellees and appellant Velayo should be annulled, or in the alternative, declared void ab initio.

Appellant contends that appellees have no right to rescind the contract since the ownership of Ric Tours Phil. and its license to operate as tour operator were transferred to appellees upon delivery to them of all the shares of stock together with all the other assets of the corporation; consequently, under the doctrine of *res suo domino perit*, appellees as buyers in a consummated sale should suffer the loss when the license was cancelled.

Appellant's contention is devoid of merit. The provision governing the Agreement sought to be annulled is Sec. 4, Part IV of the Rules and Regulations Governing the Business of Tour Operators and Tour Guides, which recites as follows:

"Sec. 4. No transfer of rights to a license of a tour operator or ownership of shares or interests in the agency shall be valid unless made with the prior approval of the Department. (Underscoring supplied).

The above-quoted rule is clear and mandatory. It requires the prior approval of the Department of Tourism for the validity of any transfer of rights to a license of a tour operator or ownership of shares or interests in any tour agency. In the case at bar, it was admitted by both parties, that the Stock Purchase Agreement was made without the prior approval of the Department of Tourism. Pursuant to paragraph 7, article 1409 of the New Civil Code, such agreement would be inexistent and null and void from the beginning. For it is well-settled that any contract entered into must be in accordance with, and not repugnant to, an applicable statute whose terms are deemed embodied therein^[2] and without the need for the parties of expressly making reference to it.^[3] Inasmuch as the agreement between the parties is null and void from the beginning, it produces no legal effect. No valid transfer of ownership of Ric Tours Phil., to the appellees, therefore, took place upon delivery to them by the appellant of the shares of stock of said corporation as to make them suffer the consequence of the subsequent revocation by the Department of Tourism of the license of Ric Tours Phil., as they would indeed suffer much loss after parting with their money for which they would receive nothing. The doctrine of *res suo domino perit* advanced by the defendant cannot, therefore, be applied.

Appellant would further contend that both parties are presumed to know the rule requiring prior approval by the Department of Tourism of sales of shares of stock of tour operators, and both are guilty of having violated said rule; that they are, therefore, in *pari delicto* and the law will not aid either party but leave them where they are.

We, likewise, see no merit in this contention. Appellant as the vendor in the sale of the shares of stock of RIC Tours Phil. is obligated not only to transfer the ownership of and deliver, but also to warrant the thing which is the object of the sale, i.e., the 2,265 shares of stock of Ric Tours Phil., pursuant to article 1495 of the New Civil Code. Delivery, alone, of said shares of stock is not sufficient, for the appellant, as the vendor, must also warrant clear title to the same, in accordance with the aforesaid provision. Consequently, only appellant is charged with knowledge of the rule requiring prior approval by the Department of Tourism of all sales of shares stock of tour operators, for it is he as the vendor, who is under obligation to give the appellees-vendees clear title to the property he is conveying. As aptly stated by the trial court: "The obligation to secure prior Department of Tourism approval devolved upon the defendant (herein appellant) for it was he as the owner vendor who had the duty to give clear title to the properties he was conveying. It was he alone who was charged with knowing about the rules attendant to a sale of the assets or shares of his tourist-oriented organization. He should have known that under said rules and regulations, on pain of nullity, shares of stock in his company could not be transferred without prior approval from the Department of Tourism. The failure to secure this approval is attributable to him alone." The *pari delicto* doctrine, therefore, can neither be applied.

Even assuming that both parties were guilty of the violation, it does not always follow, as is appellant's contention, that both parties being in *pari delicto*, should be left where they are. It has been held that "although the parties are in *pari delicto*, yet the court may interfere and grant relief at the suit of one of them, where public policy requires its intervention, even though the result may be that a benefit will be derived by a plaintiff who is in equal guilt with defend-ant."^[4] In the case at bar, there is no question that contracts and agreements concerning the transfer of rights or ownership of shares of stock in a tour operator or agency should be as would assure the best protection of the public, for as admitted by the appellant himself, the "Department of Tourism would like to assure itself that the shares of stock would not be sold to persons unfit to engage in the business of tour operation," in line with the policy of the Government to make the tourist industry a positive instrument towards accelerated national development. Pursuant thereto, Presidential Decree No. 189, creating the Department of Tourism, expressly confers upon it the function of licensing, regulating and supervising travel agents, tour operators and tour guides,^[5] to see to it that only those persons and entities who are fit and responsible should engage in tour operation business. Accordingly, the Department of Tourism promulgated its "Rules and Regulations Governing the Business of Tour Operators and Tour Guides,"^[6] providing, among others, that prior approval of the Department of Tourism is a requisite for the validity of transfers of rights, of ownership of shares of stock in a tour operator or agency, and that a violation of this rule and regulation is a ground for suspension/cancellation of license and/or forfeiture of bond.

It is a familiar doctrine in administrative law, that the "Rules and Regulations Governing the Business of Tour Operators and Tour Guides" issued by the Ministry of Tourism, promulgated pursuant to the authority vested upon it by P.D. Nos. 189 and 259, to accomplish the objectives of the statute of making the tourist industry a positive instrument towards accelerated national development, have the force and effect of law, are binding on all persons subject to them and compliance therewith may be enforced by a penal sanction provided in the law.^[7] Thus, Section 4-B of P.D. No. 189, as amended by P.D. No. 259, commands that:

"Sec. 4-B. Any person violating or causing to violate any provision of this Decree or of the rules and regulations or circulars promulgated by the Department of Tourism pursuant to its power to license, classify, regulate and/or supervise the operation of all persons, businesses establishments, facilities and services that cater to, or have any thing to do with travelers and tourists, both international and domestic, shall upon, conviction by a court of competent jurisdiction, suffer the penalty of imprisonment of not less than two (2) years nor more than five (5) years or a fine of not less than two thousand pesos nor more than five thousand pesos or both, at the discretion of the Court. In addition thereto such violation shall ipso facto constitute a valid ground for the revocation of all privileges, permits and authorization granted to such persons or entity under

this Decree by the Department of Tourism. x x x" (Underscoring supplied).

From the foregoing, We hold that the transfer to plaintiffs-appellees of rights of ownership of shares of stock of Ric Tours Phil. is void, and since the agreement concerning the sale or transfer legally did not exist, appellant has no title whatsoever to the money received by him by virtue thereof, which he and should accordingly refund to appellees, with interest thereon at the legal rate until fully paid.[8]

WHEREFORE, the decision appealed from being in accordance with law, is hereby AFFIRMED, without special pronouncement as to costs.

SO ORDERED.

Concepcion, Jr., and Guerrero, JJ., concur. Barredo, (Chairman), joins Justice Aquino in his concurring opinion. Aquino, J., see concurring opinion. Abad Santos, J., in the result. Escolin, J., reserves his vote.

[1] p. 212, Amended Record on Appeal.

[2] Maritime Company of the Phil. vs. Reparations Commission, 40 SCRA 70.

[3] Lakas Ng Manggagawang Makabayan vs. Abiera, 36 SCRA 437.

[4] San Diego vs. The Municipality of Naujan, Province of Mindoro, 107 Phil. 118.

[5] Sec. 4 (f), Presidential Decree No. 189.

[6] Presidential Decree No. 259, amending P.D. No. 189.

[7] Cuneta vs. Castañeda, 10 SCRA 225; Victorias Milling Co. Inc. vs. Social Security Commission, 4 SCRA 627; Chattamal vs. Collector of Customs, 42 Phil. 916.

[8] Castillo vs. Abalayan, 30 SCRA 359.

CONCURRING OPINION

AQUINO, J.:

I concur in the result. The stock purchase agreement is not a contrato nulo, anulable or unenforceable contract. It is a rescissible contract under articles 1191, 1547(2) and 1599(4) of the Civil Code because the seller, Conrado Velayo, failed to comply with his representation and warranty in paragraph III(b) and (f) of the contract of sale (Exh. A) that Ric Tours of the Philippines, Inc. is a domestic corporation "in good standing and is engaged in the business of transporting, entering and servicing of tourists" and "is duly authorized and licensed to operate as a tour operator by the Department of Tourism" (pp. 20-21, Record on Appeal).

It was incumbent upon Velayo as seller to deliver to the Yuchengcos as buyers the approval by the Secretary of Tourism of the sale of Velayo's shares of stock and of the concomitant transfer of the tour operator's license to the Yuchengcos, as required in section 4, Part IV of the Rules and Regulations Governing the Business of Tour Operators and Tour Guides.

Not having fulfilled that obligation or commitment, Velayo breached his warranty obligation. Without the Secretary's approval of the sale of the shares of Ric Tours and without a license to operate as a travel agency, Ric Tours is a futile enterprise. The Yuchengcos bought practically nothing.

Not to rescind the contract and not to require Velayo to return the price of P367,500 with legal rate of interest would enable him to enrich himself unjustly at the expense of the Yuchengcos.

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.