

SPOUSES RESTITUTO NONATO AND ESTER NONATO, PETITIONERS, VS. THE HONORABLE INTER-MEDIATE APPELLATE COURT AND INVESTOR'S FINANCE CORPORATION, RESPONDENTS.

G.R. No. 67181. November 22, 1985

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

The issue posed in this petition for review of the decision of the respondent appellate court is whether a vendor, or his assignee, who had cancelled the sale of a motor vehicle for failure of the buyer to pay two or more of the stipulated installments, may also demand payment of the balance of the purchase price.

The pertinent facts are summarized by the respondent appellate court as follows:

"On June 28, 1976, defendant spouses Restituto Nonato and Ester Nonato purchased one (1) unit of Volkswagen Sakbayan from the People's Car, Inc., on installment basis. To secure complete payment, the defendants executed a promissory note (Exh. A or 1) and a chattel mortgage in favor of People's Car, Inc. (Exh. B or 2). People's Car, Inc. assigned its rights and interests over the note and mortgage in favor of plaintiff Investor's Finance Corporation (FNCB Finance). For failure of defendants to pay two or more installments, despite demands, the car was repossessed by plaintiff on March 20, 1978 (Exh. E or 4).

"Despite repossession, plaintiff demanded from defendants that they pay the balance of the price of the car (Exhs. F and C). Finally, on June 9, 1978, plaintiff filed before the Court of First Instance of Negros Occidental the present complaint against defendants for the latter to pay the balance of the price of the car, with damages and attorney's fees." (Records, pp. 36-37)

In their answer, the spouses Nonato alleged by way of defense that when the company repossessed the vehicle, it had, by that act, effectively cancelled the sale of the vehicle. It is therefore barred from exacting recovery of the unpaid balance of the purchase price, as mandated by the provisions of Article 1484 of the Civil Code.

After due hearing, the trial court rendered a decision in favor of the IFC and against the Nonatos, as follows:

"PREMISES CONSIDERED, the Court hereby renders judgment ordering the defendant to pay to the plaintiff the amount of P17,537.60 with interest at the rate of 14% per annum from July 28, 1976 until fully paid, 10% of the amount due as attorney's fees, litigation expenses in the amount of P133.05 plus the costs of this suit. No pronouncement as to other charges and damages, the same not having been proven to the satisfaction of the Court." [1]

On appeal, the respondent appellate court affirmed the judgment.

Hence, this petition for review on certiorari.

The applicable law in the case at bar, involving as it does a sale of personal property on installment, is Article 1484 of the Civil Code which provides:

"In a contract of sale of personal property the price of which is payable in installments, the vendor may exercise any of the following remedies:

- (1) Exact fulfillment of the obligation, should the vendee fail to pay;
- (2) Cancel the sale, should the vendee's failure to pay cover two or more installments;
- (3) Foreclose the chattel mortgage on the thing sold, if one has been constituted, should the vendee's failure to pay cover two or more installments. In this case, he shall have no further action against the purchaser to recover any unpaid balance of the price. Any agreement to the contrary shall be void."

The meaning of the aforequoted provision has been repeatedly enunciated in a long line of cases. Thus: "Should the vendee or purchaser of a personal property default in the payment of two or more of the agreed installments, the vendor or seller has the option to avail of any of these three remedies — either to exact fulfillment by the purchaser of the obligation, or to cancel the sale, or to foreclose the mortgage on the purchased personal property, if one was constituted. These remedies have been recognized as alternative, not cumulative, that the exercise of one would bar the exercise of the others." [2]

It is not disputed that the respondent company had taken possession of the car purchased by the Nonatos on installments. But while the Nonatos maintain that the company had, by that act, exercised its option to cancel the contract of sale, the company contends that the repossession of the vehicle was only for the purpose of appraising its value and for storage and safekeeping pending full payment by the Nonatos of the purchase price. The company thus denies having exercised its right to cancel the sale of the repossessed car. The records show otherwise.

The receipt issued by the respondent company to the Nonatos when it took possession of the vehicle states that the vehicle could be redeemed within fifteen [15] days. [3] This could only mean that should petitioners fail to redeem the car within the aforesaid period by paying the balance of the purchase price, the company would retain permanent possession of the vehicle, as it did in fact. This was confirmed by Mr. Ernesto Carmona, the company's witness, who testified, to wit:

"ATTY. PAMPLONA:

So that Mr. Witness, it is clear now that, per your receipt and your answer, the company will not return the unit without paying a sum of money, more particularly the balance of the account?

WITNESS:

Yes, sir." [4]

Respondent corporation further asserts that it repossessed the vehicle merely for the purpose of appraising its current value. The allegation is untenable, for even after it had notified the Nonatos that the value of the car was not sufficient to cover the balance of the purchase price, there was no attempt at all on the part of the company to return the repossessed car.

Indeed, the acts performed by the corporation are wholly consistent with the conclusion that it had opted to cancel the contract of sale of the vehicle. It is thus barred from exacting payment from petitioners of the balance of the price of the vehicle which it had already repossessed. It cannot have its cake and eat it too.

WHEREFORE, the judgment of the appellate court in CA-G.R. No. 69276-R is hereby set aside and the complaint filed by respondent Investors Finance Corporation against petitioner in Civil Case No 13852 should be, as it is hereby, dismissed. No costs.

SO ORDERED.

Concepcion, Jr., (Chairman), Abad Santos, Cuevas, and Alampay, JJ., concur.

[1] Records, p. 35

[2] Cruz v. Filipinas Investment and Finance Corporation, 23 SCRA 791; Radiowealth v. Lavin, et al., 7 SCRA 804; Pacific Commercial Co. v. Dela Rama, 72 Phil. 380; Manila Motors, Inc. v. Fernandez, 99 Phil. 782; Bachrach Motor Co. v. Millan, 61 Phil. 409; Manila Trading and Supply Co. v. Reyes, 62 Phil. 461.

[3] p. 6, Folder of Exhibits

[4] p. 32, t.s.n., June 18, 1979

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