

**SPOUSES LEONCIO G. CIFRA AND AURORA R. JONGCO-CIFRA,
PETITIONERS, VS. COURT OF APPEALS AND MANUEL B. YU CHUA,
RESPONDENTS.**

G.R. No. 91901. June 03, 1991

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The interpretation of a contract to sell or a promise to sell real property is in issue in this case.

On December 27, 1985, petitioners spouses, represented by their attorney-in-fact Benedicto Catalan, entered into an agreement with private respondent denominated "Earnest Money" which provides as follows:

"EARNEST MONEY

Received from Dr. Manuel G. Yu Chua the cash sum of FIVE THOUSAND PESOS (P5,000.00) Philippine currency as earnest money for the house and lot owned by the spouses Leoncio G. Cifra, Jr. and Aurora R. Jongco-Cifra. The property is located at 665 Boni Avenue, Mandaluyong, Metro-Manila, Philippines and more particularly described in the Transfer Certificate of Title (TCT) No. 490040 (6093).

The above property is presently mortgaged with the Social Security System (SSS) with an outstanding balance of more or less FORTY THOUSAND PESOS (P40,000.00) as of November, 1985. The agreed purchase price being ONE MILLION and ONE HUNDRED THOUSAND PESOS (P1.1M) shall be payable as follows: The sum equivalent to the above purchase price minus the outstanding mortgage balance with the SSS and the above earnest money shall be paid by the buyer to the seller upon the removal of the present tenant or occupant from the premises and upon the execution of the Deed of Absolute Sale.

It is the understanding of the parties that the buyer shall assume the mortgage or obligation of the seller with the SSS as of November 1985. The monthly amortization was last paid by the seller on November 13, 1985 as evidenced by the Official Receipt (OR) No. 988474 K issued by Bank of the Philippine Islands (BPI), Ayala (Main). Further, the seller promises to secure at the shortest possible time the certification of balance or up to date statement of account from the SSS and deliver the same to the buyer.

If and when the buyer purchases the property according to the terms and conditions above specified, the herein earnest money shall form a part of the purchase price otherwise the same shall be forfeited in favor of the seller.

IN WITNESS WHEREOF, the parties executed this instrument at the Municipality of Mandaluyong, Metro-Manila, Philippines, this 27th day of December 1985.

Earnest money received by the sellers: Earnest money paid by the buyer:

LEONCIO G. CIFRA, JR.

and

AURORA R. JONGCO-CIFRA (s/t) MANUEL G. YU CHUA, M.D.

By:

(s/t) BENEDICTO F. CATALAN

Attorney-in-Fact

SIGNED IN THE PRESENCE OF:

(s/t)LOURDES J. CATALAN (s/t) Illegible

EARNEST MONEY

(on Page 2)

Addendum:

In the event that the buyer shall fail to purchase the property after he is formally notified by the seller of the surrender of the premises by the present tenant or occupant, in addition to the forfeiture of the earnest money the buyer binds himself to pay the seller the sum of TWENTY THOUSAND PESOS (P20,000.00) Philippine currency plus the attorney's fees and other costs for any court case that may arise.

On the other hand, if the seller shall not make good his promise to sell the above property even after the present tenant, William Lim Valencia, shall have surrendered the premises the seller binds himself to return the earnest money and in addition pay the buyer the sum of TWENTY THOUSAND PESOS (P20,000.00) Philippine currency plus the attorney's fees and other cost of any court case that may arise.

(s/t) BENEDICTO F. CATALAN (s/t) MANUEL G. YU CHUA, M.D.

(s/t.)LOURDES J. CATALAN (s/t) Illegible"[1]

On May 25, 1986, Catalan informed private respondent of the desire of petitioners to rescind the contract by a letter which reads:

"May 25, 1986

Dr. Manuel G. Yu Chua

649-D Boni Avenue

Mandaluyong, M.M.

Dear Dr. Yu Chua:

I regret to inform you that my sister-in-law, Mrs. Aurora Cifra, has asked me to request for a rescission of her offer to sell their property at 665 Boni Avenue. The negotiations for the sale of the house and lot have taken such a long time without your fault nor their fault they have now missed the opportunity for which they wanted to apply the proceeds of the sale.

I intend to see you on May 31, 1986 to return the earnest money that you gave us. I would like to personally apologize for the way things turned out.

Very truly yours,

(s/t) Benedicto F. Catalan"[2]

Atty. Marcelino Arias replied in behalf of private respondent:

"MR. BENEDICTO F. CATALAN

12 T. Evangelista, B.F. Homes

Parañaque, Metro Manila

Dear Mr. Catalan:

This is in behalf of my client, Dr. Manuel G. Yu Chua, of 649-D Boni Ave., Mandaluyong, Metro Manila.

Your letter dated May 25, 1986 sent through registered mail to my client was received by my client today, May 29, 1986 and immediately referred the same to my office for proper legal comment.

My client shall pursue the agreement you have entered into and my client is willing to buy the property right now at 1.1 Million Pesos' minus of course the Five Thousand (P5,000.00) Pesos earnest money and the outstanding SSS mortgage account over the premises which my client had assumed to pay.

You have stated of course, that it is not the fault of my client nor the fault of your principal and there being no fault of any of them, then there is no reason why the contract of agreement to sell shall not be pushed through.

My client is even willing to pay the amount of 1.1 Million Pesos as per agreement even if the present tenant in the premises is still occupying the said premises. Please take note that the contract of lease executed by and between your principal and the present tenant clearly provides that the tenant shall vacate the premises within ninety (90) days from notice of the sale of the property in question to any other third person.

Off hand, my client shall certainly take this matter to court to enforce his right and should this happen, then we shall be asking for proper damages.

Consequently, we reiterate that we are willing to buy the property now in the agreed amount as previously agreed upon. [sic]

You are aware also that my client was deprived to buy a cheaper property of 614 sq. m. located at the corner of Boni and Mayon Sts. also in Mandaluyong for Nine Hundred Thousand (P900,000.00) Pesos only in order to buy your property at 1.1 Million Pesos. Now, the property at the corner of Boni and Mayon Sts. is no longer for sale to the damage and prejudice of my client.

Furthermore, my client had deposited the 1.1 Million Pesos in a bank earning only the usual interest instead of a higher yielding business venture because he was anticipating for the consummation of your agreement to sell the property to my client.

I hope we shall not meet in court to enforce my client's right over the premises to avoid extra unnecessary expenses in court litigation.

Very truly yours,

(s/t) MARCELINO P. ARIAS

(Original reply received May 31, 1986 by (s/t) B.F. Catalan)"[3]

This was followed by another letter:

June 13, 1986

R. BENEDICTO F. CATALAN

12 T. Evangelista, B.F. Homes

Parañaque, Metro Manila

Dear Mr. Catalan:

This is a reiteration of our letter dated May 29, 1986 and received by you on May 31, 1986. Up to now, we have not received any response from you. We will give you ten (10) days from receipt hereof within which to tell us in clear terms whether you will still proceed with the sale of the property to my client, Dr. Manuel G. Yu Chua or not.

Your silence would be interpreted by us to mean that you want us to take this matter to court to vindicate the rights of our client and should this happen, it will be an additional unnecessary expenses on your part and on our part, but most of all, on your part as we will file an action for damages aside from attorney's fees.

'I hope we shall not go to court to avoid unnecessary expenses. We shall wait for your answer.

(s/t) MARCELINO P. ARIAS"[4]

Private respondent himself wrote a letter to Catalan dated June 18, 1986:

"MR. & MRS. BENEDICTO CATALAN

12 Evangelista Street

BF Homes, Parañaque, Metro Manila

Dear Mr. & Mrs. Catalan:

At the outset, you knew I disliked attending court trials, that is why to avoid such possibility with your tenant, I agreed to the stiff price of P1.1 Million for the property at 665 Boni Avenue, Mandaluyong in exchange for your assurance that you will take care of ejecting your tenant. We signed our agreement to this effect last Dec. 27, 1985. You gave your tenant a 90-day notice to vacate so that gave him up to the end of March 1986 to look for another residence. Then suddenly, at the end of the 90-day period, you told me that the tenant had just offered you a better price for the property and you were considering it. That was bad faith, loud and clear! The tenant had waived any right to the property to all of us personally during the negotiations; and again, he confirmed this when he accepted the 90-day notice to vacate. Without showing my indignation at this trampling of my rights, I told you I was ready to buy the property even while the tenant was still residing there. In other words, I was willing now to suffer the inconvenience and added costs of trying to eject the tenant. You answered that you had to consult with your principal first and this would take about two weeks. The 2 weeks extended to two (2) months and last May 29, 1986 I received your letter rescinding our contract. So any undue delay has been on your part and deliberately at that. What you kept referring to as lengthy negotiations were simply delaying tactics on your part.

As I write this letter, you may have received my lawyer's second letter. Now as then, let me say again that I do not like going to court if I can help it. But I feel you have done me a grave injustice and a court suit is the only civilized way to get a redress. My lawyer said the law is on my side and the court can compel you to sell me the property, aside from making you pay for the trial expenses, the damages and attorney's fees. At this latest age, I am still hoping you would change your mind and decide to proceed with the sale without court intervention. Atty. Mar Arias gave you 10 days to reply. You can reach him at his address or at his radio program at DZME, 7:00 to 8:00 A.M., Monday to Friday. Please reply favorably but do it soon.

Sincerely yours

(s/t) Dr. MANUEL G. YU CHUA"[5]

On June 20, 1986, Atty. Narciso Tadeo, representative of petitioners replied thereto:

"Dr. Manuel G. Yu Chua

649-D Boni Avenue,

Mandaluyong, Metro Manila

Dear Dr. Yu Chua:

Our clients, Mr. & Mrs. Leoncio Cifra, thru their attorney-in-fact, Mr. Benedicto F. Catalan have endorsed to us the letter of your lawyer, Atty. Marcelino P. Arias dated May 29, 1986 relative to the cancellation of the sale agreement on their property situated at 665 Boni Avenue, Mandaluyong, Metro Manila.

You will kindly note that you paid on December 27, 1985 an earnest money of P5,000.00. Under your said agreement, the balance of the agreed consideration of ONE MILLION ONE HUNDRED PESOS (P1,100,000.00) shall be paid to the seller (our clients) upon removal of the present tenant of occupant from the premises and upon the execution of the Deed of Absolute Sale. As correctly pointed out by your counsel, the contract of lease between our clients and the present tenant provides, among others, that the tenant shall vacate the premises within ninety (90) days from notice of the sale of the property to any third party.

To date, the tenant of the premises is still occupying the premises in question. The tenant's refusal to comply with his contractual obligation to vacate the premises within the said period is certainly not the fault of our clients nor yourself. However, the unexpected delay had caused our clients' lost opportunity to apply the proceeds of the sale to a business venture abroad. This matter was relayed to you by our clients' attorney-in-fact in his letter dated May 25, 1986.

Under the foregoing circumstances, we believe that the rescission of our clients offer to sell their said property is reasonable and justified. Our clients' attorney-in-fact is ready to refund the P5,000.00 earnest money.

Very truly yours,

(s/t) NARCISO A. TADEO"[6]

On July 3, 1986 private respondent filed an action for specific performance of the above agreement in the Regional Trial Court at Pasig, Rizal, wherein after the issues were joined and the trial on the merits a decision was rendered on May 25, 1987, the dispositive part of which reads:

"IN VIEW OF THE FOREGOING, this Court renders judgment in favor of the plaintiff and against the defendant ordering the said defendants:

- a) To execute the corresponding deed of absolute sale in favor of plaintiff Manuel Yu Chua, over a parcel of land, together with all the improvements found and existing thereon, located at 665 Boni Avenue, Mandaluyong, Metro Manila, covered by Transfer Certificate of Title (TCT) No. 490040 of the Registry of Deeds of Pasig, Metro Manila, upon payment by the plaintiff of the amount of ONE MILLION ONE HUNDRED THOUSAND PESOS (P1,100,000.00), minus the earnest money of P5,000.00 and the outstanding mortgage balance with the Social Security System;
- b) Pay to the plaintiff the amount of P100,000.00 by way of moral damages;
- c) Pay to the said plaintiff the amount of P50,000.00 as attorney's fees; and
- d) Pay the costs of this suit."[7]

Acting on a motion for reconsideration filed by petitioners the trial court modified its decision by absolving Catalan, the agent, from paying moral damages, attorney's fees and costs of the suit.

Petitioners interposed an appeal to the Court of Appeals wherein in due course a decision was rendered on December 20, 1989 which affirmed the appealed judgment with the modification deleting the award of moral damages. A motion for reconsideration filed by petitioners was denied on January 30, 1990.

Hence, this petition for review on certiorari which presents two legal issues:

"1) The major legal issue can be framed as follows;

Q - DOES CHUA, THE RESPONDENT BUYER, HAVE THE RIGHT TO DEMAND SPECIFIC PERFORMANCE FROM THE PETITIONERS TO SELL THE HOUSE AND LOT TO HIM DESPITE THE FACT THAT HE HAD AGREED TO A WAIVER OF SUCH A RIGHT WHEN HE CONSENTED TO THE ADDENDUM STIPULATION RECOGNIZING THE RIGHT ON THE PART OF THE PETITIONERS TO CANCEL OR ABROGATE THE SALE FOR ANY REASON BY PAYING THE LIQUIDATED DAMAGES STIPULATED THEREIN?

2) The minor legal issue may be framed as follows:

Q -- IS THE AWARD OF ATTORNEY'S FEES FOR P50,000.00 PROPER DESPITE THE FACT THAT THE OBLIGATION TO SELL IS COUPLED WITH A PENAL CLAUSE IN CASE OF FAILURE TO PERFORM, WHICH PENALTY IS CONSIDERED IN LAW A SUBSTITUTE FOR THE INDEMNITY OF WHATEVER KIND OF DAMAGES PURSUANT TO THE EXPRESS PROVISIONS OF ARTICLE 1226 OF THE CIVIL CODE?"[8]

The petition is impressed with merit.

The provisions of Articles 1370 to 1375 of the Civil Code on the interpretation of contracts are squarely applicable to this case:

"ART. 1370. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.

If the words appear to be contrary to the evident intention of the parties, the latter shall prevail over the former.

ART. 1371. In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered.

ART. 1372. However general the terms of a contract may be, they shall not be understood to comprehend things that are distinct and cases that are different from those upon which the parties intended to agree.

ART. 1373. If some stipulation of any contract should admit of several meanings, it shall be understood as bearing that import which is most adequate to render it effectual.

ART. 1374. The various stipulations of a contract shall be interpreted together, attributing to the doubtful ones that sense which may result from all of them taken jointly.

ART. 1375. Words which may have different significations shall be understood in that which is most in keeping with the nature and object of the contract."

A reading of the subject contract which the parties labeled as "Earnest money" shows that it is an agreement to sell the real property described therein for the amount of P1.1 M with assumption of the P40,000.00 mortgage, by which 5,000.00 was paid upon signing of the agreement by private respondent to petitioner as earnest money, which is part of the consideration. The balance of the consideration shall be paid upon the removal of the tenant or

occupant from the premises and upon the execution of the deed of absolute sale.

In the addendum to the agreement it is stipulated that in case the buyer fails to purchase the property after the seller formally notified him of the surrender of the premises by the tenant or occupant, in addition to the forfeiture of the earnest money, the buyer must pay the seller P20,000.00 plus attorney's fees and other costs in case of litigation. On the other hand, if the seller does not make good his promise to sell the property even after the present tenant shall have surrendered the premises, the seller binds himself to return the earnest money and in addition pay the buyer P20,000.00 plus the attorney's fees and other costs in case of litigation.

This is the literal and clear agreement of the parties. From their contemporaneous and subsequent acts it also appears that the proceeds of the sale of the property by petitioners were intended to apply to a proposed business venture of petitioners abroad. As said proposed business did not prosper and the tenants/occupants of the premises have not yet vacated the premises, petitioners decided to rescind the contract of sale in accordance with the agreement.

Under the addendum to the same agreement, both parties are given the freedom to back out of the transaction provided that, in the case of the seller, he must return the earnest money in addition to being liable to the buyer for P20,000.00 plus attorney's fees and other costs in case of litigation; and in case of the buyer, the earnest money is forfeited, and he is liable to pay the seller P20,000.00 in damages plus attorneys fees and other costs in case of litigation to the seller. This right which is afforded to both parties may be availed of by them, irrespective of whether or not the occupant of the premises had vacated the same. This stipulation is the law between the parties.

Consequently, the action for specific performance must fail. For the rescission of the contract, petitioners must return the P5,000.00 earnest money and pay P20,000.00 to the private respondent. However, they are not liable for attorneys fees, for it was private respondent who brought the case to court as a result of which petitioners unnecessarily incurred expenses of litigation.

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals dated December 20, 1989 and its resolution dated January 30, 1990 are hereby REVERSED and SET ASIDE. Another judgment is hereby rendered dismissing the complaint and rescinding the subject contract to sell dated December 27, 1985 upon the petitioners reimbursing to private respondent the P5,000.00 earnest money and paying them P20,000.00 as damages according to the same agreement. No costs in this instance.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 10 to 12, rollo.

[2] Page 12, rollo.

[3] Pages 13 to 14, rollo.

[4] Pages 13 to 14, rollo.

[5] Pages 15 to 16, rollo.

[6] Pages 16 to 17, rollo.

[7] Page 18, rollo.

[8] Pages 19 to 20, rollo.

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