



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ASSOCIATED MARINE
OFFICERS AND SEAMEN'S
UNION OF THE PHILIPPINES
PTGWO-ITF,

Petitioner,

- versus -

G.R. No. 178584

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, JJ.

NORIEL DECENA,

Respondent.

Promulgated:

OCT 08 2012

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DECISION

PERLAS-BERNABE, J.:

This Petition for Review on Certiorari seeks the reversal of the Decision¹ of the Court of Appeals (CA) dated July 31, 2006, as well as the Resolution² dated June 20, 2007, which dismissed the complaint for unlawful detainer filed by petitioner against respondent on the ground of

¹ Penned by Presiding Justice Ruben T. Reyes, with Associate Justices Rebecca De Guia-Salvador and Monina Arevalo-Zanarosa, concurring. *Rollo*, pp. 45-56.

² *Id.* at 57-60.

prematurity, as petitioner has not shown that it complied with the mandatory requirements for a valid and effective cancellation of the contract to sell a house and lot.

The Factual Antecedents

Associated Marine Officers and Seamen's Union of the Philippines – PTGWO-ITF (petitioner) is a duly registered labor organization engaged in an on-going Shelter Program, which offers residential lots and fully-furnished houses to its members-seafarers under a reimbursement scheme requiring no down payment and no interest on the principal sum advanced for the acquisition and development of the land and the construction of the house.

On April 27, 1995, petitioner entered into a contract³ under the Shelter Program with one of its members, Noriel Decena (respondent), allowing the latter to take possession of a house and lot described as 7 STOLT MODEL, Lot 16, Block 7, in the Seamen's Village, Sitio Piela, Barangay Paliparan, Dasmariñas, Cavite, with the obligation to reimburse petitioner the cost (US\$28,563)⁴ thereof in 180 equal monthly payments. It was stipulated in said contract that, in case respondent fails to remit three (3) monthly reimbursement payments, he shall be given a 3-month grace period within which to remit his arrears, otherwise, the contract shall be automatically revoked or cancelled and respondent shall voluntarily vacate the premises without need of demand or judicial action.⁵

³ Shelter Contract Award No. 31. Id. at 62-68.

⁴ Id. at 63.

⁵ Id. at 64.

Subsequently, respondent failed to pay twenty-five (25) monthly reimbursement payments covering the period August 1999 to August 2001, despite demands. Hence, petitioner cancelled the contract and treated all his reimbursement payments as rental payments for his occupancy of the house and lot.

On August 21, 2001, petitioner sent respondent a notice of final demand⁶ requiring him to fulfill his obligation within a 30-day grace period. Thereafter, on October 18, 2001, his wife received a notice to vacate⁷ the premises. For failure of respondent to heed said notices, petitioner filed a complaint before the *barangay lupon* and, eventually, a case for unlawful detainer, docketed as Civil Case No. 1210⁸ before the Municipal Trial Court (MTC) of Dasmariñas, Cavite.

The Ruling of the MTC

On December 4, 2002, the MTC found petitioner's case meritorious and, thus, rendered judgment⁹ ordering respondent to (1) vacate the premises; (2) pay monthly rental in the amount of ₱8,109.00 from August 1999 with legal interests thereon until he has actually and fully paid the same; and (3) pay attorney's fees in the amount of ₱30,000.00, as well as the costs of suit.

⁶ Id. at 405.

⁷ Id. at 406.

⁸ Id. at 72-76.

⁹ Penned by Presiding Judge Lorinda B. Toledo-Mupas. Id. at 104-106.

The Ruling of the RTC

On appeal (App. Civil Case No. 312-03), the Regional Trial Court (RTC) of Imus, Cavite, affirmed¹⁰ *in toto* the decision of the MTC after finding that the cancellation and revocation of the contract for failure of respondent to remit 25 monthly reimbursement payments converted the latter's stay on the premises to one of "mere permission"¹¹ by petitioner, and that respondent's refusal to heed the notice to vacate the premises rendered his continued possession thereof unlawful.¹²

With respect to the issue raised by respondent that the instant case is covered by Republic Act No. 6552 (R.A. No. 6552),¹³ the Maceda Law, the RTC ruled in the negative, ratiocinating that the Shelter Contract Award is neither a contract of sale nor a contract to sell. Rather, it is "more akin to a contract of lease with the monthly reimbursements as rentals."¹⁴

The Ruling of the Court of Appeals

On petition for review (CA-G.R. SP No. 81954) before the CA, the appellate court set aside the decision of the RTC and entered a new judgment¹⁵ dismissing the complaint for unlawful detainer and restoring respondent to the peaceful possession of the subject house and lot. The CA held that the contract between the parties is not a contract of lease, but a contract to sell, which stipulates that upon full payment of the value of the

¹⁰ Decision dated December 29, 2003. Id. at 141-149.

¹¹ Id. at 146.

¹² Id. at 147.

¹³ Otherwise known as the "Realty Installment Buyer Act."

¹⁴ Supra note 10, at 149.

¹⁵ Supra note 1.

house and lot, respondent shall become the owner thereof.¹⁶ The issues, which involve “the propriety of terminating the relationship contracted by the parties, as well as the demand upon [respondent] to deliver the premises and to pay unpaid reimbursements,”¹⁷ extend beyond those commonly involved in unlawful detainer suits, thus, converting the instant case into one incapable of pecuniary estimation exclusively cognizable by the RTC.¹⁸

Moreover, the appellate court faulted petitioner for failing to comply with the mandatory twin requirements for a valid and effective cancellation of a contract to sell under Section 3 (b) of R.A. No. 6552: (1) to send a notarized notice of cancellation, and (2) to refund the cash surrender value of the payments on the property. Consequently, it held that the contract to sell still subsists, at least until properly rescinded, and the action for ejectment filed by petitioner is premature.¹⁹

Aggrieved, petitioner filed a motion for reconsideration, which was denied by the CA in its Resolution²⁰ dated June 20, 2007. Hence, petitioner is now before this Court alleging that –

The Issues

1. The Honorable Court of Appeals erred in changing the main issue to be resolved in the instant unlawful detainer case from who has the better right of possession to whether or not the agreement between the parties is a contract of lease or a contract to sell, especially when the nature of the agreement between the parties was never questioned nor raised as an issue in the court a quo.

¹⁶ Supra note 1, at 53.

¹⁷ Supra note 1, at 53-54.

¹⁸ Supra note 1, at 54.

¹⁹ Supra note 1, at 54-55.

²⁰ Supra note 2.

2. Even assuming that the Honorable Court of Appeals was correct in changing the main issue to be resolved, it nevertheless erred in determining that:
 - a. The agreement between the parties is allegedly one of contract to sell – when the Housing and Land Use Regulatory Board itself already made a pronouncement that the Shelter Program and its contract award is not a sale of real estate.
 - b. The action for unlawful detainer filed by petitioner AMOSUP is allegedly premature – especially considering that Republic Act No. 6552, which requires notarial notice of rescission, is not applicable to the case at bar and, thus, the written notice of termination previously served on the respondent is already sufficient.²¹

The Ruling of the Court

It is basic that a contract is what the law defines it to be, and not what it is called by the contracting parties. A contract to sell is 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 itself 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.²²

The Shelter Contract Award granted to respondent expressly stipulates that “(u)pon completion of payment of the amount of US\$28,563 representing the full value of the House and Lot subject of (the) Contract Award, the UNION shall execute a Deed of Transfer and shall cause the

²¹ Petition, *rollo*, pp. 15-16.

²² *Nabus v. Pacson*, G.R. No. 161318, November 25, 2009, 605 SCRA 334, 350, citing *Coronel v. CA*, 331 Phil. 294, (1996).

issuance of the corresponding Transfer Certificate of Title in favor of and in the name of the AWARDEE.”²³ It cannot be denied, therefore, that the parties herein entered into a contract to sell in the guise of a reimbursement scheme requiring respondent to make monthly reimbursement payments which are, in actuality, installment payments for the value of the subject house and lot.

While respondent occupied the subject premises, title nonetheless remained with petitioner. Considering, therefore, that the basis for such occupation is a contract to sell the premises on installment, the contractual relations between the parties are more than that of a lessor-lessee.²⁴ The appellate court thus correctly ruled that the Shelter Contract Award has not been converted into one of lease.

Petitioner tried, *albeit* in vain, to mislead the Court that the nature of the agreement between the parties, and even the validity of the termination thereof, were never raised in the trial courts. In the pre-trial brief filed by respondent before the MTC, the first issue he presented is “whether or not the present action is a simple case of or an action for unlawful detainer or an action for rescission of the Contract of Shelter Award which is outside of the jurisdiction of [the] Honorable Court.”²⁵

In the parallel case of *Pagtalunan v. Dela Cruz Vda. De Manzano*,²⁶ which likewise originated as an action for unlawful detainer, we affirmed the finding of the appellate court that, since the contract to sell was not validly cancelled or rescinded under Section 3(b) of R.A. No. 6552, the respondent

²³ Supra note 3, at 65.

²⁴ *Abaya Investments Corporation v. Merit Philippines*, G.R. No. 176324, April 16, 2008, 551 SCRA 646, 653, explaining *Nera v. Vacante*, 3 SCRA 505 (1961) and *Zulueta v. Mariano*, 197 SCRA 195 (1982).

²⁵ Memorandum for the Defendant, *rollo*, p. 116.

²⁶ G.R. No. 147695, September 13, 2007, 533 SCRA 242.

therein had the right to continue occupying unmolested the property subject thereof. Section 3(b) reads:

SEC. 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under Republic Act Numbered Thirty-eight hundred forty-four, as amended by Republic Act Numbered Sixty-three hundred eighty-nine, where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:

X X X

(b) If the contract is canceled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made, and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made: *Provided, That the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer.* (Emphasis supplied)

As we emphasized in *Pagtalunan*, “R.A. No. 6552, otherwise known as the Realty Installment Buyer Protection Act, recognizes in conditional sales of all kinds of real estate (industrial, commercial, residential) the right of the seller to cancel the contract upon non-payment of an installment by the buyer, which is simply an event that prevents the obligation of the vendor to convey title from acquiring binding force.” While we agreed that the cancellation of a contract to sell may be done outside of court, however, “the cancellation by the seller must be in accordance with Sec. 3(b) of R.A. No. 6552, which requires a notarial act of rescission and the refund to the buyer of the full payment of the cash surrender value of the payments on the property.”²⁷ In the present case, as aptly pointed out by the appellate court, petitioner failed to prove that the Shelter Contract Award had been cancelled in accordance with R.A. No. 6552, which would have been the basis for the

²⁷ Id.

illegality of respondent's possession of the subject premises. Hence, the action for ejectment must necessarily fail.

Petitioner nonetheless insists on the inapplicability of R.A. No. 6552 in this case, capitalizing on the Decision²⁸ of the Housing and Land Use Regulatory Board in HLURB CASE No. IV6-090902-1842 entitled “Seamen's Village Brotherhood Homeowners Association, Inc. v. Associated Marine Officers And Seamen's Union of the Philippines (AMOSUP)” which held that the transaction between petitioner and the residents of Seamen's Village cannot be considered a sale within the purview of Presidential Decree (P.D.) No. 957.²⁹ It should be pointed out that the only issue resolved in that case is “whether or not the respondent (petitioner herein) is engaged in the business of selling real estate subdivisions, so as to fall under the ambit of P.D. 957, the resolution of which would determine whether or not respondent is required under the law to register with (the) Office and procure a license to sell.”³⁰

Section 2(b) of P.D. 957 defines a sale as follows:

b.) Sale or Sell – “sale” or “sell” shall include every disposition, or attempt to dispose, for a valuable consideration, of a subdivision lot, including the building and other improvements thereon, if any, in a subdivision project or a condominium unit in a condominium project. “Sale” or “sell” shall include a contract to sell, a contract of purchase and sale, an exchange, an attempt to sell, an option of sale or purchase, a solicitation of a sale, or an offer to sell, directly or by an agent, or by a circular letter, advertisement or otherwise.

A privilege given to a member of a cooperative, corporation, partnership, or any association and/or the issuance of a certificate or receipt evidencing or giving the right of participation in, or right to any land in consideration of payment of the membership fee or dues, shall be deemed a sale within the meaning of this definition.

²⁸ Penned by HLU Arbiter Ma. Perpetua Y. Aquino. *Rollo*, pp. 256-270.

²⁹ Otherwise known as “The Subdivision and Condominium Buyers' Protective Decree.”

³⁰ Supra note 28, at 262.

A reading of the Decision in its entirety reveals a vacillation on the part of the HLURB in classifying the transaction between petitioner and its members. While the HLURB held that there is no sale as contemplated under the first paragraph of the aforequoted provision “for the reason that there is no valuable consideration involved in the transaction,”³¹ yet it went on to opine that the second paragraph of the same provision “appears to have an apparent application in the instant case although the same is not clear.”³² Then, in its final disposition,³³ the HLURB required petitioner to secure a Certificate of Registration and License to Sell for its subdivision project thereby effectively bringing it under the jurisdiction of said office. Clearly, the argument of petitioner that respondent is not a realty installment buyer that needs to be protected by the law has no leg to stand on.

In the interest, however, of putting an end to the controversy between the parties herein that had lasted for more than ten (10) years, as in the cited case of *Pagtalunan*, the Court orders respondent to pay his arrears and settle the balance of the full value of the subject premises. He had enjoyed the use thereof since 1995. After defaulting in August 1999, respondent had not made any subsequent reimbursement payments. Thus, for the delay in his reimbursement payments, we award interest at the rate of 6% per annum on the unpaid balance applying Article 2209³⁴ of the Civil Code, there being no stipulation in the Shelter Contract Award for such interest.³⁵ For purposes of computing the legal interest, the reckoning period should be the notice of final demand, conformably with Articles 1169³⁶ and 1589³⁷ of the same

³¹ Supra note 28, at 263.

³² Supra note 28, at 264.

³³ Supra note 28, at 269.

³⁴ ART. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six percent per annum.

³⁵ *Pagtalunan v. Dela Cruz Vda. De Manzano*, supra note 23.

³⁶ ART. 1169. Those obliged to deliver or to do something incur in delay from the time the obligee judicially or **extrajudicially** demands from them the fulfillment of their obligation. x x x (Emphasis supplied)

Code, which, as found by the MTC, was sent by petitioner to respondent on August 21, 2001.³⁸

In his Comment to the instant Petition, respondent claimed that he had made payments in the amount of ₱318,167.70.³⁹ The total amount for reimbursement for the subject house and lot is US\$28,563, which the Shelter Contract Award requires to be paid in “180 equal monthly periodic reimbursements of US\$159 or in equivalent Philippine Currency at the time the same falls due.”⁴⁰ For lack of pertinent data with which to determine how many months respondent's alleged total payment of ₱318,167.70 is equivalent to, we direct petitioner to submit to the trial court an accounting of the payments made by respondent particularly showing the number of months he was able to make the required payments of US\$159 or its peso equivalent. The balance of the full value of the subject premises shall then be computed on the basis of the following formula: [(180 months minus the number of months that respondent had already paid) multiplied by US\$159 or its peso equivalent at the time of payment].

WHEREFORE, the Decision of the Court of Appeals dated July 31, 2006 and the Resolution dated June 20, 2007 are hereby **AFFIRMED** with the following **MODIFICATIONS**:

1. The Municipal Trial Court of Dasmariñas, Cavite is directed to conduct a hearing, within a maximum period of thirty (30) days from receipt of this Decision, to determine: (a) the unpaid balance of the

³⁷ ART. 1589. The vendee shall owe interest for the period between the delivery of the thing and the payment of the price, in the following three cases:

x x x

(3) Should he be in default from the time of judicial or **extrajudicial** demand for the payment of the price. (Emphasis supplied)

³⁸ Supra note 9, at 105.

³⁹ *Rollo*, p. 280.

⁴⁰ Supra note 3, at 63.


full value of the subject house and lot; and (b) the reasonable amount of rental for the subject property at present times.

2. Within sixty (60) days from the determination of the trial court of said balance, respondent shall pay the amount thereof to petitioner, with interest at six percent (6%) per annum from August 1, 2001 up to the date of actual payment;

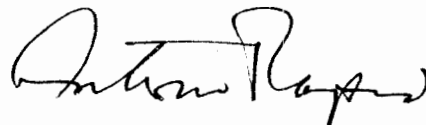
3. Upon payment, petitioner shall execute a Deed of Absolute Sale of the subject property and deliver the transfer certificate of title in favor of respondent;

4. In case of failure to pay within the mandated 60-day period, respondent shall immediately vacate the premises without need of further demand. Petitioner, on the other hand, shall pay respondent the cash surrender value equivalent to 50% of the total reimbursement payments made. The Shelter Contract Award shall then be deemed cancelled thirty (30) days after receipt by respondent of the full payment of the cash surrender value. If respondent fails to vacate the premises, he shall be charged reasonable rental in the amount determined by the trial court.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Chairperson



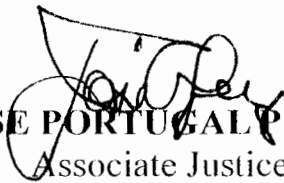
ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice

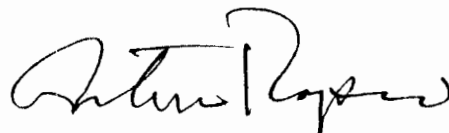


JOSE PORTUGAL PEREZ

Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO

Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice