



Republic of the Philippines
Supreme Court
Baguio City

SECOND DIVISION

**SPOUSES OSCAR and
THELMA CACAYORIN,**
Petitioners,

- versus -

**ARMED FORCES AND POLICE
MUTUAL BENEFIT ASSOCIATION,
INC.,**
Respondent.

G.R. No. 171298

Present:

CARPIO, *Chairperson,*
PERALTA,*
DEL CASTILLO,
PEREZ, *and*
PERLAS-BERNABE, *JJ.*

Promulgated:

APR 15 2013

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DECISION

DEL CASTILLO, J.:

Consignation is necessarily judicial. Article 1258 of the Civil Code specifically provides that consignation shall be made by depositing the thing or things due at the disposal of *judicial* authority. The said provision clearly precludes consignation in venues other than the courts.

Assailed in this Petition for Review on *Certiorari*¹ are the September 29, 2005 Decision² of the Court of Appeals (CA) which granted the Petition for *Certiorari* in CA-G.R. SP No. 84446 and its January 12, 2006 Resolution³ denying petitioners' Motion for Reconsideration.⁴

Factual Antecedents

Petitioner Oscar Cacayorin (Oscar) is a member of respondent Armed

* Per Raffle dated April 10, 2013.

¹ *Rollo*, pp. 9-30.

² *Id.* at 95-103; penned by Associate Justice Andres B. Reyes, Jr. and concurred in by Associate Justices Rosmari D. Carandang and Monina Arevalo-Zenarosa.

³ *Id.* at 111.

⁴ *Id.* at 204-109.

Forces and Police Mutual Benefit Association, Inc. (AFPMBAI), a mutual benefit association duly organized and existing under Philippine laws and engaged in the business of developing low-cost housing projects for personnel of the Armed Forces of the Philippines, Philippine National Police, Bureau of Fire Protection, Bureau of Jail Management and Penology, and Philippine Coast Guard. He filed an application with AFPMBAI to purchase a piece of property which the latter owned, specifically Lot 5, Block 8, Phase I, Kalikasan Mutual Homes, San Pedro, Puerto Princesa City (the property), through a loan facility.

On July 4, 1994, Oscar and his wife and co-petitioner herein, Thelma, on one hand, and the Rural Bank of San Teodoro (the Rural Bank) on the other, executed a Loan and Mortgage Agreement⁵ with the former as borrowers and the Rural Bank as lender, under the auspices of Pag-IBIG or Home Development Mutual Fund's Home Financing Program.

The Rural Bank issued an August 22, 1994 letter of guaranty⁶ informing AFPMBAI that the proceeds of petitioners' approved loan in the amount of ₱77,418.00 shall be released to AFPMBAI after title to the property is transferred in petitioners' name and after the registration and annotation of the parties' mortgage agreement.

On the basis of the Rural Bank's letter of guaranty, AFPMBAI executed in petitioners' favor a Deed of Absolute Sale,⁷ and a new title – Transfer Certificate of Title No. 37017⁸ (TCT No. 37017) – was issued in their name, with the corresponding annotation of their mortgage agreement with the Rural Bank, under Entry No. 3364.⁹

Unfortunately, the Pag-IBIG loan facility did not push through and the Rural Bank closed and was placed under receivership by the Philippine Deposit Insurance Corporation (PDIC). Meanwhile, AFPMBAI somehow was able to take possession of petitioners' loan documents and TCT No. 37017, while petitioners were unable to pay the loan/consideration for the property.

AFPMBAI made oral and written demands for petitioners to pay the loan/consideration for the property.¹⁰

In July 2003, petitioners filed a Complaint¹¹ for consignation of loan

⁵ Id. at 149-151.

⁶ CA *rollo*, p. 26.

⁷ Id. at 27-28.

⁸ Id. at 29.

⁹ Id. (dorsal).

¹⁰ *Rollo*, p. 119.

¹¹ Id. at 45-51.

payment, recovery of title and cancellation of mortgage annotation against AFPMBAI, PDIC and the Register of Deeds of Puerto Princesa City. The case was docketed as Civil Case No. 3812 and raffled to Branch 47 of the Regional Trial Court (RTC) of Puerto Princesa City (Puerto Princesa RTC). Petitioners alleged in their Complaint that as a result of the Rural Bank's closure and PDIC's claim that their loan papers could not be located, they were left in a quandary as to where they should tender full payment of the loan and how to secure cancellation of the mortgage annotation on TCT No. 37017. Petitioners prayed, thus:

a. That after the filing of this complaint an order be made allowing the consignation x x x of Php77,418.00.

b. For the court to compute and declare the amount of interest to be paid by the plaintiffs and thereafter to allow the consignation of the interest payments in order to give way for the full discharge of the loan.

c. To order the AFPMBAI to turn over to the custody of the court the loan records and title (T.C.T. No. 37017) of the plaintiffs if the same are in their possession.

d. To declare the full payment of the principal loan and interest and ordering the full discharge from mortgage of the property covered by T.C.T. No. 37017.

e. To order the Register of Deeds of Puerto Princesa City to cancel the annotation of real estate mortgage under Entry No. 3364 at the back of T.C.T. No. 37017.

f. Thereafter, to turn over to the plaintiffs their title free from the aforesaid mortgage loan.¹²

AFPMBAI filed a Motion to Dismiss¹³ claiming that petitioners' Complaint falls within the jurisdiction of the Housing and Land Use Regulatory Board (HLURB) and not the Puerto Princesa RTC, as it was filed by petitioners in their capacity as buyers of a subdivision lot and it prays for specific performance of contractual and legal obligations decreed under Presidential Decree No. 957¹⁴ (PD 957). It added that since no prior valid tender of payment was made by petitioners, the consignation case was fatally defective and susceptible to dismissal.

Ruling of the Regional Trial Court

In an October 16, 2003 Order,¹⁵ the trial court denied AFPMBAI's Motion

¹² Id. at 48-49.

¹³ Id. at 52-57.

¹⁴ The Subdivision and Condominium Buyers' Protective Decree.

¹⁵ *Rollo*, pp. 66-68; penned by Judge Perfecto E. Pe. The Order decreed as follows:

to Dismiss, declaring that since title has been transferred in the name of petitioners and the action involves consignment of loan payments, it possessed jurisdiction to continue with the case. It further held that the only remaining unsettled transaction is between petitioners and PDIC as the appointed receiver of the Rural Bank.

AFPMBAI filed a Motion for Reconsideration,¹⁶ which the trial court denied in its March 19, 2004 Order.¹⁷

Ruling of the Court of Appeals

AFPMBAI thus instituted CA-G.R. SP No. 84446, which is a Petition for *Certiorari*¹⁸ raising the issue of jurisdiction. On September 29, 2005, the CA rendered the assailed Decision decreeing as follows:

WHEREFORE, premises considered, this Petition is **GRANTED**. The Assailed 16 October 2003 and 19 March 2004 Orders of the public respondent judge are hereby ordered **VACATED** and **SET ASIDE**.

SO ORDERED.¹⁹

The CA held that Civil Case No. 3812 is a case for specific performance of AFPMBAI's contractual and statutory obligations as owner/developer of Kalikasan Mutual Homes, which makes PD 957 applicable and thus places the case within the jurisdiction of the HLURB. It said that since one of the remedies prayed for is the delivery to petitioners of TCT No. 37017, the case is cognizable exclusively by the HLURB.

Petitioners moved for reconsideration which was denied by the CA in its January 12, 2006 Resolution.

Hence, the instant Petition.

Issue

The sole issue that must be resolved in this Petition is: Does the Complaint in Civil Case No. 3812 fall within the exclusive jurisdiction of the HLURB?

ALL THE FOREGOING CONSIDERED, the Court hereby denies the motion filed by the plaintiffs thru Counsel only as against the defendant AFPMBAI, but declared [sic] in default the other defendant PDIC. The Court hereby orders the defendant AFPMBAI to file its necessary pleading within fifteen (15) days from receipt of this order.

¹⁶ CA *rollo*, pp. 54-58.

¹⁷ Id. at 23.

¹⁸ Id. at 2-19.

¹⁹ *Rollo*, pp. 102-103.

Petitioners' Arguments

Petitioners assert that the elements which make up a valid case for consignation are present in their Complaint. They add that since a deed of absolute sale has been issued in their favor, and possession of the property has been surrendered to them, not to mention that title has been placed in their name, the HLURB lost jurisdiction over their case. And for this same reason, petitioners argue that their case may not be said to be one for specific performance of contractual and legal obligations under PD 957 as nothing more was left to be done in order to perfect or consolidate their title.

Petitioners thus pray that the herein assailed Decision and Resolution of the CA be set aside, and that the trial court be ordered to continue with the proceedings in Civil Case No. 3812.

Respondent's Arguments

Respondent, on the other hand, insists in its Comment²⁰ that jurisdiction over petitioners' case lies with the HLURB, as it springs from their contractual relation as seller and buyer, respectively, of a subdivision lot. The prayer in petitioners' Complaint involves the surrender or delivery of the title after full payment of the purchase price, which respondent claims are reciprocal obligations in a sale transaction covered by PD 957. Respondent adds that in effect, petitioners are exacting specific performance from it, which places their case within the jurisdiction of the HLURB.

Our Ruling

The Court grants the Petition.

The Complaint makes out a case for consignation.

The settled principle is that "the allegations of the [C]omplaint determine the nature of the action and consequently the jurisdiction of the courts. This rule applies whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein as this is a matter that can be resolved only after and as a result of the trial."²¹

²⁰ Id. at 114-130.

²¹ *Bulao v. Court of Appeals*, G.R. No. 101983, February 1, 1993, 218 SCRA 321, 323, citing *Magay v. Estiandan*, 161 Phil. 586, 590 (1976).

Does the Complaint in Civil Case No. 3812 make out a case for consignation? It alleges that:

6.0 – Not long after however, RBST²² closed shop and defendant Philippine Deposit Insurance Corporation (PDIC) was appointed as its receiver. The plaintiffs, through a representative, made a verbal inquiry to the PDIC regarding the payment of their loan but were told that it has no information or record of the said loan. This made [sic] the plaintiffs in quandary as to where or whom they will pay their loan, which they intend to pay in full, so as to cancel the annotation of mortgage in their title.

7.0 – It was discovered that the loan papers of the plaintiffs, including the duplicate original of their title, were in the possession of defendant AFPMBAI. It was unclear though why the said documents including the title were in the possession of AFPMBAI. These papers should have been in RBST's possession and given to PDIC after its closure in the latter's capacity as receiver.

8.0 – Plaintiffs are now intending to pay in full their real estate loan but could not decide where to pay the same because of RBST [sic] closure and PDIC's failure to locate the loan records and title. This court's intervention is now needed in order to determine to [sic] where or whom the loan should be paid.

9.0 – Plaintiffs hereby respectfully prays [sic] for this court to allow the deposit of the amount of Php77,418.00 as full payment of their principal loan, excluding interest, pursuant to the Loan and Mortgage Agreement on 4 July 1994.²³

From the above allegations, it appears that the petitioners' debt is outstanding; that the Rural Bank's receiver, PDIC, informed petitioners that it has no record of their loan even as it took over the affairs of the Rural Bank, which on record is the petitioners' creditor as per the July 4, 1994 Loan and Mortgage Agreement; that one way or another, AFPMBAI came into possession of the loan documents as well as TCT No. 37017; that petitioners are ready to pay the loan in full; however, under the circumstances, they do not know which of the two – the Rural Bank or AFPMBAI – should receive full payment of the purchase price, or to whom tender of payment must validly be made.

Under Article 1256 of the Civil Code,²⁴ the debtor shall be released from responsibility by the consignation of the thing or sum due, without need of prior

²² The Rural Bank of San Teodoro.

²³ *Rollo*, pp. 47-48.

²⁴ Art. 1256. If the creditor to whom tender of payment has been made refuses without just cause to accept it, the debtor shall be released from responsibility by the consignation of the thing or sum due.

Consignation alone shall produce the same effect in the following cases:

- (1) When the creditor is absent or unknown, or does not appear at the place of payment;
- (2) When he is incapacitated to receive the payment at the time it is due;
- (3) When, without just cause, he refuses to give a receipt;
- (4) When two or more persons claim the same right to collect;
- (5) When the title of the obligation has been lost.

tender of payment, when the creditor is absent or unknown, or when he is incapacitated to receive the payment at the time it is due, or when two or more persons claim the same right to collect, or when the title to the obligation has been lost. Applying Article 1256 to the petitioners' case as shaped by the allegations in their Complaint, the Court finds that a case for consignation has been made out, as it now appears that there are two entities which petitioners must deal with in order to fully secure their title to the property: 1) the Rural Bank (through PDIC), which is the apparent creditor under the July 4, 1994 Loan and Mortgage Agreement; and 2) AFPMBAI, which is currently in possession of the loan documents and the certificate of title, and the one making demands upon petitioners to pay. Clearly, the allegations in the Complaint present a situation where the creditor is unknown, or that two or more entities appear to possess the same right to collect from petitioners. Whatever transpired between the Rural Bank or PDIC and AFPMBAI in respect of petitioners' loan account, if any, such that AFPMBAI came into possession of the loan documents and TCT No. 37017, it appears that petitioners were not informed thereof, nor made privy thereto.

Indeed, the instant case presents a unique situation where the buyer, through no fault of his own, was able to obtain title to real property in his name even before he could pay the purchase price in full. There appears to be no vitiated consent, nor is there any other impediment to the consummation of their agreement, just as it appears that it would be to the best interests of all parties to the sale that it be once and for all completed and terminated. For this reason, Civil Case No. 3812 should at this juncture be allowed to proceed.

Moreover, petitioners' position is buttressed by AFPMBAI's own admission in its Comment²⁵ that it made oral and written demands upon the former, which naturally aggravated their confusion as to who was their rightful creditor to whom payment should be made – the Rural Bank or AFPMBAI. Its subsequent filing of the Motion to Dismiss runs counter to its demands to pay. If it wanted to be paid with alacrity, then it should not have moved to dismiss Civil Case No. 3812, which was brought precisely by the petitioners in order to be able to finally settle their obligation in full.

Finally, the lack of prior tender of payment by the petitioners is not fatal to their consignation case. They filed the case for the exact reason that they were at a loss as to which between the two – the Rural Bank or AFPMBAI – was entitled to such a tender of payment. Besides, as earlier stated, Article 1256 authorizes consignation *alone*, without need of prior tender of payment, where the ground for consignation is that the creditor is unknown, or does not appear at the place of payment; or is incapacitated to receive the payment at the time it is due; or when, without just cause, he refuses to give a receipt; or when two or more persons claim the same right to collect; or when the title of the obligation has been lost.

²⁵ *Rollo*, p. 119.

Consignation is necessarily judicial; hence, jurisdiction lies with the RTC, not with the HLURB.

On the question of jurisdiction, petitioners' case should be tried in the Puerto Princesa RTC, and not the HLURB. Consignation is necessarily judicial,²⁶ as the Civil Code itself provides that consignation shall be made by depositing the thing or things due at the disposal of *judicial* authority, thus:

Art. 1258. **Consignation shall be made by depositing the things due at the disposal of judicial authority, before whom the tender of payment shall be proved, in a proper case,** and the announcement of the consignation in other cases.

The consignation having been made, the interested parties shall also be notified thereof. (Emphasis and underscoring supplied)

The above provision clearly precludes consignation in venues other than the courts. Elsewhere, what may be made is a valid tender of payment, but not consignation. The two, however, are to be distinguished.

Tender of payment must be distinguished from consignation. Tender is the antecedent of consignation, that is, an act preparatory to the consignation, which is the principal, and from which are derived the immediate consequences which the debtor desires or seeks to obtain. Tender of payment may be extrajudicial, while consignation is necessarily judicial, and the priority of the first is the attempt to make a private settlement before proceeding to the solemnities of consignation. (8 Manresa 325).²⁷

While it may be true that petitioners' claim relates to the terms and conditions of the sale of AFPMBAI's subdivision lot, this is overshadowed by the fact that since the Complaint in Civil Case No. 3812 pleads a case for consignation, the HLURB is without jurisdiction to try it, as such case may only be tried by the regular courts.

WHEREFORE, premises considered, the Petition is **GRANTED**. The September 29, 2005 Decision and January 12, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 84446 are **ANNULLED** and **SET ASIDE**. The October 16, 2003 and March 19, 2004 Orders of the Regional Trial Court of Puerto Princesa City, Branch 47, are **REINSTATED**, and the case is

²⁶ *Soco v. Hon. Militante*, 208 Phil. 151, 159 (1983); *Mclaughlin v. Court of Appeals*, 229 Phil. 8, 18 (1986); *Meat Packing Corporation of the Philippines v. Sandiganbayan*, 411 Phil. 959, 973 (2001); *B.E. San Diego, Inc. v. Alzul*, G.R. No. 169501, June 8, 2007, 524 SCRA 402, 426, 428-429.

²⁷ *Soco v. Hon. Militante*, *supra* at 160-161.

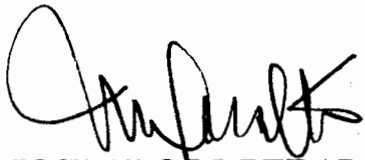
REMANDED to the said court for continuation of the proceedings.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

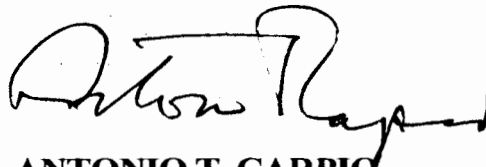

DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
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*

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