



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**FIL-ESTATE GOLF AND
DEVELOPMENT, INC. and FIL-
ESTATE LAND, INC.,**
Petitioners,

G.R. No. 202079

Present:

BRION, J.,*
Acting Chairperson,
DEL CASTILLO,
PEREZ,
PERLAS-BERNABE, and
LEONEN, JJ.**

- versus -

**VERTEX SALES AND TRADING,
INC.,**
Respondent.

Promulgated:

JUN 10 2013 *H.M. Cabalag Perpetuo*

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DECISION

BRION, J.:

Before the Court is the petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, filed by petitioners Fil-Estate Golf and Development, Inc. (*FEGDI*) and Fil-Estate Land, Inc. (*FELI*), assailing the decision² dated February 22, 2012 and the resolution³ dated May 31, 2012 of the Court of Appeals (*CA*) in CA-G.R. CV No. 89296. The assailed *CA* rulings reversed the decision dated March 1, 2007 of the Regional Trial Court (*RTC*) of Pasig City, Branch 161, in Civil Case No. 68791.⁴

* In lieu of Associate Justice Antonio T. Carpio per Special Order No. 1460 dated May 29, 2013.

** Designated as Acting Member in lieu of Associate Justice Antonio T. Carpio per Special Order No. 1461 dated May 29, 2013.

¹ *Rollo*, pp. 9-35.

² *Id.* at 43-53; penned by Justice Isaias P. Dicdican, and concurred in by Justices Jane Aurora C. Lantion and Ramon A. Cruz.

³ *Id.* at 55-56.

⁴ *Id.* at 202-208; penned by Presiding Judge Nicanor A. Manalo, Jr.

THE FACTS

FEGDI is a stock corporation whose primary business is the development of golf courses. FELI is also a stock corporation, but is engaged in real estate development. FEGDI was the developer of the Forest Hills Golf and Country Club (*Forest Hills*) and, in consideration for its financing support and construction efforts, was issued several shares of stock of Forest Hills.

Sometime in August 1997, FEGDI sold, on installment, to RS Asuncion Construction Corporation (RSACC) one Class “C” Common Share of Forest Hills for ₱1,100,000.00. Prior to the full payment of the purchase price, RSACC sold, on February 11, 1999,⁵ the Class “C” Common Share to respondent Vertex Sales and Trading, Inc. (*Vertex*). RSACC advised FEGDI of the sale to Vertex and FEGDI, in turn, instructed Forest Hills to recognize Vertex as a shareholder. For this reason, Vertex enjoyed membership privileges in Forest Hills.

Despite Vertex’s full payment, the share remained in the name of FEGDI. Seventeen (17) months after the sale (or on July 28, 2000), Vertex wrote FEGDI a letter demanding the issuance of a stock certificate in its name. FELI replied, initially requested Vertex to first pay the necessary fees for the transfer. Although Vertex complied with the request, no certificate was issued. This prompted Vertex to make a final demand on March 17, 2001. As the demand went unheeded, Vertex filed on January 7, 2002 a Complaint for Rescission with Damages and Attachment against FEGDI, FELI and Forest Hills. It averred that the petitioners defaulted in their obligation as sellers when they failed and refused to issue the stock certificate covering the subject share despite repeated demands. On the basis of its rights under Article 1191 of the Civil Code, Vertex prayed for the rescission of the sale and demanded the reimbursement of the amount it paid (or ₱1,100,000.00), plus interest. During the pendency of the rescission action (or on January 23, 2002), a certificate of stock was issued in Vertex’s name, but Vertex refused to accept it.

RULING OF THE RTC

The RTC dismissed the complaint for insufficiency of evidence. It ruled that delay in the issuance of stock certificates does not warrant rescission of the contract as this constituted a mere casual or slight breach. It also observed that notwithstanding the delay in the issuance of the stock

⁵ Id. at 17.

certificate, the sale had already been consummated; the issuance of the stock certificate is just a collateral matter to the sale and the stock certificate is not essential to “the creation of the relation of shareholder.”⁶

RULING OF THE CA

Vertex appealed the dismissal of its complaint. In its decision, the CA reversed the RTC and rescinded the sale of the share. Citing Section 63 of the Corporation Code, the CA held that there can be no valid transfer of shares where there is no delivery of the stock certificate. It considered the prolonged issuance of the stock certificate a substantial breach that served as basis for Vertex to rescind the sale.⁷ The CA ordered the petitioners to return the amounts paid by Vertex by reason of the sale.

THE PARTIES’ ARGUMENTS

FEGDI and FELI filed the present petition for review on *certiorari* to assail the CA rulings. They contend that the CA erred when it reversed the RTC’s dismissal of Vertex’s complaint, declaring that the delay in the issuance of a stock certificate constituted as substantial breach that warranted a rescission.

FEGDI argued that the delay cannot be considered a substantial breach because Vertex was unequivocally recognized as a shareholder of Forest Hills. In fact, Vertex’s nominees became members of Forest Hills and fully enjoyed and utilized all its facilities. It added that RSACC also used its shareholder rights and eventually sold its share to Vertex despite the absence of a stock certificate. In light of these circumstances, delay in the issuance of a stock certificate cannot be considered a substantial breach.

For its part, FELI stated that it is not a party to the contract sought to be rescinded. It argued that it was just recklessly dragged into the action due to a mistake committed by FEGDI’s staff on two instances. The first was when their counsel used the letterhead of FELI instead of FEGDI in its reply-letter to Vertex; the second was when they used the receipt of FELI for receipt of the documentary stamp tax paid by Vertex.

In its comment to the petition,⁸ Vertex alleged that the fulfillment of its obligation to pay the purchase price called into action the petitioners’

⁶ Id. at 207.

⁷ Id. at 51.

⁸ Id. at 350-372.

reciprocal obligation to deliver the stock certificate. Since there was delay in the issuance of a certificate for more than three years, then it should be considered a substantial breach warranting the rescission of the sale. Vertex further alleged that its use and enjoyment of Forest Hills' facilities cannot be considered delivery and transfer of ownership.

THE ISSUE

Given the parties' arguments, the sole issue for the Court to resolve is *whether the delay in the issuance of a stock certificate can be considered a substantial breach as to warrant rescission of the contract of sale.*

THE COURT'S RULING

The petition lacks merit.

Physical delivery is necessary to transfer ownership of stocks

The factual backdrop of this case is similar to that of *Raquel-Santos v. Court of Appeals*,⁹ where the Court held that in **“a sale of shares of stock, physical delivery of a stock certificate is one of the essential requisites for the transfer of ownership of the stocks purchased.”**

In that case, Trans-Phil Marine Ent., Inc. (*Trans-Phil*) and Roland Garcia bought Piltel shares from Finvest Securities Co., Inc. (*Finvest Securities*) in February 1997. Since Finvest Securities failed to deliver the stock certificates, Trans-Phil and Garcia filed an action first for specific performance, which was later on amended to an action for rescission. The Court ruled that Finvest Securities' failure to deliver the shares of stock constituted substantial breach of their contract which gave rise to a right on the part of Trans-Phil and Garcia to rescind the sale.

Section 63 of the Corporation Code provides:

SEC. 63. Certificate of stock and transfer of shares. – The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice-president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. **Shares of stock so issued**

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G.R. Nos. 174986, 175071 and 181415, July 7, 2009, 592 SCRA 169, 197-198.

are personal property and may be transferred by delivery of the certificate or certificates indorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.

No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation.

In this case, Vertex fully paid the purchase price by February 11, 1999 but the stock certificate was only delivered on January 23, 2002 after Vertex filed an action for rescission against FEGDI.

Under these facts, considered in relation to the governing law, FEGDI clearly failed to deliver the stock certificates, representing the shares of stock purchased by Vertex, within a reasonable time from the point the shares should have been delivered. This was a substantial breach of their contract that entitles Vertex the right to rescind the sale under Article 1191 of the Civil Code. It is not entirely correct to say that a sale had already been consummated as Vertex already enjoyed the rights a shareholder can exercise. The enjoyment of these rights cannot suffice where the law, by its express terms, requires a specific form to transfer ownership.

“Mutual restitution is required in cases involving rescission under Article 1191” of the Civil Code; such restitution is necessary to bring back the parties to their original situation prior to the inception of the contract.¹⁰ Accordingly, the amount paid to FEGDI by reason of the sale should be returned to Vertex. On the amount of damages, the CA is correct in not awarding damages since Vertex failed to prove by sufficient evidence that it suffered actual damage due to the delay in the issuance of the certificate of stock.

Regarding the involvement of FELI in this case, no privity of contract exists between Vertex and FELI. “As a general rule, a contract is a meeting of minds between two persons. The Civil Code upholds the spirit over the form; thus, it deems an agreement to exist, provided the essential requisites are present. A contract is upheld as long as there is proof of consent, subject matter and cause. Moreover, it is generally obligatory in whatever form it

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Laperal v. Solid Homes, Inc., 499 Phil. 367, 378 (2005).

may have been entered into. From the moment there is a meeting of minds between the parties, [the contract] is perfected.”¹¹

In the sale of the Class “C” Common Share, the parties are only FEGDI, as seller, and Vertex, as buyer. As can be seen from the records, FELI was only dragged into the action when its staff used the wrong letterhead in replying to Vertex and issued the wrong receipt for the payment of transfer taxes. Thus FELI should be absolved from any liability.

WHEREFORE, we hereby **DENY** the petition. The decision dated February 22, 2012 and the resolution dated May 31, 2012 of the Court of Appeals in CA-G.R. CV No. 89296 are **AFFIRMED with the MODIFICATION** that Fil-Estate Land, Inc. is **ABSOLVED** from any liability.

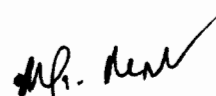
SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

¹¹ *Sta. Clara Homeowners' Association v. Sps. Gaston*, 425 Phil. 221, 235-236 (2002); citations omitted.

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.



ARTURO D. BRION

Associate Justice

Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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