



Republic of the Philippines
SUPREME COURT
Manila

THIRD DIVISION

**BANK OF THE PHILIPPINE
ISLANDS,**

Petitioner,

- versus -

**VICENTE VICTOR C. SANCHEZ,
HEIRS OF KENNETH NEREO
SANCHEZ, represented by
FELISA GARCIA YAP, and
HEIRS OF IMELDA C. VDA. DE
SANCHEZ, represented by
VICENTE VICTOR C. SANCHEZ,**
Respondents.

X-----X

**GENEROSO TULAGAN, HEIRS
OF ARTURO MARQUEZ,
represented by ROMMEL
MARQUEZ, and VARIED
TRADERS CONCEPT, INC.,
represented by its President and
General Manager, ANTHONY
QUINA,**

Petitioners,

- versus -

**VICENTE VICTOR C. SANCHEZ,
HEIRS OF KENNETH NEREO
SANCHEZ, represented by
FELISA GARCIA YAP, and
HEIRS OF IMELDA C. VDA. DE
SANCHEZ, represented by
VICENTE VICTOR C. SANCHEZ,
JESUS V. GARCIA, and
TRANSAMERICAN SALES &
EXPOSITION, INC.,**

Respondents.

X-----X

G.R. No. 179518

Present:

**VELASCO, JR., J., Chairperson,
PERALTA,
VILLARAMA, JR.
REYES, and
JARDELEZA, JJ.**

G.R. No. 179835

REYNALDO V. MANIWANG,
Petitioner,

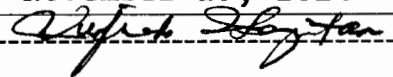
G.R. No. 179954

- versus -

VICENTE VICTOR C. SANCHEZ
and FELISA GARCIA YAP,
Respondents.

Promulgated:

November 19, 2014

X----------X

DECISION

VELASCO, JR., J.:

The Case

These are consolidated Petitions for Review on Certiorari under Rule 45 of the Rules of Court assailing the November 6, 2006 Decision¹ and August 31, 2007 Resolution of the Court of Appeals in CA-G.R. No. 83236 entitled *Vicente Victor C. Sanchez, Heirs of Kenneth Nereo Sanchez represented by Felisa Garcia Yap, and Heirs of Imelda C. Vda. de Sanchez represented by Vicente Victor C. Sanchez v. Jesus V. Garcia and Transamerican Sales and Exposition, Inc.* The assailed Decision affirmed with modification the Decision dated July 14, 2004 of the Regional Trial Court, Branch 89 in Quezon City, in Civil Case No. Q-90-4690.

The Facts

The facts of the case are as follows:

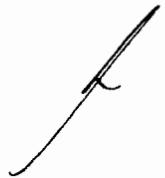
Vicente Victor C. Sanchez (Vicente), Kenneth Nereo Sanchez and Imelda C. Vda. De Sanchez owned a parcel of land located at No. 10 Panay Avenue, Quezon City consisting of 900 square meters. The property was registered under Transfer Certificate of Title No. (TCT) 156254 of the Registry of Deeds of Quezon City (the Subject Property).²

On October 10, 1988, Jesus V. Garcia (Garcia), doing business under the name TransAmerican Sales and Exposition, Inc. (TSEI), wrote a letter³ to Vicente offering to buy the Subject Property for One Million Eight Hundred Thousand Pesos (P1,800,000) under the following terms and conditions:

¹ Penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Rosalinda Asuncion Vicente and Ramon M. Bato, Jr.

² Records, Vol. 1, pp. 153-154.

³ Id. at 155.



Following are my basic terms and conditions in buying the above-mentioned property:

1. P50,000.00 - Reservation/earnest money to be paid upon execution of reservation agreement
2. P1,750,000.00 - To be paid to seller as soon as all pertinent sales documents, including a Deed of Absolute Sale are prepared and executed in my favor.
3. As per standard practice, the capital gain [sic] tax, documentary stamps, brokers commission of 5% and Deed of Sale documents shall be in the account of the Seller.
4. Registration expenses and transfer tax shall be my obligations [sic].⁴

The offer was good for only seven (7) days. The period elapsed with the parties failing to come to an agreement.

Sometime in the third week of October 1988, Felisa Yap (Yap), the widow of Kenneth Nereo Sanchez, and Garcia had a meeting at the Quezon City Sports Club wherein the parties agreed to the sale of the subject property under the following terms and conditions:

1.7.1. Garcia shall buy the property for P1.850 million payable in cash immediately after the occupants thereof shall have vacated the property.

1.7.2. Garcia shall immediately pay (the) amount of P50,000.00 creditable against the total purchase.

1.7.3. Garcia shall take care of all documentation necessary for the transfer of the title in his favor, including the reconstitution of the original title x x x and the extrajudicial settlement of the property, considering that, as stated, the title is still registered in the names of plaintiff Sanchez, the late Kenneth Nereo Sanchez and the late Imelda C. Vda. De Sanchez. For this purpose, the original owner's copy of Transfer Certificate of Title, the copy of the application for the reconstitution of title of the property, and copies of receipts of real estate taxes were to be entrusted to defendant Garcia;

1.7.4. Garcia shall cause the demolition of the old house standing on the property and shall sell the scrap materials thereof for not less than P50,000.00. All proceeds to be realized on account of said demolition shall be turned over to the [Sanchezes].⁵

Pursuant to this agreement, Yap turned over to Garcia the original owner's copy of TCT 156254, the copy of the filed Application for Restitution of Title to the property, and copies of all receipts for the payment

⁴ Id.

⁵ Id. at 58-59.

of real estate taxes on the property, while Garcia paid Yap ₱50,000 as earnest money.⁶

Afterwards, Yap required the occupants of the subject property to vacate the same. Immediately after it was vacated, Garcia, without Yap's knowledge and consent, took possession of the lot and installed his own caretaker thereon with strict instructions not to allow anyone to enter the property. Yap later learned that Garcia had also demolished the house on the property and advertised the construction and sale of "TransAmerican Townhouse V" thereon. The foregoing developments notwithstanding and despite numerous demands, Garcia failed to pay the balance of the purchase price as agreed upon.⁷

Then, on December 5, 1988, Yap was informed that the checks representing the purchase price of the subject property were ready but that Vicente must pick up his checks personally. On December 8, 1988, Vicente came to Manila from Laguna and proceeded to Garcia's office to get the checks. However, out of the six (6) checks that were presented to them, four (4) of them were post-dated, further delaying their overdue payment.⁸ In order to properly document such check payments, the parties executed an Agreement dated December 8, 1988,⁹ paragraphs 3 to 8 of which relevantly provide:

3. That the total consideration of sale of the rights, interest, participation and title of the First (Yap) and Second (Vicente) Parties of the aforestated parcel of land to the Third Party (Garcia) shall be One Million Eight Hundred Fifty Thousand Pesos (P1,850,000.00), Philippine Currency, payable in check, as follows:

a) RBC Check No. 290258 to be drawn in favor of Felisa G. Yap and dated December 8, 1988 for the sum of P250,000.00;

b) RBC Check No. 290257 to be drawn in favor of Vicente Victor Sanchez and dated December 8, 1988 for the sum of P250,000.00;

c) RBC Check No. 290261 to be drawn in favor of Felisa G. Yap and dated December 14, 1988 for the sum of P250,000.00;

d) RBC Check No. 290260 to be drawn in favor of Vicente Victor Sanchez and dated December 14, 1988 for the sum of P250,000.00;

e) RBC Check No. 290263 to be drawn in favor of Felisa G. Yap and dated December 22, 1988 for the sum of P400,000.00; and

⁶ CA *rollo*, p 48.

⁷ Id.

⁸ Id. at 49-50.

⁹ Id. at 117-119.

f) RBC Check No. 290262 to be drawn in favor of Vicente Victor Sanchez and dated December 22, 1988 for the sum of P400,000.00.

4. That the parties hereto agree that once the aforestated checks are honored by the bank and encashed by the payees thereof, the First and Second Parties shall execute an EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE distributing and dividing among themselves the aforestated parcel of land and conveying in the said instrument all their rights, interest, share, title and participation in the said property to the Third Party for the consideration stated in the preceding paragraph.

5. That once the aforestated EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE is executed, the First and Second Parties shall immediately deliver the said document to the Third Party who, on the strength of the same, shall reconstitute the burned Title of the aforesaid Transfer Certificate of Title No. 156254, copy attached, in the Registry of Deed of Quezon City and thereafter effect the transfer and registration of the said property in his name; it being understood however that all necessary expenses necessary for such reconstitution of title, transfer and registration, shall be borne by the Third Party while the inheritance tax, capital gains tax and documentary stamps required to be paid therefor shall be borne by the First and Second Parties, but in no case shall it exceed the combined amount of P_____.

6. That it is agreed by the parties hereof that if at any time one of the aforestated checks is dishonored by the bank, the First and Second Parties may opt to rescind this contract and that in the event of rescission, the First and Second Parties shall forfeit the earnest money of P50,000.00 and retain or withhold the amount representing the value of damage effected by way of demolition by the Third Party on the property standing and situated on the aforestated parcel of land, which value shall not exceed the sum of P290,000 -- depreciated cost of the building therein and that whatever then remain as proceeds of the aforestated checks shall be returned to the Third Party.

7. It is also agreed that after the delivery of the EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE by the First and Second Parties after the encashment of the last check, the Third Party shall also pay the balance of the demolition proceeds in the amount of P20,000.00.

8. That after the delivery of the EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE to the Third Party, the First and Second Parties shall, except those stipulated above, then have only the remaining obligation to deliver to the Third Party any document in their possession or what they can lawfully and validly execute in accordance with their rights as aforestated and/or shown in the aforementioned title.¹⁰

¹⁰ Records, Vol. 1, pp. 158-159.

Subsequently, the first four (4) checks were deposited with no issue. However, the last two (2) checks, amounting to ₱400,000 each, were dishonored for the reason of “DAIF” or drawn against insufficient funds.¹¹

Thus, Yap wrote a letter dated December 26, 1988¹² to Garcia informing him that the two (2) checks were dishonored and asking that the checks be replaced within five (5) days from receipt of the letter. Such request was left unheeded.

On January 10, 1989, Yap informed Garcia in a letter¹³ that she and Vicente were rescinding the Agreement while demanding the return of the original owner’s copy of TCT 156254. This prompted Garcia to offer two (2) manager’s checks in the aggregate amount of ₱300,000 which Yap flatly refused, reiterating the rescission of their Agreement and demanding for the return of all documents entrusted to Garcia through a January 21, 1989 letter.¹⁴

However, in a letter dated January 27, 1989,¹⁵ Garcia’s counsel, Atty. Francisco Beato, Jr. (Beato), informed Yap that they (Garcia, Vicente and Yap) had an agreement that the ₱800,000 balance of the purchase price was due to be paid by Garcia only upon Yap and Vicente’s payment of the realty, inheritance and capital gains taxes due on the transfer of the property. Thus, Garcia effectively refused to return the documents and to vacate the subject property.

Yap referred Beato’s letter to her own counsel, Atty. Julian S. Yap, who wrote back in a letter dated February 16, 1989, refuting the claim of Garcia that the ₱800,000 was not yet due and reiterating their decision to rescind the Agreement and demanding that Garcia vacate the property and return the documents that were surrendered to him by Yap.¹⁶

In the meantime, on February 19, 1989, Yap and Vicente discovered that Garcia posted an advertisement in the classified ads of the Manila Bulletin offering to sell units at the TransAmerican Townhouse V situated at the subject property.¹⁷

Thus, on February 27, 1989, Atty. Yap wrote the Housing and Land Use Regulatory Board (HLURB) informing the latter of the existing public advertisement of TSEI offering for sale townhouses illegally constructed on the subject property and urging the HLURB to cancel any existing permit or license to sell the said townhouse units or to deny any application therefor.¹⁸

¹¹ Id. at 160-161.

¹² Id. at 162.

¹³ Id. at 163-164.

¹⁴ Id. at 165.

¹⁵ Id. at 166.

¹⁶ Id. at 167.

¹⁷ Id. at 171.

¹⁸ Id. at 168-169.

On March 17, 1989, the HLURB issued a Cease and Desist Order¹⁹ (CDO) enjoining TSEI and Garcia from further developing and selling the townhouses. In the said order, Commissioner Amado B. Celoria of the HLURB certified that respondents Garcia and TSEI have not been issued any permit by said Board for the townhouse Project on the subject lot. Respondents Garcia and TSEI were directed to immediately stop from further developing the project. Additionally, such cease and desist order as well as warnings to possible buyers of the townhouses were published with the Philippine Daily Inquirer on April 16, 1989, and with the Manila Bulletin on April 19, 1989.²⁰ On May 5, 1989, the HLURB issued another letter to TSEI reiterating its previous directive for it to cease and desist from selling the townhouse units.²¹ In compliance, Garcia and TSEI stopped construction of the townhouses units on March 30, 1989.²²

In a delayed response to the CDO, TSEI wrote a letter to the HLURB alleging that only ground leveling works were being undertaken on the project. This was rebuffed by the HLURB in a letter dated May 8, 1989²³ stating that ocular inspections of the project revealed that 2nd floor construction on the townhouses were already being undertaken. Thus, the HLURB ordered TSEI to explain in writing why administrative sanctions should not be meted out against it and reiterating its earlier cease and desist order. Undeterred, TSEI continued its construction and selling activities for the townhouses. Thus, the HLURB issued an Order dated June 1, 1989²⁴ fining TSEI in the amount of ₱10,000.

To further protect their interests, Yap and Vicente also inquired from the City Building Official of Quezon City, whether a building permit had been issued for the construction on the Subject Property. In a letter dated March 14, 1989, the office found that the construction on the subject property was indeed illegal and at its 5% initial stage.²⁵ Additionally, Yap also wrote a letter dated April 3, 1989²⁶ to the Register of Deeds in Quezon City informing it that TCT 156254 was no longer in their possession and requesting that the office clear the matter with them first before acting on any transaction pertaining to the subject property.

In the meantime, the HLURB issued another letter dated June 22, 1989²⁷ denying TSEI's proposed compromise penalty of ₱2,500 and directing TSEI to pay the ₱10,000 fine. And on June 23, 1989, it issued another letter²⁸ to TSEI refuting the latter's claim that they were not selling townhouses by citing advertisements of TransAmerican Townhouse V units

¹⁹ Id. at 174.

²⁰ Id. at 176-177.

²¹ Id. at 178-179.

²² *Rollo*, pp. 17 & 20.

²³ Records, Vol. 1, p. 180.

²⁴ Id. at 181.

²⁵ Id. at 173.

²⁶ Id. at 175.

²⁷ Id. at 182.

²⁸ Id. at 183.

at No. 10, Panay Avenue in the Philippine Daily Inquirer (PDI) and the Manila Bulletin (MB).

Then, on August 21, 1989, Yap filed a formal complaint²⁹ with the Office of the City Building Official of Quezon City. The complaint was set for hearing on August 30, 1989 with an order for Garcia and TSEI to produce their building permit.³⁰ However, both Garcia and TSEI failed to attend the said hearing.

Thereafter, on February 15, 1990, Yap and Vicente, in his own behalf and representing the heirs of Imelda C. Vda. De Sanchez, filed before the Regional Trial Court (RTC) in Quezon City, Branch 89 a Complaint dated February 14, 1990³¹ for the rescission of contract, restitution and damages with prayer for TRO/preliminary injunction against TSEI and Garcia, docketed as Civil Case No. Q-90-4690.

Meanwhile, Garcia managed to cause the cancellation of TCT 156254 and its replacement with TCT 383697 in the name of TSEI.³² TCT 383697, however, bore the date of issuance as June 9, 1988, way before the parties agreed on the sale sometime in October 1988. Garcia apparently used TCT 383697 to entice several buyers to buy the townhouse units being constructed by TSEI on the subject lot. Claiming to have bought townhouse units sometime in early 1989, the following intervened in the instant case: the spouses Jose and Visitacion Caminas (Caminas), Reynaldo V. Maniwang (Maniwang), Generoso C. Tulagan (Tulagan), Varied Traders Concept, Inc. (VTCI), and Arturo Marquez (Marquez).

The records reveal that on January 31, 1989, TSEI sold to Tulagan a 52-square meter portion of TCT 156254 and the townhouse unit that was going to be built upon it for the amount of ₱800,000 as evidenced by a Conditional Deed of Sale of even date.³³ Later, Tulagan bought another unit from TSEI this time for ₱600,000 as shown by a Contract to Sell dated February 21, 1989.³⁴ Then, Maniwang bought a unit from TSEI for ₱700,000 through an Absolute Deed of Sale dated February 22, 1989.³⁵ Later, Marquez purchased a townhouse unit from TSEI for ₱800,000 in a Contract to Sell dated March 13, 1989.³⁶ Afterwards, TSEI sold to Caminas a townhouse unit for ₱650,000 through an Absolute Deed of Sale dated March 21, 1989.³⁷ Thereafter, VTCI bought three (3) townhouses from TSEI for ₱700,000 each in three (3) separate Absolute Deeds of Sale all dated

²⁹ Id. at 192.

³⁰ Id. at 193.

³¹ Id. at 1-21.

³² Records, Vol. 2, pp. 89-90.

³³ Records, Vol. 1, pp. 364-367.

³⁴ Id. at 368-371.

³⁵ Id. at 333-335.

³⁶ Records, Vol. 2, pp. 45-48.

³⁷ Records, Vol. 1, pp. 272-274.

October 30, 1989.³⁸ TSEI left the townhouse units unfinished, leaving these intervenors to finish their townhouses by themselves.

Notably, except for the Absolute Deeds of Sale executed between TSEI and VTCI, all the other intervenors' contracts conveying townhouses in their favor identified their purchased lots as covered by TCT 156254 (the title of the Sanchezes). As culled from the transcripts, the intervenors Caminas,³⁹ Maniwang,⁴⁰ Tulagan,⁴¹ and Marquez⁴² asserted that they were all shown TCT 383697 in the name of TSEI but nevertheless signed their respective contracts with TSEI indicating the subject property as covered by TCT 156254. Subsequently, they all got a photocopy of TCT 383697 and verified the same with the Registry of Deeds of Quezon City, which confirmed that the title was clean. On the other hand, only the Absolute Deed of Sale in favor of VTCI, dated October 30, 1987, reflected that the property sold was covered by TCT 383697.⁴³

Far East Bank and Trust Company (FEBTC) entered into a Loan Agreement⁴⁴ dated May 22, 1989 with TSEI secured by a Real Estate Mortgage over TCT 156254. FEBTC later merged with the Bank of the Philippine Islands (BPI) with the latter as the surviving bank. Garcia purportedly explained to FEBTC that the parties were still in the process of transferring the title. Afterwards, Garcia submitted a copy of TCT 383697 in TSEI's name. Upon default, FEBTC (now BPI) foreclosed the subject lot and had the Foreclosure Certificate of Sale annotated on TCT 383697.

The Ruling of the Regional Trial Court

On July 14, 2004, the RTC rendered a Decision in favor of the Sanchezes as plaintiffs, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Declaring the legality and validity of the Extrajudicial Rescission effected by the plaintiffs on the Contract to Sell on the subject property, covered by TCT No. 156254 in their names;
2. Ordering the defendants and all persons acting on their behalf to return to the plaintiffs the Owner's Copy of TCT No. 156254, including all the documents entrusted to them in consideration of their Contract to Sell;
3. Ordering defendants and all persons, including the intervenors and all persons claiming rights under them to return and surrender to the plaintiffs the peaceful possession of the subject property covered by TCT No. 156254 located at No. 10 Panay Avenue, Quezon City;

³⁸ Id. at 376-384.

³⁹ TSN, November 6, 2001, p. 13.

⁴⁰ TSN, February 20, 2001, pp. 12-13.

⁴¹ TSN, March 6, 2001, p. 5.

⁴² TSN, January 22, 2002, p. 10.

⁴³ Records, Vol. 1, pp. 376-384.

⁴⁴ Records, Vo. 2, pp. 60-69.

4. Ordering the defendants jointly and severally to pay the plaintiffs the sum of One Hundred Thousand (P100,000.00) Pesos, Philippine Currency as and by way of attorney's fees;

5. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Thousand (P200,000.00) Pesos, Philippine Currency as and by way of moral damages;

6. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Thousand (P200,000.00) Pesos, Philippine Currency as and by way of exemplary damages to serve as correction or example for the public good;

7. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Ninety Thousand (P290,000.00) Pesos, representing the depreciated cost of the plaintiffs' demolished building per their Agreement (Exhibit "D");

8. Dismissing defendants' counterclaim as well as intervenors' counterclaims/complaints and answers in intervention against the plaintiffs;

9. Ordering the plaintiffs to return to the defendants, after deducting the damages herein awarded, the remaining amount on the sum paid by the defendants on the subject property;

10. Dismissing the counterclaim of plaintiffs against all intervenors;

11. Ordering the defendants to return to intervenors, Jose and Visitacion Caminas, Reynaldo Maniwang, Generoso "Gener" Tulagan, and VTCL, and Arturo Marquez, the following sum to wit:

- | | | |
|----|----------|--|
| 1. | CAMINAS | - P650,000.00 (Absolute Deed of Sale dated 14 March 1989); |
| 2. | MANIWANG | - P700,000.00 (Absolute Deed of Sale dated 22 February 1989); |
| 3. | TULAGAN | - P1.4 Million, representing the following: |
| | | 3.1 P600,000.00 – (Contract To Sell dated 21 February 1989); |
| | | 3.2 P800,000.00 – (Conditional Deed of Sale dated 31 January 1989); |
| 4. | VTCL | - P2.1 Million, representing the following: |
| | | 4.1 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-K); |
| | | 4.2 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-I); |
| | | 4.3 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-F); |
| 5. | MARQUEZ | - P600,000.00 (Contract To Sell dated 8 March 1989); |
| 6. | BPI | - Declaring the intervention of the Bank without merit. |

respectively, representing the full and/or partial purchase price of their respective units, all with six (6) percent interest per annum

counted from the time of their filing of their intervention of judicial demand, and twelve (12) percent per annum upon the finality of this decision.

With costs against defendants.

SO ORDERED.⁴⁵

The RTC declared that the Sanchezes have the right to rescind the Agreement they entered into with Garcia and TSEI under proviso no. 6⁴⁶ of the Agreement. In fact, the RTC enunciated that because the Agreement is in the nature of a contract to sell, the ownership over the subject property remained with the Sanchezes as the suspensive condition—that the check payments shall be honored—was not complied with. Thus, the RTC concluded that there was not even any need for rescission in this case. Moreover, the RTC found that TSEI and Garcia were builders in bad faith as the Sanchezes never consented to the construction of the townhouses. Furthermore, the presentation by Garcia and TSEI to the intervenors of TCT 383697 in TSEI's name sufficiently shows their bad faith. Anent the rights of intervenors, the RTC found the Sanchezes to have a better right over the subject property considering that the transactions between Garcia/TSEI and the intervenors suffered from several irregularities, which they, the intervenors, in bad faith, ignored.

The Ruling of the Court of Appeals

Upon appeal by the intervenors-appellants, the CA rendered, on November 6, 2006, the assailed Decision affirming the RTC Decision with modifications, the decretal portion of which reads:

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** with **MODIFICATIONS** in that (1) the Register of Deeds of Quezon City is hereby directed to cancel the Transfer Certificate of Title No. 383697 in the name of TransAmerican Sales and Exposition, Inc. and to reinstate Transfer Certificate of Title No. 156254 in the name of the [sic] Kenneth Nereo Sanchez, Vicente Victor Sanchez and Imelda C. Vda. de Sanchez in its original status prior to the claim of the intervenors-appellants; and (2) the plaintiffs and the defendants are ordered to follow the provisions of Article 448 of the Civil Code of the Philippines as regards the improvements constructed on the subject property. The questioned decision is affirmed in all other respects.

SO ORDERED.⁴⁷

Thus, the CA ordered the cancellation of TCT 383697 in TSEI's name and the reinstatement of TCT 156254 in the names of the Sanchezes.

⁴⁵ Id. at 194-196.

⁴⁶ Id. at 118-119, which states as follows:

6. That it is agreed by the parties hereof that if at any time one of the aforesaid checks is dishonored by the bank, the First and Second Parties may opt to rescind this contract and that in the event of rescission x x x.

⁴⁷ *Rollo* (G.R. No. 179518), p. 89.

However, the appellate court found the Sanchezes equally in bad faith with TSEI and Garcia, and gave the Sanchezes the option either to appropriate the townhouses by paying for them or to oblige TSEI and Garcia to pay the price of the land, unless the subject lot's value is considerably more than that of the structures built thereon in which case TSEI and Garcia would have to pay the Sanchezes reasonable rent for the use of the subject property.

Hence, these petitions under Rule 45 separately interposed by the intervenors.

The Issues

In G.R. No. 179518, BPI raises the following issues:

V.

Grounds for this Appeal

- A. The Court of Appeals erred in decreeing the rescission of the Agreement between plaintiffs Sanchez, et al. and defendants TSE and Garcia.
 - i. Sanchez, et al. had no intention of rescinding their Agreement.
 - ii. Rescission cannot take place because the property was already acquired by third person who acted in good faith.
 - iii. Sanchez, et al. should bear all the losses arising from their own negligence.
- B. The Court of Appeals erred in ordering the annulment of TCT No. 383697 in a collateral action.
- C. The Court of Appeals erred in ordering the annulment of TCT No. 383697 notwithstanding that it had no jurisdiction to do so, since such relief was never prayed for in the complaint.
- D. The Court of Appeals erred in decreeing rescission, notwithstanding that it would result in the unjust enrichment of plaintiffs Sanchez, et al., at the expense of BPI.
- E. Assuming that Article 448 of the Civil Code is applicable, the Court of Appeals erred in not ruling that BPI already acquired the rights of defendants under the said article.⁴⁸

In G.R. No. 179835, Tulagan, the heirs of Marquez and VTCI raise the following issue:

Whether or not the herein petitioners, as buyers and possessors of their respective units that were constructed by respondent Garcia in the subject property, are entitled, to the same benefit granted to the latter (who was subsequently declared by the Court of Appeals as a builder in good faith of the improvements he introduced in the subject property), under the provision of Article 448 of the Civil Code of the Philippines.⁴⁹

⁴⁸ Id. at 19-20.

⁴⁹ *Rollo* (G.R. No. 179835), p. 27.

While in G.R. No. 179954, Maniwang raises the following issues:

Grounds for the Petition

With all due respect, the Honorable Court of Appeals failed to apply the pertinent provisions of law and utterly failed to consider prevailing jurisprudence when it totally disregarded the perfected Contract of Sale under the nomenclature “Contract to Sell” entered into by respondents and defendants prior to the “Agreement” entered into by them.

With all due respect, the Honorable Court of Appeals utterly neglected to apply pertinent provisions of the Civil Code and prevailing jurisprudence on the matter when it affirmed the trial court’s decision granting the respondents’ prayer for rescission.

With all due respect, it is respectfully submitted that the Honorable Court of Appeals erred in not finding that petitioner Reynaldo Maniwang is an innocent purchaser in good faith, thus resulting in the total disregard of his rights over the subject property when it applied to the instant case the provisions of Article 448 of the Civil Code of the Philippines.⁵⁰

The essential common issues presented by intervenors-petitioners are: *first*, whether the parties all acted in bad faith; *second*, whether there was a valid rescission of the Agreement between the Sanchezes and TSEI/Garcia; and *third*, whether TCT 383697 in the name of TSEI may be cancelled.

The Court’s Ruling

The petitions in these consolidated cases must be denied.

***The Sanchezes are not guilty
of negligence***

Petitioners would lay the blame on the Sanchezes and argue that there was negligence on the latter’s part when they turned over the owner’s original duplicate copy of TCT 156254 despite receiving only the ₱50,000 earnest money, which led to the fraudulent transfer of title over the subject lot by Garcia and the issuance of TCT 383697 in the name of TSEI. They also argue that the Sanchezes were also negligent for surrendering possession of the subject property to Garcia and TSEI, and for failing to stop the construction of the townhouses on the subject property.

It must be stated that the CA already ruled that the issue of the Sanchezes’ negligence was never raised at the pre-trial. As such, it can no longer be raised on appeal. Nevertheless, even if such issue were to be passed upon, the Sanchezes cannot be considered negligent, much less in bad faith.

⁵⁰ *Rollo* (G.R. No. 179954), pp. 7-8.

As explained by the CA:

It must be noted that defendant Garcia committed himself that, upon full payment of the purchase price, he would personally undertake the preparation and execution of the Extrajudicial Settlement with Sale as well as the reconstitution of the original copy of TCT No. 156254 on file with the Register of Deeds of Quezon City. Thus, it was inevitably for plaintiff-appellant/appellee Felisa Yap to surrender to defendant Garcia the owner's duplicate copy of the aforesaid title as well as the other documents pertinent for such documentation and reconstitution. To Our mind, this does not constitute negligence on the part of the plaintiffs-appellants/appellees as the surrender was purely to comply with and in pursuance to their earlier agreement with the defendants.

As regards the alleged relinquishment of possession of the subject property, We also do not find any negligence on the part of the plaintiffs-appellants/appellees. The records would disclose that the plaintiffs-appellants/appellees did not voluntarily surrender possession thereof to defendants. On the contrary, it was defendant Garcia who took possession of the subject property, without plaintiffs-appellants/appellees knowledge, posted his own caretaker therein with strict instructions not to allow anyone to enter the same. The latter also caused the demolition of the old house standing thereon and advertised the same for sale by placing a large billboard in front of the subject property. In fact, had it not been for persistent efforts of plaintiffs-appellants/appellees, the Agreement which eventually protected the latter's rights over the subject property, could not have been executed.⁵¹

Negligence is the omission of that diligence required by the nature of the obligation and corresponds to the circumstances of the persons, of the time and of the place.⁵² The Sanchezes could not be found negligent as they relied upon the assurances of Garcia after their oral agreement to sell was negotiated. The Sanchezes trusted Garcia and entrusted to him—per their oral agreement—the owner's original duplicate of TCT 156254 in order to facilitate the documentation required under the terms of agreement for the sale of the subject lot. It must be pointed out that the parties in this case were not dealing on equal terms. The Sanchezes had insufficient knowledge in the legalities of transacting with real estate. This is evidenced by the fact that they already considered an oral agreement for the sale of real property as sufficient. Had they been knowledgeable in such matters, they would have known that such oral agreement is unenforceable and instead sought the production of a written agreement. Moreover, the facts show that the Sanchezes did not simply surrender possession of the property to TSEI and Garcia, but that such possession was taken from them without their consent.

The Sanchezes did not act in bad faith

⁵¹ *Rollo* (G.R. No. 179518), pp. 78-79.

⁵² *Cang v. Cullen*, G.R. No. 163078, November 25, 2009, 605 SCRA 391, 404.

Contrary to the finding of the CA, the Sanchezes cannot be considered to be in bad faith for failing to file an action for injunction against the construction of the townhouses on the subject property. The CA stated:

x x x However, it appears that plaintiffs/appellants/appellees did not take any step to forestall the continued construction of the townhouses. The records do no [sic] show that the plaintiffs/appellants/appellees filed any case for injunction to at least restrain the defendants from continuing with the construction. Conversely, they allowed the same to continue despite the fact that they were not as yet fully paid of the purchase price on the subject property and no contract of sale has been executed by them in defendants' favor. Under these circumstances, the provision of Article 453 of the Civil Code should have been applied by the trial court.⁵³

Such ruling is erroneous.

Article 453 of the Civil Code relevantly states:

Article 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part. (emphasis supplied)

The second paragraph of the provision clearly reads that a landowner is considered in bad faith if he does not oppose the unauthorized construction thereon despite knowledge of the same. It does not, however, state what form such opposition should take. The fact of the matter is that the Sanchezes did take action to oppose the construction on their property by writing the HLURB and the City Building Official of Quezon City. As a result, the HLURB issued two (2) Cease and Desist Orders and several directives against Garcia/TSEI which, however, were left unheeded.

In addition, the Sanchezes could not be faulted for not having been able to enjoin the sale of the townhouses by Garcia and TSEI to the intervenors Sps. Caminas, Maniwang, Tulagan, and Marquez who bought their townhouse units during the same period that the Sanchezes were demanding the full payment of the subject lot and were exercising their right of extrajudicial rescission of the Agreement. As the intervenors asserted having bought the townhouse units in early 1989, it can be seen that the pre-selling was done almost immediately after the Sanchezes and Garcia/TSEI agreed on the terms of the sale of the subject lot, or shortly after Garcia and TSEI had taken over the property and demolished the old house built thereon. In either case, the pre-selling already commenced and was continuing when the two postdated checks amounting to the remaining balance of ₱800,000 bounced. And when the Sanchezes informed Garcia

⁵³ *Rollo* (G.R. No. 179518), pp. 86-87.

and TSEI that they were rescinding the Agreement in early 1989, the intervenors apparently were already in the process of closing their deals with TSEI for the purchase of townhouse units.

As to the transactions between FEBTC and Garcia/TSEI and that between VTCI and Garcia/TSEI, it is suffice to state that the Sanchezes, despite the actions they undertook, were not aware of the said dealings.

Garcia, TSEI, BPI, and the intervenors acted in bad faith

a. Garcia and TSEI acted in bad faith

The Court agrees with both the RTC and the CA that Garcia and/or TSEI are builders in bad faith. They knew for a fact that the property still belonged to the Sanchezes and yet proceeded to build the townhouses not just without the authority of the landowners, but also against their will. Thus, the CA wrote:

Anent the improvements constructed on the subject property, the defendants were undoubtedly builders in bad faith. As borne out by the evidence, the defendants took possession of the subject property and constructed the 20-unit townhouses thereon without prior consent of the plaintiffs-appellants/appellees. On top of this, defendant Garcia was aware that the defendants have not as yet fully paid the purchase price thereof and therefore are not yet owner/s of the subject property. In fact, no contract of sale over the subject property has been executed by the plaintiffs/appellants/appellees in defendants' favor.⁵⁴ x x x

The next query: are the intervenors purchasers in good faith?

The Court rules otherwise.

b. Intervenors Sps. Caminas, Maniwang, Tulagan, and Marquez acted in bad faith

Prevailing jurisprudence reveals the following established rules:

1. Well settled is the rule that all persons dealing with property covered by a torrens certificate of title are not required to go beyond what appears on the face of the title. When there is nothing on the certificate of title to indicate any cloud or vice in the ownership of the property, or any encumbrance thereon, the purchaser is not required to explore further than what the torrens title upon its face indicates in quest for any hidden defect or inchoate right that may subsequently defeat his right thereto.⁵⁵

⁵⁴ *Rollo*, p. 86.

⁵⁵ *Centeno v. Court of Appeals*, No. L-40105, November 11, 1985, 139 SCRA 545.

2. **This rule, however, admits of an exception as where the purchaser or mortgagee has knowledge of a defect or lack of title in the vendor, or that he was aware of sufficient facts to induce a reasonably prudent man to inquire into the status of the property in litigation.**⁵⁶ (emphasis supplied)
3. Likewise, one who buys property with full knowledge of the flaws and defects in the title of the vendor is enough proof of his bad faith and estopped from claiming that he acquired the property in good faith against the owners.⁵⁷
4. To prove good faith, the following conditions must be present: (a) the seller is the registered owner of the land; (b) the owner is in possession thereof; and (3) at the time of the sale, the buyer was not aware of any claim or interest of some other person in the property, or of any defect or restriction in the title of the seller or in his capacity to convey title to the property. All these conditions must be present, otherwise, the buyer is under obligation to exercise extraordinary diligence by scrutinizing the certificates of title and examining all factual circumstances to enable him to ascertain the seller's title and capacity to transfer any interest in the property.⁵⁸

The factual milieu of the case reveals that intervenors are buyers in bad faith for the following reasons, viz:

Firstly, they admitted that they executed either contracts of sale or contracts to sell indicating that the lot is covered by TCT No. 156254 registered under the name of the respondent Sanchezes. While the established rule is that persons dealing with property covered by a Torrens certificate of title are not required to go beyond what appears on the face of the title, intervenors cannot seek haven from such doctrine as the title of the lot does not pertain to the vendor (Garcia or TSEI) they dealt with. The fact that the lot being sold to them belonged to persons other than TSEI or Garcia should have driven the intervenors, as prudence would dictate, to investigate the true status of the property. They should have gone to the Register of Deeds of Quezon City (RD) to verify if in fact TCT No. 156254 had already been cancelled and a new title has been issued to TSEI or Garcia. They should have asked for the deed of absolute sale filed and registered with the RD to find out if the Sanchezes indeed sold the lot in question to TSEI. They could have verified from the primary entry book of said office if the deed of absolute sale from the Sanchezes in favor of TSEI was registered in said book, which, under the Property Registration Decree (PD No. 1529), is considered as an effective and legal notice to third persons and the whole world of such transfer. Evidently, the intervenors failed to do so.

Secondly, the intervenors know, based on the contract of sale or contract to sell, that the property is registered under TCT No. 156254 in the

⁵⁶ *Home Bankers Savings and Trust Co. v. Court of Appeals*, G.R. No. 128354, April 26, 2005, 457 SCRA 167.

⁵⁷ *Toledo-Banaga v. CA*, G.R. No. 127941, January 28, 1999, 302 SCRA 331.

⁵⁸ *Bautista v. Jalandoni*, G.R. No. 171464, November 27, 2013.

name of the Sanchezes. As such, they should have insisted that they talk to the Sanchezes before executing said conveyances. Had they done so, they would have known that the Sanchezes have not executed a written deed of absolute sale in favor of TSEI for the latter's failure to pay the consideration in full. Having failed to ferret out the truth from the Sanchezes, intervenors cannot be considered innocent purchasers for failure to exercise utmost caution and extra diligence in determining the true owner of the property.

Thirdly, the intervenors should have been suspicious of the explanation of Garcia that TCT No. 383697, reflecting TSEI as the owner of the property, has been burned and that he is in the process of reconstituting the title. Before signing the contract of sale or contract to sell, they should have asked Garcia where the reconstitution case has been filed or is pending and proceeded to verify with the said court the status of the reconstitution. Had they done so, they would have known that neither Garcia nor TSEI had a deed of absolute sale executed in their favor over the lot in question. The truth of the matter is that it is the duplicate certificate of title of TCT No. 156254 that has been lost or misplaced, and is being sought to be reconstituted, not TCT No. 383697. Had intervenors been prudent enough to verify with the court the status of the alleged TCT No. 383697, they would have known that Garcia planned to deceive them in the sale of the subject property.

Fourthly, the intervenors knew that they were buying a townhouse over a subdivision lot from TSEI and Garcia. Such being the case, they should have verified with the HLURB whether said project is registered with said housing agency and if a license to sell has been issued to TSEI or Garcia. Had they made such an inquiry, they would have known that instead of a permit for the project and a license to sell the property, a cease and desist order was issued by the HLURB precisely to enjoin TSEI and Garcia from selling said property to the public. Similarly, they could have inquired from the City Building Official of Quezon City if a building permit was issued to TSEI and Garcia for the construction of the townhouses, which would have yielded the same negative result.

c. VCTI acted in bad faith

As compared to the other purchasers, the Deeds of Absolute Sale of intervenor VTCI cited TCT 383697 in the name of VTCI and not TCT 156254. Nevertheless, the Court finds that respondent VTCI is a purchaser in bad faith for the following reasons:

Firstly, respondent VTCI has not shown that it verified with the RD if the alleged TCT 383697 of respondent TSEI is valid and genuine. It did not present any certified true copy of said TCT 383697 to demonstrate that based on the RD's records, said title exists and that it is genuine and valid. It should be remembered that the duplicate certificate of TCT 156254 was lost and subject of reconstitution. Yet respondents Garcia and TSEI were not

able to show that it was already reconstituted. In addition, there was no deed of absolute sale executed by the Sanchezes in favor of TSEI as the latter failed to pay the last two (2) installments and subsequently, the agreement to sell was rescinded by the Sanchezes for non-payment. There being no deed of absolute sale, there is, consequently, no ground for the RD to cancel TCT No. 156254 and subsequently issue TCT 383697 in the name of TSEI. This goes to show that TCT 383697 of TSEI appears to be spurious and a fake title. This is buttressed by the fact that the date of the issuance of TCT 383697 is June 9, 1988, pre-dating the execution of the Agreement between the Sanchezes and TSEI on December 8, 1988. With the failure of VTCI to exert earnest efforts to verify the authenticity of TCT 383697, then it is not a purchaser in good faith.

Secondly, Garcia and TSEI stopped the construction of the townhouses on March 30, 1989 pursuant to the CDO of the HLURB. Thus, the townhouses were not fully finished and completed. Yet on December 27, 1989 (date of notarization), VTCI entered into three (3) Deeds of Absolute sale over three (3) townhouses on three (3) lots covered by TCT 383697 and despite the non-completion of the townhouses, it still fully paid the uniform price of ₱700,000 for the townhouse on each of the 3 lots – 1st lot with an area of 52.5 square meters; 2nd lot with an area of 72.5 square meters; and 3rd lot with an area of 42.5 square meters. The price of ₱700,000 was even applied to all lots even if ordinarily a bigger lot will commend a higher price. These are doubtful transactions since a man of average intellect will not fully pay the price of a townhouse which has not yet been completed. The alleged purchases are not in accord with the normal business practice and common behavior of an ordinary human being. These circumstances sway the Court to believe that said alleged conveyances are not genuine and that VTCI is not a purchaser in good faith.

Thirdly, with the CDO and the warnings to the public and prospective buyers published in the Philippine Daily Inquirer on April 16, 1989 and in the Manila Bulletin on April 19, 2014, VTCI should have been aware of the irregularities in the proposed sale of townhouses by Garcia and TSEI. The failure of VTCI to heed the warnings and prohibition to buy said townhouses tends to show that said respondent is not a purchaser in good faith.

Fourthly, with the issuance of the CDO by the HLURB and the notices in the major dailies, VTCI should have inquired with the said HLURB if Garcia and TSEI have a permit to sell the townhouses. Had it done so, it would have discovered that the project, as it lacks the necessary permits, is unauthorized and that the title over the townhouses is questionable.

Fifthly, a buyer of a townhouse will ordinarily visit the project site and look at and investigate the lot, the title and the townhouses being sold. If it inspected the site of the construction project, it would have known from the other purchasers that the project has no permit from the HLURB and that

construction has been stopped because of the CDO. Had VTCI done the inspection and investigation, then it would not have entered into the deeds of absolute sale with Garcia and TSEI. Thus, respondent VTCI cannot be considered as a purchaser in good faith.

From the foregoing, the fact that all the intervenors turned a blind eye to the flaws and defects in the ownership of TSEI over the property and miserably failed to undertake measures required of a reasonably prudent man to investigate the title of the pseudo owner and the legality of the townhouse project constitutes bad faith for which there is no available relief under the law.

d. BPI cannot be considered a mortgagee in good faith

Even as the intervenors have been found to be in bad faith, BPI, the successor of FEBTC, cannot be considered a mortgagee in good faith, considering the glaring anomalies in the loan transaction between TSEI and FEBTC. This can be gleaned from several undisputed factual circumstances:

Firstly, when Garcia gave TCT 156254 to FEBTC for the processing of a loan secured by a mortgage, it indubitably showed that Garcia/TSEI did not yet own the subject property as said title was in the name of the Sanchezes. But FEBTC did not require Garcia/TSEI to submit a Special Power of Attorney (SPA) in their favor authorizing them to mortgage the subject property covered by TCT 156254.

Secondly, considering that Garcia/TSEI were already selling the townhouse units to the public as early as January 1989, FEBTC was also remiss in not requiring Garcia/TSEI to submit a written approval from the HLURB for the mortgage of the subject property where the townhouse units were being constructed as required under Sec. 18⁵⁹ of Presidential Decree No. (PD) 957.⁶⁰

Thirdly, considering further that Garcia presented the Agreement between the Sanchezes and Garcia/TSEI as basis for ownership of the subject property covered by TCT 156254, FEBTC was remiss in neither ascertaining whether the full payment of the ₱1.8 million covered by six (6) checks in view of the proviso number 6 of the Agreement nor requiring the

⁵⁹ SEC. 18. *Mortgages.* – No mortgage of any unit or lot shall be made by the owner or developer without prior written approval of the [HLURB]. Such approval shall not be granted unless it is shown that the proceeds of the mortgage loan shall be used for the development of the condominium or subdivision project x x x. The loan value of each lot or unit covered by the mortgage shall be determined and the buyer thereof, if any, shall be notified before the release of the loan. The buyer may, at his option, pay his installment for the lot or unit directly to the mortgagee who shall apply the payments to the corresponding mortgage indebtedness secured by the particular lot or unit being paid for x x x. (emphasis supplied)

⁶⁰ The Subdivision and Condominium Buyers' Protective Decree, issued on July 12, 1976.

presentment of the EXTRA-JUDICIAL SETTLEMENT OF ESTATE WITH SALE from the Sanchezes in favor of Garcia/TSEI.

Fourthly, FEBTC was again negligent in not scrutinizing the TCT 383697 considering that the title has the purported issuance date of June 9, 1988 way before the December Agreement was executed and when the loan was negotiated. More, the purported issuance of TCT 383697 was made more than six (6) months before Garcia/TSEI approached the bank for the loan. Thus, FEBTC should have been placed on guard as to why Garcia/TSEI initially gave it TCT 156254 in the name of the Sanchezes when TCTC 383697 was purportedly already issued and in Garcia's possession way before the bank loan was negotiated. Again, FEBTC did not exercise the due diligence required of banks.

Fifthly, the Court notes that FEBTC released portions of the loan proceeds in April even before it approved the loan secured by a real estate mortgage on May 22, 1989. And more anomalous is the fact that FEBTC had TCT 383697 verified for its veracity and genuineness way after it approved the loan to Garcia/TSEI. The Certification⁶¹ from the Register of Deeds was issued only on June 13, 1989 upon the request of Garcia.

Verily, given the foregoing anomalies, the general rule that a mortgagee need not look beyond the title does not apply to banks and other financial institutions as greater care and due diligence are required of them,⁶² and FEBTC should have exercised the appropriate due diligence review and made the requisite inquiries about the subject property which was offered to secure the loan applied for by Garcia/TSEI under a real estate mortgage. FEBTC (now BPI) was negligent and cannot be considered as a mortgagee in good faith.

The effects of attributing bad faith to the intervenors, BPI, TSEI, and Garcia

a. Rescission of the Agreement was not barred by the subsequent transfer

Article 1191 of the Civil Code states that rescission is available to a party in a reciprocal obligation where one party fails to comply therewith:

Article 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

⁶¹ Records, Vol. 3, p. 34.

⁶² *Alano v. Planters' Development Bank*, G.R. No. 171628, June 13, 2011, 651 SCRA 766, 774; citing *Metropolitan Bank and Trust Co. v. Pascual*, G.R. No. 163744, February 12, 2010, 612 SCRA 493, 496.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law. (emphasis supplied)

Article 1385 of the Civil Code does provide that rescission shall not take place if the subject matter of the prior agreement is already in the hands of a third party who did not act in bad faith, to wit:

Article 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.

Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.

In this case, indemnity for damages may be demanded from the person causing the loss. (emphasis added)

In the extant case, the failure of TSEI to pay the consideration for the sale of the subject property entitled the Sanchezes to rescind the Agreement. And in view of the finding that the intervenors acted in bad faith in purchasing the property, the subsequent transfer in their favor did not and cannot bar rescission.

b. The Sanchezes are to elect their option under the Arts. 449-450 of the New Civil Code

Moreover, bad faith on the part of TSEI, Garcia and the intervenors leads to the application of Articles 449-450 of the New Civil Code, which provide:

Article 449. He who builds, plants or sows in bad faith on the land of another, loses what is built, planted or sown without right to indemnity.

Article 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land, and the sower the proper rent.

Consequently, the Sanchezes have the following options: (1) acquire the property with the townhouses and other buildings and improvements that may be thereon without indemnifying TSEI or the intervenors;⁶³ (2) demand from TSEI or the intervenors to demolish what has been built on the property at the expense of TSEI or the intervenors; or (3) ask the intervenors to pay the price of the land.⁶⁴ As such, the Sanchezes must choose from among these options within thirty (30) days from finality of this Decision. Should the Sanchezes opt to ask from the intervenors the value of the land, the case shall be remanded to the RTC for the sole purpose of determining the fair market value of the lot at the time the same were taken from the Sanchezes in 1988.

If the Sanchezes decide to appropriate the townhouses, other structures and improvements as their own pursuant to Article 449 of the Civil Code, then the intervenors-purchasers Caminas, Maniwang, Tulagan, Marquez and VCTI shall be ordered to vacate said premises within a reasonable time from notice of the finality of the decision by the Sanchezes. They have a right to recover their investment in the townhouses from Garcia and TSEI. If the Sanchezes do not want to make use of the townhouses and improvements on the subject lot, then the purchasers can be ordered to demolish said townhouses or if they don't demolish the same within a reasonable time, then it can be demolished at their expense. On the 3rd option, if the Sanchezes do not want to appropriate the townhouses or have the same demolished, then they can ask that the townhouse purchasers pay to them the fair market value of the respective areas allotted to their respective townhouses subject of their deeds of sale.

***The suit is not a collateral
attack on TSEI's title***

Finally, BPI argues that the CA erred in ordering the cancellation of TCT 383697 considering that Section 48 of Presidential Decree No. 1529, or the *Property Registration Decree*, states that a Torrens certificate of title cannot be cancelled except in a direct attack thereon. The provision reads:

Section 48. Certificate not subject to collateral attack. A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law.

In *Sarmiento v. Court of Appeals*,⁶⁵ the Court differentiated a direct and a collateral attack in this wise:

An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title, and thus challenge the judgment

⁶³ *Metropolitan Waterworks and Sewerage System v. Court of Appeals*, No. L-54526, August 25, 1986, 143 SCRA 623.

⁶⁴ 2 A. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 119 (1992).

⁶⁵ G.R. No. 152267, September 16, 2005, 470 SCRA 99, 107-108.

pursuant to which the title was decreed. The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.

In the instant case, contrary to the contention of BPI, although the case was originally an action for rescission, it became a direct attack on TCT 383697. To be sure, there is no indication that when the Sanchezes filed their complaint with the RTC they already knew of the existence of TCT 383697. However, when they were confronted with the title through the filing of the various Answers of the intervenors, the Sanchezes directly stated that the title was a fake. Thus, in their Answer with Counterclaims to Complaint in Intervention filed by Varied Traders Concept, Inc. dated April 2, 1991, paragraph 2.1. thereof states:

2.1. Like the rest of the intervenors herein, VTCI is claiming rights under a forged deed and a fake or absolutely void title. There was never any Deed of Absolute Sale between plaintiffs and defendants. Much less was there any valid land title issued to defendants. Whatever deeds defendants may have shown VTCI are definitely fakes or foregeries, hence, null and void. Thus, no rights to plaintiff's property ever passed to VTCI.⁶⁶

An identical paragraph is also contained in the Sanchezes' Answer with Counterclaims to Intervention filed by Far East Bank and Trust Company and Supplement to Complaint dated January 11, 1993.⁶⁷ Thus, the complaint filed by the Sanchezes later became a direct attack against TCT 383697 and the CA correctly ordered the cancellation thereof.

WHEREFORE, the instant petitions are **DENIED**. The assailed November 6, 2006 Decision of the Court of Appeals in CA-G.R. CV No. 83236 is hereby **AFFIRMED** with **MODIFICATION**. The dispositive portion of the RTC Decision in Civil Case No. Q-90-4690, as affirmed by the CA, is hereby modified to read:

WHEREFORE, judgment is hereby rendered as follows:

1. Directing the Register of Deeds of Quezon City to cancel Transfer Certificate of Title No. 383697 in the name of TransAmerican Sales and Exposition, Inc. and to reinstate Transfer Certificate of Title No. 156254 in the name of the [sic] Kenneth Nereo Sanchez, Vicente Victor Sanchez and Imelda C. Vda. de Sanchez in its original status prior to the claim of the intervenors-appellants without need to pay any registration fee, transfer tax, documentary stamp tax and other expenses in relation to transfer of title.

2. Granting to the Sanchezes the right to inform the Regional Trial Court of Quezon City, Branch 89 in Civil Case No. Q-90-4690 within thirty (30) days from date of finality of decision whether or not

⁶⁶ Records, Vol. 2, p. 409.

⁶⁷ Id. at 161-180.

they will appropriate the townhouses and improvements on the lot covered by TCT No. 156254 as their own without need to pay indemnity therefor pursuant to Article 449 of the Civil Code.

In such a case, the intervenors and all their successors-in-interest shall vacate the subject property and surrender possession thereof to the Sanchezes within Thirty (30) Days from notice of their decision.

If the Sanchezes opt for the second option, the defendants or intervenors shall demolish the townhouses and all other improvements on the property at their own expense within ninety (90) days from notice of the Sanchezes' decision. If they fail to do so, the Sanchezes can have the same demolished and the expenses of demolition shall be charged to the intervenors on a pro rata basis based on the respective areas of their townhouses.

Finally, if the Sanchezes choose the third option, the case shall be remanded to the RTC to determine the fair market value of the land at the time of the taking thereof in 1988 and the intervenors-townhouse owners shall pay such value to the Sanchezes within Thirty (30) days from the finality of the determination of the RTC of such fair market value;

3. Declaring the legality and validity of the Extrajudicial Rescission effected by the plaintiffs on the Contract to Sell on the subject property, covered by TCT No. 156254 in their names;

4. Ordering the defendants and all persons acting on their behalf to return to the plaintiffs the Owner's Copy of TCT No. 156254, including all the documents entrusted to them in consideration of their Contract to Sell;

5. Ordering defendants and all persons, including the intervenors and all persons claiming rights under them to return and surrender to the plaintiffs the peaceful possession of the subject property covered by TCT No. 156254 located at No. 10 Panay Avenue, Quezon City in the event plaintiffs Sanchezes decide to appropriate the townhouses and improvements for their own without need of payment of indemnity;

6. Ordering the defendants jointly and severally to pay the plaintiffs the sum of One Hundred Thousand (P100,000.00) Pesos, Philippine Currency as and by way of attorney's fees;

7. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Thousand (P200,000.00) Pesos, Philippine Currency as and by way of moral damages;

8. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Thousand (P200,000.00) Pesos, Philippine Currency as and by way of exemplary damages to serve as correction or example for the public good;

9. Ordering the defendants jointly and severally to pay the plaintiffs the sum of Two Hundred Ninety Thousand (P290,000.00) Pesos, representing the depreciated cost of the plaintiffs' demolished building per their Agreement (Exhibit "D");

- 10. Dismissing defendants’ counterclaim as well as intervenors’ counterclaims/complaints and answers in intervention against the plaintiffs;
- 11. Ordering the plaintiffs to return to the defendants, after deducting the damages herein awarded, the remaining amount on the sum paid by the defendants on the subject property;
- 12. Dismissing the counterclaim of plaintiffs against all intervenors except as awarded to the former in this Decision;
- 13. Ordering the defendants jointly and severally to return to intervenors, Jose and Visitacion Caminas, Reynaldo Maniwang, Generoso “Gener” Tulagan, and VTCI, and Arturo Marquez, the following sum to wit:

- | | |
|-------------|--|
| 1. CAMINAS | - P650,000.00 (Absolute Deed of Sale dated 14 March 1989); |
| 2. MANIWANG | - P700,000.00 (Absolute Deed of Sale dated 22 February 1989); |
| 3. TULAGAN | - P1.4 Million, representing the following: <ul style="list-style-type: none">3.1 P600,000.00 – (Contract To Sell dated 21 February 1989);3.2 P800,000.00 – (Conditional Deed of Sale dated 31 January 1989); |
| 4. VTCI | - P2.1 Million, representing the following: <ul style="list-style-type: none">4.1 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-K);4.2 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-I);4.3 P700,000.00 – (Absolute Deed of Sale dated 30 October 1989 – Lot 1-F); |
| 5. MARQUEZ | - P600,000.00 (Contract To Sell dated 8 March 1989); |
| 6. BPI | - Declaring the intervention of the Bank without merit. |

respectively, representing the full and/or partial purchase price of their respective units, all with six (6) percent interest per annum counted from the time of their filing of their intervention of judicial demand until fully paid.

With costs against defendants.

SO ORDERED.



PRESBITERO J. VELASCO, JR.

Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA

Associate Justice



MARTIN S. VILLARAMA, JR.

Associate Justice



BIENVENIDO L. REYES

Associate Justice



FRANCIS H. JARDELEZA

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.



PRESBITERO J. VELASCO, JR.

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