

SECOND DIVISION

[G.R. No. 202205, March 06, 2013]

**FOREST HILLS GOLF & COUNTRY CLUB, PETITIONER, VS. VERTEX
SALES AND TRADING, INC., RESPONDENT.**

DECISION

BRION, J.:

Before the Court is a petition for review on *certiorari*,^[1] filed under Rule 45 of the Rules of Court, assailing the decision^[2] dated February 22, 2012 and the resolution^[3] dated May 31, 2012 of the Court of Appeals (C.A) in CA-G.R. CV No. 89296.

THE FACTS

Petitioner Forest Hills Golf & Country Club (*Forest Hills*) is a domestic non-profit stock corporation that operates and maintains a golf and country club facility in Antipolo City. Forest Hills was created as a result of a joint venture agreement between Kings Properties Corporation (*Kings*) and Fil-Estate Golf and Development, Inc. (*FEGDI*). Accordingly, Kings and FEGDI owned the shares of stock of Forest Hills, holding 40% and 60% of the shares, respectively.

In August 1997, FEGDI sold to RS Asuncion Construction Corporation (*RSACC*) one (1) Class "C" common share of Forest Hills for P1.1 million. Prior to the full payment of the purchase price, RSACC transferred its interests over FEGDI's Class "C" common share to respondent Vertex Sales and Trading, Inc. (*Vertex*).^[4] RSACC advised FEGDI of the transfer and FEGDI, in turn, requested Forest Hills to recognize Vertex as a shareholder. Forest Hills acceded to the request, and Vertex was able to enjoy membership privileges in the golf and country club.

Despite the sale of FEGDI's Class "C" common share to Vertex, the share remained in the name of FEGDI, prompting Vertex to demand for the issuance of a stock certificate in its name.^[5] As its demand went unheeded, Vertex filed a **complaint**^[6] **for rescission with damages against defendants Forest Hills, FEGDI, and Fil-Estate Land, Inc. (FELI)** – the developer of the Forest Hills golf course. Vertex averred that the defendants defaulted in their obligation as sellers when they failed and refused to issue the stock certificate covering the Class "C" common share. It prayed for the rescission of the sale and the return of the sums it paid; it also claimed payment of actual damages for the defendants' unjustified refusal to issue the stock certificate.

Forest Hills denied transacting business with Vertex and claimed that it was not a party to the sale of the share; FELI claimed the same defense. While admitting that no stock certificate was issued, FEGDI alleged that Vertex nonetheless was

recognized as a stockholder of Forest Hills and, as such, it exercised rights and privileges of one. FEGDI added that during the pendency of Vertex's action for rescission, a stock certificate was issued in Vertex's name,^[7] but Vertex refused to accept it.

THE RTC RULING

In its March 1, 2007 decision,^[8] the **Regional Trial Court (RTC) dismissed Vertex's complaint** after finding that the failure to issue a stock certificate did not constitute a violation of the essential terms of the contract of sale that would warrant its rescission. The RTC noted that the sale was already consummated notwithstanding the non-issuance of the stock certificate. The issuance of a stock certificate is a collateral matter in the consummated sale of the share; the stock certificate is not essential to the creation of the relation of a shareholder. Hence, the RTC ruled that the non-issuance of the stock certificate is a mere casual breach that would not entitle Vertex to rescind the sale.^[9]

THE CA RULING

Vertex appealed the RTC's dismissal of its complaint. In its February 22, 2012 decision,^[10] **the CA reversed the RTC**. It declared that "in the 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."^[11]

It based its ruling on Section 63 of the Corporation Code,^[12] which requires for a valid transfer of stock –

- (1) the delivery of the stock certificate;
- (2) the endorsement of the stock certificate by the owner or his attorney-in-fact or other persons legally authorized to make the transfer; and
- (3) to be valid against third parties, the transfer must be recorded in the books of the corporation.

Without the issuance of the stock certificate and despite Vertex's full payment of the purchase price, the share cannot be considered as having been validly transferred. Hence, **the CA rescinded the sale of the share and ordered the defendants to return the amount paid by Vertex by reason of the sale**. The dispositive portion reads:

WHEREFORE, in view of the foregoing premises, the appeal is hereby GRANTED and the March 1, 2007 Decision of the Regional Trial Court, Branch 161, Pasig City in Civil Case No. 68791 is hereby REVERSED AND SET ASIDE. Accordingly, **the sale of x x x one (1) Class "C" Common Share of Forest Hills Golf and Country Club is hereby rescinded and defendants-appellees are hereby ordered to return to Vertex Sales and Trading, Inc. the amount it paid by reason of the said sale.**^[13] (emphasis ours)

The CA denied Forest Hills' motion for reconsideration in its resolution of May 31, 2012.^[14]

THE PARTIES' ARGUMENTS

Forest Hills filed the present petition for review on *certiorari* to assail the CA rulings. It argues that rescission should be allowed only for substantial breaches that would defeat the very object of the parties making the agreement.

The delay in the issuance of the stock certificate could not be considered as a substantial breach, considering that Vertex was recognized as, and enjoyed the privileges of, a stockholder.

Forest Hills also objects to the CA ruling that required it to return the amount paid by Vertex for the share of stock. It claims that it was not a party to the contract of sale; hence, it did not receive any amount from Vertex which it would be obliged to return on account of the rescission of the contract.

In its comment to the petition,^[15] Vertex disagrees and claims that its compliance with its obligation to pay the price and the other fees called into action the defendants' compliance with their reciprocal obligation to deliver the stock certificate, but the defendants failed to discharge this obligation. The defendants' three (3)-year delay in issuing the stock certificate justified the rescission of the sale of the share of stock. On account of the rescission, Vertex claims that mutual restitution should take place. It argues that Forest Hills should be held solidarily liable with FEGDI and FELI, since the delay was caused by Forest Hills' refusal to issue the share of FEGDI, from whom Vertex acquired its share.

THE COURT'S RULING

The assailed CA rulings (a) declared the rescission of the sale of one (1) Class "C" common share of Forest Hills to Vertex and (b) ordered the return by Forest Hills, FEGDI, and FELI to Vertex of the amount the latter paid by reason of the sale. While Forest Hills argues that the ruling rescinding the sale of the share is erroneous, its ultimate prayer was for the reversal and setting aside of the ruling holding it liable to return the amount paid by Vertex for the sale.^[16]

The Court finds Forest Hills' prayer justified.

***Ruling on rescission of sale
is a settled matter***

At the outset, we declare that the question of rescission of the sale of the share is a settled matter that the Court can no longer review in this petition. While Forest Hills questioned and presented its arguments against the CA ruling rescinding the sale of the share in its petition, it is not the proper party to appeal this ruling.

As correctly pointed out by Forest Hills, it was not a party to the sale even though the subject of the sale was its share of stock. The corporation whose shares of stock are the subject of a transfer transaction (through sale, assignment, donation, or any