

SECOND DIVISION

[G.R. No. 202079, June 10, 2013]

FIL-ESTATE GOLF AND DEVELOPMENT, INC. AND FIL-ESTATE LAND, INC., PETITIONERS, VS. VERTEX SALES AND TRADING, INC., RESPONDENT.

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 decision^[2] dated February 22, 2012 and the resolution^[3] 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]

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 P1,100,000.00. 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 P1,100,000.00), 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 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' 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