

## SECOND DIVISION

[ G.R. No. 200602, December 11, 2013 ]

**ACE FOODS, INC., PETITIONER, VS. MICRO PACIFIC TECHNOLOGIES CO., LTD.,<sup>[1]</sup> RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[2]</sup> are the Decision<sup>[3]</sup> dated October 21, 2011 and Resolution<sup>[4]</sup> dated February 8, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 89426 which reversed and set aside the Decision<sup>[5]</sup> dated February 28, 2007 of the Regional Trial Court of Makati, Branch 148 (RTC) in Civil Case No. 02-1248, holding petitioner ACE Foods, Inc. (ACE Foods) liable to respondent Micro Pacific Technologies Co., Ltd. (MTCL) for the payment of Cisco Routers and Frame Relay Products (subject products) amounting to P646,464.00 pursuant to a perfected contract of sale.

#### The Facts

ACE Foods is a domestic corporation engaged in the trading and distribution of consumer goods in wholesale and retail bases,<sup>[6]</sup> while MTCL is one engaged in the supply of computer hardware and equipment.<sup>[7]</sup>

On September 26, 2001, MTCL sent a letter-proposal<sup>[8]</sup> for the delivery and sale of the subject products to be installed at various offices of ACE Foods. Aside from the itemization of the products offered for sale, the said proposal further provides for the following terms, *viz.*:<sup>[9]</sup>

*TERMS : Thirty (30) days upon delivery*

*VALIDITY : Prices are based on current dollar rate and subject to changes without prior notice.*

*DELIVERY : Immediate delivery for items on stock, otherwise thirty (30) to forty-five days upon receipt of [Purchase Order]*

*WARRANTY : One (1) year on parts and services. Accessories not included in warranty.*

On October 29, 2001, ACE Foods accepted MTCL's proposal and accordingly issued Purchase Order No. 100023<sup>[10]</sup> (Purchase Order) for the subject products amounting to P646,464.00 (purchase price). Thereafter, or on March 4, 2002, MTCL delivered the said products to ACE Foods as reflected in Invoice No. 7733<sup>[11]</sup> (Invoice Receipt). The fine print of the invoice states, *inter alia*, that "[t]itle to sold

property is reserved in MICROPACIFIC TECHNOLOGIES CO., LTD. until full compliance of the terms and conditions of above and payment of the price”<sup>[12]</sup> (title reservation stipulation). After delivery, the subject products were then installed and configured in ACE Foods’s premises. MTCL’s demands against ACE Foods to pay the purchase price, however, remained unheeded.<sup>[13]</sup> Instead of paying the purchase price, ACE Foods sent MTCL a Letter<sup>[14]</sup> dated September 19, 2002, stating that it “ha[s] been returning the [subject products] to [MTCL] thru [its] sales representative Mr. Mark Anteola who has agreed to pull out the said [products] but had failed to do so up to now.”

Eventually, or on October 16, 2002, ACE Foods lodged a Complaint<sup>[15]</sup> against MTCL before the RTC, praying that the latter pull out from its premises the subject products since MTCL breached its “after delivery services” obligations to it, particularly, to: (a) install and configure the subject products; (b) submit a cost benefit study to justify the purchase of the subject products; and (c) train ACE Foods’s technicians on how to use and maintain the subject products.<sup>[16]</sup> ACE Foods likewise claimed that the subject products MTCL delivered are defective and not working.<sup>[17]</sup>

For its part, MTCL, in its Answer with Counterclaim,<sup>[18]</sup> maintained that it had duly complied with its obligations to ACE Foods and that the subject products were in good working condition when they were delivered, installed and configured in ACE Foods’s premises. Thereafter, MTCL even conducted a training course for ACE Foods’s representatives/employees; MTCL, however, alleged that there was actually no agreement as to the purported “after delivery services.” Further, MTCL posited that ACE Foods refused and failed to pay the purchase price for the subject products despite the latter’s use of the same for a period of nine (9) months. As such, MTCL prayed that ACE Foods be compelled to pay the purchase price, as well as damages related to the transaction.<sup>[19]</sup>

### **The RTC Ruling**

On February 28, 2007, the RTC rendered a Decision,<sup>[20]</sup> directing MTCL to remove the subject products from ACE Foods’s premises and pay actual damages and attorney fees in the amounts of P200,000.00 and P100,000.00, respectively.<sup>[21]</sup>

At the outset, it observed that the agreement between ACE Foods and MTCL is in the nature of a contract to sell. Its conclusion was based on the fine print of the Invoice Receipt which expressly indicated that “title to sold property is reserved in MICROPACIFIC TECHNOLOGIES CO., LTD. until full compliance of the terms and conditions of above and payment of the price,” noting further that in a contract to sell, the prospective seller explicitly reserves the transfer of title to the prospective buyer, and said transfer is conditioned upon the full payment of the purchase price.<sup>[22]</sup> Thus, notwithstanding the execution of the Purchase Order and the delivery and installation of the subject products at the offices of ACE Foods, by express stipulation stated in the Invoice Receipt issued by MTCL and signed by ACE Foods, *i.e.*, the title reservation stipulation, it is still the former who holds title to the products until full payment of the purchase price therefor. In this relation, it noted that the full payment of the price is a positive suspensive condition, the non-payment of which prevents the obligation to sell on the part of the seller/vendor

from materializing at all.<sup>[23]</sup> Since title remained with MTCL, the RTC therefore directed it to withdraw the subject products from ACE Foods's premises. Also, in view of the foregoing, the RTC found it unnecessary to delve into the allegations of breach since the non-happening of the aforesaid suspensive condition *ipso jure* prevented the obligation to sell from arising.<sup>[24]</sup>

Dissatisfied, MTCL elevated the matter on appeal.<sup>[25]</sup>

### **The CA Ruling**

In a Decision<sup>[26]</sup> dated October 21, 2011, the CA reversed and set aside the RTC's ruling, ordering ACE Foods to pay MTCL the amount of P646,464.00, plus legal interest at the rate of 6% per annum to be computed from April 4, 2002, and attorney's fees amounting to P50,000.00.<sup>[27]</sup>

It found that the agreement between the parties is in the nature of a contract of sale, observing that the said contract had been perfected from the time ACE Foods sent the Purchase Order to MTCL which, in turn, delivered the subject products covered by the Invoice Receipt and subsequently installed and configured them in ACE Foods's premises.<sup>[28]</sup> Thus, considering that MTCL had already complied with its obligation, ACE Foods's corresponding obligation arose and was then duty bound to pay the agreed purchase price within thirty (30) days from March 5, 2002.<sup>[29]</sup> In this light, the CA concluded that it was erroneous for ACE Foods not to pay the purchase price therefor, despite its receipt of the subject products, because its refusal to pay disregards the very essence of reciprocity in a contract of sale.<sup>[30]</sup> The CA also dismissed ACE Foods's claim regarding MTCL's failure to perform its "after delivery services" obligations since the letter-proposal, Purchase Order and Invoice Receipt do not reflect any agreement to that effect.<sup>[31]</sup>

Aggrieved, ACE Foods moved for reconsideration which was, however, denied in a Resolution<sup>[32]</sup> dated February 8, 2012, hence, this petition.

### **The Issue Before the Court**

The essential issue in this case is whether ACE Foods should pay MTCL the purchase price for the subject products.

### **The Court's Ruling**

The petition lacks merit.

A contract is what the law defines it to be, taking into consideration its essential elements, and not what the contracting parties call it.<sup>[33]</sup> The real nature of a contract may be determined from the express terms of the written agreement and from the contemporaneous and subsequent acts of the contracting parties. However, in the construction or interpretation of an instrument, **the intention of the parties is primordial and is to be pursued.** The denomination or title given by the parties in their contract is not conclusive of the nature of its contents.<sup>[34]</sup>

The very essence of a contract of sale is **the transfer of ownership in exchange for a price paid or promised.**<sup>[35]</sup> This may be gleaned from Article 1458 of the Civil Code which defines a contract of sale as follows:

Art. 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership and to deliver a determinate thing, and the other **to pay therefor a price certain in money or its equivalent.**

A contract of sale may be absolute or conditional. (Emphasis supplied)

Corollary thereto, a contract of sale is classified as a **consensual contract**, which means that the sale is perfected by mere consent. No particular form is required for its validity. Upon perfection of the contract, the parties may reciprocally demand performance, *i.e.*, the vendee may compel transfer of ownership of the object of the sale, and the vendor may require the vendee to pay the thing sold.<sup>[36]</sup>

In contrast, a **contract to sell** is defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the property despite delivery thereof to the prospective buyer, binds himself to sell the property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, *i.e.*, the full payment of the purchase price. A contract to sell may not even be considered as a **conditional contract of sale** where the seller may likewise reserve title to the property subject of the sale until the fulfillment of a suspensive condition, because in a conditional contract of sale, the first element of consent is present, although it is conditioned upon the happening of a contingent event which may or may not occur.<sup>[37]</sup>

In this case, the Court concurs with the CA that the parties have agreed to a contract of sale and not to a contract to sell as adjudged by the RTC. Bearing in mind its consensual nature, a contract of sale had been perfected at the precise moment ACE Foods, as evinced by its act of sending MTCL the Purchase Order, accepted the latter's proposal to sell the subject products in consideration of the purchase price of P646,464.00. From that point in time, the reciprocal obligations of the parties – *i.e.*, on the one hand, of MTCL to deliver the said products to ACE Foods, and, on the other hand, of ACE Foods to pay the purchase price therefor within thirty (30) days from delivery – already arose and consequently may be demanded. Article 1475 of the Civil Code makes this clear:

Art. 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

From that moment, the parties may reciprocally demand performance, subject to the provisions of the law governing the form of contracts.

At this juncture, the Court must dispel the notion that the stipulation anent MTCL's reservation of ownership of the subject products as reflected in the Invoice Receipt, *i.e.*, the title reservation stipulation, changed the complexion of the transaction from a contract of sale into a contract to sell. Records are bereft of any showing that the said stipulation novated the contract of sale between the parties which, to repeat, already existed at the precise moment ACE Foods accepted MTCL's proposal. To be sure, novation, in its broad concept, may either be extinctive or modificatory. It is