

FIRST DIVISION

[G.R. NO. 145330, October 14, 2005]

**SPOUSES GOMER AND LEONOR RAMOS, PETITIONERS, VS.
SPOUSES SANTIAGO AND MINDA HERUELA, AND SPOUSES
CHERRY AND RAYMOND PALLORI, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

Before the Court is a petition for review^[1] assailing the Decision^[2] dated 23 August 2000 and the Order dated 20 September 2000 of the Regional Trial Court ("trial court") of Misamis Oriental, Branch 21, in Civil Case No. 98-060. The trial court dismissed the plaintiffs' action for recovery of ownership with damages.

The Antecedent Facts

The spouses Gomer and Leonor Ramos ("spouses Ramos") own a parcel of land, consisting of 1,883 square meters, covered by Transfer Certificate of Title ("TCT") No. 16535 of the Register of Deeds of Cagayan de Oro City. On 18 February 1980, the spouses Ramos made an agreement with the spouses Santiago and Minda Heruela ("spouses Heruela")^[3] covering 306 square meters of the land ("land"). According to the spouses Ramos, the agreement is a contract of conditional sale. The spouses Heruela allege that the contract is a sale on installment basis.

On 27 January 1998, the spouses Ramos filed a complaint for Recovery of Ownership with Damages against the spouses Heruela. The case was docketed as Civil Case No. 98-060. The spouses Ramos allege that out of the P15,300^[4] consideration for the sale of the land, the spouses Heruela paid only P4,000. The last installment that the spouses Heruela paid was on 18 December 1981. The spouses Ramos assert that the spouses Heruela's unjust refusal to pay the balance of the purchase price caused the cancellation of the Deed of Conditional Sale. In June 1982, the spouses Ramos discovered that the spouses Heruela were already occupying a portion of the land. Cherry and Raymond Pallori ("spouses Pallori"), daughter and son-in-law, respectively, of the spouses Heruela, erected another house on the land. The spouses Heruela and the spouses Pallori refused to vacate the land despite demand by the spouses Ramos.

The spouses Heruela allege that the contract is a sale on installment basis. They paid P2,000 as down payment and made the following installment payments:

31 March 1980	P200
2 May 1980	P400 (for April and May 1980)
20 June 1980	P200 (for June 1980)

8 October 1980	P500	(for July, August and part of September 1980)
5 March 1981	P400	(for October and November 1980)
18 December 1981	P300	(for December 1980 and part of January 1981)

The spouses Heruela further allege that the 306 square meters specified in the contract was reduced to 282 square meters because upon subdivision of the land, 24 square meters became part of the road. The spouses Heruela claim that in March 1982, they expressed their willingness to pay the balance of P11,300 but the spouses Ramos refused their offer.

The Ruling of the Trial Court

In its Decision^[5] dated 23 August 2000, the trial court ruled that the contract is a sale by installment. The trial court ruled that the spouses Ramos failed to comply with Section 4 of Republic Act No. 6552 ("RA 6552"),^[6] as follows:

SEC. 4. In case where less than two years of installments were paid, the seller shall give the buyer a grace period of not less than sixty days from the date the installment became due. If the buyer fails to pay the installments due at the expiration of the grace period, the seller may cancel the contract after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act.

The dispositive portion of the Decision reads:

WHEREFORE, the complaint is hereby dismissed and plaintiff[s] are ordered to execute the corresponding Deed of Sale in favor of defendants after the latter have paid the remaining balance of Eleven Thousand and Three Hundred Pesos (P11,300.00).

Plaintiffs are further ordered to pay defendants the sum of P20,000.00, as Attorney's fees and P10,000.00 as litigation expenses.

SO ORDERED.^[7]

In an Order^[8] dated 20 September 2000, the trial court denied the spouses Ramos' motion for reconsideration.

Hence, this petition.

The Issues

The spouses Ramos raise the following issues:

I. Whether RA 6552 is applicable to an absolute sale of land;

II. Whether Articles 1191 and 1592 of the Civil Code are applicable to the present case;

III. Whether the spouses Ramos have a right to cancel the sale;

IV. Whether the spouses Heruela have a right to damages.^[9]

The Ruling of the Court

The petition is partly meritorious.

The Agreement is a Contract to Sell

In its Decision, the trial court ruled on whether the contract made by the parties is a conditional sale or a sale on installment. The spouses Ramos' premise is that since the trial court ruled that the contract is a sale on installment, the trial court also in effect declared that the sale is an absolute sale. The spouses Ramos allege that RA 6552 is not applicable to an absolute sale.

Article 1458 of the Civil Code provides that a contract of sale may be absolute or conditional. A contract of sale is absolute when title to the property passes to the vendee upon delivery of the thing sold.^[10] A deed of sale is absolute when there is no stipulation in the contract that title to the property remains with the seller until full payment of the purchase price.^[11] The sale is also absolute if there is no stipulation giving the vendor the right to cancel unilaterally the contract the moment the vendee fails to pay within a fixed period.^[12] In a conditional sale, as in a contract to sell, ownership remains with the vendor and does not pass to the vendee until full payment of the purchase price.^[13] The full payment of the purchase price partakes of a suspensive condition, and non-fulfillment of the condition prevents the obligation to sell from arising.^[14]

In this case, the agreement of the parties is embodied in a one-page, handwritten document.^[15] The document does not contain the usual terms and conditions of a formal deed of sale. The original document, elevated to this Court as part of the Records, is torn in part. Only the words "LEMENT BASIS" is legible on the title. The names and addresses of the parties and the identity of the property cannot be ascertained. The agreement only provides for the following terms of the sale:

TERM[S] OF SALE:

PRICE PER SQM P50.00 X 306 SQM	P 15,300.00
DOWN PAYMENT (TWO THOUSAND PESOS)	" 2,000.00
BALANCE PAYABLE AT MINIMUM OF P200.00	P 13,300.00
PER MONTH UNTIL FULLY PAID	=====

In ***Manuel v. Rodriguez, et al.***,^[16] the Court ruled that to be a written contract, all the terms must be in writing, so that a contract partly in writing and partly oral is in legal effect an oral contract. The Court reiterated the ***Manuel*** ruling in ***Alfonso v. Court of Appeals***:^[17]

xxx In *Manuel*, "only the price and the terms of payment were in writing," but the most important matter in the controversy, the alleged transfer of title was never "reduced to any written document.["] It was held that the contract should not be considered as a written but an oral one; not a sale but a promise to sell; and that "the absence of a formal deed of conveyance" was a strong indication "that the parties did not intend immediate transfer of title, but only a transfer after full payment of the price." Under these circumstances, the Court ruled Article 1504 of the Civil Code of 1889 (Art. 1592 of the present Code) to be inapplicable to the contract in controversy " a contract to sell or promise to sell " "where title remains with the vendor until fulfillment of a positive suspensive condition, such as full payment of the price x x [x].

The records show that the spouses Heruela did not immediately take actual, physical possession of the land. According to the spouses Ramos, in March 1981, they allowed the niece of the spouses Heruela to occupy a portion of the land. Indeed, the spouses Ramos alleged that they only discovered in June 1982 that the spouses Heruela were already occupying the land. In their answer to the complaint, the spouses Heruela and the spouses Pallori alleged that their occupation of the land is lawful because having made partial payments of the purchase price, "they already considered themselves owners' of the land."^[18] Clearly, there was no transfer of title to the spouses Heruela. The spouses Ramos retained their ownership of the land. This only shows that the parties did not intend the transfer of ownership until full payment of the purchase price.

RA 6552 is the Applicable Law

The trial court did not err in applying RA 6552 to the present case.

Articles 1191^[19] and 1592^[20] of the Civil Code are applicable to contracts of sale. In contracts to sell, RA 6552 applies. In [*Rillo v. Court of Appeals*](#),^[21] the Court declared:

xxx Known as the Maceda Law, R.A. No. 6552 recognizes in conditional sales of all kinds of real estate (industrial, commercial, residential) the right of the seller to cancel the contract upon non-payment of an installment by the buyer, which is simply an event that prevents the obligation of the vendor to convey title from acquiring binding force. It also provides the right of the buyer on installments in case he defaults in the payment of succeeding installments xxx.

Sections 3 and 4 of RA 6552 provide:

Sec. 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under Republic Act Numbered Thirty-eight hundred forty-four as amended by Republic Act Numbered Sixty-three hundred eighty-nine, where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:

(a) To pay, without additional interest, the unpaid installments due within the total grace period earned by him, which is hereby fixed at the rate of one month grace period for every one year of installment payments made: Provided, That this right shall be exercised by the buyer only once in every five years of the life of the contract and its extensions, if any.

(b) If the contract is cancelled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made: Provided, That the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer.

Down payments, deposits or options on the contract shall be included in the computation of the total number of installments made.

Sec. 4. In case where less than two years of installments were paid, the seller shall give the buyer a grace period of not less than sixty days from the date the installment became due. If the buyer fails to pay the installments due at the expiration of the grace period, the seller may cancel the contract after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act.

In this case, the spouses Heruela paid less than two years of installments. Thus, Section 4 of RA 6552 applies. However, there was neither a notice of cancellation nor demand for rescission by notarial act to the spouses Heruela. In ***Olympia Housing, Inc. v. Panasiatic Travel Corp.***,^[22] the Court ruled that the vendor could go to court to demand judicial rescission in lieu of a notarial act of rescission. However, an action for reconveyance is not an action for rescission. The Court explained in ***Olympia***:

The action for reconveyance filed by petitioner was predicated on an assumption that its contract to sell executed in favor of respondent buyer had been validly cancelled or rescinded. The records would show that, indeed, no such cancellation took place at any time prior to the institution of the action for reconveyance. xxx

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xxx Not only is an action for reconveyance conceptually different from an action for rescission but that, also, the effects that flow from an affirmative judgment in either case would be materially dissimilar in various respects. The judicial resolution of a contract gives rise to mutual restitution which is not necessarily the situation that can arise in an action for reconveyance. Additionally, in an action for rescission (also often termed as resolution), unlike in an action for reconveyance predicated on an extrajudicial rescission (rescission by notarial act), the