

THIRD DIVISION

[G.R. No. 108346, July 11, 2001]

**SPOUSES MARIANO Z. VELARDE AND AVELINA D. VELARDE,
PETITIONERS, VS. COURT OF APPEALS, DAVID A. RAYMUNDO
AND GEORGE RAYMUNDO, RESPONDENTS.**

DECISION

PANGANIBAN, J.:

A substantial breach of a reciprocal obligation, like failure to pay the price in the manner prescribed by the contract, entitles the injured party to rescind the obligation. Rescission abrogates the contract from its inception and requires a mutual restitution of benefits received.

The Case

Before us is a Petition for Review on Certiorari^[1] questioning the Decision^[2] of the Court of Appeals (CA) in CA-GR CV No. 32991 dated October 9, 1992, as well as its Resolution^[3] dated December 29, 1992 denying petitioner's motion for reconsideration.^[4]

The dispositive portion of the assailed Decision reads:

"WHEREFORE, the Order dated May 15, 1991 is hereby ANNULLED and SET ASIDE and the Decision dated November 14, 1990 dismissing the [C]omplaint is REINSTATED. The bonds posted by plaintiffs-appellees and defendants-appellants are hereby RELEASED."^[5]

The Facts

The factual antecedents of the case, as found by the CA, are as follows:

"x x x. David Raymundo [herein private respondent] is the absolute and registered owner of a parcel of land, together with the house and other improvements thereon, located at 1918 Kamias St., Dasmariñas Village, Makati and covered by TCT No. 142177. Defendant George Raymundo [herein private respondent] is David's father who negotiated with plaintiffs Avelina and Mariano Velarde [herein petitioners] for the sale of said property, which was, however, under lease (Exh. `6', p. 232, Record of Civil Case No. 15952).

"On August 8, 1986, a Deed of Sale with Assumption of Mortgage (Exh. 'A'; Exh. `1', pp. 11-12, Record) was executed by defendant David Raymundo, as vendor, in favor of plaintiff Avelina Velarde, as vendee, with the following terms and conditions:

` x x x x x x x x x

`That for and in consideration of the amount of EIGHT HUNDRED THOUSAND PESOS (P800,000.00), Philippine currency, receipt of which in full is hereby acknowledged by the VENDOR from the VENDEE, to his entire and complete satisfaction, by these presents the VENDOR hereby SELLS, CEDES, TRANSFERS, CONVEYS AND DELIVERS, freely and voluntarily, with full warranty of a legal and valid title as provided by law, unto the VENDEE, her heirs, successors and assigns, the parcel of land mentioned and described above, together with the house and other improvements thereon.

`That the aforesaid parcel of land, together with the house and other improvements thereon, were mortgaged by the VENDOR to the BANK OF THE PHILIPPINE ISLANDS, Makati, Metro Manila, to secure the payment of a loan of ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00), Philippine currency, as evidenced by a Real Estate Mortgage signed and executed by the VENDOR in favor of the said Bank of the Philippine Islands, on_____ and which Real Estate Mortgage was ratified before Notary Public for Makati, _____, as Doc. No. _____, Page No. _____, Book No. _____, Series of 1986 of his Notarial Register.

`That as part of the consideration of this sale, the VENDEE hereby assumes to pay the mortgage obligations on the property herein sold in the amount of ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00), Philippine currency, in favor of Bank of the Philippine Islands, in the name of the VENDOR, and further agrees to strictly and faithfully comply with all the terms and conditions appearing in the Real Estate Mortgage signed and executed by the VENDOR in favor of BPI, including interests and other charges for late payment levied by the Bank, as if the same were originally signed and executed by the VENDEE.

`It is further agreed and understood by the parties herein that the capital gains tax and documentary stamps on the sale shall be for the account of the VENDOR; whereas, the registration fees and transfer tax thereon shall be for the account of the VENDEE.' (Exh. `A', pp. 11-12, Record).'

"On the same date, and as part of the above-document, plaintiff Avelina Velarde, with the consent of her husband, Mariano, executed an Undertaking (Exh. `C', pp. 13-14, Record), the pertinent portions of which read, as follows:

` x x x x x x x x x

`Whereas, as per Deed of Sale with Assumption of Mortgage, I paid Mr. David A. Raymundo the sum of EIGHT HUNDRED

THOUSAND PESOS (P800,000.00), Philippine currency, and assume the mortgage obligations on the property with the Bank of the Philippine Islands in the amount of ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00), Philippine currency, in accordance with the terms and conditions of the Deed of Real Estate Mortgage dated _____, signed and executed by Mr. David A. Raymundo with the said Bank, acknowledged before Notary Public for Makati, _____, as Doc. No. _____, Page No. _____, Book No. _____, Series of 1986 of his Notarial Register.

`WHEREAS, while my application for the assumption of the mortgage obligations on the property is not yet approved by the mortgagee Bank, I have agreed to pay the mortgage obligations on the property with the Bank in the name of Mr. David A. Raymundo, in accordance with the terms and conditions of the said Deed of Real Estate Mortgage, including all interests and other charges for late payment.

`WHEREAS, this undertaking is being executed in favor of Mr. David A. Raymundo, for purposes of attesting and confirming our private understanding concerning the said mortgage obligations to be assumed.

`NOW, THEREFORE, for and in consideration of the foregoing premises, and the assumption of the mortgage obligations of ONE MILLION EIGHT HUNDRED THOUSAND PESOS (P1,800,000.00), Philippine currency, with the Bank of the Philippine islands, I, Mrs. Avelina D. Velarde, with the consent of my husband, Mariano Z. Velarde, do hereby bind and obligate myself, my heirs, successors and assigns, to strictly and faithfully comply with the following terms and conditions:

`1. That until such time as my assumption of the mortgage obligations on the property purchased is approved by the mortgagee bank, the Bank of the Philippine Islands, I shall continue to pay the said loan in accordance with the terms and conditions of the Deed of Real Estate Mortgage in the name of Mr. David A. Raymundo, the original Mortgagor.

`2. That, in the event I violate any of the terms and conditions of the said Deed of Real Estate Mortgage, I hereby agree that my downpayment of P800,000.00, plus all payments made with the Bank of the Philippine Islands on the mortgage loan, shall be forfeited in favor of Mr. David A. Raymundo, as and by way of liquidated damages, without necessity of notice or any judicial declaration to that effect, and Mr. David A Raymundo shall resume total and complete ownership and possession of the property sold by way of Deed of Sale with Assumption of Mortgage, and the same shall be deemed automatically cancelled and be of no further force or effect, in the same manner as if (the) same had never been

executed or entered into.

`3. That I am executing this Undertaking for purposes of binding myself, my heirs, successors and assigns, to strictly and faithfully comply with the terms and conditions of the mortgage obligations with the Bank of the Philippine Islands, and the covenants, stipulations and provisions of this Undertaking.

`That, David A. Raymundo, the vendor of the property mentioned and identified above, [does] hereby confirm and agree to the undertakings of the Vendee pertinent to the assumption of the mortgage obligations by the Vendee with the Bank of the Philippine Islands. (Exh. `C', pp. 13-14, Record).'

"This undertaking was signed by Avelina and Mariano Velarde and David Raymundo.

"It appears that the negotiated terms for the payment of the balance of P1.8 million was from the proceeds of a loan that plaintiffs were to secure from a bank with defendant's help. Defendants had a standing approved credit line with the Bank of the Philippine Islands (BPI). The parties agreed to avail of this, subject to BPI's approval of an application for assumption of mortgage by plaintiffs. Pending BPI's approval o[f] the application, plaintiffs were to continue paying the monthly interests of the loan secured by a real estate mortgage.

"Pursuant to said agreements, plaintiffs paid BPI the monthly interest on the loan secured by the aforementioned mortgage for three (3) months as follows: September 19, 1986 at P27,225.00; October 20, 1986 at P23,000.00; and November 19, 1986 at P23,925.00 (Exh. `E', `H' & `J', pp. 15, 17 and 18, Record).

"On December 15, 1986, plaintiffs were advised that the Application for Assumption of Mortgage with BPI was not approved (Exh. `J', p. 133, Record). This prompted plaintiffs not to make any further payment.

"On January 5, 1987, defendants, thru counsel, wrote plaintiffs informing the latter that their non-payment to the mortgage bank constitute[d] non-performance of their obligation (Exh. `3', p. 220, Record).

"In a Letter dated January 7, 1987, plaintiffs, thru counsel, responded, as follows:

`This is to advise you, therefore, that our client is willing to pay the balance in cash not later than January 21, 1987 provided: (a) you deliver actual possession of the property to her not later than January 15, 1987 for her immediate occupancy; (b) you cause the release of title and mortgage from the Bank of P.I. and make the title available and free from any liens and encumbrances; and (c) you execute an

absolute deed of sale in her favor free from any liens or encumbrances not later than January 21, 1987.' (Exhs. `K', `4', p. 223, Record).

"On January 8, 1987, defendants sent plaintiffs a notarial notice of cancellation/rescission of the intended sale of the subject property allegedly due to the latter's failure to comply with the terms and conditions of the Deed of Sale with Assumption of Mortgage and the Undertaking (Exh. `5', pp. 225-226, Record)."^[6]

Consequently, petitioners filed on February 9, 1987 a Complaint against private respondents for specific performance, nullity of cancellation, writ of possession and damages. This was docketed as Civil Case No. 15952 at the Regional Trial Court of Makati, Branch 149. The case was tried and heard by then Judge Consuelo Ynares-Santiago (now an associate justice of this Court), who dismissed the Complaint in a Decision dated November 14, 1990.^[7] Thereafter, petitioners filed a Motion for Reconsideration.^[8]

Meanwhile, then Judge Ynares-Santiago was promoted to the Court of Appeals and Judge Salvador S. A. Abad Santos was assigned to the sala she vacated. In an Order dated May 15, 1991,^[9] Judge Abad Santos granted petitioners' Motion for Reconsideration and directed the parties to proceed with the sale. He instructed petitioners to pay the balance of P1.8 million to private respondents who, in turn, were ordered to execute a deed of absolute sale and to surrender possession of the disputed property to petitioners.

Private respondents appealed to the CA.

Ruling of the Court of Appeals

The CA set aside the Order of Judge Abad Santos and reinstated then Judge Ynares-Santiago's earlier Decision dismissing petitioners' Complaint. Upholding the validity of the rescission made by private respondents, the CA explained its ruling in this wise:

"In the Deed of Sale with Assumption of Mortgage, it was stipulated that `as part of the consideration of this sale, the VENDEE (Velarde)' would assume to pay the mortgage obligation on the subject property in the amount of P1.8 million in favor of BPI in the name of the Vendor (Raymundo). Since the price to be paid by the Vendee Velarde includes the downpayment of P800,000.00 and the balance of P1.8 million, and the balance of P1.8 million cannot be paid in cash, Vendee Velarde, as part of the consideration of the sale, had to assume the mortgage obligation on the subject property. In other words, the assumption of the mortgage obligation is part of the obligation of Velarde, as vendee, under the contract. Velarde further agreed `to strictly and faithfully comply with all the terms and conditions appearing in the Real Estate Mortgage signed and executed by the VENDOR in favor of BPI x x x as if the same were originally signed and executed by the Vendee.' (p.2, thereof, p.12, Record). This was reiterated by Velarde in the document entitled `Undertaking' wherein the latter agreed to continue paying said loan in accordance with the terms and conditions of the Deed of Real Estate