

## SECOND DIVISION

[ G.R. No. 131074, March 27, 2000 ]

**CENTRAL BANK OF THE PHILIPPINES, PETITIONER, VS.  
SPOUSES ALFONSO AND ANACLETA BICHARA, RESPONDENTS.**

### DECISION

**DE LEON, JR., J.:**

Before us is a petition for review on *certiorari* praying for the reversal of the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> dated February 28, 1997 and October 17, 1997, respectively, rendered by the Former Special Fourteenth Division<sup>[3]</sup> of the Court of Appeals in CA-G.R. CV No. 44448. The appellate court reversed the judgment of the trial court and decreed the contract of sale entered into by the opposing parties as rescinded.

The facts are:

Respondents SPOUSES ALFONSO and ANACLETA BICHARA were the former registered owners of Lots 621-C-1 and 621-C-2 situated in Legazpi City and covered by Transfer Certificates of Title Nos. 18138<sup>[4]</sup> and 18139.<sup>[5]</sup> The two properties have an aggregate area of 811 square meters. On July 19, 1983, the respondents sold the two properties to petitioner CENTRAL BANK OF THE PHILIPPINES for the sum of P405,500. 00, or at P500.00 per square meter.<sup>[6]</sup> The deed of sale contained the following pertinent stipulations:

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2. The VENDEE by virtue of the sale of real property agreed upon shall pay to the VENDORS at the rate of FIVE HUNDRED PESOS (P500.00) per square meter or at a total price of FOUR HUNDRED FIVE THOUSAND FIVE HUNDRED PESOS (P405,500.00), such payment to be effected only after this Deed of Sale shall have been duly registered and a clean title issued in the name of VENDEE. It is agreed that all fees and expenses, cost of documentary and science stamps necessary for the registration of the property with the Registry of Deeds and the transfer of title of the parcels of the land herein sold to the VENDEE as well as the transfer tax due under this transaction shall be borne by the VENDORS;

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4. The VENDORS hereby likewise undertake at their expense to fill the parcels of land with an escombros free from waste materials compacted to the street level upon signing of the Deed of Sale to suit the ground for

the construction of the regional office of the Central Bank of the Philippines thereat.

Petitioner caused the two properties to be consolidated, with several other parcels of land, into a single estate having a total area of 6,700 square meters. Lots 621-C-1 and 621-C-2, shaped roughly like a right triangle, represent twelve per cent of the total area and, more importantly, provide access to Calle Rizal.<sup>[7]</sup>

The record discloses that despite respondents' failure to pay the capital gains tax and other transfer fees, Transfer Certificate of Title No. 25267<sup>[8]</sup> was nonetheless issued in petitioner's name on September 6, 1983. Two annotations were recorded in the memorandum of encumbrances. The first was a notice of adverse claim in favor of the heirs of Lutgarda Arcos Rempillo filed under Entry No. 58127 dated December 27, 1983. The second was a notice of *lis pendens* in favor of one Jaime Rempillo, in connection with Civil Case No. 7253 pending before the Court of First Instance of Albay filed under Entry No. 58336 dated January 24, 1984. Both were subsequently cancelled pursuant to a decision in Civil Case No. 7253, per Entry No. 60214 dated September 12, 1984.

Despite the issuance of the title, petitioner failed to pay respondent. On its part, respondents did not fill up the lot with escombros despite several demands made by petitioner. Petitioner was thus constrained to undertake the filling up of the said lots, by contracting the services of BGV Construction. The filling up of the lots cost petitioner P45,000.00.<sup>[9]</sup> Petitioner deducted the said amount from the purchase price payable to respondents.<sup>[10]</sup>

Petitioner, however, still did not pay the respondents. Consequently, on September 7, 1992, respondents commenced Civil Case No. 8645, an action for rescission or specific performance with damages, against petitioner before the Regional Trial Court, Fifth Judicial Region, Branch 7, of Legazpi City. Respondents alleged that petitioner failed to pay the purchase price despite demand. They prayed for the rescission of the contract of sale and the return of the properties, or in the alternative that petitioner be compelled to pay the purchase price plus interest at the rate of 12 % per annum from July 19, 1983, until fully paid, and to pay the capital gains and documentary stamp taxes with the Bureau of Internal Revenue and registration fees with the Register of Deeds.

Petitioner tendered payment to respondents<sup>[11]</sup> by Central Bank check no. 483008<sup>[12]</sup> in the amount of P360,500.00. Respondents refused the tender, however, in view of their complaint for rescission. After receipt of summons, petitioner filed its answer<sup>[13]</sup> averring that it was justified in delaying payment of the purchase price in view of respondents' breach of several conditions in the contract. First, petitioner alleged that respondents failed to deliver to the former free and legal possession of the two properties, in view of the encumbrances noted in the title, in addition to the presence of squatters who were not evicted by respondents. Second, it claimed that respondents did not fill up the lots with escombros free from waste materials, as agreed upon. Petitioner counterclaimed for damages of P8,000,000.00 representing payments for rentals for the lease of premises it used as a temporary regional office; P100,000.00 as exemplary damages; P50,000.00 as attorney's fees; and costs.

On January 22, 1993, petitioner filed a motion for consignment<sup>[14]</sup> before the trial court. The motion was granted per an Order dated January 26, 1993.<sup>[15]</sup>

After trial, the trial court issued its Decision dated October 26, 1993, <sup>[16]</sup> the dispositive portion of which states:

WHEREFORE, in view of the foregoing, decision is hereby rendered as follows:

1. The plaintiffs are ordered to accept the deposited amount of P360,500.00 in February 1993 at the Office of the RTC Clerk of Court as full payment for the properties in question, considering that the sum of P45,000.00 expended by defendant in undertaking the filling up of the properties is credited to the original purchase price of P405,500.00;
2. The defendant is ordered to pay the plaintiffs legal interest at the rate of six (6) per cent per annum on the original purchase price of P405,000.00 from September 6, 1983 up to July 13, 1992, when the P45,000.00 was credited to the original purchase price (Exhibit 12-c);
3. The defendant is ordered to pay the plaintiffs legal interest at the rate of six (6) per cent per annum on the remaining amount of P360,500.00 from July 14, 1992 up to February 1993, when said amount was deposited at the Office of the RTC Clerk of Court;
4. And other forms of damages sustained by either plaintiffs or defendant are to be borne or shouldered by the respective party.

With costs against defendant.

Both parties appealed the decision to the Court of Appeals. Initially, petitioner's appeal was dismissed for failure to file the docket fees, per a Resolution dated August 22, 1994.<sup>[17]</sup> The dismissal was recalled subsequently upon petitioner's filing of a Manifestation<sup>[18]</sup> informing the appellate court that it had withdrawn its appeal at the trial court level. Said manifestation was duly noted.<sup>[19]</sup>

On February 28, 1997, the appellate court rendered judgment<sup>[20]</sup> reversing the decision of the trial court. Instead, it ordered the rescission of the contract of sale and the reconveyance of the properties to respondents. The appellate court likewise ordered respondents to reimburse petitioner the cost of filling up the lot with escombro, and petitioner to pay respondents attorney's fees and costs. The motion for reconsideration filed by petitioner was denied in the assailed Resolution of October 17, 1997.<sup>[21]</sup>

Aggrieved by the ruling, petitioner elevated the matter to us *via* the instant petition, contending that:

## I

THE COURT OF APPEALS FAILED TO RULE THAT PRIVATE RESPONDENTS DID NOT COMPLY WITH THEIR OBLIGATIONS TO CBP IN GOOD FAITH THUS PRIVATE RESPONDENTS ARE NOT ENTITLED AS A MATTER OF RIGHT TO RESCISSION.

## II

THE COURT OF APPEALS FAILED TO RULE THAT CBP WAS JUSTIFIED IN WITHHOLDING PAYMENT OF THE PURCHASE PRICE OF THE SUBJECT LOT SOLD TO THEM BY PRIVATE RESPONDENTS.

## III

THE COURT OF APPEALS FAILED TO RULE THAT THE TRIAL COURT DID NOT COMMIT A REVERSIBLE ERROR WHEN IT ORDERED SPECIFIC PERFORMANCE INSTEAD OF RESCISSION.<sup>[22]</sup>

The right to rescind a contract involving reciprocal obligations is provided for in Article 1191 of the Civil Code, which states:

The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

The law speaks of the right of the "injured party" to choose between rescission or fulfillment of the obligation, with the payment of damages in either case. Here, respondents claim to be the injured party and consequently seek the rescission of the deed of sale, or in the alternative, its fulfillment but on terms different from those previously agreed upon. Respondents aver that they are entitled to cancel the obligation altogether in view of petitioner's failure to pay the purchase price when the same became due. Petitioner disputes respondent's stand, claiming that if anyone was at fault, it was the latter who dismally failed to comply with their contractual obligations. Hence, it was entitled to withhold payment of the purchase

price.

An instance where the law clearly allows the vendee to withhold payment of the purchase price is Article 1590 of the Civil Code, which provides:

Should the vendee be disturbed in the possession or ownership of the thing acquired, or should he have reasonable grounds to fear such disturbance, by a vindicatory action or a foreclosure of mortgage, he may suspend the payment of the price until the vendor has caused the disturbance or danger to cease, unless the latter gives security for the return of the price in a proper case, or it has been stipulated that, notwithstanding any such contingency, the vendee shall be bound to make the payment. A mere act of trespass shall not authorize the suspension of the payment of the price.

This is not, however, the only justified cause for retention or withholding the payment of the agreed price. A noted authority on civil law states that the vendee is nonetheless entitled if the vendor fails to perform any *essential* obligation of the contract. Such right is premised not on the aforementioned article, but on general principles of reciprocal obligations.<sup>[23]</sup>

This view is consistent with our rulings in earlier cases<sup>[24]</sup> that resolution is allowed only for substantial breaches and not for those which are slight or casual. Consider our pronouncement in *Borromeo v. Franco*:<sup>[25]</sup>

The contract in question contains various clauses and stipulations but the defendants refused to fulfill their promise to sell on the ground that the vendee had not perfected the title papers to the property in question within the six months agreed upon in clause (c). That stipulation was not an essential part of the contract and a failure to comply therewith is no obstacle to the fulfillment of the promise to sell.

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The obligations which the purchaser, Borromeo, imposed upon himself, to perfect the papers to the property within a period of six months, is not correlative with the obligation to sell the property. These obligations do not arise from the same cause. They create no reciprocal rights between the contracting parties, so that a failure to comply with the stipulation contained in clause (c) on the part of the plaintiff purchaser within the period of six months provided for in the said contract, as he, the plaintiff himself admits, does not give the defendants the right to cancel the obligation which they imposed upon themselves to sell the two houses in question in accordance with the provisions of article 1124 of the Civil Code, since no real juridical bilaterality or reciprocity existed between the two obligations, because the obligation to perfect the title papers to the houses in question is not correlative with the obligation to fulfill the promise to sell such property. One obligation is entirely independent of the other. The latter obligation is not subordinated to nor does it depend