



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 23, 2020** which reads as follows:*

“G.R. No. 247565 – Priscilla Zapanta v. Alterplan Multi-Purpose Cooperative Members, represented by Sarah Redoblado

This Petition for Review on *Certiorari*¹ seeks to set aside the Decision² dated May 30, 2018, and the Resolution³ dated May 23, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 108145, which affirmed with modification the Decision⁴ dated November 16, 2015, and the Order⁵ dated October 7, 2016 of the Regional Trial Court, Branch 98, Quezon City, (RTC) in Civil Case No. Q-02-46572, a case for rescission with prayer for damages.

The Facts

Respondents are members of the Alterplan Multi-Purpose Cooperative. Sometime in 1999, they decided to look for real properties for sale in Quezon City where they would build their houses. Later, a broker suggested to them two properties, particularly Lots 1 and 2 (subject lots) covered by Transfer Certificates of Title (TCT) Nos. 38590 and 38591, respectively, with a total area of 712 square meters. The subject lots were owned by herein petitioner Priscilla Zapanta (Zapanta), but were then mortgaged with Metrobank.

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¹ *Rollo*, pp. 1-34.

² Penned by Associate Justice Rosmari D. Carandang (now a Member of the Court), with Associate Justices Elihu A. Ybañez and Pedro B. Corales, concurring; *id.* at 63-79.

³ Penned by Associate Justice Elihu A. Ybañez, with Associate Justices Ricardo R. Rosario and Pedro B. Corales, concurring; *supra* note 1, at 81-82.

⁴ Penned by Presiding Judge Marilou D. Runes-Tamang, MNSA; *id.* at 35-59.

⁵ *Id.* at 60-61.

After a series of negotiations, respondents accepted Zapanta's offer for the sale of the subject lots for ₱2,705,600.00. Thus, on March 13, 1999, respondents delivered to Zapanta the amount of ₱541,120.00 or 20% of the purchase price as down payment. On the same date, the parties executed a deed denominated as "Downpayment Agreement."⁶ The pertinent provisions of the said agreement provide:

1. The total purchase price for the two (2) lots shall be TWO MILLION SEVEN HUNDRED FIVE THOUSAND SIX HUNDRED (₱2,705,600.00) x x x payable as follows:
 - a. TWENTY percent (20%) Downpayment or the amount of FIVE HUNDRED FORTY ONE THOUSAND ONE HUNDRED TWENTY (₱541,120.00) payable upon signing of this agreement. Receipt of this amount is hereby acknowledged.
 - b. EIGHTY percent (80%) balance or the amount of TWO MILLION ONE HUNDRED SIXTY FOUR THOUSAND FOUR HUNDRED EIGHTY (₱2,164,480.00) is payable within forty-five (45) days through bank loan release of the [respondents] with RCBC.
2. [Zapanta] hereby undertakes to execute any and all kinds of documents necessary to execute and facilitate the release of TCT Nos. 38590 and 38591 from Metro Bank and the transfer of the said titles in the name of the [respondents] upon receipt of bank guaranty from RCBC.
3. The parties hereby agree that in case of loan disapproval by RCBC inspite of the willingness and cooperation of the [respondents], [Zapanta] will refund the aforesaid amount upon resale of the property to another party.

After the execution of the agreement, the respondents applied for a loan with the Rizal Commercial Banking Corporation (RCBC) in order to pay the balance of the purchase price. The approval of the loan application, however, experienced delays. Nevertheless, Zapanta granted the respondents' request for extension. On May 26, 1999, RCBC approved the respondents' loan application. The RCBC, however, gave the respondents a period of 90 days within which to avail of the loan.

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⁶ Id. 83-84.

Meanwhile, unknown to the respondents, the subject lots became the subject of levy/attachment due to a complaint for sum of money filed by United Coconut Planters Bank (UCPB) against Zapanta on May 21, 1999. Respondents learned of the subject attachment only on October 13, 1999, when they received a copy of Zapanta's letter to UCPB requesting the lifting of the said attachment. Although the attachment was later lifted as a result of the amicable settlement between Zapanta and UCPB, the 90-day period to avail of the RCBC home loan had already expired. Further, the respondents later learned that the mortgages on the subject lots have already been foreclosed and they have already been sold to Metrobank in an auction sale.

Despite the setbacks, the respondents did not lose hope that they could still acquire lots for their dream homes. As such, they wrote Zapanta proposing to substitute her Lots 3 and 4 for the subject lots. However, despite numerous follow-ups, they never received a reply. Thus, the respondents decided to just demand the return of the amount they paid as down payment. On March 12, 2002, a final demand letter was sent to Zapanta for the return of the downpayment, but they failed to receive a reply. Hence, the respondents were prompted to file the present action for rescission before the RTC.

Ruling of the RTC

In its Decision dated November 16, 2015, the RTC ruled in favor of the respondents. It opined that the "Downpayment Agreement" is a contract of sale which may be rescinded due to the breach by one of the parties or when performance of the contract becomes impossible. The trial court ruled that Zapanta committed a substantial breach which avoided the Downpayment Agreement. It pointed out that the respondents' failure to avail of the RCBC loan was due to Zapanta's failure to deliver the titles of the subject lots as agreed upon in the Downpayment Agreement. The trial court also noted that Zapanta's obligation under the contract has become impossible considering that the subject lots have already been sold to Metrobank. Thus, rescission under Article 1191 of the Civil Code was proper. Necessarily, it ordered Zapanta to refund the amount of ₱541,120.00, plus 6% interest from March 12, 2002 until full payment. The trial court also adjudged Zapanta liable for the following amounts: (1) ₱50,000.00 as moral damages; (2) ₱50,000.00 as exemplary damages; and (3) ₱50,000.00 as attorney's fees.

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Zapanta moved for reconsideration, but the same was denied by the RTC in its Order dated October 7, 2016. Aggrieved, Zapanta appealed to the CA.

Ruling of the CA

In its Decision dated May 30, 2018, the CA concurred with the RTC's observation that the "Downpayment Agreement" is a contract of sale. It noted that, under the Downpayment Agreement, Zapanta neither reserved for herself the titles of the subject lots nor retained ownership of the same until full payment of the purchase price. It, thus, opined that without any express stipulation to the effect that the title or ownership over the subject lots shall be transferred only upon full payment of the purchase price, the agreement is clearly a contract of sale.

It further agreed with the RTC that Zapanta's failure to facilitate the release of the TCTs covering the subject lots from Metrobank, which resulted in the failure to avail of the RCBC loan and the auction sale of the subject lots to Metrobank, was a substantial breach which warranted the rescission of the contract under Article 1191 of the Civil Code. Thus, the refund of the down payment was proper. Nevertheless, the appellate court deleted the awards for moral and exemplary damages as no bad faith could be attributed to Zapanta. The award of attorney's fees was however maintained.

Zapanta moved for reconsideration, but the same was denied by the CA in its Resolution dated May 23, 2019.

Hence, this petition.

Issues

I

WHETHER THE CA ERRED WHEN IT RULED THAT THE DOWNPAYMENT AGREEMENT WAS A CONTRACT OF SALE AND NOT A CONTRACT TO SELL.

II

WHETHER THE CA ERRED IN RULING THAT RESCISSION WAS PROPER IN THIS CASE.

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Zapanta mainly argues that the “Downpayment Agreement” is not a contract of sale, but merely a contract to sell. She further insists that the refund of the down payment is conditioned upon RCBC’s disapproval of the loan application despite the respondents’ cooperation, and upon resale of the subject lots. Zapanta asserts that the foreclosure sale by Metrobank was not within the contemplation of the parties when they executed the agreement.

The Court’s Ruling

The petition lacks merit.

Article 1458 of the Civil Code provides that by the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefore a price certain in money or its equivalent. To establish the existence of a contract of sale, the following essential elements must be shown, to wit: (a) consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price; (b) determinate subject matter; and (c) price certain in money or its equivalent.⁷ A contract of sale is perfected at the moment there is a meeting of the minds upon the thing that is the object of the contract and upon the price. Consent is manifested by the meeting of the offer and the acceptance of the thing and the cause, which are to constitute the contract.⁸

On the other hand, a contract to sell has been defined as a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the said property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, that is, full payment of the purchase price.⁹

In *Chua v. Court of Appeals (Chua)*,¹⁰ the Court discussed the distinctions between a contract of sale and a contract to sell. In said case, the Court had this to say, thus:

In a contract of sale, the title to the property passes to the vendee upon the delivery of the thing sold; in a contract to sell, ownership is, by agreement, reserved in the vendor and is not to pass to the vendee until full payment of the purchase price.

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⁷ *Akang v. Municipality of Isulan, Sultan Kudarat Province*, 712 Phil. 420, 434 (2013).

⁸ *Heirs of Spouses Intac v. Court of Appeals*, 697 Phil. 373, 383 (2012).

⁹ *Coronel v. Court of Appeals*, 331 Phil. 294, 310 (1996).

¹⁰ 449 Phil. 25, 40-41 (2003).

Otherwise stated, in a contract of sale, the vendor loses ownership over the property and cannot recover it until and unless the contract is resolved or rescinded; whereas, in a contract to sell, title is retained by the vendor until full payment of the price. In the latter contract, payment of the price is a positive suspensive condition, failure of which is not a breach but an event that prevents the obligation of the vendor to convey title from becoming effective.¹¹ (Citation omitted)

In *Chua*, the Court further clarified the distinction between the obligation of the seller in a contract to sell and that of the seller in a contract of sale. It explained that in a contract to sell, the obligation of the seller to sell, by executing a deed of absolute sale, arises and becomes demandable only upon the happening of the suspensive condition which is the full payment of the purchase price. On the other hand, in a contract of sale, absent any agreement to the contrary, the seller binds himself to deliver the thing sold upon the execution of the contract. This is so because Article 1458 of the Civil Code provides that by the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing.

The Court concurs with the CA's findings that there is a perfected contract of sale in this case. All of the essential elements of a contract of sale are present here.

First, there is consent to transfer the ownership of the subject lots. The Whereas Clause of the Downpayment Agreement expressly provided that: "the First Party offered to sell the aforesaid parcels of land to the Second Party and the latter accepted the said offer."¹² *Second*, the subject matters of the sale are determinate – Lots 1 and 2 covered by TCT Nos. 38590 and 38591. *Lastly*, the price for the sale of the subject lots is certain – ₱2,705,600.00. Further, as aptly observed by the CA, Zapanta neither reserved for herself the titles of the subject lots nor retained ownership of the same until full payment of the purchase price. Considering the presence of all the essential elements of sale, and considering the absence of any reservation of ownership in favor of Zapanta, there could be no other conclusion than that the parties entered into a perfected contract of sale.

Considering that the contract subject matter of this case is a contract of sale, it only follows that the remedy of rescission under Article 1191 of the Civil Code is available to the aggrieved party in this case.

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¹¹ Id. at 40-41.

¹² *Rollo*, p. 83.

Article 1191 of the Civil Code provides:

ART. 1191. 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 the 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.

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As correctly held by the CA, Zapanta failed to comply with what is incumbent upon her as she could no longer release the titles to respondents so they could apply for a loan and use the same as collateral. In addition, Zapanta's obligation to deliver the subject lots has become impossible due to their subsequent sale to Metrobank. Thus, when the respondents sought the rescission of the Downpayment Agreement, they only availed of the remedy provided to them by Article 1191.

The effects of rescission are provided under Article 1385 of the New Civil Code which states:

ART. 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.

Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.

In this case, indemnity for damages may be demanded from the person causing the loss.

In *Laperal v. Solid Homes, Inc.*,¹³ this Court explained the application of Article 1385 in rescission under Article 1191, as follows:

Despite the fact that Article 1124 of the old Civil Code from whence Article 1191 was taken, used the term "resolution," the amendment thereto (presently, Article 1191) explicitly and clearly used the term "rescission." Unless Article 1191 is subsequently amended to revert back to the term "resolution," this Court has no alternative but to apply the law, as it is written.

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¹³ 499 Phil. 367, 379-380 (2005).

Again, since Article 1385 of the Civil Code expressly and clearly states that “rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest,” the Court finds no justification to sustain petitioners’ position that said Article 1385 does not apply to rescission under Article 1191.

In *Palay, Inc. v. Clave*, this Court applied Article 1385 in a case involving “resolution” under Article 1191, thus:

Regarding the second issue on refund of the installment payments made by private respondent. Article 1385 of the Civil Code provides:

ART. 1385. Rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest; consequently, it can be carried out only when he who demands rescission can return whatever he may be obliged to restore.

Neither shall rescission take place when the things which are the object of the contract are legally in the possession of third persons who did not act in bad faith.

In this case, indemnity for damages may be demanded from the person causing the loss.”

As a consequence of the resolution by petitioners, rights to the lot should be restored to private respondent or the same should be replaced by another acceptable lot. However, considering that the property had already been sold to a third person and there is no evidence on record that other lots are still available, private respondent is entitled to the refund of installments paid plus interest at the legal rate of 12% computed from the date of the institution of the action. It would be most inequitable if petitioners were to be allowed to retain private respondent's payments and at the same time appropriate the proceeds of the second sale to another. (Citation omitted)

In *Philippine Economic Zone Authority v. Pilhino Sales Corporation*,¹⁴ this Court emphasized that the very essence of rescission is the restoration of the contracting parties to their original state. Citing *Spouses Velarde v. Court of Appeals*,¹⁵ this Court further explained in *PEZA v. Pilhino* that rescission under Article 1191 results to mutual restitution:

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¹⁴ 796 Phil. 79, 88 (2016).

¹⁵ 413 Phil. 360, 375 (2001).

Considering that the rescission of the contract is based on Article 1191 of the Civil Code, mutual restitution is required to bring back the parties to their original situation prior to the inception of the contract. Accordingly, the initial payment of P800,000 and the corresponding mortgage payments in the amounts of P27,225, P23,000 and P23,925 (totaling P874,150.00) advanced by petitioners should be returned by private respondents, lest the latter unjustly enrich themselves at the expense of the former.

Rescission creates the obligation to return the object of the contract. It can be carried out only when the one who demands rescission can return whatever he may be obliged to restore. To rescind is to declare a contract void at its inception and to put an end to it as though it never was. It is not merely to terminate it and release the parties from further obligations to each other, but to abrogate it from the beginning and restore the parties to their relative positions as if no contract has been made. (Citations omitted.)¹⁶

Thus, rescission under Article 1191 carries with it the corresponding obligation of restitution.¹⁷ Since the refund of the downpayment is the effect of the rescission of the parties' agreement, the refund provision of their contract does not apply. Zapanta must return the downpayment paid by respondents pursuant to Articles 1191 and 1385 of the Civil Code.

In view of the foregoing, we find that the RTC and the CA correctly ruled that the agreement in question is a contract of sale and that rescission is applicable in this case. Moreover, the CA correctly affirmed the refund of the downpayment to the respondents with 6% interest from March 12, 2002 until full payment,¹⁸ and the award of attorney's fees.

WHEREFORE, the present Petition for Review on *Certiorari* is **DENIED**. The Decision dated May 30, 2018, and the Resolution dated May 23, 2019 of the Court of Appeals in CA-G.R. CV No. 108145 are **AFFIRMED**.

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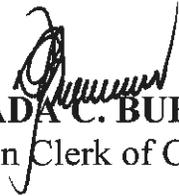
¹⁶ Supra note 13, at 88-89.

¹⁷ Id.

¹⁸ See CIVIL CODE, Article 2210. See also *Nacar v. Gallery Frames*, 716 Phil. 267, 279-281 (2013).

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court *re: qtd*

by:

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