

## SECOND DIVISION

[ G.R. No. 120820, August 01, 2000 ]

**SPS. FORTUNATO SANTOS AND ROSALINDA R. SANTOS,  
PETITIONERS, VS. COURT OF APPEALS, SPS. MARIANO R.  
CASEDA AND CARMEN CASEDA, RESPONDENTS.**

### D E C I S I O N

#### **QUISUMBING, J.:**

For review on certiorari is the decision of the Court of Appeals, dated March 28, 1995, in CA-G.R. CV No. 30955, which reversed and set aside the judgment of the Regional Trial Court of Makati, Branch 133, in Civil Case No. 89-4759. Petitioners (the Santosos) were the owners of a house and lot informally sold, with conditions, to herein private respondents (the Casedas). In the trial court, the Casedas had complained that the Santosos refused to deliver said house and lot despite repeated demands. The trial court dismissed the complaint for specific performance and damages, but in the Court of Appeals, the dismissal was reversed, as follows:

"WHEREFORE, in view of the foregoing, the decision appealed from is hereby REVERSED and SET ASIDE and a new one entered:

"1. GRANTING plaintiffs-appellants a period of NINETY (90) DAYS from the date of the finality of judgment within which to pay the balance of the obligation in accordance with their agreement;

"2. Ordering appellees to restore possession of the subject house and lot to the appellants upon receipt of the full amount of the balance due on the purchase price; and

"3. No pronouncement as to costs.

"SO ORDERED."<sup>[1]</sup>

The undisputed facts of this case are as follows:

The spouses Fortunato and Rosalinda Santos owned the house and lot consisting of 350 square meters located at Lot 7, Block 8, Better Living Subdivision, Paranaque, Metro Manila, as evidenced by TCT (S-11029) 28005 of the Register of Deeds of Paranaque. The land together with the house, was mortgaged with the Rural Bank of Salinas, Inc., to secure a loan of P150,000.00 maturing on June 16, 1987.

Sometime in 1984, Rosalinda Santos met Carmen Caseda, a fellow market vendor of hers in Pasay City and soon became very good friends with her. The duo even became *kumadres* when Carmen stood as a wedding sponsor of Rosalinda's nephew.

On June 16, 1984, the bank sent Rosalinda Santos a letter demanding payment of P16,915.84 in unpaid interest and other charges. Since the Santos couple had no

funds, Rosalinda offered to sell the house and lot to Carmen. After inspecting the real property, Carmen and her husband agreed.

Sometime that month of June, Carmen and Rosalinda signed a document, which reads:

"Received the amount of P54,100.00 as a partial payment of Mrs. Carmen Casada to the (total) amount of 350,000.00 (house and lot) that is own (sic) by Mrs. Rosalinda R. Santos.

(Mrs.) (Sgd.) Carmen  
Casada  
direct  
buyer

Mrs. Carmen Casada

"(Sgd.) Rosalinda Del R.  
Santos  
Owner  
Mrs. Rosalinda R.  
Santos

House and Lot  
Better Living Subd. Parañaque, Metro Manila  
Section V Don Bosco St."<sup>[2]</sup>

The other terms and conditions that the parties agreed upon were for the Casada spouses to pay: (1) the balance of the mortgage loan with the Rural bank amounting to P135,385.18; (2) the real estate taxes; (3) the electric and water bills; and (4) the balance of the cash price to be paid not later than June 16, 1987, which was the maturity date of the loan.<sup>[3]</sup>

The Casadas gave an initial payment of P54,100.00 and immediately took possession of the property, which they then leased out. They also paid in installments, P81,696.84 of the mortgage loan. The Casadas, however, in 1987. Notwithstanding the state of their finances, Carmen nonetheless paid in March 1990, the real estate taxes on the property for 1981-1984. She also settled the electric bills from December 12, 1988 to July 12, 1989. All these payments were made in the name of Rosalinda Santos.

In January 1989, the Santos, seeing that the Casadas lacked the means to pay the remaining installments and/or amortization of the loan, repossessed the property. The Santos then collected the rentals from the tenants.

In February 1989, Carmen Casada sold her fishpond in Batangas. She then approached petitioners and offered to pay the balance of the purchase price for the house and lot. The parties, however, could not agree, and the deal could not push through because the Santos wanted a higher price. For understandably, the real estate boom in Metro Manila at this time, had considerably jacked up realty values.

On August 11, 1989, the Casedas filed Civil Case No. 89-4759, with the RTC of Makati, to have the Santos execute the final deed of conveyance over the property, or in default thereof, to reimburse the amount of P180,000.00 paid in cash and P249,900.00 paid to the rural bank, plus interest; as well as rentals for eight months amounting to P32,000.00, plus damages and costs of suit.

After trial on the merits, the lower court disposed of the case as follows:

"WHEREFORE, judgment is hereby ordered:

- (a) dismissing plaintiff's (Casedas') complaint; and
- (b) declaring the agreement marked as Annex "C" of the complaint rescinded. Costs against plaintiffs.

"SO ORDERED."<sup>[4]</sup>

Said judgment of dismissal is mainly based on the trial court's finding that:

"Admittedly, the purchase price of the house and lot was P485,385.18, i.e. P350,000.00 as cash payment and P135,385.18, assumption of mortgage. Of it plaintiffs [Casedas] paid the following: (1) P54,100.00 down payment; and (2) P81,694.64 installment payments to the bank on the loan (Exhs. E to E-19) or a total of P135,794.64. Thus, plaintiffs were short of the purchase price. They cannot, therefore, demand specific performance."<sup>[5]</sup>

The trial court further held that the Casedas were not entitled to reimbursement of payments already made, reasoning that:

"As, earlier mentioned, plaintiffs made a total payment of P135,794.64 out of the purchase price of P485,385.18. The property was in plaintiffs' possession from June 1984 to January 1989 or a period of fifty-five months. During that time, plaintiffs leased the property. Carmen said the property was rented for P25.00 a day or P750.00 a month at the start and in 1987 it was increased to P2,000.00 and P4,000.00 a month. But the evidence is not precise when the different amounts of rental took place. Be that as it may, fairness demands that plaintiffs must pay defendants for their exercise of dominical rights over the property by renting it to others. The amount of P2,000.00 a month would be reasonable based on the average of P750.00, P2,000.00, P4,000.00 lease-rentals charged. Multiply P2,000.00 by 55 months, the plaintiffs must pay defendants P110,000.00 for the use of the property. Deducting this amount from the P135,794.64 payment of the plaintiffs on the property, the difference is P25,794.64. Should the plaintiffs be entitled to a reimbursement of this amount? The answer is in the negative. Because of failure of plaintiffs to liquidated the mortgage loan on time, it had ballooned from its original figure of P135,384.18 as of June 1984 to P337,280.78 as of December 31, 1988. Defendants [Santos] had to pay the last amount to the bank to save the property from foreclosure. Logically, plaintiffs must share in the burden arising from their failure to liquidate the loan per their contractual commitment. Hence, the amount of P25,794.64 as their share in the defendants' damages in the form of increased loan-amount, is reasonable."<sup>[6]</sup>

On appeal, the appellate court, as earlier noted, reversed the lower court. The appellate court held that rescission was not justified under the circumstances and allowed the Caseda spouses a period of ninety days within which to pay the balance of the agreed purchase price.

Hence, this instant petition for review on certiorari filed by the Santoses.

Petitioners now submit the following issues for our consideration:

WHETHER OR NOT THE COURT OF APPEALS HAS JURISDICTION TO DECIDE PRIVATE RESPONDENT'S APPEAL INTERPOSING PURELY QUESTIONS OF LAW.

WHETHER THE SUBJECT TRANSACTION IS NOT A CONTRACT OF ABSOLUTE SALE BUT A MERE ORAL CONTRACT TO SELL IN WHICH CASE JUDICIAL DEMAND FOR RESCISSION (ART. 1592,<sup>[7]</sup> CIVIL CODE) IS NOT APPLICABLE.

ASSUMING *ARGUENDO* THAT A JUDICIAL DEMAND FOR RESCISSION IS REQUIRED, WHETHER PETITIONERS' DEMAND AND PRAYER FOR RESCISSION CONTAINED IN THEIR ANSWER FILED BEFORE THE TRIAL SATISFIED THE SAID REQUIREMENT.

WHETHER OR NOT THE NON-PAYMENT OF MORE THAN HALF OF THE ENTIRE PURCHASE PRICE INCLUDING THE NON-COMPLIANCE WITH THE STIPULATION TO LIQUIDATE THE MORTGAGE LOAN ON TIME WHICH CAUSED GRAVE DAMAGE AND PREJUDICE TO PETITIONERS, CONSTITUTE SUBSTANTIAL BREACH TO JUSTIFY RESCISSION OF A CONTRACT TO SELL UNDER ARTICLE 1191<sup>[8]</sup> (CIVIL CODE).

On the *first issue*, petitioners argue that, since both the parties and the appellate court adopted the findings of trial court,<sup>[9]</sup> no questions of fact were raised before the Court of Appeals. According to petitioners, CA-G.R. CV No. 30955, involved only pure questions of law. They aver that the court *a quo* had no jurisdiction to hear, much less decide, CA-G.R. CV No. 30955, without running afoul of Supreme Court Circular No. 2-90 (4) [c].<sup>[10]</sup>

There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain set of facts, and there is a question of fact when the doubt or difference arises as to the truth or falsehood of the alleged facts.<sup>[11]</sup> But we note that the first assignment of error submitted by respondents for consideration by the appellate court dealt with the trial court's finding that herein petitioners got back the property in question because respondents did not have the means to pay the installments and/or amortization of the loan.<sup>[12]</sup> The resolution of this question involved an evaluation of proof, and not only a consideration of the applicable statutory and case laws. Clearly, CA-G.R. CV No. 30955 did not involve pure questions of law, hence the Court of Appeals had jurisdiction and there was no violation of our Circular No. 2-90.

Moreover, we find that petitioners took an active part in the proceedings before the Court of Appeals, yet they did not raise there the issue of jurisdiction. They should have raised this issue at the earliest opportunity before the Court of Appeals. A party taking part in the proceedings before the appellate court and submitting his