

SECOND DIVISION

[G.R. No. 188064, June 01, 2011]

**MILA A. REYES, PETITIONER, VS. VICTORIA T. TUPARAN,
RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

Subject of this petition for review is the February 13, 2009 Decision^[1] of the Court of Appeals (CA) which affirmed with modification the February 22, 2006 Decision^[2] of the Regional Trial Court, Branch 172, Valenzuela City (RTC), in Civil Case No. 3945-V-92, an action for Rescission of Contract with Damages.

On September 10, 1992, Mila A. Reyes (*petitioner*) filed a complaint for Rescission of Contract with Damages against Victoria T. Tuparan (*respondent*) before the RTC. In her Complaint, petitioner alleged, among others, that she was the registered owner of a 1,274 square meter residential and commercial lot located in Karuhatan, Valenzuela City, and covered by TCT No. V-4130; that on that property, she put up a three-storey commercial building known as RBJ Building and a residential apartment building; that since 1990, she had been operating a drugstore and cosmetics store on the ground floor of RBJ Building where she also had been residing while the other areas of the buildings including the sidewalks were being leased and occupied by tenants and street vendors.

In December 1989, respondent leased from petitioner a space on the ground floor of the RBJ Building for her pawnshop business for a monthly rental of P4,000.00. A close friendship developed between the two which led to the respondent investing thousands of pesos in petitioner's financing/lending business from February 7, 1990 to May 27, 1990, with interest at the rate of 6% a month.

On June 20, 1988, petitioner mortgaged the subject real properties to the Farmers Savings Bank and Loan Bank, Inc. (*FSL Bank*) to secure a loan of P2,000,000.00 payable in installments. On November 15, 1990, petitioner's outstanding account on the mortgage reached P2,278,078.13. Petitioner then decided to sell her real properties for at least P6,500,000.00 so she could liquidate her bank loan and finance her businesses. As a gesture of friendship, respondent verbally offered to conditionally buy petitioner's real properties for P4,200,000.00 payable on installment basis without interest and to assume the bank loan. To induce the petitioner to accept her offer, respondent offered the following conditions/concessions:

1. That the conditional sale will be cancelled if the plaintiff (*petitioner*) can find a buyer of said properties for the amount of P6,500,000.00 within the next three (3) months provided all amounts received by the

plaintiff from the defendant (*respondent*) including payments actually made by defendant to Farmers Savings and Loan Bank would be refunded to the defendant with additional interest of six (6%) monthly;

2. That the plaintiff would continue using the space occupied by her and drugstore and cosmetics store without any rentals for the duration of the installment payments;

3. That there will be a lease for fifteen (15) years in favor of the plaintiff over the space for drugstore and cosmetics store at a monthly rental of only P8,000.00 after full payment of the stipulated installment payments are made by the defendant;

4. That the defendant will undertake the renewal and payment of the fire insurance policies on the two (2) subject buildings following the expiration of the then existing fire insurance policy of the plaintiff up to the time that plaintiff is fully paid of the total purchase price of P4,200,000.00.^[3]

After petitioner's verbal acceptance of all the conditions/concessions, both parties worked together to obtain FSL Bank's approval for respondent to assume her (petitioner's) outstanding bank account. The assumption would be part of respondent's purchase price for petitioner's mortgaged real properties. FSL Bank approved their proposal on the condition that petitioner would sign or remain as co-maker for the mortgage obligation assumed by respondent.

On November 26, 1990, the parties and FSL Bank executed the corresponding Deed of Conditional Sale of Real Properties with Assumption of Mortgage. Due to their close personal friendship and business relationship, both parties chose not to reduce into writing the other terms of their agreement mentioned in paragraph 11 of the complaint. Besides, FSL Bank did not want to incorporate in the Deed of Conditional Sale of Real Properties with Assumption of Mortgage any other side agreement between petitioner and respondent.

Under the Deed of Conditional Sale of Real Properties with Assumption of Mortgage, respondent was bound to pay the petitioner a lump sum of P1.2 million pesos without interest as part of the purchase price in three (3) fixed installments as follows:

- a) P200,000.00 - due January 31, 1991
- b) P200,000.00 - due June 30, 1991
- c) P800,000.00 - due December 31, 1991

Respondent, however, defaulted in the payment of her obligations on their due dates. Instead of paying the amounts due in lump sum on their respective maturity dates, respondent paid petitioner in small amounts from time to time. To compensate for her delayed payments, respondent agreed to pay petitioner an interest of 6% a month. As of August 31, 1992, respondent had only paid P395,000.00, leaving a balance of P805,000.00 as principal on the unpaid

installments and P466,893.25 as unpaid accumulated interest.

Petitioner further averred that despite her success in finding a prospective buyer for the subject real properties within the 3-month period agreed upon, respondent reneged on her promise to allow the cancellation of their deed of conditional sale. Instead, respondent became interested in owning the subject real properties and even wanted to convert the entire property into a modern commercial complex. Nonetheless, she consented because respondent repeatedly professed friendship and assured her that all their verbal side agreement would be honored as shown by the fact that since December 1990, she (respondent) had not collected any rentals from the petitioner for the space occupied by her drugstore and cosmetics store.

On March 19, 1992, the residential building was gutted by fire which caused the petitioner to lose rental income in the amount of P8,000.00 a month since April 1992. Respondent neglected to renew the fire insurance policy on the subject buildings.

Since December 1990, respondent had taken possession of the subject real properties and had been continuously collecting and receiving monthly rental income from the tenants of the buildings and vendors of the sidewalk fronting the RBJ building without sharing it with petitioner.

On September 2, 1992, respondent offered the amount of P751,000.00 only payable on September 7, 1992, as full payment of the purchase price of the subject real properties and demanded the simultaneous execution of the corresponding deed of absolute sale.

Respondent's Answer

Respondent countered, among others, that the tripartite agreement erroneously designated by the petitioner as a Deed of Conditional Sale of Real Property with Assumption of Mortgage was actually a pure and absolute contract of sale with a term period. It could not be considered a conditional sale because the acquisition of contractual rights and the performance of the obligation therein did not depend upon a future and uncertain event. Moreover, the capital gains and documentary stamps and other miscellaneous expenses and real estate taxes up to 1990 were supposed to be paid by petitioner but she failed to do so.

Respondent further averred that she successfully rescued the properties from a definite foreclosure by paying the assumed mortgage in the amount of P2,278,078.13 plus interest and other finance charges. Because of her payment, she was able to obtain a deed of cancellation of mortgage and secure a release of mortgage on the subject real properties including petitioner's ancestral residential property in Sta. Maria, Bulacan.

Petitioner's claim for the balance of the purchase price of the subject real properties was baseless and unwarranted because the full amount of the purchase price had already been paid, as she did pay more than P4,200,000.00, the agreed purchase price of the subject real properties, and she had even introduced improvements thereon worth more than P4,800,000.00. As the parties could no longer be restored to their original positions, rescission could not be resorted to.

Respondent added that as a result of their business relationship, petitioner was able to obtain from her a loan in the amount of ₱400,000.00 with interest and took several pieces of jewelry worth ₱120,000.00. Petitioner also failed and refused to pay the monthly rental of ₱20,000.00 since November 16, 1990 up to the present for the use and occupancy of the ground floor of the building on the subject real property, thus, accumulating arrearages in the amount of ₱470,000.00 as of October 1992.

Ruling of the RTC

On February 22, 2006, the RTC handed down its decision finding that respondent failed to pay in full the ₱4.2 million total purchase price of the subject real properties leaving a balance of ₱805,000.00. It stated that the checks and receipts presented by respondent refer to her payments of the mortgage obligation with FSL Bank and not the payment of the balance of ₱1,200,000.00. The RTC also considered the Deed of Conditional Sale of Real Property with Assumption of Mortgage executed by and among the two parties and FSL Bank a contract to sell, and not a contract of sale. It was of the opinion that although the petitioner was entitled to a rescission of the contract, it could not be permitted because her non-payment in full of the purchase price "may not be considered as substantial and fundamental breach of the contract as to defeat the object of the parties in entering into the contract."^[4] The RTC believed that the respondent's offer stated in her counsel's letter dated September 2, 1992 to settle what she thought was her unpaid balance of ₱751,000.00 showed her sincerity and willingness to settle her obligation. Hence, it would be more equitable to give respondent a chance to pay the balance plus interest within a given period of time.

Finally, the RTC stated that there was no factual or legal basis to award damages and attorney's fees because there was no proof that either party acted fraudulently or in bad faith.

Thus, the dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered as follows:

1. Allowing the defendant to pay the plaintiff within thirty (30) days from the finality hereof the amount of ₱805,000.00, representing the unpaid purchase price of the subject property, with interest thereon at 2% a month from January 1, 1992 until fully paid. Failure of the defendant to pay said amount within the said period shall cause the automatic rescission of the contract (Deed of Conditional Sale of Real Property with Assumption of Mortgage) and the plaintiff and the defendant shall be restored to their former positions relative to the subject property with each returning to the other whatever benefits each derived from the transaction;
2. Directing the defendant to allow the plaintiff to continue using the space occupied by her for drugstore and cosmetic store without any rental pending payment of the aforesaid balance of the purchase price.
3. Ordering the defendant, upon her full payment of the purchase price

together with interest, to execute a contract of lease for fifteen (15) years in favor of the plaintiff over the space for the drugstore and cosmetic store at a fixed monthly rental of P8,000.00; and

4. Directing the plaintiff, upon full payment to her by the defendant of the purchase price together with interest, to execute the necessary deed of sale, as well as to pay the Capital Gains Tax, documentary stamps and other miscellaneous expenses necessary for securing the BIR Clearance, and to pay the real estate taxes due on the subject property up to 1990, all necessary to transfer ownership of the subject property to the defendant.

No pronouncement as to damages, attorney's fees and costs.

SO ORDERED.^[5]

Ruling of the CA

On February 13, 2009, the CA rendered its decision affirming with modification the RTC Decision. The CA agreed with the RTC that the contract entered into by the parties is a contract to sell but ruled that the remedy of rescission could not apply because the respondent's failure to pay the petitioner the balance of the purchase price in the total amount of P805,000.00 was not a breach of contract, but merely an event that prevented the seller (petitioner) from conveying title to the purchaser (respondent). It reasoned that out of the total purchase price of the subject property in the amount of P4,200,000.00, respondent's remaining unpaid balance was only P805,000.00. Since respondent had already paid a substantial amount of the purchase price, it was but right and just to allow her to pay the unpaid balance of the purchase price plus interest. Thus, the decretal portion of the CA Decision reads:

WHEREFORE, premises considered, the Decision dated 22 February 2006 and Order dated 22 December 2006 of the Regional Trial Court of Valenzuela City, Branch 172 in Civil Case No. 3945-V-92 are AFFIRMED with MODIFICATION in that defendant-appellant Victoria T. Tuparan is hereby ORDERED to pay plaintiff-appellee/appellant Mila A. Reyes, within 30 days from finality of this Decision, the amount of P805,000.00 representing the unpaid balance of the purchase price of the subject property, plus interest thereon at the rate of 6% per annum from 11 September 1992 up to finality of this Decision and, thereafter, at the rate of 12% per annum until full payment. The ruling of the trial court on the automatic rescission of the Deed of Conditional Sale with Assumption of Mortgage is hereby DELETED. Subject to the foregoing, the dispositive portion of the trial court's decision is AFFIRMED in all other respects.

SO ORDERED.^[6]

After the denial of petitioner's motion for reconsideration and respondent's motion for partial reconsideration, petitioner filed the subject petition for review praying for