



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

**FELIX PLAZO URBAN POOR
 SETTLERS COMMUNITY
 ASSOCIATION, INC.,**

Petitioner,

G.R. No. 182409

Present:

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 REYES,
 JARDELEZA, and
 TIJAM, JJ.

- versus -

**ALFREDO LIPAT, SR. and
 ALFREDO LIPAT, JR.,**

Respondents.

Promulgated:

March 20, 2017

[Signature]

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DECISION

REYES, J.:

This is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated April 30, 2007 and Resolution³ dated March 17, 2008 of the Court of Appeals (CA) in CA-G.R. CV No. 85684 which granted the appeal of Alfredo Lipat, Sr. (Lipat Sr.) and Alfredo Lipat, Jr. (Lipat Jr.) (respondents) and accordingly dismissed the action for Specific Performance and Damages with Prayer for Preliminary Injunction filed by Felix Plazo Urban Poor Settlers Community Association, Inc. (petitioner) for lack of cause of action.

¹ Rollo, pp. 3-33.

² Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Vicente Q. Roxas and Mariflor P. Punzalan-Castillo concurring; id. at 36-46.

³ Id. at 52-53.

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The Facts

On December 13, 1991, Lipat Sr., as represented by Lipat Jr., executed a Contract to Sell (CTS) in favor of the petitioner, as represented by its President, Manuel Tubao (Tubao), whereby the former agreed to sell to the latter two parcels of land in Naga City covered by Transfer Certificates of Title Nos. 12236 and 12237 (subject properties) for a consideration of ₱200.00 per square meter.⁴

As stipulated in the CTS, the petitioner had 90 days to pay in full the purchase price of the subject properties; otherwise, the CTS shall automatically expire. The period, however, elapsed without payment of the full consideration by the petitioner.⁵

According to the petitioner, the 90-day period provided in the CTS was subject to the condition that the subject properties be cleared of all claims from third persons considering that there were pending litigations involving the same.⁶

Upon the expiry of the 90-day period, and despite the failure to clear the subject properties from the claims of third persons, the petitioner contributed financial assistance for the expenses of litigation involving the subject properties with the assurance that the CTS will still be enforced once the cases are settled.⁷

In the meantime, the petitioner agreed to pay rental fees for their occupation of the subject properties from 1992 to 1996.⁸

After the termination of the cases involving the subject properties, however, the respondents refused to enforce the CTS on the ground that the same had expired and averred that there was no agreement to extend its term.⁹

Consequently, the petitioner filed a case for Specific Performance and Damages with Prayer for the Issuance of Preliminary Injunction against the respondents on June 10, 1997 before the Regional Trial Court (RTC) of Naga City.¹⁰

⁴ Id. at 37.

⁵ Id.

⁶ Id. at 66.

⁷ Id.

⁸ Id.

⁹ Id. at 67.

¹⁰ Id. at 38.

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For their defense, the respondents alleged that the CTS was not enforced due to the petitioner's failure to pay the ₱200.00 per sq m selling price before the expiration of its term.¹¹ As a result, the members of the petitioner were required to pay rental fees corresponding to the area they occupy.¹²

Moreover, the respondents claimed that the so called "financial assistance" they received from the petitioner's members was in the nature of a loan and that it has nothing to do with the alleged extension of their CTS.¹³

Considering that the CTS already expired, Lipat Jr. suggested an individual contract for each member of the petitioner. Only four members, however, were able to buy individual lots, namely, Consuelo Gomez, Edna Estioko, Gina Villar, and Pablo Calubad.¹⁴ Also, Rosemarie Buenaventura, who is not a member of the petitioner, was able to buy two lots on the subject properties. Consequently, she filed an urgent Motion for Leave to Intervene which was granted by the trial court on August 4, 1997.¹⁵

Ruling of the RTC

On August 9, 2004, the RTC of Naga City, Branch 22, in Civil Case No. RTC '97-3777, rendered a Decision¹⁶ in favor of the petitioner directing the respondent to enforce the CTS after payment by the petitioner of the selling price in the amount of ₱200.00 per sq m. The dispositive portion thereof provides:

WHEREFORE, premises considered, the [petitioner] having proved by preponderance of evidence the enforceability of the [CTS], dated December 13, 1991, judgment is hereby rendered ordering the [respondents], to sell to [the petitioner] the propert[ies] subject of this case, previously covered by TCT No. 12236 and 12237, upon payment by the [petitioner] of the selling price of P200.00 per square meter.

SO ORDERED.¹⁷

Aggrieved, the respondents filed an appeal to the CA to assail the RTC decision in holding that the CTS dated December 13, 1991 they entered into with the petitioner is still in force and effect.¹⁸

¹¹ Id. at 79.

¹² Id. at 38.

¹³ Id.

¹⁴ Id. at 79-80.

¹⁵ Id. at 67.

¹⁶ Rendered by Judge Novelita Villegas-Llaguno; id. at 65-95.

¹⁷ Id. at 95.

¹⁸ Id. at 96-107.

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Ruling of the CA

In a Decision¹⁹ dated April 30, 2007, the CA granted the appeal of the respondents. Accordingly, it dismissed the action for Specific Performance and Damages with Prayer for Preliminary Injunction filed by the petitioner for being premature. The dispositive portion thereof states:

WHEREFORE, the instant appeal is **GRANTED**. The assailed decision in CIVIL CASE No. RTC '97-3777 is **REVERSED** and **SET ASIDE**. The action for Specific Performance and Damages with Prayer for Preliminary Injunction filed by the [petitioner] against the [respondents] with the court a quo is hereby **DISMISSED** for lack of cause of action. No pronouncement as to costs.

SO ORDERED.²⁰

The CA held that the petitioner cannot exact fulfillment from the respondents without itself having first complied with what is incumbent upon it under the CTS. As shown in the records, the petitioner failed to make full payment of the purchase price. Further, records do not show that the petitioner ever attempted to at least, make the proper consignment of the amounts due to the court.²¹

A Motion for Reconsideration²² was filed by the petitioner, but the same was denied in a Resolution²³ dated March 17, 2008.

Issues

Hence, the instant petition for review on *certiorari* based on the following assignment of errors:

1. WHETHER OR NOT THE CA ERRED IN REVERSING THE TRIAL COURT'S DECISION THAT THE PETITIONER CAN OBLIGE THE RESPONDENTS TO SELL THE PROPERTIES COVERED BY THE CTS, THE CONTRACT BEING STILL EFFECTIVE;
2. WHETHER OR NOT THE CA ERRED IN DECLARING THAT THE CAUSE OF ACTION IS PREMATURE AND IN DISREGARDING THE

¹⁹ Id. at 36-46.

²⁰ Id. at 45.

²¹ Id. at 43-44.

²² Id. at 47-51.

²³ Id. at 52-53.

PAYMENTS AND EXPENSES MADE BY THE PETITIONER OVER THE PROPERTIES IN QUESTION; and

3. WHETHER OR NOT THE CA ERRED IN NOT GRANTING THE MOTION FOR RECONSIDERATION DESPITE THE FACT THAT THE PETITIONER SHOWED PROOF OF READINESS TO PAY.²⁴

Ruling of the Court

To begin with, it bears stressing that the scope of the Court's judicial review under Rule 45 of the Rules of Court is confined only to errors of law. It does not extend to questions of fact.²⁵ This rule, however, admits of exceptions, such as in the present case, where the factual findings of the CA and the trial court are contradictory.²⁶

After a careful review of the records of the case, however, the Court upholds the findings of the CA in dismissing the complaint for specific performance filed by the petitioner against the respondents for lack of merit.

The parties are bound to the stipulations they mutually agreed upon in the CTS

Indeed, the contract executed by the parties is the law between them. Consequently, from the time the contract is perfected, all parties privy to it are bound not only to the fulfillment of what has been expressly stipulated but likewise to all consequences which, according to their nature, may be in keeping with good faith, usage and law.²⁷

Here, the pertinent provisions of the CTS, denominated as Contract/Agreement, between the parties read:

1. The Parties hereby agree that for and in consideration of the amount of TWO HUNDRED (P200.00) Pesos, [Philippine] Currency per square meter, the VENDOR shall sell, cede, convey and transfer unto the VENDEE, its assigns, or representative the above mentioned property;

²⁴ Id. at 20-21.

²⁵ *Skippers United Pacific, Inc. v. NLRC*, 527 Phil. 248, 256 (2006).

²⁶ *Treñas v. People*, 680 Phil. 368, 378 (2012).

²⁷ *Valarao v. Court of Appeals*, 363 Phil. 495, 506 (1999).

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3. The registration fee for the mortgage to secure the loan to be obtained by the vendee to finance the acquisition of the land shall be for the account of the VENDEE; [and]
4. This Contract/Agreement shall automatically expire on the Ninetyth [sic] (90) th [sic] day commencing from the aforesaid date.²⁸

Concededly, it is undisputed that the abovementioned contract is in the nature of a CTS. As such, the obligation of the seller to sell becomes demandable only upon the occurrence of the suspensive condition.²⁹ In the present case, as correctly observed by the CA, the suspensive condition is the payment in full of the purchase price by the petitioner prior to the expiration of the 90-day period stipulated in their CTS, which the latter failed to do so. The relevant portion of the CA's decision reads:

As shown in the case at bar, the [petitioner] did not pay the full purchase price which is its obligation under the [CTS]. As the payment of the full purchase price is a positive suspensive condition the non-fulfillment of which prevents the perfection of a [CTS], it is indubitable that the subject [CTS] is ineffective and without force and effect. x x x.³⁰

In *Spouses Garcia, et al. v. Court of Appeals, et al.*,³¹ the Court emphasized that in a CTS, payment of the full purchase price is a positive suspensive condition, failure of which is not considered a breach of the same but an occurrence that prevents the obligation of the seller to transfer title from becoming effective.³² Here, there is no dispute that the petitioner failed to pay the full purchase price stipulated in the CTS on the date fixed therein. Thus, the respondents are within their rights to refuse to enforce the same.

As a rule, proof of verbal agreement that tends to vary the terms of a written agreement, is inadmissible under the parol evidence rule

Rule 130, Section 9 of the Revised Rules on Evidence embodies the parol evidence rule which states:

²⁸ *Rollo*, p. 146.

²⁹ *Chua v. Court of Appeals*, 449 Phil. 25, 45 (2003).

³⁰ *Rollo*, p. 43.

³¹ 633 Phil. 294 (2010).

³² *Id.* at 300.

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SEC. 9. *Evidence of written agreements.* When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors-in-interest, no evidence of such terms other than the contents of the written agreement.

However, a party may present evidence to modify, explain or add to the terms of the written agreement if he puts in issue in his pleading:

- (a) An intrinsic ambiguity, mistake or imperfection in the written agreement;
- (b) The failure of the written agreement to express the true intent and agreement of the parties thereto;
- (c) The validity of the written agreement; or
- (d) The existence of other terms agreed to by the parties or their successors-in-interest after the execution of the written agreement.

The term "agreement" includes wills.

In *Norton Resources and Development Corporation v. All Asia Bank Corporation*,³³ the Court discussed the parol evidence rule in this manner:

The "parol evidence rule" forbids any addition to or contradiction of the terms of a written instrument by testimony or other evidence purporting to show that, at or before the execution of the parties' written agreement, other or different terms were agreed upon by the parties, varying the purport of the written contract. When an agreement has been reduced to writing, the parties cannot be permitted to adduce evidence to prove alleged practices which, to all purposes, would alter the terms of the written agreement. Whatever is not found in the writing is understood to have been waived and abandoned. x x x.³⁴ (Citation omitted)

These rule and principle notwithstanding, the petitioner would have the Court rule that the CTS it executed with the respondents falls within the exceptions, more specifically that the written agreement failed to express the true intent and agreement of the parties considering that the same is also subject to the condition that all pending litigations relative to the subject properties are settled. This argument is untenable.

It is well settled that parol evidence can serve the purpose of incorporating into the contract additional contemporaneous conditions, which are not mentioned at all in writing, only if there is fraud or mistake.³⁵ Here, the petitioner's claim that the reason for their failure to pay the full

³³ 620 Phil. 381 (2009).

³⁴ Id. at 389-390.

³⁵ *Ortañez v. CA*, 334 Phil. 514, 519 (1997).

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purchase price was due to the failure of the respondents to settle the pending litigation involving the subject properties is not tenable. Clearly, a perusal of the CTS executed by the parties does not show any provision pertaining to such condition. Also, the petitioner failed to present sufficient evidence to show that such failure was due to fraud or mistake.

Moreover, the petitioner likewise failed to prove by preponderant evidence their claim that an extension was given to them to pay the full purchase price indicated in the CTS. In main, they presented documents showing that they paid for the expenses and attorney's fees to settle the pending litigations of the subject properties. According to them, in exchange for their financial assistance, the respondents agreed to extend the period of payment until after the conclusion of the pending litigations.

The allegation of the petitioner, however, was successfully rebutted by the respondents when they presented a purported new contract pre-signed by Tubao, the petitioner's former president, and two of its members as witnesses. Clearly, the petitioner itself recognized the expiration of the 90-day period provided in their CTS and instead offered a new contract to Lipat Jr., who, however, refused to sign the same. Unfortunately, this has not been controverted by the petitioner.³⁶

At any rate, assuming without conceding that the 90-day period was extended by the parties, the obligation of the respondents based on the CTS did not arise as a result of the continued failure of the petitioner to pay the full purchase price. As the Court held in *Ursal v. Court of Appeals*,³⁷ the perfected CTS imposed on the buyer the obligation to pay the balance of the purchase price. As such, the buyer should have made the proper tender of payment and consignation of the price in court as required by law. It is essential that consignation be made in court in order to extinguish the obligation of the buyer to pay the balance of the purchase price.³⁸ Here, records are bereft of any showing that the petitioner even attempted to make the proper consignation of the amounts due, as a result, the obligation on the part of the respondents never acquired obligatory force, thus, the seller is released from his obligation to sell.

Payments made by the petitioner for the subject properties, however, must be refunded

³⁶ *Rollo*, p. 104.

³⁷ 509 Phil. 628 (2005).

³⁸ *Id.* at 647.

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In *Pilipino Telephone Corporation v. Radiomarine Network (Smartnet) Philippines, Inc.*,³⁹ the Court ordered the refund to the buyer of all sums previously made, after terminating the CTS for failure to pay the purchase price, based on the principle against unjust enrichment. The Court in part stated:

Likewise, a cause of action for specific performance does not arise where the [CTS] has been cancelled due to nonpayment of the purchase price. Smartnet obviously cannot demand title to the Valgozon Property because it did not pay the purchase price in full. For its part, Piltel also cannot insist on full payment since Smartnet's failure to pay resulted in the cancellation of the [CTS]. Indeed, in the case of *Ayala Life Assurance, Inc. v. Ray Burton Devt. Corp.*, the Court rejected the seller's demand for full payment and instead ordered it to refund to the buyer all sums previously paid. The order to refund is correct based on the principle that no one should unjustly enrich himself at the expense of another.⁴⁰ (Citations omitted)

In the present case, however, since the records are insufficient to use as bases to properly compute all payments previously made by the petitioner to the respondents in connection with the CTS they executed dated December 13, 1991, the case should be remanded to the RTC for a detailed computation of the refund and to include the imposition of an interest at the rate of six percent (6%) *per annum* pursuant to the Court's ruling in *Nacar v. Gallery Frames, et al.*⁴¹

WHEREFORE, the petition is **DENIED**. The Decision dated April 30, 2007 and Resolution dated March 17, 2008 of the Court of Appeals in CA-G.R. CV No. 85684 are hereby **AFFIRMED with the MODIFICATION** that the case is **REMANDED** to the Regional Trial Court of Naga City, Branch 22, for the computation of all payments previously made by petitioner Felix Plazo Urban Poor Settlers Community Association, Inc. to respondents Alfredo Lipat, Sr. and Alfredo Lipat, Jr. in connection with the Contract to Sell they executed which the respondents should refund without delay. Also, the Regional Trial Court is directed to include the imposition of an interest at the rate of six percent (6%) *per annum* pursuant to prevailing jurisprudence.

³⁹ 671 Phil. 557 (2011).

⁴⁰ Id. at 568.

⁴¹ 716 Phil. 267 (2013).

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SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL C. TIJAM
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

