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SECOND DIVISION

[G.R. No. 173441. December 3, 2009]

HEIRS OF SOFIA QUIRONG, Represented by ROMEO P. QUIRONG, *petitioners, vs.* **DEVELOPMENT BANK OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CIVIL LAW; OBLIGATIONS AND CONTRACTS; RESCISSIBLE CONTRACTS; PRESCRIPTIVE PERIOD; RECKONING DATE IN CASE AT BAR IS FROM THE FINALITY OF THE DECEMBER 16, 1992 RTC DECISION IN CIVIL CASE D-7159 WHICH IS JANUARY 28, 1993, AS NO APPEAL WAS MADE THEREIN. — The CA held that the Quirong heirs' action for rescission of the sale between DBP and their predecessor, Sofia Quirong, is barred by prescription reckoned from the date of finality of the December 16, 1992 RTC decision in Civil Case D-7159 and applying the prescriptive period of four years set by Article 1389 of the Civil Code. Unfortunately, the CA did not state in its decision the date when the RTC decision in Civil Case D-7159 became final and executory, which decision resulted in the Quirong heirs' loss of 80% of the lot that the DBP sold to Sofia Quirong. Petitioner heirs claim that the prescriptive period should be reckoned from January 17, 1995, the date this Court's resolution in G.R. 116575 became final and executory. But the incident before this Court in G.R. 116575 did not deal with the merit of the RTC decision in Civil Case D-7159. That decision became final and executory on January 28, 1993 when the DBP failed to appeal from it within the time set for such appeal. The incident before this Court in G.R. 116575 involved the issuance of the writ of execution in that case. The DBP contested such issuance supposedly because the dispositive portion of the decision failed to specify details that were needed for its implementation. Since this incident did not affect the finality of the decision in Civil Case D-7159, the prescriptive period remained to be reckoned from January 28, 1993, the date of such finality.

2. ID.; ID.; RESCISSION OF CONTRACTS; AVAILABLE TO INJURED PARTY IN RECIPROCAL OBLIGATIONS;

Supreme Court E-Library

ELUCIDATED. — The remedy of "rescission" is not confined to the rescissible contracts enumerated under Article 1381. Article 1191 of the Civil Code gives the injured party in reciprocal obligations, such as what contracts are about, the option to choose between fulfillment and "rescission." Arturo M. Tolentino, a well-known authority in civil law, is quick to note, however, that the equivalent of Article 1191 in the old code actually uses the term "resolution" rather than the present "rescission." The calibrated meanings of these terms are distinct. "Rescission" is a subsidiary action based on injury to the plaintiff's economic interests as described in Articles 1380 and 1381. "Resolution," the action referred to in Article 1191, on the other hand, is based on the defendant's breach of faith, a violation of the reciprocity between the parties. As an action based on the binding force of a written contract, therefore, rescission (resolution) under Article 1191 prescribes in 10 years. Ten years is the period of prescription of actions based on a written contract under Article 1144. The distinction makes sense. Article 1191 gives the injured party an option to choose between, first, fulfillment of the contract and, second, its rescission. An action to enforce a written contract (fulfillment) is definitely an "action upon a written contract," which prescribes in 10 years (Article 1144). It will not be logical to make the remedy of fulfillment prescribe in 10 years while the alternative remedy of rescission (or resolution) is made to prescribe after only four years as provided in Article 1389 when the injury from which the two kinds of actions derive is the same.

3. ID.; ID.; ID.; CASE AT BAR. – Here, the Quirong heirs alleged in their complaint that they were entitled to the rescission of the contract of sale of the lot between the DBP and Sofia Quirong because the decision in Civil Case D-7159 deprived her heirs of nearly the whole of that lot. But what was the status of that contract at the time of the filing of the action for rescission? Apparently, that contract of sale had already been fully performed when Sofia Quirong paid the full price for the lot and when, in exchange, the DBP executed the deed of absolute sale in her favor. There was a turnover of control of the property from DBP to Sofia Quirong since she assumed under their contract, "the ejectment of squatters and/or occupants" on the lot, at her own expense. Actually, the cause of action of the Quirong heirs stems from their having been ousted by

Supreme Court E-Library

> final judgment from the ownership of the lot that the DBP sold to Sofia Quirong, their predecessor, in violation of the warranty against eviction that comes with every sale of property or thing. x x x With the loss of 80% of the subject lot to the Dalopes by reason of the judgment of the RTC in Civil Case D-7159, the Quirong heirs had the right to file an action for rescission against the DBP pursuant to the provision of Article 1556 of the Civil Code x x x And that action for rescission, which is based on a subsequent economic loss suffered by the buyer, was precisely the action that the Quirong heirs took against the DBP. Consequently, it prescribed as Article 1389 provides in four years from the time the action accrued.

APPEARANCES OF COUNSEL

Aurora Esguerra Valle for petitioners.

Benilda A. Tejada Restituto A. Luna, Jr. Rene A. Gaerlan & Teresita Ivanness C. Cadag for respondent.

D E C I S I O N

ABAD, *J.*:

This case is about the prescriptive period of an action for rescission of a contract of sale where the buyer is evicted from the thing sold by a subsequent judicial order in favor of a third party.

The Facts and the Case

The facts are not disputed. When the late Emilio Dalope died, he left a 589-square meter untitled lot[1] in Sta. Barbara, Pangasinan, to his wife, Felisa Dalope (Felisa) and their nine children, one of whom was Rosa Dalope-Funcion.[2] To enable

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[1] Unregistered lot previously declared for taxation purposes in the name of spouses Emilio and Felisa Dalope, located at Tuliao, Sta. Barbara, Pangasinan and covered by Tax Declaration No. 720.

[2] The heirs are in possession of the land. Standing on it are two houses, one bungalow owned by Felisa and a two-storey house owned by the Funcion spouses.

Supreme Court E-Library

Rosa and her husband Antonio Funcion (the Funcions) get a loan from respondent Development Bank of the Philippines (DBP), Felisa sold the whole lot to the Funcions. With the deed of sale in their favor and the tax declaration transferred in their names, the Funcions mortgaged the lot with the DBP.

On February 12, 1979, after the Funcions failed to pay their loan, the DBP foreclosed the mortgage on the lot and consolidated ownership in its name on June 17, 1981.[3]

Four years later or on September 20, 1983 the DBP conditionally sold the lot to Sofia Quirong[4] for the price of ₱78,000.00. In their contract of sale, Sofia Quirong waived any warranty against eviction. The contract provided that the DBP did not guarantee possession of the property and that it would not be liable for any lien or encumbrance on the same. Quirong gave a down payment of ₱14,000.00.

Two months after that sale or on November 28, 1983 Felisa and her eight children (collectively, the Dalopes)[5] filed an action for partition and declaration of nullity of documents with damages against the DBP and the Funcions before the Regional Trial Court (RTC) of Dagupan City, Branch 42, in Civil Case D-7159.

On December 27, 1984, notwithstanding the suit, the DBP executed a deed of absolute sale of the subject lot in Sofia Quirong's favor. The deed of sale carried substantially the same waiver of warranty against eviction and of any adverse lien or encumbrance.

On May 11, 1985, Sofia Quirong having since died, her heirs (petitioner Quirong heirs) filed an answer in intervention[6] in Civil Case D-7159 in which they asked the RTC to award the

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[3] CA *rollo*, p. 25.

[4] Now substituted by the petitioner Heirs of Sofia Quirong.

[5] Lydia, Jose, Imelda, Cesar, Fredeline, Carlos, Emilio, and Cipriano, the latter also known as Sofronio and represented by his heirs, Elena Andaca, Alma, Noemi, Gaile, and Shiela, all surnamed Dalope.

[6] *Rollo*, p. 182.

Supreme Court E-Library

lot to them and, should it instead be given to the Dalopes, to allow the Quirong heirs to recover the lot's value from the DBP. But, because the heirs failed to file a formal offer of evidence, the trial court did not rule on the merits of their claim to the lot and, alternatively, to relief from the DBP.[7]

On December 16, 1992 the RTC rendered a decision, declaring the DBP's sale to Sofia Quirong valid only with respect to the shares of Felisa and Rosa Funcion in the property. It declared Felisa's sale to the Funcions, the latter's mortgage to the DBP, and the latter's sale to Sofia Quirong void insofar as they prejudiced the shares of the eight other children of Emilio and Felisa who were each entitled to a tenth share in the subject lot.

The DBP received a copy of the decision on January 13, 1993 and, therefore, it had until January 28, 1993 within which to file a motion for its reconsideration or a notice of appeal from it. But the DBP failed to appeal supposedly because of excusable negligence and the withdrawal of its previous counsel of record.[8]

When the RTC judgment became final and the court issued a writ of execution, the DBP resisted the writ by motion to quash, claiming that the decision could not be enforced because it failed to state by metes and bounds the particular portions of the lot that would be assigned to the different parties in the case. The RTC denied the DBP's motion, prompting the latter to seek recourse by special civil action of *certiorari* directly with this Court in G.R. 116575, *Development Bank of the Philippines v. Fontanilla*. On September 7, 1994 the Court issued a resolution, denying the petition for failure of the DBP to pay the prescribed fees. This resolution became final and executory on January 17, 1995.[9]

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[7] *Id.* at 96. Pertinent portion of the decision reads: "No evidence was formally offered in support of the intervention filed in this case by the heirs of the late Sofia P. Quirong. The merits of the case could not therefore be passed upon in this case."

[8] Petition in G.R. No. 116575, *rollo*, p. 105.

[9] *Rollo*, p. 114.

Supreme Court E-Library

On June 10, 1998 the Quirong heirs filed the present action[10] against the DBP before the RTC of Dagupan City, Branch 44, in Civil Case CV-98-02399-D for rescission of the contract of sale between Sofia Quirong, their predecessor, and the DBP and praying for the reimbursement of the price of ₱78,000.00 that she paid the bank plus damages. The heirs alleged that they were entitled to the rescission of the sale because the decision in Civil Case D-7159 stripped them of nearly the whole of the lot that Sofia Quirong, their predecessor, bought from the DBP. The DBP filed a motion to dismiss the action on ground of prescription and *res judicata* but the RTC denied their motion.

On June 14, 2004, after hearing the case, the RTC rendered a decision,[11] rescinding the sale between Sofia Quirong and the DBP and ordering the latter to return to the Quirong heirs the ₱78,000.00 Sofia Quirong paid the bank.[12] On appeal by the DBP, the Court of Appeals (CA) reversed the RTC decision and dismissed the heirs' action on the ground of prescription. The CA concluded that, reckoned from the finality of the December 16, 1992 decision in Civil Case D-7159, the complaint filed on June 10, 1998 was already barred by the four-year prescriptive period under Article 1389 of the Civil Code.[13] The Quirong heirs filed a motion for reconsideration of the decision but the appellate court denied it,[14] thus, this petition.

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[10] Complaint, *id.* at 57.

[11] *Id.* at 77.

[12] WHEREFORE, the Contract of Sale involving the parcel of land situated in Tuliao, Sta. Barbara, Pangasinan, x x x is ordered rescinded and defendant is ordered to reimburse to plaintiffs the sum of Seventy Eight Thousand Pesos (₱78,000.00) plus interests thereof at bank rate from 1983 until it is returned to the plaintiffs.

Furnish copies of this decision to Atty. Aurora Esguerra Valle and Atty. Rolando D. Mendoza.

SO ORDERED. (*Rollo*, p. 86)

[13] November 30, 2005 Decision, *id.* at 52.

[14] June 14, 2006 Resolution, *id.* at 56.

Supreme Court E-Library

The Issues Presented

The issues presented in this case are:

1. Whether or not the Quirong heirs' action for rescission of respondent DBP's sale of the subject property to Sofia Quirong was already barred by prescription; and

2. In the negative, whether or not the heirs of Quirong were entitled to the rescission of the DBP's sale of the subject lot to the late Sofia Quirong as a consequence of her heirs having been evicted from it.

The Court's Rulings

The CA held that the Quirong heirs' action for rescission of the sale between DBP and their predecessor, Sofia Quirong, is barred by prescription reckoned from the date of finality of the December 16, 1992 RTC decision in Civil Case D-7159 and applying the prescriptive period of four years set by Article 1389 of the Civil Code.

Unfortunately, the CA did not state in its decision the date when the RTC decision in Civil Case D-7159 became final and executory, which decision resulted in the Quirong heirs' loss of 80% of the lot that the DBP sold to Sofia Quirong. Petitioner heirs claim that the prescriptive period should be reckoned from January 17, 1995, the date this Court's resolution in G.R. 116575 became final and executory.[15]

But the incident before this Court in G.R. 116575 did not deal with the merit of the RTC decision in Civil Case D-7159. That decision became final and executory on January 28, 1993 when the DBP failed to appeal from it within the time set for such appeal. The incident before this Court in G.R. 116575 involved the issuance of the writ of execution in that case. The DBP contested such issuance supposedly because the dispositive portion of the decision failed to specify details that were needed for its implementation. Since this incident did not affect the finality of the decision in Civil Case D-7159, the

[15] *Id.* at 114.

Supreme Court E-Library

prescriptive period remained to be reckoned from January 28, 1993, the date of such finality.

The next question that needs to be resolved is the applicable period of prescription. The DBP claims that it should be four years as provided under Article 1389 of the Civil Code.[16] Article 1389 provides that "the action to claim rescission must be commenced within four years." The Quirong heirs, on the other hand, claim that it should be 10 years as provided under Article 1144 which states that actions "upon a written contract" must be brought "within 10 years from the date the right of action accrues."

Now, was the action of the Quirong heirs "for rescission" or "upon a written contract"? There is no question that their action was for rescission, since their complaint in Civil Case CV-98-02399-D asked for the rescission of the contract of sale between Sofia Quirong, their predecessor, and the DBP and the reimbursement of the price of ₱78,000.00 that Sofia Quirong paid the bank plus damages. The prescriptive period for rescission is four years.

But it is not that simple. The remedy of "rescission" is not confined to the rescissible contracts enumerated under Article 1381.[17] Article 1191 of the Civil Code gives the injured party

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[16] Art. 1389. The action to claim rescission must be commenced within four years.

For persons under guardianship and for absentees, the period of four years shall not begin until the termination of the former's incapacity, or until the domicile of the latter is known.

[17] Article 1381. The following contracts are rescissible: (1) Those which are entered into by guardians whenever the wards whom they represent suffer lesion by more than one-fourth of the value of the things which are the object thereof; (2) Those agreed upon in representation of absentees, if the latter suffer the lesion stated in the preceding number; (3) Those undertaken in fraud of creditors when the latter cannot in any other manner collect the claims due them; (4) Those which refer to things under litigation if they have been entered into by the defendant without the knowledge and approval of the litigants or of competent judicial authority; (5) All other contracts specially declared by law to be subject to rescission.

Supreme Court E-Library

in reciprocal obligations, such as what contracts are about, the option to choose between fulfillment and "rescission." Arturo M. Tolentino, a well-known authority in civil law, is quick to note, however, that the equivalent of Article 1191 in the old code actually uses the term "resolution" rather than the present "rescission."[18] The calibrated meanings of these terms are distinct.

"Rescission" is a subsidiary action based on injury to the plaintiff's economic interests as described in Articles 1380 and 1381. "Resolution," the action referred to in Article 1191, on the other hand, is based on the defendant's breach of faith, a violation of the reciprocity between the parties. As an action based on the binding force of a written contract, therefore, rescission (resolution) under Article 1191 prescribes in 10 years. Ten years is the period of prescription of actions based on a written contract under Article 1144.

The distinction makes sense. Article 1191 gives the injured party an option to choose between, first, fulfillment of the contract and, second, its rescission. An action to enforce a written contract (fulfillment) is definitely an "action upon a written contract," which prescribes in 10 years (Article 1144). It will not be logical to make the remedy of fulfillment prescribe in 10 years while the alternative remedy of rescission (or resolution) is made to prescribe after only four years as provided in Article 1389 when the injury from which the two kinds of actions derive is the same.

Here, the Quirong heirs alleged in their complaint that they were entitled to the rescission of the contract of sale of the lot between the DBP and Sofia Quirong because the decision in Civil Case D-7159 deprived her heirs of nearly the whole of that lot. But what was the status of that contract at the time of the filing of the action for rescission? Apparently, that contract of sale had already been fully performed when Sofia Quirong paid the full price for the lot and when, in exchange, the DBP executed the deed of absolute sale in her favor. There was

[18] Tolentino, Civil Code of the Philippines, Vol. IV, 169 (1992).

Supreme Court E-Library

a turnover of control of the property from DBP to Sofia Quirong since she assumed under their contract, "the ejectment of squatters and/or occupants" on the lot, at her own expense.[19]

Actually, the cause of action of the Quirong heirs stems from their having been ousted by final judgment from the ownership of the lot that the DBP sold to Sofia Quirong, their predecessor, in violation of the warranty against eviction that comes with every sale of property or thing. Article 1548 of the Civil Code provides:

Article 1548. Eviction shall take place whenever by a final judgment based on a right prior to the sale or an act imputable to the vendor, the vendee is deprived of the whole or of a part of thing purchased.

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With the loss of 80% of the subject lot to the Dalopes by reason of the judgment of the RTC in Civil Case D-7159, the Quirong heirs had the right to file an action for rescission against the DBP pursuant to the provision of Article 1556 of the Civil Code which provides:

Article 1556. Should the vendee lose, by reason of the eviction, a part of the thing sold of such importance, in relation to the whole, that he would not have bought it without said part, he may demand the rescission of the contract; but with the obligation to return the thing without other encumbrances than those which it had when he acquired it. x x x

And that action for rescission, which is based on a subsequent economic loss suffered by the buyer, was precisely the action that the Quirong heirs took against the DBP. Consequently, it prescribed as Article 1389 provides in four years from the time the action accrued. Since it accrued on January 28, 1993 when the decision in Civil Case D-7159 became final and executory and ousted the heirs from a substantial portion of the lot, the latter had only until January 28, 1997 within which to file their

[19] DBP's Memorandum, citing par. 15, No. 3 of Deed of Conditional Sale, *rollo*, p. 245.

Supreme Court E-Library

action for rescission. Given that they filed their action on June 10, 1998, they did so beyond the four-year period.

With the conclusion that the Court has reached respecting the first issue presented in this case, it would serve no useful purpose for it to further consider the issue of whether or not the heirs of Quirong would have been entitled to the rescission of the DBP's sale of the subject lot to Sofia Quirong as a consequence of her heirs having been evicted from it. As the Court has ruled above, their action was barred by prescription. The CA acted correctly in reversing the RTC decision and dismissing their action.

Parenthetically, the Quirong heirs were allowed by the RTC to intervene in the original action for annulment of sale in Civil Case D-7159 that the Dalopes filed against the DBP and the Funcions. Not only did the heirs intervene in defense of the sale, they likewise filed a cross claim against the DBP. And they were apparently heard on their defense and cross claim but the RTC did not adjudicate their claim for the reason that they failed to make a formal offer of their documentary exhibits. Yet, they did not appeal from this omission or from the judgment of the RTC, annulling the DBP's sale of the subject lot to Sofia Quirong. This point is of course entirely academic but it shows that the Quirong heirs have themselves to blame for the loss of whatever right they may have in the case.

WHEREFORE, the Court *DENIES* the petition and *AFFIRMS* the November 30, 2005 decision of the Court of Appeals in CA-G.R. CV 83897.

SO ORDERED.

Carpio, Leonardo-De Castro, Brion, and *Peralta,*[*] *JJ.,* concur.

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[*] Designated as additional member of the Second Division per raffle dated September 29, 2009.