Supreme Court E-Library

SECOND DIVISION

[G.R. No. 155594. September 27, 2004]

RHODORA G. BLAS, *petitioner, vs.* **LINDA ANGELES-HUTALLA,** *respondent.*

SYNOPSIS

Petitioner and rrespondent, both Filipino citizens and residents of Sunnyvale, California, executed the following documents relative to the sale of the respondent's lot, including the three-door apartment therein, located in the Philippines: the first Deed of Sale dated June 1988 executed in the Philippines whereby the respondent sold the property to the petitioner for ₱250,000, and the respondent acknowledged receipt of such amount from the petitioner; the second Deed of Sale dated August 8, 1988, executed by the respondent in California whereby the respondent sold the property to the petitoner for US $40,000, receipt of which the respondent acknowledge; the Real Estate Purchase Contract and Receipt for Deposit (REPCRD) dated August 5, 1988 which was notarized on August 8, 1988, whereby the respondent sold the properety to the petitioner for US$40,000 with a downpayment of US$17,000, payable in installments; the balance *via* a loan from the respondent payable in monthly installments; and a Certificate dated October 10, 1989 executed by the petitioner and her sister stating that the deed of sale dated 1988 had been executed only for the purpose of evicting the respondent's stepmother and nephew from the apartment and that all parties are bound by the original contract and nothing else. On February 9, 1998, the petitoner filed a Complaint against the respondent in the Regional Trial Court of Mandalulong City for specific performance and delivery of title, alleging that she had paid the purchase price in full and, despite her demands, the respondent failed and refused to deliever the torrens title over the property in her name. In her answer, the respondent alleged, *inter alia*, that the real and binding deed was the REPCRD; that the balance of the purchase price was still US$26,289.28; that under the said deed, she was entitled to repossess the property for the petitioner's failure to comply with the conditions therein. The petitioner, however, insisted that the real and binding documents between her and the respondent were the Deeds of Sale dated June 1988 and August

Supreme Court E-Library

8, 1988 and not the REPCRD. After trial, the court dismissed the complaint, ruling that the real and binding deed of sale executed by the parties was the REPCRD and that since the petitioner failed to pay in full the purchase price of the property, the respondent had the right to rescind the said contract and regain possession of the property. On appeal, the Court of Appeals affirmed the decision of the RTC.

Hence, this petition for review.

It is settled that the real nature of a contract may be determined from the express terms of the written agreement and from the contemporaneous and subsequent acts of the parties thereto. In the construction or interpretation of an instrument; the intention of the parties is primordial and is to be pursued. If the terms contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control. If the contract appears to be contrary to the evident intention of the parties, the latter shall prevail over the former. The denomination given by the parties in their contract is not conclusive of the nature of the contents. Here, while the petitioner certificated under a document that the only real and binding contract between her and the respondent was the original contract and that any other agreement would be null and void, she nevertheless signed the REPCRD on August 5, 1998 and made partial payments over time as set forth therein even after signing the said certificate. Taking into consideration all the documents in connection with the partial payments made by the petitioner to the respondent during the period August 8, 1998 to March 1997, the parties intenteded the REPCRD and the *second* deed of sale to be the real and binding contracts between them. Relative to this Court stressed that in a contract of sale, the non-payment of the price is a resolutory condition which extinguishes the transaction that, for a time existed, and discharges the obligations the obligations created thereunder. Here, having failed to pay in full the purchased price of the property as agreed upon by her and the respondent, the petitioner's plea for a reversal of the decision of the appellate court was bereft of factual and legal basis. Accordingly, the Court denied the petition and affirmed of the Court of Appeals.

Supreme Court E-Library

SYLLABUS

1. CIVIL LAW; ESTOPPEL; DOCTRINE APPLICABLE TO CASE AT BAR; PARTY CANNOT VALIDLY INVOKE TWO DEFENSES WHICH ARE PATENTLY INCONSISTENT WITH EACH OTHER.— We agree that the petitioner objected to the admission of the REPCRD when it was formally offered in evidence by the respondent on the ground that its authenticity had not been established. In her memorandum, the petitioner averred that the REPCRD violated the parol evidence rule, notwithstanding which the trial court admitted the same as part of the evidence of the respondent. However, on appeal in the CA, the petitioner invoked the Maceda Law, under which a buyer who has paid at least two years of installments under a contract of sale of real estate on installment payments, including residential apartments, is granted a grace period of one month for every year of installment payments made. The petitioner thereby admitted that she had made installment payments not only on the downpayment for the property but also on her loan from the respondent as provided for in the REPCRD. By invoking the Maceda Law, the petitioner thereby admitted the due execution, authenticity and the binding effect of the REPCRD. After having admitted that she had partially complied with the terms and conditions set forth therein, the petitioner can no longer assail the REPCRD without running afoul the doctrine of estoppel. The petitioner had either of two choices — take a definite and unequivocal stance and assert that the REPCRD was not authentic and, as such, inadmissible in evidence; or maintain that the said deed was valid and authentic, and that she had, in fact, partially complied with the terms and conditions therein set forth. Indeed, the petitioner cannot validly invoke two defenses which are patently inconsistent with each other. Furthermore, this is not a case of the petitioner asserting two alternative causes of action, for the fact of the matter is, she failed to allege alternative causes of action in her complaint.

2. ID.; OBLIGATIONS AND CONTRACTS; SALES; CONTRACT OF SALE; REAL NATURE THEREOF DETERMINED FROM EXPRESS TERMS OF THE WRITTEN AGREEMENT AND FROM CONTEMPORANEOUS AND SUBSEQUENT ACTS OF THE PARTIES THERETO.— It is settled that the real nature of a contract may be determined from the express terms of the written agreement and from the contemporaneous and

Supreme Court E-Library

subsequent acts of the parties thereto. In the construction or interpretation of an instrument, the intention of the parties is primordial and is to be pursued. If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control. If the contract appears to be contrary to the evident intentions of the parties, the latter shall prevail over the former. The denomination given by the parties in their contract is not conclusive of the nature of the contents.

3. **ID.; ID.; ID.; ID.; WRITINGS OF THE PARTIES SHOULD BE READ AND INTERPRETED TOGETHER IN SUCH A WAY AS TO RENDER THEIR INTENTION EFFECTIVE; CASE AT BAR.**— The agreement of the parties may be embodied in only one contract or in two or more separate writings. In such event, the writings of the parties should be read and interpreted together in such a way as to render their intention effective. x x x. The petitioner certified under a document that the first deed of sale did not reflect the true intention of the parties because the respondent executed the same merely to convince her stepmother and nephew to vacate the property. While the petitioner also certified in the same document that the only real and binding contract between her and the respondent was the original contract and that any other agreement would be null and void, she nevertheless signed the REPCRD on August 5, 1988 and made partial payments over time as set forth therein. The petitioner could not have referred to the second deed of sale as the "original contract" because she made partial payments to the respondent under the REPCRD even after signing the said certificate. Taking into consideration all the foregoing documents in connection with the partial payments made by the petitioner to the respondent during the period of August 8, 1988 to March 1997, the parties intended the REPCRD and the *second* deed of sale to be the real and binding contracts between them.

4. **ID.; ID.; ID.; ID.; SALE IS AT ONCE PERFECTED WHEN A PERSON OBLIGATES HIMSELF, FOR A PRICE CERTAIN, TO DELIVER AND TO TRANSFER OWNERSHIP OF A SPECIFIED THING OR RIGHT TO ANOTHER OVER WHICH THE LATTER AGREES; CASE AT BAR.**— We are convinced, beyond cavil, that under the two contracts, the petitioner and the respondent entered into a contract of sale over the subject

Supreme Court E-Library

property for the price of US$40,000, with a downpayment of US$17,000, payable as follows: US$5,000 having been already paid by the petitioner to the respondent at the Intercontinental Hotel in June 1988; US$5,000 on or before August 31, 1988; and US$7,000 on or before January 31, 1989. Considering that the petitioner obtained a loan from the respondent, the balance of US$23,000 was, likewise, already paid. However, of the US$17,000 downpayment, the petitioner managed to pay only US$10,000, and failed to pay US$7,000 due on or before January 31, 1989, exclusive of "late fees." It must be stressed that a sale is at once perfected when a person (the seller) obligates himself, for a price certain, to deliver and to transfer ownership of a specified thing or right to another (the buyer) over which the latter agrees. From the time the contract is perfected, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.

5. ID.; ID.; ID.; ID.; NON-PAYMENT OF THE PRICE IS A RESOLUTORY CONDITION WHICH EXTINGUISHES THE TRANSACTION THAT, FOR A TIME EXISTED, AND DISCHARGES THE OBLIGATIONS CREATED THEREUNDER.— In a contract of sale, the title to the property passes to the vendee upon the constructive or actual delivery thereof, as provided for in Article 1477 of the New Civil Code. The vendor loses ownership over the property and cannot recover it until and unless the contract is rescinded by a notarial deed or by judicial action as provided for in Article 1592 of the New Civil Code. *A contract of sale is absolute, absent any stipulation therein reserving title over the property to the vendee until full payment of the purchase price nor giving the vendor the right to unilaterally rescind the contract in case of non-payment.* In a contract of sale, the non-payment of the price is a resolutory condition which extinguishes the transaction that, for a time existed, and discharges the obligations created thereunder. Having failed to pay, in full, the purchase price of the property as agreed upon by her and the respondent, the petitioner's plea for a reversal of the decision of the appellate court is bereft of factual and legal basis.

6. ID.; ID.; ID.; ARTICLE 1592 OF THE NEW CIVIL CODE; NOT APPLICABLE WHERE PARTY SOUGHT RESCISSION OF

Supreme Court E-Library

THE CONTRACT; CASE AT BAR.— The petitioner cannot find refuge in Article 1592 of the New Civil Code which reads: x x x. This is so because (a) the respondent sought the rescission of the REPCRD in her answer to the complaint of the petitioner; (b) the petitioner failed to tender the amount of US$7,000 inclusive of the "late fees" due, and to consign the same before the trial court upon the filing of her complaint therein or in the course thereof. Under Article 1256 of the New Civil Code, the petitioner shall be released from liability only by the consignation of the amount due after compliance with the requirements prescribed by law.

APPEARANCES OF COUNSEL

Casino Barroso Surtida & San Gabriel for petitioner.
De Jesus & Associates and *Oscar A. Reyes* for respondent.

D E C I S I O N

CALLEJO, SR., *J.*:

Before us is a petition for review of the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 63978 filed by Rhodora G. Blas.

Respondent Linda Angeles-Hutalla was a Filipino citizen who later became a naturalized citizen of the United States of America. She owned a grocery store and a restaurant in Sunnyvale, California, which was beside the small store owned by petitioner Rhodora Blas, a Filipino citizen and the wife of Victor Blas, also residents of Sunnyvale.

The respondent mentioned to the petitioner that she owned a residential lot located at No. 843 Kapasigan St., Plainview, Mandaluyong, Metro Manila, on which a three-door apartment stood, and that she was selling the same. The petitioner expressed her interest in purchasing the property. At that time, the property

---

[1] Penned by Associate Justice Romeo A. Brawner, with Associate Justices Mario L. Guariña III and Danilo B. Pine, concurring; *Rollo*, pp. 55-68.

[2] *Rollo*, pp. 70-71.

Supreme Court E-Library

was not yet registered in the respondent's name. The respondent and the petitioner agreed to return to the Philippines so that the latter could see the property. They arrived in the Philippines in June 1988. The petitioner saw the property and discovered that one of the apartment units was occupied by the stepmother of the respondent and the latter's nephew. Nevertheless, the petitioner decided to purchase the property. Thereafter, the respondent executed an unnotarized deed of sale over the property, including the three-door apartment, in favor of the petitioner for the price of ₱250,000.[3] Although the respondent claimed in the said deed that she was the registered owner of the property, the space for the number of the torrens title in her name was left blank. The petitioner left the deed with her sister Rodelia Goot and, forthwith, returned to the United States. However, the deed was not filed or recorded in the Register of Deeds.

After a month's stay in the Philippines, the respondent returned to the United States. The parties executed on August 8, 1988 a Deed of Sale[4] over the property inclusive of the apartment for the price of US$40,000, and the respondent acknowledged therein the receipt of the said amount. The deed was notarized by Notary Public Renato A. Calura of the Santa Clara County, who also acted as a witness to the deed. However, the parties also executed, on the same day, a Real Estate Purchase Contract and Receipt for Deposit (REPCRD)[5] also notarized by Calura. It was made to appear in the said deed that of the purchase price of US$40,000, the petitioner made a payment of US$5,000 and obliged herself to pay US$5,000 on or before August 31, 1988, and US$7,000 on or before January 31, 1989. To pay the balance of US$23,000, the petitioner secured, from the respondent, a loan of US$23,000 payable monthly for eight (8) years, at a monthly installment of US$527.08 plus interest thereon at the rate of fifteen percent (15%) per annum, the first monthly installment falling due on February 28, 1989 and the last monthly installment to fall due on the last day of February 1997, thus:

---

[3] Exhibit "B", Records, p. 137.

[4] Exhibit "D", *Id.* at 139.

[5] Exhibit "4-A", *Id.* at 165-166.

Supreme Court E-Library

2. TERMS AND CONDITIONS:

1. Balance of loan to be financed by Seller, Linda H. Cook, for a period of eight (8) years at an interest rate of 15% per annum, payable in installments of $527.68 per month.
2. Buyer and Seller agree that the monthly payments of $527.08 will begin on FEBRUARY 28, 1989 and will continue each last day of the month until the last day of FEBRUARY 1997. The total amount of all payments, constituting both principal and interest, will be *$50,600 Dollars.*
3. A late charge of $26.35 will be added to any payments received more than ten days (10) after the payment due date.
4. Buyers to purchase the property in the "as is" condition.
5. Buyers agree to pay all court and legal costs in the case of default of any condition of this contract or in consequence of any legal dispute resulting therefrom.
6. Seller to deliver Title of the Property to the Buyer upon completion of all the requirements and conditions of this agreement and upon the satisfactory payment of all monies specified.
7. Seller agrees that the Buyer, at any time, may pay off the financed amount sooner than the terms herein specified, in which case, the interest charges will be adjusted accordingly.

3. This contract consists of two (2) pages of which this is the first.
4. Buyer and Seller agree to act diligently and in good faith in the performance of this contract.
5. FINANCING to be provided by Seller under the terms and conditions herein stated.[6]

The petitioner executed a promissory note[7] promising to pay the respondent the amount of US$5,000 on or before August 31, 1988; and the amount of US$7,000 on or before January 31, 1989. The petitioner took possession of the property and allowed Lerma Laygo, Elma Aguilar, and her sister Rodelia Blas Goot, to occupy the two vacant apartment units.

---

[6] *Id.* at 165.

[7] Exhibit "12", *Id.* at 186.

Supreme Court E-Library

In the meantime, the Register of Deeds issued on April 28, 1989 Transfer Certificate of Title (TCT)[8] No. 2184 under the name of the respondent over the residential lot. On October 10, 1989, the petitioner and her sister Emily Garcia signed a document[9] stating that the deed of sale executed by the respondent in June 1988 in the Philippines had been executed only for the purpose of evicting the respondent's stepmother and nephew from the apartment and that all parties are bound by the original contract and nothing else.

On January 8, 1998, the respondent, through counsel, wrote Rodelia Goot demanding that she and the two other tenants in the apartment vacate the property within twenty (20) days from receipt thereof.[10] On February 2, 1998, the respondent's counsel received a Letter from the petitioner's counsel dated January 28, 1998, claiming that the latter's client had purchased the property and that, as such, she was the owner thereof. He then concluded that the demand for the eviction of his client's sister and the two other tenants in the apartment was without legal basis.[11]

Subsequently, the respondent, through her attorney-in-fact, filed a complaint against the petitioner and the two other tenants in the apartment with the *barangay* captain. In a Letter[12] dated February 5, 1998, the petitioner informed the respondent that she had filed a complaint against the latter in the proper court in Santa Clara, California, United States of America, for the rescission of the deed of sale. The respondent, through counsel, thereafter, wrote the petitioner's counsel on the same day, maintaining that being the registered owner of the property, she had a better right to possess the same.

On February 9, 1998, the petitioner filed a Complaint against the respondent in the Regional Trial Court (RTC) of Mandaluyong City, Branch 214, for specific performance and delivery of title,

---

[8] Exhibit "A", *Id.* at 135.

[9] Exhibit "5", *Id.* at 168.

[10] Exhibit "6", *Id.* at 169.

[11] Exhibit "7", *Id.* at 170.

[12] Exhibit "8", *Id.* at 171

Supreme Court E-Library

docketed as Civil Case No. MC-98-122. She alleged therein that she had paid the purchase price in full and despite her demands, the respondent failed and refused to deliver the torrens title over the property in her name. She prayed that judgment be rendered in her favor:

> WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court that, after due notice and hearing, a judgment be rendered:
>
> a. Ordering the defendant to surrender to the plaintiff the owner's duplicate original of the certificate of title over the property subject matter of this complaint or in the alternative, ordering the Register of Deeds of the City of Mandaluyong to cancel Transfer Certificate of Title No. 2184 in the name of the defendant and in lieu thereof, a new one be issued in the name of the plaintiff;
>
> b. Ordering the defendant to pay the plaintiff the amount of One Million Pesos (₱1,000,000.00) as actual and compensatory damages;
>
> c. Ordering the defendant to pay the plaintiff the amount of One Hundred Thousand Pesos (₱100,000.00) as Moral Damages;
>
> d. Ordering the defendant to pay the plaintiff the amount of One Hundred Thousand Pesos (₱100,000.00) as Exemplary Damages;
>
> e. Ordering the defendant to pay the plaintiff the amount [of] One Hundred Thousand Pesos (₱100,000.00), plus Three Thousand Pesos (₱3,000.00), by way of Attorney's Fees; and
>
> f. Costs of suit.
>
> Other reliefs, just and equitable under the premises, are also prayed for.[13]

The petitioner appended to her complaint a copy of the unnotarized deed of sale[14] executed by the respondent in the Philippines in June 1988.

---

[13] *Id.* at 5-6.

[14] *Id.* at 10.

Supreme Court E-Library

In her answer to the complaint, the respondent, through her attorney-in-fact, alleged, *inter alia*, that the real and binding deed was the REPCRD notarized in Santa Clara by Renato Calura on August 9, 1988, not the deed of sale appended to the complaint. She, likewise, alleged that the balance of the purchase price was still US$26,289.28. The respondent further stated that, under the said deed, she was entitled to repossess the property for the petitioner's failure to comply with the conditions therein, and prayed that judgment be rendered in her favor, thus:

WHEREFORE, PREMISES CONSIDERED, after trial on the merits, this Honorable Court rendered judgment:

1. Declaring the Real Estate Purchase Contract and Receipt for Deposit (Annex "5") rescinded and consider all payments made by the plaintiff as rentals for the use of the property; further ordering defendant to surrender the said house and lot located at #843 Kapasigan St., Plainview Subd., Mandaluyong City, to herein plaintiff and/or her attorney-in-fact;

2. Ordering plaintiff to pay defendant on her counterclaims as follows:

a) Actual damages . . . . . ₱100,000.00
b) Moral damages 500,000.00
c) Exemplary damages 500,000.00
d) Attorney's fees 250,000.00

Defendant prays for such other relief and remedy which may be deemed just and equitable under the premises.[15]

The respondent appended to her answer a copy[16] of the REPCRD as well as the document signed by the petitioner and her sister Emily dated October 10, 1989.

In her answer, through her attorney-in-fact, to the request for admission filed by the petitioner, the respondent denied the

---

[15] *Id.* at 27-28.

[16] *Id.* at 41-42.

Supreme Court E-Library

genuineness and due execution of the unnotarized deed of sale executed by her in June 1988 in the Philippines.

Additional Evidence for the Petitioner

The petitioner testified that, as indicated in the deed of sale[17] which the respondent executed in the Philippines, she purchased the property for ₱250,000, which she paid in full to the respondent at the Intercontinental Hotel, where she was then billeted. However, the respondent did not issue any receipt therefor. The petitioner then requested her to deliver the owner's duplicate of title over the property so that the deed of sale could be notarized and filed with the register of deeds, and the title, thereafter, transferred in her name, but the respondent refused. Considering that the title to the property was not yet in her name, the petitioner did not pay the realty taxes for the property since 1988.

Additional Evidence of the Respondent

The respondent testified that she sold the property for US$40,000, under the deed of sale[18] and the REPCRD.[19] She averred that the petitioner made a downpayment of US$5,000 at the Intercontinental Hotel in Makati City after their arrival in the Philippines in June 1988. However, she failed to pay the installment due on January 31, 1989 in the amount of US$7,000. The petitioner merely paid the monthly installments on her loan on an irregular basis until the last installment payment in the amount of US$500 in March 1997.[20] The respondent averred that the petitioner still had a balance on the downpayment of the property and on her loan inclusive of "late fees," computed, thus:

---

[17] Exhibit "B", Records, p. 137.

[18] See note 4.

[19] See note 5.

[20] Exhibit "9-F", Records, p. 179.

Supreme Court E-Library

1) Balance of Downpayment inclusive of "late fees" as of September 1997. . . . . US$12,658.85[21]
2) Balance of Loan as of September 1997. . . 8,533.77[22]
US$21,192.62

The respondent declared the property for taxation purposes in 1998 and paid the realty taxes due therefor.[23]

On June 8, 1999, the trial court rendered judgment and ordered the dismissal of the complaint as well as the respondent's counterclaim. The trial court ruled that the real and binding deed of sale executed by the parties was the REPCRD and that since the petitioner failed to pay in full the purchase price of the property, the respondent had the right to rescind the said contract and regain possession of the property. The *fallo* of the decision reads:

> WHEREFORE, the complaint for specific performance against herein defendant is hereby DISMISSED. Plaintiff is hereby ordered to reconvey possession of the subject property to herein defendant. The counterclaim of defendant is, likewise, dismissed.
>
> SO ORDERED.[24]

The petitioner appealed the decision to the CA where she asserted the following:

I

THE HONORABLE TRIAL COURT ERRED IN HOLDING THAT THE REAL CONTRACT BETWEEN THE PARTIES IS THE REAL ESTATE PURCHASE CONTRACT.

II

ASSUMING, WITHOUT ADMITTING, THAT THE REAL CONTRACT BETWEEN THE PARTIES, IS THE REAL ESTATE PURCHASE

---

[21] Exhibit "10-D", *Id.* at 184.

[22] Exhibit "9-F", *Id.* at 179.

[23] Exhibits "2" and "3", *Id.* at 34 and 37.

[24] *Rollo*, p. 190.

Supreme Court E-Library

CONTRACT, THE REGIONAL TRIAL COURT GRAVELY ERRED IN ORDERING THE RECONVEYANCE OF THE PROPERTY AND TREATING THE SUMS PAID BY HEREIN APPELLANT AS RENTAL FOR THE USE OF THE SAME.[25]

The petitioner averred, *inter alia*, that the Maceda Law should apply in her favor. On May 14, 2002, the CA rendered judgment affirming the decision of the RTC. The appellate court held that the deed of sale executed by the respondent in the Philippines[26] was superseded by the deed of sale she executed in the United States.[27] The CA also ruled that although notarized in the United States of America, the REPCRD[28] is admissible in evidence since the genuineness and due execution was admitted by the respondent. The appellate court rejected the application of the Maceda Law because the petitioner failed to invoke the same in the trial court and did so for the first time only in the CA.

Upon the denial of her motion for reconsideration of the said decision, the petitioner sought relief in this Court *via* a petition for review, asserting that —

A.

THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN RULING THAT THE DOCUMENT DENOMINATED AS "REAL ESTATE PURCHASE CONTRACT WITH RECEIPT OF DEPOSIT" IS ADMISSIBLE IN EVIDENCE.

B.

BOTH THE TRIAL COURT AND THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ERROR IN RULING THAT THE APPLICABILITY OF THE MACEDA LAW CANNOT BE CONSIDERED.[29]

---

[25] CA *Rollo*, p. 22.

[26] See note 3.

[27] See note 18.

[28] See note 5.

[29] *Rollo*, p. 23.

Supreme Court E-Library

On the first issue, the petitioner avers that she objected to the admission in evidence of the REPCRD precisely because the respondent failed to prove the authenticity of the deed. She asserts that the REPCRD was never marked in evidence during the pre-trial, nor presented during the trial. By her failure to present Notary Public Renato Calura, the respondent even failed to prove that the REPCRD was executed and notarized in accordance with law. She avers that the respondent also failed to prove compliance with the requirements of Section 2 of Act No. 2103, and cites our ruling in *Lopez v. Court of Appeals*.[30] The petitioner claims that what the respondent identified, by her testimony, was the Deed of Sale [31] she executed on August 8, 1988 in California, and which she adopted as her evidence.

For her part, the respondent contends that the petitioner failed to challenge the Order of the trial court dated December 1, 1998 admitting the REPCRD in evidence. She insists that she complied with Section 20, Rule 132 of the Rules of Court, as amended, and that the petitioner herself admitted the genuineness and due execution of the REPCRD when she testified.

For its part, the CA admitted in evidence the REPCRD with the following ratiocination:

> We agree that the authenticity and due execution of Exhibit "4-A" was not sufficiently established.
>
> While the Real Estate Purchase Contract and Receipt for Deposit marked as Exhibit "4-A" was allegedly notarized in the United States of America, it could not be admitted in evidence in Philippine courts unless it is certified as such in accordance with the provisions of Section 24, Rule 132 of the Rules of Court by a secretary of the embassy or legation, consul-general, consul, vice-consul, consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept of said public document and authenticated by the seal of his office. Since

---

[30] 156 SCRA 838 (1987).

[31] See note 27.

Supreme Court E-Library

the Real Estate Purchase Contract and Receipt for Deposit was not accordingly certified, the deed could only be considered as a private document and must be accompanied by proof of its due execution and authenticity before it could be received in evidence.

In the Rules, there are two (2) ways by which the due execution and authenticity of private document are proved, thus:

> "*SEC. 20. Proof of private document.* — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:
>
> (a) By anyone who saw the document executed or written; or
> (b) By evidence of the genuineness of the signature or handwriting of the maker.
>
> Any other private document need only be identified as that which it is claimed to be."

Upon closer scrutiny of the records, however, we discovered that plaintiff-appellant did not interpose a timely objection to the receipt of this document in evidence, thus, explaining the trial court's declaration that "[i]ndeed, the best evidence to establish the true intent of the parties is not less than the Real Estate Purchase Contract and Receipt for Deposit (Real Purchase Contract), Exh. 4-A, whose genuineness and due execution, have remained unchallenged." The Rules of Court pertinently provides in Rule 132, thus:

> "*SEC. 35. When to make offer.* — . . .
>
> Documentary and object evidence shall be offered after the presentation of a party's testimonial evidence. Such offer shall be done orally unless allowed by the court to be done in writing.
>
> *SEC. 36. Objection.* — Objection to evidence offered orally must be made immediately after the offer is made.
>
> Objection to a question propounded in the course of the oral examination of a witness shall be made as soon as the grounds therefor shall become reasonably apparent.
>
> *An offer of evidence in writing shall be objected to within three (3) days after notice of the offer unless a different period is allowed by the court.*

Supreme Court E-Library

In any case, the grounds for the objections must be specified." [Italics supplied.]

In an Order dated 5 October 1998, the court a quo declared:

"As prayed for by Atty. Clodualdo C. de Jesus, defendant is given a period of five (5) days from today to submit his written formal offer of evidence furnishing a copy to Atty. Juanito I. Velasco, Jr., who is, likewise, given a period of five (5) days to submit his comment. x x x"

Plaintiff-appellant received a copy of defendant-appellee's formal offer of evidence on 19 October 1998, but filed her comments and objections thereto only eleven (11) days later or on 30 October 1998. Clearly, this was beyond the period set by the Rules and by the trial court.

The established doctrine is that when a party failed to interpose a timely objection to evidence at the time they were offered in evidence, such objection shall be considered as waived. In *Tison v. Court of Appeals*, the Supreme Court set out the applicable principle in the following terms:

"[F]or while the documentary evidence submitted by petitioners do not strictly conform to the rules on their admissibility, we are, however, of the considered opinion that the same may be admitted by reason of private respondent's failure to interpose any timely objection thereto at the time they were being offered in evidence. It is elementary that an objection shall be made at the time when an alleged inadmissible document is offered in evidence, otherwise, the objection shall be treated as waived, since the right to object is merely a privilege which the party may waive.

As explained in *Abrenica vs. Gonda, et al.,* it has been repeatedly laid down as a rule of evidence that a protest or objection against the admission of any evidence must be made at the proper time, otherwise, it will be deemed to have been waived. The proper time is when from the question addressed to the witness, or from the answer thereto, or from the presentation of the proof, the inadmissibility of the evidence is, or may be inferred.

Thus, a failure to except to the evidence because it does not conform with the statute is a waiver of the provisions of

Supreme Court E-Library

> the law. That objection to a question put to a witness must be made at the time the question is asked. **An objection to the admission of evidence on the ground of incompetency, taken after the testimony has been given, is too late.** Thus, for instance, failure to object to parol evidence given on the stand, where the party is in a position to object, is a waiver of any objections thereto." [Emphasis added.]

We find no sufficient reason, therefore, to reverse the trial court's ruling on the admissibility of Exhibit "4-A".[32]

The contention of the petitioner has no merit.

We agree that the petitioner objected to the admission of the REPCRD when it was formally offered in evidence[33] by the respondent on the ground that its authenticity had not been established. In her memorandum,[34] the petitioner averred that the REPCRD violated the parol evidence rule, notwithstanding which the trial court admitted the same as part of the evidence of the respondent.[35] However, on appeal in the CA, the petitioner invoked the Maceda Law, under which a buyer who has paid at least two years of installments under a contract of sale of real estate on installment payments, including residential apartments, is granted a grace period of one month for every year of installment payments made. The petitioner thereby admitted that she had made installment payments not only on the downpayment for the property but also on her loan from the respondent as provided for in the REPCRD. By invoking the Maceda Law, the petitioner thereby admitted the due execution, authenticity and the binding effect of the REPCRD. After having admitted that she had partially complied with the terms and conditions set forth therein, the petitioner can no longer assail the REPCRD without running afoul the doctrine of estoppel. The petitioner had either of two choices — take a definite and unequivocal stance and assert that the REPCRD

---

[32] *Rollo*, pp. 60-63.

[33] Records, pp. 195-197.

[34] *Id.* at 213-232.

[35] *Id.* at 209.

Supreme Court E-Library

was not authentic and, as such, inadmissible in evidence; or maintain that the said deed was valid and authentic, and that she had, in fact, partially complied with the terms and conditions therein set forth. Indeed, the petitioner cannot validly invoke two defenses which are patently inconsistent with each other. Furthermore, this is not a case of the petitioner asserting two alternative causes of action, for the fact of the matter is, she failed to allege alternative causes of action in her complaint.

The record shows that the petitioner had been insisting, all along, in the trial court that the real and binding documents between her and the respondent are the following: the Deed of Sale[36] the respondent executed in the Philippines in June 1988; and the Deed of Sale[37] the latter executed in California on August 8, 1988. But then, on appeal, the petitioner sculptured a two-pronged, diametrically antithetical attack of the trial court's decision, claiming that the REPCRD was null and void and inadmissible in evidence; but later stressed that the REPCRD was valid and binding on the parties. The petitioner sought refuge in the Maceda Law as a prop for an alternative relief to fend off the rescission of the REPCRD and the eviction of her sister and the latter's tenants from the property. We agree with the following pronouncement of the CA:

Third. Plaintiff-appellant's assertion that we apply the Maceda Law is repugnant to her theory that she has fully paid the consideration of the contract of sale. In so insisting on the benefit of the statute, plaintiff-appellant is in reality abandoning her theory and is belatedly conforming with defendant-appellee's position. Thus, to allow her to switch theories for convenience would be seriously offensive to the rules of fair play especially because defendant-appellee already underwent the inconvenience and the tediousness of a lawsuit upon instance of plaintiff-appellant. To even consider the application of this law for the benefit of defendant-appellee is an inconsideration to the other. We invoke the pronouncement of the Supreme Court stating that "the rule is well-settled that points of law, theories, issues,

---

[36] Exhibit "B", Records, p. 137.

[37] Exhibit "D", *Id.* at 139.

Supreme Court E-Library

and arguments not adequately brought to the attention of the trial court need not be, and ordinarily will not be considered, by a reviewing court as they cannot be raised for the first time on appeal because this would be offensive to the basic rules of fair play, justice, and due process."[38]

The petitioner's insistence that the real and binding contract between her and the respondent is the deed of sale executed by the respondent on August 8, 1988,[39] and not the REPCRD, is in sharp contrast to the contrary ruling of the CA, thus:

Second. We observe that Exhibit "B" and Exhibit "4" are so grossly inconsistent to allow them to be construed together. The only conclusion is that Exhibit "4" superseded Exhibit "B", thus, the agreed consideration for the sale is US$40,000 and not the Ph₱250,000.00 as stated in Exhibit "B". By plaintiff-defendant's admission, the only amount she has ever paid to defendant-appellee is Ph₱250,000.00. Hence, Blas's insistence of full payment is clearly without basis.[40]

. . . . . .

From the foregoing the (*sic*) testimony, Hutalla clarified that Exhibit "D" for the plaintiff-appellant or Exhibit "4" to defendant-appellee does not stand alone but should be read together with Exhibit "4-A." This explanation is plausible considering that the two documents were signed by the contracting parties and their witness on the same day, 9 August 1998. Moreover, the terms stated in the two (2) contracts are not inconsistent; the Real Estate Purchase Contract with Receipt for Deposit only set forth in detail the schedule of payment for the consideration in the Deed of Sale or Exhibit "4".[41]

On this score, however, we are not in full accord with the CA nor the petitioner.

It is settled that the real nature of a contract may be determined from the express terms of the written agreement and from the contemporaneous and subsequent acts of the parties thereto.[42]

---

[38] *Rollo*, p. 67.

[39] See note 37.

[40] *Rollo*, p. 63.

[41] *Id.* at 67.

[42] *Velasquez v. Court of Appeals*, 345 SCRA 468 (2000).

Supreme Court E-Library

In the construction or interpretation of an instrument, the intention of the parties is primordial and is to be pursued.[43] If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.[44] If the contract appears to be contrary to the evident intentions of the parties, the latter shall prevail over the former.[45] The denomination given by the parties in their contract is not conclusive of the nature of the contents.[46]

The agreement of the parties may be embodied in only one contract or in two or more separate writings. In such event, the writings of the parties should be read and interpreted together in such a way as to render their intention effective.[47]

It bears stressing that the petitioner and/or the respondent executed the following:

Document	*Date*	*Exhibit Number*
Deed of Sale[48]	June 1988	Exhibit "B"
Deed of Sale[49]	August 8, 1988	Exhibits "D" and "4"
REPCRD[50]	August 5, 1988	Exhibit "4-A"
Certificate[51]	October 10, 1989[52]	Exhibit "5"

Under the first deed of sale,[53] the respondent sold the property to the petitioner for ₱250,000, and the respondent acknowledged

---

[43] *Golden Diamond, Inc. v. Court of Appeals*, 332 SCRA 605 (2000).

[44] Article 1370, New Civil Code.

[45] *Ibid.*

[46] *Romero v. Court of Appeals*, 250 SCRA 223 (1995).

[47] *Constantino v. Desierto*, 288 SCRA 654 (1998).

[48] Executed by the respondent.

[49] Executed by the respondent.

[50] Executed by the petitioner and the respondent.

[51] Signed by the petitioner and Emily Garcia.

[52] Notarized on August 8, 1988.

[53] Exhibit "B", Records, p. 137.

Supreme Court E-Library

receipt of such amount from the petitioner. Under the REPCRD dated August 5, 1988 which was notarized on August 8, 1988, the respondent sold the property to the petitioner for US$40,000 with a downpayment of US$17,000, payable in installments; the balance *via* a loan from the respondent payable in monthly installments. Under the second deed of sale[54] the respondent executed in California, the property was sold to the petitioner for US$40,000, receipt of which the respondent acknowledged. The two deeds of sale are inconsistent because while the purchase price under the first deed is only ₱250,000, the purchase price of the property under the second deed is US$40,000. The Court notes that in 1988, the rate of exchange was ₱21.33 to a US dollar;[55] hence, the equivalent par value of US$40,000 was ₱553,200.

The petitioner certified under a document[56] that the first deed of sale did not reflect the true intention of the parties because the respondent executed the same merely to convince her stepmother and nephew to vacate the property. While the petitioner also certified in the same document that the only real and binding contract between her and the respondent was the original contract and that any other agreement would be null and void, she nevertheless signed the REPCRD on August 5, 1988 and made partial payments over time as set forth therein. The petitioner could not have referred to the second deed of sale as the "original contract" because she made partial payments to the respondent under the REPCRD even after signing the said certificate.[57] Taking into consideration all the foregoing documents in connection with the partial payments made by the petitioner to the respondent during the period of August 8, 1988 to March z1997, the parties intended the REPCRD and the *second* deed of sale[58] to be the real and binding contracts between them.

---

[54] Exhibit "D", *Id.* at 139.

[55] Reference Exchange Rate Bulletin, Treasury Department, Central Bank of the Philippines.

[56] Exhibit "5", Records, p. 168.

[57] Exhibit "9-B", *Id.* at 175.

[58] See note 54.

Supreme Court E-Library

We are convinced, beyond cavil, that under the two contracts, the petitioner and the respondent entered into a contract of sale over the subject property for the price of US$40,000, with a downpayment of US$17,000, payable as follows: US$5,000 having been already paid by the petitioner to the respondent at the Intercontinental Hotel in June 1988; US$5,000 on or before August 31, 1988; and US$7,000 on or before January 31, 1989. Considering that the petitioner obtained a loan from the respondent, the balance of US$23,000 was, likewise, already paid. However, of the US$17,000 downpayment, the petitioner managed to pay only US$10,000, and failed to pay US$7,000 due on or before January 31, 1989, exclusive of "late fees."

It must be stressed that a sale is at once perfected when a person (the seller) obligates himself, for a price certain, to deliver and to transfer ownership of a specified thing or right to another (the buyer) over which the latter agrees.[59] From the time the contract is perfected, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.[60]

In a contract of sale, the title to the property passes to the vendee upon the constructive or actual delivery thereof, as provided for in Article 1477 of the New Civil Code. The vendor loses ownership over the property and cannot recover it until and unless the contract is rescinded by a notarial deed or by judicial action as provided for in Article 1592 of the New Civil Code. *A contract of sale is absolute, absent any stipulation therein reserving title over the property to the vendee until full payment of the purchase price nor giving the vendor the right to unilaterally rescind the contract in case of non-payment.*[61] In a contract of sale, the non-payment of the price is a resolutory condition which extinguishes the transaction that, for a time existed, and discharges the obligations created

---

[59] *Romero v. Court of Appeals, supra.*

[60] *Id.* at 234.

[61] See *Babasa v. Court of Appeals*, 290 SCRA 532 (1998).

Supreme Court E-Library

thereunder.[62] Having failed to pay, in full, the purchase price of the property as agreed upon by her and the respondent, the petitioner's plea for a reversal of the decision of the appellate court is bereft of factual and legal basis.

The petitioner cannot find refuge in Article 1592 of the New Civil Code which reads:

> Article 1592. In the sale of immovable property, **even though it may have been stipulated** *that upon failure to pay the price at the time agreed upon, the rescission of the contract shall of right take place,* **the vendee may pay, even after the period, as long as no demand for the rescission of the contract had been made upon him either judicially or by a notarial act.** After the demand, the court may not grant a new term.

This is so because (a) the respondent sought the rescission of the REPCRD in her answer to the complaint of the petitioner; (b) the petitioner failed to tender the amount of US$7,000 inclusive of the "late fees" due, and to consign the same before the trial court upon the filing of her complaint therein or in the course thereof. Under Article 1256 of the New Civil Code, the petitioner shall be released from liability only by the consignation of the amount due after compliance with the requirements prescribed by law.

IN LIGHT OF ALL THE FOREGOING, the petition is *DENIED*. The Decision dated May 14, 2002 of the Court of Appeals is *AFFIRMED*. No costs.

SO ORDERED.

Puno (Chairman), Austria-Martinez, and *Tinga, JJ.,* concur.

Chico-Nazario, J., on leave.

---

[62] *Heirs of Pedro Escanlar v. Court of Appeals*, 281 SCRA 176 (1997).