

Palay Inc. v. Clave

G.R. No. L-56076 September 21, 1983

Facts:

1. On March 28, 1965, petitioner Palay, Inc., through its President, Albert Onstott sold a parcel of land owned by the corporation to the private respondent, Nazario Dumpit, by virtue of a Contract to Sell. The sale price was P23,300.00 with 9% interest per annum, payable with a down payment of P4,660.00 and monthly instalments of P246.42 until fully paid. **Paragraph 6** of the contract provided for automatic extrajudicial rescission upon default in payment of any monthly instalment after the lapse of 90 days from the expiration of the grace period of one month, without need of notice and with forfeiture of all instalments paid.
2. Respondent Dumpit paid the down payment and several instalments amounting to P13,722.50 with the last payment was made on December 5, 1967 for instalments up to September 1967. Almost six (6) years later, private respondent wrote petitioner offering to update all his overdue accounts and sought consent to the assignment of his rights to a certain Lourdes Dizon. Petitioners informed respondent that his Contract to Sell had long been rescinded pursuant to paragraph 6 of the contract, and that the lot had already been resold.
3. Respondent filed a letter complaint with the National Housing Authority (NHA) questioning the validity of the rescission. The NHA held that the rescission is void in the absence of either judicial or notarial demand. Palay, Inc. and Onstott in his capacity as President of the corporation, jointly and severally, was ordered to refund Dumpit the amount paid plus 12% interest from the filing of the complaint. Petitioners' MR was denied by the NHA. Respondent Presidential Executive Assistant, on May 2, 1980, affirmed the Resolution of the NHA. Reconsideration sought by petitioners was denied for lack of merit. Thus, the present petition.

Issue: W/N demand is necessary to rescind a contract

Ruling: As held in previous jurisprudence, the judicial action for the rescission of a contract is not necessary where the contract provides that it may be revoked and cancelled for violation of any of its terms and conditions. However, even in the cited cases, there was at least a written notice sent to the defaulter informing him of the rescission. A written notice is indispensable to inform the defaulter of the rescission. Hence, the resolution by petitioners of the contract was ineffective and inoperative against private respondent for lack of notice of resolution (as held in the *U.P. vs. Angeles* case). The act of a party in treating a contract as cancelled should be made known to the other.

Later, RA 6551 6551 entitled "An Act to Provide Protection to Buyers of Real Estate on Instalment Payments," emphasized the indispensability of notice of cancellation to the buyer when it specifically provided:

Sec. 3(b) ... the actual cancellation of the contract shall take place after thirty days from receipt by the buyer of the notice of cancellation or the demand for rescission of the contract by a notarial act and upon full payment of the cash surrender value to the buyer. (Emphasis supplied).

Moreover, there was no waiver on the part of the private respondent of his right to be notified under paragraph 6 of the contract since it was a contract of adhesion, a standard form of petitioner corporation, and private respondent had no freedom to stipulate. Finally, it is a matter of public policy to protect buyers of real estate on instalment payments against onerous and oppressive conditions. Waiver of notice is one such onerous and oppressive condition to buyers of real estate on instalment payments.

As a consequence of the resolution by petitioners, rights to the lot should be restored to private respondent or the same should be replaced by another acceptable lot but since the property had already been sold to a third person and there is no evidence on record that other lots are still available, private respondent is entitled to the refund of instalments paid plus interest at the legal rate of 12% computed from the date of the institution of the action. It would be most inequitable if petitioners were to be allowed to retain private respondent's payments and at the same time appropriate the proceeds of the second sale to another.

Onstott not personally liable

Onstott was made liable because he was then the President of the corporation and the controlling stockholder but there was no sufficient proof that he used the corporation to defraud private respondent. He cannot, therefore, be made personally liable just because he "appears to be the controlling stockholder". Mere ownership by a single stockholder or by another corporation is not of itself sufficient ground for disregarding the separate corporate personality.

Finally, there are no badges of fraud on the petitioners' part. They had literally relied, albeit mistakenly, on paragraph 6 (supra) of the contract when it rescinded the contract to sell extrajudicially and had sold it to a third person.

Petitioner Palay, Inc. is liable to refund to respondent Dumpit the amount of P13,722.50, with interest at twelve (12%) p.a. from November 8, 1974, the date of the filing of the Complaint.