



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated April 12, 2023, which reads as follows:

G.R. No. 249442 – D.M. CONSUNJI, INC., petitioner, versus SPOUSES JOSE AUGUSTO VILLAREAL AND ROSANNA VILLAREAL, respondents.

RESOLUTION

Before the Court is the Petition¹ under Rule 45 of the Rules of Court filed by petitioner D.M. Consunji, Inc. (DMCI) assailing the Decision² dated September 18, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 160118 (CA Decision). The CA granted the petition for review of herein respondents Spouses Jose Augusto and Rosanna Villareal (the Spouses Villareal) and reversed and set aside the Decision³ dated October 30, 2018 and the Order⁴ dated February 28, 2019 of the Regional Trial Court, Branch 59, Makati City (RTC) in Civil Case No. 110534. The RTC had affirmed *in toto* the Decision⁵ dated June 27, 2016 of the Metropolitan Trial Court, Branch 63, Makati City (MeTC) granting the Complaint for Unlawful Detainer filed by DMCI against the Spouses Villareal.

Facts and Antecedent Proceedings

The facts, as provided in the CA Decision, are as follows:

In its Complaint for Unlawful Detainer (“Complaint”), respondent-appellee D.M. Consunji, Inc., (“DMCI”) alleged that it is the owner/developer of Bonifacio Heights Condominium (“BHC”) located in Taguig, Metro Manila. It is a housing project for the officers of the Armed Forces of the Philippines (“AFP”).

¹ *Rollo*, pp. 10-49, excluding Annexes. Denominated as “Petition for Review on Certiorari under Rule 45.”

² *Id.* at 51-63. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Myra V. Garcia-Fernandez and Perpetua Susana T. Atal-Paño concurring.

³ *Id.* at 474-479. Penned by Pairing Judge Eugene C. Paras.

⁴ *Id.* at 480. Issued by Presiding Judge Eugene C. Paras.

⁵ *Id.* at 464-473. Penned by Presiding Judge Alberto N. Azarcon III.

On April 16, 2007, DMCI entered into Contracts to Sell (“contracts”) with petitioner-appellant Spouses Jose Augusto V. Villareal and Rosanna Villareal (“Spouses Villareal”) for the sale of the units 00P-C-0309 (“first unit”) and 00P-C-0310 (“second unit”) of BHC. The parties agreed that the purchase prices for the units would be Php1,467,300.00 and Php1,290,100.00, respectively, which amounts would be payable in installments. By virtue of the said contracts, DMCI allowed Spouses Villareal to use the two units.

Spouses Villareal defaulted in their payment of their monthly amortizations on June 30, 2008 for the first unit and on May 30, 2008 for the second. Consequently, DMCI sent Spouses Villareal Notices of Cancellation/Rescission (“Notices of Cancellation”) dated September 13, 2013 respecting the units. Spouses Villareal were given thirty (30) days from receipt of the letter to settle their obligations with DMCI. However, Spouses Villareal failed to update their account.

On September 30, 2013, DMCI sent Letters to Spouses Villareal stating that notarial rescission of the contracts would automatically take effect thirty (30) days from the latter’s receipt thereof without any actual payment for the total unpaid monthly amortizations. Spouses Villareal continued defaulting in their obligations.

In its Letters dated March 20, 2014, the DMCI rescinded the contracts and demanded that Spouses Villareal vacate the units, which Spouses Villareal did not heed. Hence, the filing of the Complaint with the Metropolitan Trial Court of Makati City, Branch 63 (“MeTC”).

In their Answer, Spouses Villareal denied the material allegations of the Complaint and asserted that the BHC is a housing project for officers of the AFP. Through a memorandum of agreement, the AFP and the Home Development Mutual Fund (“Pag-Ibig”) agreed to provide a loan facility to qualified AFP personnel to avail of the benefits of the said project. Spouses Villareal complied with the documentary requirements of Pag-Ibig to avail themselves of a loan for the purchase of the units. Neil Zamora (“Zamora”), the finance supervisor of DMCI, assured Spouses Villareal that their accomplished application forms were forwarded to the Pag-Ibig. Spouses Villareal committed to pay the monthly amortizations of the units through Pag-Ibig via monthly salary deductions. Thus, Spouses Villareal were up-to-date with the monthly amortizations of the units.

After some time, Pag-Ibig denied receipt of any such form from Spouses Villareal. Due to the delay of the approval of their loan application, Spouses Villareal informed DMCI thru Zamora that they would no longer be paying their amortizations. In the meantime, DMCI conducted a meeting with homeowners at the BHC and offered other options to the latter to facilitate their loan applications.⁶

On August 13, 2014, DMCI instituted an action for unlawful detainer.⁷

On June 27, 2016, the MeTC rendered a Decision in favor of DMCI as follows:

⁶ Id. at 52-53, CA Decision.

⁷ Id. at 469, MeTC Decision.

WHEREFORE, the Court renders judgment ordering defendants Sps. Jose Augusto V. Villareal and Rosanna NC. Villareal to vacate Unit 309 Quezon (P) Building, Bonifacio Heights Condominium, Fort Bonifacio, Western Bicutan, Taguig City; Unit 310 Quezon (P) Building, Bonifacio Heights Condominium, Fort Bonifacio, Western Bicutan, Taguig City and peacefully surrender possession thereof to plaintiff. Defendants are also ordered to pay plaintiffs the following amounts:

1.) P20,000.00 per month for each unit as reasonable rent for their continued use and occupancy of subject premises from the date of filing of the case until the same shall have been surrendered to plaintiff;

2.) P15,000.00 as attorney's fees; and

3.) Cost of suit.

SO ORDERED.⁸

The Spouses Villareal then appealed to the RTC.⁹

Finding that Notices of Cancellation/Rescission were sent to the Spouses Villareal, the RTC ruled that possession had become illegal.¹⁰ The RTC also ruled that the Spouses Villareal are not entitled to a cash surrender value, because they had only paid 14 monthly amortizations for Unit 309, and 13 monthly amortizations for Unit 310.¹¹ Hence, on October 30, 2018, the RTC rendered a Decision with the following dispositive portion:

WHEREFORE, premises considered, the Court renders judgment **DISMISSING** the instant appeal for lack of merit. Accordingly, the decision of the lower court is hereby **AFFIRMED IN TOTO**.

SO ORDERED.¹²

The Spouses Villareal further appealed to the CA via a petition for review under Rule 42.¹³

On September 18, 2019, the CA rendered the assailed Decision, the *fallo* of which reads:

WHEREFORE, premises considered, the instant petition is **GRANTED**. The Decision dated October 30, 2018 and the Order dated February 28, 2019 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 110534 are **REVERSED and SET ASIDE**. The Complaint for Unlawful Detainer filed by respondent-appellee D.M. Consunji, Inc. against petitioners-appellants Jose Augusto V. Villareal and Rosanna NC. Villareal is **DISMISSED**.

⁸ Id. at 472.

⁹ Id. at 474, RTC Decision.

¹⁰ Id. at 478.

¹¹ Id. at 479.

¹² Id.

¹³ Id. at 51, CA Decision.

SO ORDERED.¹⁴

On November 11, 2019, DMCI filed the present Petition.

In a Resolution¹⁵ dated January 29, 2020, the Court required the Spouses Villareal to file a Comment.

In their Comment¹⁶ dated February 15, 2021, the Spouses Villareal adopted the narration of facts as presented before the CA, as well as the evidence and arguments presented in the pleadings that are part of the records of this case.

In a Resolution¹⁷ dated September 29, 2021, the Court required DMCI to file a Reply to the Spouses Villareal's Comment within 10 days from notice. To date, no Reply has been filed; hence, said filing should be, as it is, deemed waived.

The Issue

Whether the CA erred in dismissing DMCI's complaint for unlawful detainer.

The Court's Ruling

The CA correctly dismissed the complaint due to the absence of the second requisite for a valid cause of action of unlawful detainer, which is prior lawful possession having become unlawful. The contracts to sell between DMCI and the Spouses Villareal were not validly cancelled for failure of DMCI to comply with Republic Act (R.A.) No.6552, or the "Realty Installment Buyer Protection Act," also known as the "Maceda Law."

Section 3 of R.A. No. 6552 applies; the Spouses Villareal are entitled to cash surrender value

Section 3 of R.A. No. 6552 provides:

SECTION 3. In all transactions or contracts involving the sale or financing of real estate on installment payments, including residential condominium apartments but excluding industrial lots, commercial buildings and sales to tenants under [R.A. No. 3844], as amended by [R.A. No. 6389], where the buyer has paid at least two years of installments, the buyer is entitled to the following rights in case he defaults in the payment of succeeding installments:

¹⁴ Id. at 62-63.

¹⁵ Id. at 575.

¹⁶ Id. at 577-585.

¹⁷ Id. at 635-636.

- (a) To pay, without additional interest, the unpaid installments due within the total grace period earned by him, which is hereby fixed at the rate of one month grace period for every one year of installment payments made: *Provided*, That this right shall be exercised by the buyer only once in every five years of the life of the contract and its extensions, if any.
- (b) If the contract is cancelled, the seller shall refund to the buyer the cash surrender value of the payments on the property equivalent to fifty per cent of the total payments made and, after five years of installments, an additional five per cent every year but not to exceed ninety per cent of the total payments made: *Provided*, That 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.

Down payments, deposits or options on the contract shall be included in the computation of the total number of installment payments made.

*Gatchalian Realty, Inc. v. Angeles*¹⁸ already clarified that when Section 3 speaks of “two years of installments,” the basis for computation refers to the “installments that correspond to the number of months of payments, and not to the number of months that the contract is in effect.”¹⁹ As further clarified in *Orbev. Filinvest Land, Inc.*²⁰ (*Orbe*), the phrase “two years of installments” pertains to the “**aggregate value of 24 monthly installments.**”²¹

In *Orbe*, the Court not only included the reservation fee and downpayment in the computation, but also used as the divisor the monthly amortization set for the first year, instead of the higher amount of installment on the downpayment or the escalated installments for the succeeding years.²² The Court held that such is “[i]n keeping with the need to construe the Maceda Law in a manner favorable to the buyer.”²³

In the present case, the CA applied Section 3 in this wise:

In the Notices of Cancellation that DMCI sent to Spouses Villareal, which were received by Abrigo, DMCI pointed out that Spouses Villareal have made the following payments for the two (2) units:

First unit	[P]15,000 – reservation fee [P]243,020 – downpayment [P]274,464.26 – fourteen (14) monthly amortizations
Second unit	[P]15,000 – reservation fee

¹⁸ 722 Phil. 407 (2013).

¹⁹ *Id.* at 419.

²⁰ 817 Phil. 934 (2017).

²¹ *Id.* at 954. Emphasis supplied.

²² *Id.* at 956-957.

²³ *Id.* at 957.

	[P]243,020 – downpayment
	[P]254,859.67 – 13 monthly installments

Following DMCI's allegations, the monthly amortization of Spouses Villareal for each unit was [P]19,604.59 (*i.e.*, [P]274,464.26 or [P]254,859.67 / 14 or 13 as the case may be). Thus, Spouses Villareal were able to pay the total amounts of [P]532,484.26 and [P]512,879.67 for the first and second units, respectively. In fine, therefore, Spouses Villareal have paid 27.16 monthly installments (*i.e.*, [P]532,484.26 / [P]19,604.59) for the first unit and 26.16 monthly installments (*i.e.*, [P]512,879.67 / [P]19,604.59) for the second unit. Thus, Spouses Villareal are, in fact, entitled to the rights set forth under Section 3 of R.A. No. 6552 which applies when the buyer has made at least 24 installment payments.²⁴

Consistent with *Orbe*, the CA properly used ₱19,604.59 as the divisor. Adding the reservation fee and the downpayment to the monthly amortizations already paid to determine the dividend in the equation is likewise backed by jurisprudence.²⁵ Hence, the CA correctly ruled that the Spouses Villareal have paid 27.16 months of installment for Unit 309, and 26.16 for Unit 310.²⁶ Having paid at least two years of installments, the Spouses Villareal are entitled to the benefits under Section 3 of R.A. No. 6552.

There was no valid cancellation of the Contract to Sell in the absence of a refund of the cash surrender value

DMCI faults the CA for its “sweeping” declaration that no valid notarial rescission of the contracts took place under Section 3 of R.A. No. 6552, which declaration “was undertaken without a judicious review of its basis and available records”²⁷ and “contrary to the pieces of evidence.”²⁸ DMCI insists that the evidence would show that the payments have not reached the minimum two years under R.A. No. 6552 as to entitle the Spouses Villareal to cash surrender value.²⁹

However, DMCI's own evidence — the Notices of Cancellation/Rescission³⁰ that it had issued — show that the Spouses Villareal have paid a total of ₱532,484.26 for Unit 309 and ₱512,879.67 for Unit 310. The logical and mathematical conclusion that the monthly amortization for each unit amounts to ₱19,604.59 was derived from those very same notices, which state that the Spouses Villareal were “able to pay Fourteen (14) monthly amortizations or a total of [P]274,464.26” for Unit 309,³¹ and “Thirteen (13)

²⁴ *Rollo*, pp. 59-60, CA Decision.

²⁵ See also *Marina Properties Corporation v. CA*, 355 Phil. 705 (1998).

²⁶ *Rollo*, pp. 59-60, CA Decision.

²⁷ *Id.* at 20, Petition for Review on Certiorari under Rule 45.

²⁸ *Id.* at 21. Emphasis omitted.

²⁹ *Id.* at 23.

³⁰ *Id.* at 219, 222.

³¹ *Id.* at 219. Emphasis omitted.

monthly amortizations or a total of [P]254,859.67,” for Unit 310.³²

With DMCI’s admission of the amounts paid, the monthly amortization for each unit, and its non-payment of cash surrender value, the question as to whether the contracts to sell were validly cancelled had become one of law, not of evidence, as DMCI erroneously argues.

This Court has consistently ruled that a valid and effective cancellation under R.A. No. 6552 must comply with the mandatory twin requirements of a notarized notice of cancellation and a refund of the cash surrender value.³³ The full payment of the cash surrender value is mandatory, failing which, the contract to sell between the parties remains valid and subsisting.³⁴

As well, the CA found that the Spouses Villareal were not notified of the cancellation of the contracts to sell. The CA’s finding is reproduced hereunder:

x x x In the first place, it is not disputed that DMCI sent the Notices of Cancellation to a certain Anafe Abrigo, who was allegedly a housemaid of “*the tenant Raymond C. Rondobio*”. However, neither Abrigo nor Raymond Rondobio’s relationship to Spouses Villareal DMCI has been sufficiently established before the court *a quo* and before this Court. Similarly, DMCI also failed to squarely address the contention of Spouses Villareal that they never authorized Abrigo to receive any notice on their behalf. If at all, Abrigo was a housemaid of another tenant and not of Spouses Villareal, assuming DMCI’s claims to be true. In the same vein, there is no evidence on record to show that Abrigo, indeed, forwarded the notices to Spouses Villareal nor executed an affidavit to support DMCI’s allegations. For all intents and purposes, therefore, Spouses Villareal were not accordingly notified of the cancellation of their contracts. This fact alone militates against the claim of DMCI of the validity of its cancellation of the contracts.³⁵

There being no valid cancellation of the contracts to sell, possession never became unlawful

In *Pagtalunan v. Dela Cruz Vda. de Manzano*,³⁶ which similarly originated from an action for unlawful detainer, the Court affirmed the dismissal of the case, since the contract to sell was not validly cancelled under Section 3(b) of R.A. No. 6552. The Court declared that the buyer therein had the right to continue occupying the subject property.³⁷

In the case at bar, the Court quotes the CA Decision with approval:

³² Id. at 222. Emphasis omitted.

³³ *Gatchalian Realty, Inc. v. Angeles*, supra note 18, at 424.

³⁴ See *Planters Development Bank v. Chandumat*, 694 Phil. 411, 425 (2012).

³⁵ *Rollo*, pp. 61-62, CA Decision.

³⁶ 559 Phil. 658 (2007).

³⁷ Id. at 668, 670.

The elements of unlawful detainer are the following:

- 1) possession of property by the defendant was initially by contract with or by tolerance of the plaintiff;
- 2) eventually, such possession became illegal upon notice by plaintiff to defendant of the termination of the latter's right of possession;
- 3) thereafter, the defendant remained in possession of the property and deprived the plaintiff of the enjoyment of the same; and
- 4) within one (1) year from the last demand on defendant to vacate the property, the plaintiff instituted the complaint for ejectment.

Central to the resolution of the instant case is the examination of whether the second element existed at the time of the filing of the Complaint. As this case is covered by R.A. No. 6552, We must determine whether DMCI faithfully complied with the requisites of the law in cancelling or rescinding the contracts it entered into with the Spouses Villareal. In the event of DMCI's compliance with R.A. No. 6552, [the] Spouses Villareal's right to possess the units would have terminated at the time of the filing of the Complaint. Otherwise, the Complaint would be found to have been prematurely filed for the absence of the second element of an action for unlawful detainer.

x x x x

In all, DMCI failed to prove that the second element of a cause of action of unlawful detainer existed at the time of the filing of the complaint. Contrarily stated, there was no proper termination of the Spouses Villareal's right to possess the units by virtue of DMCI's non-compliance with R.A. No. 6552. Consequently, the court *a quo* erred in granting the Complaint, and until their right to possess the units shall have been lawfully terminated, DMCI lacks a cause of action for unlawful detainer against [the] Spouses Villareal. Consequently, We are mandated to reverse and set aside the assailed Decision and Order.³⁸ (Emphasis omitted)

WHEREFORE, the Petition is **DENIED**. Accordingly, the Decision dated September 18, 2019 of the Court of Appeals in CA-G.R. SP No. 160118 is hereby **AFFIRMED**.

SO ORDERED.

By authority of the Court:

Misael D. Battung III
MISAELO DOMINGO C. BATTUNG III
 Division Clerk of Court

³⁸ *Rollo*, pp. 57-58 and 62.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 59, 1200 Makati City
(Civil Case No. 110534)

The Presiding Judge
METROPOLITAN TRIAL COURT
Branch 63, 1200 Makati City
(Civil Case No. 110534)

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