



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

GATCHALIAN REALTY, INC.,
 Petitioner,

G.R. No. 202358

Present:

CARPIO, *J.*, Chairperson,
 BRION,
 DEL CASTILLO,
 ABAD,* and
 PEREZ, *JJ.*

- versus -

EVELYN M. ANGELES,
 Respondent.

Promulgated:

NOV 27 2013

HM Cabalag

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DECISION

CARPIO, *J.*:

The Case

G.R. No. 202358 is a petition for review¹ assailing the Decision² promulgated on 11 November 2011 as well as the Resolution³ promulgated on 19 June 2012 by the Court of Appeals (CA) in CA-G.R. SP No. 105964. The CA reversed and set aside the 8 October 2008 Order⁴ of Branch 197 of the Regional Trial Court of Las Piñas City (RTC) in Civil Case No. LP-07-0143. The CA also dismissed the unlawful detainer case filed by Gatchalian Realty, Inc. (GRI) against Evelyn M. Angeles (Angeles).

* Designated acting member per Special Order No. 1619 dated 22 November 2013.

¹ Under Rule 45 of the 1997 Rules of Civil Procedure.

² *Rollo*, pp. 43-54. Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Rosmari D. Carandang and Ramon R. Garcia, concurring.

³ *Id.* at 41. Penned by Associate Justice Samuel H. Gaerlan, with Associate Justices Rosmari D. Carandang and Ramon R. Garcia, concurring.

⁴ *Id.* at 219. Penned by Judge Erlinda Nicolas-Alvaro.

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The Metropolitan Trial Court (MeTC) rendered on 28 February 2006 a decision⁵ in Civil Case No. 6809 in favor of GRI and against Angeles. In its decision⁶ dated 13 February 2008, the RTC set aside the decision of the MeTC and dismissed the ejectment case filed by GRI against Angeles. The RTC reversed itself in an Order⁷ dated 17 June 2008, and affirmed with modification the decision of the MeTC. The RTC denied Angeles' Motion for Reconsideration in an Order dated 8 October 2008.

The Facts

The CA recited the facts as follows:

On 28 December 1994, [Angeles] purchased a house (under Contract to Sell No. 2272) and lot (under Contract to Sell No. 2271) from [GRI] valued at Seven Hundred Fifty Thousand Pesos (Php 750,000.00) and Four Hundred Fifty Thousand Pesos (Php 450,000.00), respectively, with twenty-four percent (24%) interest per annum to be paid by installment within a period of ten years.

The house and lot were delivered to [Angeles] in 1995. Nonetheless, under the contracts to sell executed between the parties, [GRI] retained ownership of the property until full payment of the purchase price.

After sometime, [Angeles] failed to satisfy her monthly installments with [GRI]. [Angeles] was only able to pay thirty-five (35) installments for Contract to Sell No. 2271 and forty-eight (48) installments for Contract to Sell No. 2272. According to [GRI], [Angeles] was given at least twelve (12) notices for payment in a span of three (3) years but she still failed to settle her account despite receipt of said notices and without any valid reason. [Angeles] was again given more time to pay her dues and likewise furnished with three (3) notices reminding her to pay her outstanding balance with warning of impending legal action and/or rescission of the contracts, but to no avail. After giving a total of fifty-one (51) months grace period for both contracts and in consideration of the continued disregard of the demands of [GRI], [Angeles] was served with a notice of notarial rescission dated 11 September 2003 by registered mail which she allegedly received on 19 September 2003 as evidenced by a registry return receipt.

Consequently [Angeles] was furnished by [GRI] with a demand letter dated 26 September 2003 demanding her to pay the amount of One Hundred Twelve Thousand Three Hundred Four Pesos and Forty Two Centavos (Php 112,304.42) as outstanding reasonable rentals for her use and occupation of the house and lot as of August 2003 and to vacate the same. She was informed in said letter that the fifty percent (50%) refundable amount that she is entitled to has already been deducted with the reasonable value for the use of the properties or the reasonable rentals she incurred during such period that she was not able to pay the installments due her.

⁵ CA *rollo*, pp. 29-37. Penned by Judge Arthur A. Famini.

⁶ Id. at 23-28. Penned by Judge Manuel N. Duque.

⁷ Id. at 20-22. Penned by Judge Erlinda Nicolas-Alvaro.

After deducting the rentals from the refundable amount, she still had a balance of One Hundred Twelve Thousand Three Hundred Four Pesos and Forty Two Centavos (Php 112,304.42) which she was required to settle within fifteen (15) days from receipt of the letter.

Allegedly, [Angeles] subsequently sent postal money orders through registered mail to [GRI]. In a letter dated 27 January 2004 [Angeles] was notified by [GRI] of its receipt of a postal money order sent by [Angeles]. More so, she was requested to notify [GRI] of the purpose of the payment. [Angeles] was informed that if the postal money order was for her monthly amortization, the same will not be accepted and she was likewise requested to pick it up from [GRI's] office. On 29 January 2004, another mail with a postal money order was sent by [Angeles] to [GRI]. In her 6 February 2004 letter, [GRI] was informed that the postal money orders were supposed to be payments for her monthly amortization. Again, in its 8 February 2004 letter, it was reiterated by [GRI] that the postal money orders will only be accepted if the same will serve as payment of her outstanding rentals and not as monthly amortization. Four (4) more postal money orders were sent by [Angeles] by registered mail to [GRI].

For her continued failure to satisfy her obligations with [GRI] and her refusal to vacate the house and lot, [GRI] filed a complaint for unlawful detainer against [Angeles] on 11 November 2003.⁸

The MeTC's Ruling

The MeTC of Branch 79, Las Piñas City ruled in favor of GRI. The MeTC determined that the case was for an unlawful detainer, and thus assumed jurisdiction. The MeTC further held that the facts show that GRI was able to establish the validity of the rescission:

A careful scrutiny of the evidence presented by both parties regarding payments made clearly show that [Angeles] defaulted in the payment of the monthly installments due. Repeated notices and warnings were given to her but she still and failed to update her account (Exhibits "E" to "E-1" and "G" to "G-2", [GRI's] Position Paper). This is a clear violation of the condition of their contracts. An ample grace period, i.e., 51 months, was granted to her by [GRI] but she still failed to pay the whole amount due as provided in paragraph 6 of the contracts and Section 3 of RA 6552. [Angeles] has been in arrears beyond the grace period provided under the contracts and law. The last payment received by [GRI], which represents [Angeles'] 35th installment, was made in July 2002. On the other hand, the last payment, which represents her 48th installment, [was] received [by GRI] in April 1999. Thus, [GRI], as seller, can terminate or rescind the contract by giving her the notice of notarial rescission of the contracts. The notarial rescission of the contracts was executed on September 26, 2003 and served upon [Angeles].⁹

Although the MeTC agreed with Angeles that her total payment is already more than the contracted amount, the MeTC found that Angeles did not pay the monthly amortizations in accordance with the terms of the contract. Interests and penalties accumulated and increased the amount due. Furthermore, the MeTC found the monthly rentals imposed by GRI

⁸ *Rollo*, pp. 44-45.

⁹ *CA rollo*, p. 33.

reasonable and within the range of the prevailing rental rates in the vicinity. Compensation between GRI and Angeles legally took effect in accordance with Article 1290¹⁰ of the Civil Code. The MeTC ruled that GRI is entitled to ₱1,060,896.39 by way of reasonable rental fee less ₱574,148.40 as of May 2005, thus leaving a balance of ₱486,747.99 plus the amount accruing until Angeles finally vacates the subject premises.

The dispositive portion of the MeTC's Decision reads:

WHEREFORE, in view of the foregoing, the Court renders judgment for [GRI] and against [Angeles] and all persons claiming rights under her, as follows:

1. Ordering [Angeles] and all persons claiming rights under her to immediately vacate the property subject of this case situated at Blk. 3, Lot 8, Lanzones St., Phase 3-C, Gatchalian Subdivision, Las Piñas City and surrender possession thereof to [GRI];

2. Ordering the encashment of the Postal Money Order (PMO) in the total amount of Php 120,000.00 in favor of [GRI];

3. Ordering [Angeles] to pay [GRI] the outstanding amount of Php 486,747.99 representing reasonable monthly rentals of the subject premises as of May 2005 less the amount of the postal money orders [worth] Php 120,000.00 and all the monthly rentals that will accrue until she vacates the subject premises and have possession thereof turned over to [GRI], plus the interests due thereon at the rate of twelve percent (12%) per annum from the time of extra-judicial demand;

4. Ordering [Angeles] to pay [GRI] the amount of Php 20,000.00 as attorney's fees; and

5. Costs of suit.

[Angeles'] counterclaims are hereby dismissed for lack of merit.

SO ORDERED. ¹¹

On 21 March 2006, Angeles filed a notice of appeal with the MeTC. A week later, on 28 March 2006, Angeles filed a motion to dismiss based on lack of jurisdiction. The Las Piñas RTC denied Angeles' motion to dismiss in an order dated 28 July 2006.

Angeles also filed on 2 October 2006 a Petition for Certiorari with Immediate Issuance of Temporary Restraining Order and Injunction, which was docketed as SCA Case No. 06-008.¹² On 3 May 2007, Branch 201 of the Las Piñas RTC dismissed Angeles' Petition for Certiorari for forum-shopping.¹³

¹⁰Article 1290 of the Civil Code reads: "When all the requisites mentioned in Article 1279 are present, compensation takes effect by operation of law and extinguishes both debts to the concurrent amount, even though the creditors and debtors are not aware of the compensation."

¹¹ *CA rollo*, pp. 36-37.

¹² *Rollo*, pp. 190-197.

¹³ *Id.* at 198-200.

GRI, on the other hand, filed a Motion for Execution Pending Appeal. A Writ of Execution Pending Appeal was issued in favor of GRI on 25 August 2006, and the properties were turned over to GRI on 10 October 2006.¹⁴

The RTC's Ruling

Angeles' appeal before Branch 197 of the Las Piñas RTC initially produced a result favorable to her. The RTC found that the case was one for ejectment. As an ejectment court, the MeTC's jurisdiction is limited only to the issue of possession and does not include the title or ownership of the properties in question.

The RTC pointed out that Republic Act No. 6552 (R.A. 6552) provides that the non-payment by the buyer of an installment prevents the obligation of the seller to convey title from acquiring binding force. Moreover, cancellation of the contract to sell may be done outside the court when the buyer agrees to the cancellation. In the present case, Angeles denied knowledge of GRI's notice of cancellation. Cancellation of the contract must be done in accordance with Section 3 of R.A. 6552, which requires a notarial act of rescission and refund to the buyer of the cash surrender value of the payments on the properties. Thus, GRI cannot insist on compliance with Section 3(b) of R.A. 6552 by applying Angeles' cash surrender value to the rentals of the properties after Angeles failed to pay the installments due. Contrary to the MeTC's ruling, there was no legal compensation between GRI and Angeles. The RTC ruled:

There being no valid cancellation of the Contract to Sell, this Court finds merit in the appeal filed by [Angeles] and REVERSES the decision of the court a quo. This Court recognized [Angeles'] right to continue occupying the property subject of the Contract to Sell.

WHEREFORE, premises considered, the decision of the lower court is hereby SET ASIDE and the ejectment case filed by [GRI] is hereby DISMISSED.

SO ORDERED.¹⁵

GRI filed a Motion for Reconsideration. The RTC issued an Order on 17 June 2008 which ruled that GRI had complied with the provisions of R.A. 6552, and had refunded the cash surrender value to Angeles upon its cancellation of the contract to sell when it deducted the amount of the cash surrender value from rentals due on the subject properties. The RTC relied on this Court's ruling in *Pilar Development Corporation v. Spouses Villar*.¹⁶ The RTC ruled:

Applying the above Pilar ruling in the present case, the cash surrender value of the payments made by [Angeles] shall be applied to the rentals that accrued on the property occupied by [Angeles], which rental is fixed by this Court in the amount of seven thousand pesos per month (₱7,000.00). The total rental payment due to Gatchalian Realty Inc. is six

¹⁴ Id. at 198.

¹⁵ CA *rollo*, p. 28.

¹⁶ 536 Phil. 465 (2006).

hundred twenty three thousand (₱623,000.00) counted from June 1999 to October 2006. According to R.A. 6552, the cash surrender value, which in this case is equivalent to fifty percent (50%) of the total payment made by [Angeles], should be returned to her by [GRI] upon cancellation of the contract to sell on September 11, 2003. Admittedly no such return was ever made by [GRI]. Thus, the cash surrender value, which in this case is equivalent to ₱182,094.48 for Contract to Sell No. 2271 and ₱392,053.92 for Contract to Sell No. 2272 or a total cash surrender value of ₱574,148.40 should be deducted from the rental payment or award owing to [Angeles].

WHEREFORE, premises considered, the Motion for Reconsideration is hereby GRANTED. The earlier decision dated February 13, 2008 is SET ASIDE and the decision of the court a quo is MODIFIED to wit:

1. Ordering [Angeles] and all persons claiming rights under her to immediately vacate the property subject of this case situated at Blk. 3, Lot 8, Lanzones St., Phase 3-C, Gatchalian Subdivision, Las Piñas City and surrender possession thereof to [GRI];
2. Ordering the encashment of the Postal Money Order (PMO) in the total amount of Php 120,000.00 in favor of [GRI];
3. Ordering defendant, Evelyn M. Angeles, to pay plaintiff, Gatchalian Realty Inc., the outstanding rental amount of forty eight thousand eight hundred fifty one pesos and sixty centavos (₱48,851.60) and legal interest of six percent (6%) per annum, until the above amount is paid;
4. Ordering [Angeles] to pay [GRI] the amount of Php 20,000.00 as attorney's fees; and
5. Costs of suit.

SO ORDERED.¹⁷

The Court of Appeals' Ruling

The CA dismissed GRI's complaint for unlawful detainer, and reversed and set aside the RTC's decision. Although the CA ruled that Angeles received the notice of notarial rescission, it ruled that the actual cancellation of the contract between the parties did not take place because GRI failed to refund to Angeles the cash surrender value. The CA denied GRI's motion for reconsideration.

GRI filed the present petition for review before this Court on 10 August 2012.

The Issues

GRI assigned the following errors of the CA:

¹⁷ CA rollo, pp. 21-22.

The court a quo committed reversible error when it declared that there was no refund of the cash surrender value in favor of [Angeles] pursuant to R.A. No. 6552; and

The court a quo erred in holding that the actual cancellation of the contract between the parties did not take place.¹⁸

The Court's Ruling

GRI's petition has no merit. We affirm the ruling of the CA with modification.

Validity of GRI's Cancellation of the Contracts

Republic Act No. 6552, also known as the Maceda Law, or the Realty Installment Buyer Protection Act, has the declared public policy of "protect[ing] buyers of real estate on installment payments against onerous and oppressive conditions."¹⁹ Section 3 of R.A. 6552 provides for the rights of a buyer who has paid at least two years of installments but defaults in the payment of succeeding installments. Section 3 reads:

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 Republic Act Numbered Thirty-eight hundred forty-four, as amended by Republic Act Numbered Sixty-three hundred eighty-nine, 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:

(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

¹⁸ *Rollo*, pp. 24-25.

¹⁹ R.A. 6552, Section 2.

made.

The sixth paragraph of the contracts between Angeles and GRI similarly provides:

SIXTH - Should the VENDEE/S fail to pay due any monthly installment the VENDOR shall have the right to cancel this Contract and resell the lot/s subject matter of this contract to another buyer, provided, however, that where the VENDEE/S has/have already paid at least two years of installments, the VENDEE/S will have the right:

a) to pay without additional interest, the installments in arrears within the total grace period earned by him/her/them which is hereby fixed at the rate of one (1) month grace period for every one (1) year of installment payment made, but this right can be exercised by the VENDEE/S only once in every five (5) years of the life of this contract and its extension, if any, and

b) if the contract is cancelled, the VENDOR shall refund to the VENDEE/S the cash surrender value of the payments made on the lot/s equivalent to fifty per cent (50%) of the total payments made, and after five (5) years of installment, an additional five per cent (5%) every year but not to exceed ninety per cent (90%) of the total payments made; Provided, that the actual cancellation of the contract shall take place after thirty (30) days from the receipt by the VENDEE/S of the notice of cancellation or the demand for rescission of the contract by a notarial act upon full payment of the cash surrender value to the VENDEE/S; where, however, the VENDEE/S has/have paid less than two (2) years of installments, the VENDOR shall give the VENDEE/S [a] grace period of sixty (60) days from the date the installment became due; and if the VENDEE/S fail/s to pay the installment due after the expiration of the grace period, the VENDOR may cancel the contract after thirty (30) days from receipt by the VENDEE/S of the notice of cancellation or the demand for rescission of the contract by a notarial act; and in case of cancellation and/or rescission of this contract, all improvements on the lot/s above-described shall be forfeited in favor of the VENDOR, and in this connection, the VENDEE/S obligate/s himself/herself/themselves to peacefully vacate the premises mentioned above without necessity of notice or demand by the VENDOR.²⁰

We examine GRI's compliance with the requirements of R.A. 6552, as it insists that it extended to Angeles considerations that are beyond what the law provides.

Grace Period

It should be noted that Section 3 of R.A. 6552 and paragraph six of Contract Nos. 2271 and 2272, speak of "two years of installments." The basis for computation of the term 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 as well as any grace period that has been given. Both the

²⁰ Rollo, pp. 95-96.

law and the contracts thus prevent any buyer who has not been diligent in paying his monthly installments from unduly claiming the rights provided in Section 3 of R.A. 6552.

The MeTC, the RTC, and the CA all found that Angeles was able to pay 35 installments for the lot (Contract No. 2271) and 48 installments for the house (Contract No. 2272).²¹ Angeles thus made installment payments for less than three years on the lot, and exactly four years on the house.

Section 3(a) of R.A. 6552 provides that the total grace period corresponds to one month for every one year of installment payments made, provided that the buyer may exercise this right only once in every five years of the life of the contract and its extensions. The buyer's failure to pay the installments due at the expiration of the grace period allows the seller to cancel the contract after 30 days from the buyer's receipt of the notice of cancellation or demand for rescission of the contract by a notarial act. Paragraph 6(a) of the contract gave Angeles the same rights.

Both the RTC and the CA found that GRI gave Angeles an accumulated grace period of 51 months.²² This extension went beyond what was provided in R.A. 6552 and in their contracts.

Receipt of the Notice of Notarial Rescission

The registry return of the registered mail is *prima facie* proof of the facts indicated therein.²³ Angeles failed to present contrary evidence to rebut this presumption with competent and proper evidence. To establish its claim of service of the notarial rescission upon Angeles, GRI presented the affidavit of its liaison officer Fortunato Gumahad,²⁴ the registry receipt from the Greenhills Post Office,²⁵ and the registry return receipt.²⁶ We affirm the CA's ruling that GRI was able to substantiate its claim that it served Angeles the notarial rescission sent through registered mail in accordance with the requirements of R.A. 6552.

Amount of the Cash Surrender Value

GRI claims that it gave Angeles a refund of the cash surrender value of both the house and the lot in the total amount of ₱574,148.40 when it deducted the amount of the cash surrender value from the amount of rentals due.

²¹ Id. at 44.

²² Id.

²³ *Club Filipino, Inc. v. Araullo*, 538 Phil. 430 (2006), citing *Genuino Ice Company, Inc. v. Magpantay*, 526 Phil. 170 (2006).

²⁴ *CA rollo*, pp. 245-246.

²⁵ *Rollo*, p. 159.

²⁶ Id.

For paying more than two years of installments on the lot, Angeles was entitled to receive cash surrender value of her payments on the lot equivalent to fifty per cent of the total payments made. This right is provided by Section 3(b) of R.A. 6552, as well as paragraph 6(b) of the contract. Out of the contract price of ₱450,000, Angeles paid GRI a total of ₱364,188.96 consisting of ₱135,000 as downpayment and ₱229,188.96 as installments and penalties.²⁷ The cash surrender value of Angeles' payments on the lot amounted to ₱182,094.48.²⁸

For the same reasons, Angeles was also entitled to receive cash surrender value of the payments on the house equivalent to fifty per cent of the total payments made. Out of the contract price of ₱750,000, Angeles paid GRI a total of ₱784,107.84 consisting of ₱165,000 as downpayment and ₱619,107.84 as installments and penalties.²⁹ The cash surrender value of Angeles' payments on the house amounted to ₱392,053.92.³⁰

Actual Cancellation of the Contracts

There was no actual cancellation of the contracts because of GRI's failure to actually refund the cash surrender value to Angeles.

Cancellation of the contracts for the house and lot was contained in a notice of notarial rescission dated 11 September 2003.³¹ The registry return receipts show that Angeles received this notice on 19 September 2003.³² GRI's demand for rentals on the properties, where GRI offset Angeles' accrued rentals by the refundable cash surrender value, was contained in another letter dated 26 September 2003.³³ The registry return receipts show that Angeles received this letter on 29 September 2003.³⁴ GRI filed a complaint for unlawful detainer against Angeles on 11 November 2003, 61 days after the date of its notice of notarial rescission, and 46 days after the date of its demand for rentals. For her part, Angeles sent GRI postal money orders in the total amount of ₱120,000.³⁵

The MeTC ruled that it was proper for GRI to compensate the rentals due from Angeles' occupation of the property from the cash surrender value due to Angeles from GRI. The MeTC stated that compensation legally took effect in accordance with Article 1290 of the Civil Code, which reads: "When all the requisites mentioned in Article 1279 are present, compensation takes

²⁷ CA rollo, p. 21.

²⁸ Id. at 21-22.

²⁹ Id. at 21.

³⁰ Id. at 21-22.

³¹ Rollo, pp. 157-158.

³² Id. at 159.

³³ Id. at 163-165.

³⁴ Id. at 166.

³⁵ Id. at 45-46.

effect by operation of law and extinguishes both debts to the concurrent amount, even though the creditors and debtors are not aware of the compensation.” In turn, Article 1279 of the Civil Code provides:

In order that compensation may be proper, it is necessary:

- (1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;
- (2) That both debts consist of a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;
- (3) That the two debts are due;
- (4) That they be liquidated and demandable;
- (5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

However, it was error for the MeTC to apply Article 1279 as there was nothing in the contracts which provided for the amount of rentals in case the buyer defaults in her installment payments. The rentals due to GRI were not liquidated. GRI, in its letter to Angeles dated 26 September 2003, unilaterally imposed the amount of rentals, as well as an annual 10% increase:

PERIOD COVERED	NO. OF MONTHS	RENTALS PER MONTH	AMOUNT DUE
June to December 1999	7	11,000.00	77,000.00
January to December 2000	12	12,100.00	145,200.00
January to December 2001	12	13,310.00	159,720.00
January to December 2002	12	14,641.00	175,692.02 [sic]
January to August 2003	8	16,105.10	128,840.80
TOTAL AMOUNT DUE:			<u>₱ 686,452.82 [sic]</u> ³⁶

We cannot subscribe to GRI’s view that it merely followed our ruling in *Pilar Development Corporation v. Spouses Villar*³⁷ (*Pilar*) when it deducted the cash surrender value from the rentals due. In *Pilar*, the developer also failed to refund the cash surrender value to the defaulting buyer when it cancelled the Contract to Sell through a Notice of Cancellation. It was this Court, and not the developer, that deducted the amount of the cash surrender value from the accrued rentals. Moreover, the developer in *Pilar* did not unilaterally impose rentals. It was the MeTC that decreed the amount of monthly rent. Neither did the developer unilaterally reduce the accrued rentals by the refundable cash surrender value. The cancellation of the contract took effect only by virtue of this Court’s judgment because of the developer’s failure to return the cash surrender value.

³⁶ Id. at 164. The amount due for the period January to December 2001 should only be ₱175,692.00; hence, the total amount due should be ₱686,452.80.

³⁷ 536 Phil. 465 (2006).

This was how we ruled in *Pilar*:

According to R.A. 6552, the cash surrender value, which in this case is equivalent to fifty percent (50%) of the total payment made by the respondent spouses, should be returned to them by the petitioner upon the cancellation of the contract to sell on August 31, 1998 for the cancellation to take effect. Admittedly, no such return was ever made by petitioner. Thus, the said cash surrender value is hereby ordered deducted from the award owing to the petitioner based on the MeTC judgment, and cancellation takes effect by virtue of this judgment.

Finally, as regards the award of ₱7,000.00/month as rental payment decreed by the MeTC for the use of the property in question from the time the respondent spouses obtained possession thereof up to the time that its actual possession is surrendered or restored to the petitioner, the Court finds the same just and equitable to prevent the respondent spouses, who breached their contract to sell, from unjustly enriching themselves at the expense of the petitioner which, for all legal intents and purposes, never ceased to be the owner of the same property because of the respondents' non-fulfillment of the indispensable condition of full payment of the purchase price, as embodied in the parties' contract to sell. However, as earlier explained, this sum is to be reduced by the cash surrender value of the payments so far made by the spouses, and the resulting net amount still owing as accrued rentals shall be subject to legal interest from finality of this Decision up to the time of actual payment thereof.³⁸

*Mandatory Twin Requirements:
Notarized Notice of Cancellation and
Refund of Cash Surrender Value*

This Court has been consistent in ruling that a valid and effective cancellation under R.A. 6552 must comply with the mandatory twin requirements of a notarized notice of cancellation and a refund of the cash surrender value.

In *Olympia Housing, Inc. v. Panasiatic Travel Corp.*,³⁹ we ruled that the notarial act of rescission must be accompanied by the refund of the cash surrender value.

x x x The actual cancellation of the contract can only be deemed to take place upon the expiry of a 30-day period following the receipt by the buyer of the notice of cancellation or demand for rescission by a notarial act *and* the full payment of the cash surrender value.

In *Pagtalunan v. Dela Cruz Vda. De Manzano*,⁴⁰ we ruled that there is no valid cancellation of the Contract to Sell in the absence of a refund of the cash surrender value. We stated that:

x x x Sec. 3 (b) of R.A. No. 6552 requires refund of the cash surrender value

³⁸ Id. at 473-474.

³⁹ 443 Phil. 385, 398-399 (2003). Italicization in the original.

⁴⁰ 559 Phil. 658, 669-670 (2007).

of the payments on the property to the buyer before cancellation of the contract. The provision does not provide a different requirement for contracts to sell which allow possession of the property by the buyer upon execution of the contract like the instant case. Hence, **petitioner cannot insist on compliance with the requirement by assuming that the cash surrender value payable to the buyer had been applied to rentals of the property after respondent failed to pay the installments due.** (Emphasis supplied)

*Remedies of the Buyer
in the Absence of a Valid Cancellation of a Contract to Sell*

In view of the absence of a valid cancellation, the Contract to Sell between GRI and Angeles remains valid and subsisting. Apart from *Olympia* and *Pagtalunan*, we are guided by our rulings in *Active Realty & Development Corp. v. Daroya*⁴¹ (*Active*) and *Associated Marine Officers and Seamen's Union of the Philippines PTGWO-ITF v. Decena*⁴² (*Associated*).

In *Olympia*, this Court dismissed the complaint for recovery of possession for having been prematurely filed without complying with the mandate of R.A. 6552. We ordered the defaulting buyer to pay the developer the balance as of the date of the filing of the complaint plus 18% interest *per annum* computed from the day after the date of the filing of the complaint, but within 60 days from the receipt of a copy of the decision. Upon payment, the developer shall issue the corresponding certificate of title in favor of the defaulting buyer. If the defaulting buyer fails to pay the full amount, then the defaulting buyer shall vacate the subject property without need of demand and all payments will be charged as rentals to the property. There was no award for damages and attorney's fees, and no costs were charged to the parties.

In *Pagtalunan*, this Court dismissed the complaint for unlawful detainer. We also ordered the defaulting buyer to pay the developer the balance of the purchase price plus interest at 6% *per annum* from the date of filing of the complaint up to the finality of judgment, and thereafter, at the rate of 12% *per annum*. Upon payment, the developer shall issue a Deed of Absolute Sale of the subject property and deliver the corresponding certificate of title in favor of the defaulting buyer. If the defaulting buyer fails to pay the full amount within 60 days from finality of the decision, then the defaulting buyer should vacate the subject property without need of demand and all payments will be charged as rentals to the property. No costs were charged to the parties.

In *Active*, this Court held that the Contract to Sell between the parties

⁴¹ 431 Phil. 753 (2002).

⁴² G.R. No. 178584, 8 October 2012, 682 SCRA 308.

remained valid because of the developer's failure to send a notarized notice of cancellation and to refund the cash surrender value. The defaulting buyer thus had the right to offer to pay the balance of the purchase price, and the developer had no choice but to accept payment. However, the defaulting buyer was unable to exercise this right because the developer sold the subject lot. This Court ordered the developer to refund to the defaulting buyer the actual value of the lot with 12% interest *per annum* computed from the date of the filing of the complaint until fully paid, or to deliver a substitute lot at the option of the defaulting buyer.

In *Associated*, this Court dismissed the complaint for unlawful detainer. We held that the Contract to Sell between the parties remained valid because the developer failed to send to the defaulting buyer a notarized notice of cancellation and to refund the cash surrender value. We ordered the MeTC to conduct a hearing within 30 days from receipt of the decision to determine the unpaid balance of the full value of the subject properties as well as the current reasonable amount of rent for the subject properties. We ordered the defaulting buyer to pay, within 60 days from the trial court's determination of the amounts, the unpaid balance of the full value of the subject properties with interest at 6% *per annum* computed from the date of sending of the notice of final demand up to the date of actual payment. Upon payment, we ordered the developer to execute a Deed of Absolute Sale over the subject properties and deliver the transfer certificate of title to the defaulting buyer. In case of failure to pay within the mandated 60-day period, we ordered the defaulting buyer to immediately vacate the premises without need for further demand. The developer should also pay the defaulting buyer the cash surrender value, and the contract should be deemed cancelled 30 days after the defaulting buyer's receipt of the full payment of the cash surrender value. If the defaulting buyer failed to vacate the premises, he should be charged reasonable rental in the amount determined by the trial court.

We observe that this case has, from the institution of the complaint, been pending with the courts for 10 years. As both parties prayed for the issuance of reliefs that are just and equitable under the premises, and in the exercise of our discretion, we resolve to dispose of this case in an equitable manner. Considering that GRI did not validly rescind Contracts to Sell Nos. 2271 and 2272, Angeles has two options:

1. The option to pay, within 60 days from the MeTC's determination of the proper amounts, the unpaid balance of the full value of the purchase price of the subject properties plus interest at 6% *per annum* from 11 November 2003, the date of filing of the complaint, up to the finality of this Decision, and thereafter, at the rate of 6% *per annum*.⁴³ Upon payment of the full

⁴³See *Nacar v. Gallery Frames and/or Felipe Bordey, Jr.*, G.R. No. 189871, 13 August 2013. This case modified the guidelines on imposition of interest rates laid down in *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, 12 July 1994, 234 SCRA 78 to reflect Bangko Sentral ng Pilipinas – Monetary Board Circular No. 799, Series of 2013, effective 1 July 2013. *Nacar* stated:

Thus, from the foregoing, in the absence of an express stipulation as to the rate of interest that would govern the parties, the rate of legal interest for loans or forbearance of any money, goods or credits and the rate allowed in judgments shall no longer be twelve percent (12%) per annum – as reflected in the case of *Eastern Shipping Lines, Inc.* and

amount, GRI shall immediately execute Deeds of Absolute Sale over the subject properties and deliver the corresponding transfer certificate of title to Angeles.

In the event that the subject properties are no longer available, GRI should offer substitute properties of equal value. Acceptance of the suitability of the substitute properties is Angeles' sole prerogative. Should Angeles refuse the substitute properties, GRI shall refund to Angeles the actual value of the subject properties with 6% interest *per annum*⁴⁴ computed from 11 November 2003, the date of the filing of the complaint, until fully paid; and

2. The option to accept from GRI ₱574,148.40, the cash surrender value of the subject properties, with interest at 6% *per annum*,⁴⁵ computed from 11 November 2003, the date of the filing of the complaint, until fully paid. Contracts to Sell Nos. 2271 and 2272 shall be deemed cancelled 30 days after Angeles' receipt of GRI's full payment of the cash surrender value. No rent is further charged upon Angeles as GRI already had possession of the subject properties on 10 October 2006.

WHEREFORE, we **DENY** the petition. The Decision of the Court of Appeals in CA-G.R. SP No. 105964 promulgated on 11 November 2011 and the Resolution promulgated on 19 June 2012 are **AFFIRMED with MODIFICATIONS**.

1. The Metropolitan Trial Court of Las Piñas City is directed to conduct a hearing within a maximum period of 30 days from finality of this Decision to (1) determine Evelyn M. Angeles' unpaid balance on Contracts to Sell Nos. 2271 and 2272; and (2) the actual value of the subject properties as of 11 November 2003.

2. Evelyn M. Angeles shall notify the Metropolitan Trial Court of Las Piñas City and Gatchalian Realty, Inc. within a maximum period of 60 days from the Metropolitan Trial Court of Las Piñas City's determination of the unpaid balance whether she will pay the unpaid balance or accept the cash surrender value.

Should Evelyn M. Angeles choose to pay the unpaid balance, she shall pay, within 60 days from the MeTC's determination of the proper amounts, the unpaid balance of the full value of the purchase price of the subject properties plus interest at 6% *per annum* from 11 November 2003, the date of filing of the complaint, up to the finality of this Decision, and thereafter, at the rate of 6% *per annum*. Upon payment of the full amount,

Subsection X305.1 of the Manual of Regulations for Banks and Sections 4305Q.1, 4305S.3 and 4303P.1 of the Manual of Regulations for Non-Bank Financial Institutions, before its amendment by BSP-MB Circular No. 799 – but will now be six percent (6%) *per annum* effective July 1, 2013. It should be noted, nonetheless, that the new rate could only be applied prospectively and not retroactively. Consequently, the twelve percent (12%) *per annum* legal interest shall apply only until June 30, 2013. Come July 1, 2013 the new rate of six percent (6%) *per annum* shall be the prevailing rate of interest when applicable.

⁴⁴ Id.

⁴⁵ Id.

GRI shall immediately execute Deeds of Absolute Sale over the subject properties and deliver the corresponding transfer certificate of title to Angeles.

In the event that the subject properties are no longer available, GRI should offer substitute properties of equal value. Should Angeles refuse the substitute properties, GRI shall refund to Angeles the actual value of the subject properties with 6% interest *per annum* computed from 11 November 2003, the date of the filing of the complaint, until fully paid.

Should Evelyn M. Angeles choose to accept payment of the cash surrender value, she shall receive from GRI ₱574,148.40 with interest at 6% *per annum*, computed from 11 November 2003, the date of the filing of the complaint, until fully paid. Contracts to Sell Nos. 2271 and 2272 shall be deemed cancelled 30 days after Angeles' receipt of GRI's full payment of the cash surrender value. No rent is further charged upon Evelyn M. Angeles.

No costs.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ROBERTO A. ABAD
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

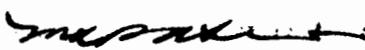
ATTESTATION

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


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice