

THIRD DIVISION

G.R. No. 242366 – VENUSTRIANO B. CHAVEZ, JR., MARIA CARMITA C. CERTEZA, VENERANDO B. CHAVEZ, CYNTHIA C. CHAN, CAROLINA C. GERSTMAYR, CARINA B. CHAVEZ, VERNON B. CHAVEZ, VICENZO B. CHAVEZ, BENJAMIN L. PALOMIQUE, JAIME C. PALOMIQUE and MARIAN CELINA C. PALOMIQUE, and VIRGILIO B. CHAVEZ, Petitioners, v. SPOUSES JOSELITO AND ADRIANA GOPEZ, Respondents.

Promulgated:

FEB 26 2025

MisDCH

X-----X

CONCURRING OPINION

CAGUIOA, J.:

The *ponencia* in the above-captioned case grants the petition and reinstates the Decision dated April 8, 2016 of the Regional Trial Court in Civil Case No. Q-13-72713.¹ The *ponencia* rules that petitioners-vendors Chavez, et al. were well within their rights when they terminated their sale agreement with respondents-vendees Spouses Joselito and Adriana Gopez (Spouses Gopez), evidenced by an Acknowledgment Receipt dated October 21, 2011, on the basis of the latter's failure to fulfill the conditions under the agreement,² including the delivery of PHP 5,000,000.00 as downpayment.³

The Acknowledgment Receipt reads:

This is to acknowledge receipt [of] Check No. 0157934[,] dated October 21, 2011[,] amounting to [PHP 200,000.00] only [] as earnest money for the purchase of the property located at Mauban St. ... for the amount of [PHP 31.5 million], (sic) [] with TCT [No.] RT-59039 & TCT No. 58821[,] Contract to Sell, Deed of Absolute Sale & Extrajudicial Settlement of Estate.⁴

In arriving at its conclusion, the *ponencia* characterizes the agreement between the parties as a contract to sell. The *ponencia* observes that the Acknowledgment Receipt lacks any undertaking on the part of the vendors to transfer the properties to Spouses Gopez. Moreover, the Acknowledgment Receipt evidences certain conditions to be fulfilled by Spouses Gopez, i.e., the preparation of the contract to sell, deed of absolute sale, and extrajudicial settlement of estate—in addition to the payment of the purchase price.⁵

¹ *Ponencia*, p. 13.

² *Id.* at 12.

³ *Id.*

⁴ *Id.* at 8.

⁵ *Id.* at 10.



I concur in the *ponencia* and find it fitting to reiterate the view I espoused in *Spouses Kaw v. Heirs of Nodalo, et al.*⁶ on the introduction and evolution of the concept of a contract to sell in Philippine jurisprudence—a concept which, though lacking direct statutory foundation, has nonetheless taken firm root in our prevailing judicial framework.

Contract of Sale under the Civil Code

If one were to adhere strictly to the provisions of the Civil Code on Sales and on Obligations and Contracts, what jurisprudence has come to recognize as a “contract to sell” would, in fact, constitute a perfected contract of sale under Article 1458 of the Civil Code:

ARTICLE 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

A contract of sale may be absolute or conditional.

Complementing this, Article 1475 of the Civil Code states that “[a] contract of sale is *perfected* at the moment there is a *meeting of minds upon the thing which is the object of the contract and upon the price.*”⁷

Consistent with the above provisions of the Civil Code, the Court has repeatedly emphasized that “the nature of a sale is a consensual contract because it is *perfected by mere consent.*”⁸ A contract of sale, thus, consists of the following essential elements:

- (i) Consent or meeting of the minds, that is, consent to transfer ownership in exchange for the price;
- (ii) Determinate subject matter; and
- (iii) Price certain in money or its equivalent.⁹

As applied in this case, and as indeed found by the Court of Appeals,¹⁰ all the elements of a perfected contract of sale are present in the agreement between the parties—(i) petitioners and Spouses Gopez consented to the transfer of (ii) two adjacent lots in Quezon City for (iii) the purchase price of PHP 31,500,000.00.¹¹

Further, owing to the consensual nature of a contract of sale, a stipulation that the buyer must first comply with his obligation to pay before the seller shall comply with his obligation to cause the transfer of the ownership of the thing, would not divest an agreement of its character as a

⁶ G.R. No. 263047, November 27, 2024 [Per J. Inting, Third Division].

⁷ Emphasis supplied.

⁸ *The Heirs of Zenaida B. Gonzales v. Spouses Dominador and Estefania Basas*, 923 Phil. 95, 108 (2022) [Per J. Hernando, First Division]. (Emphasis supplied)

⁹ *Pasco v. Cuenca*, 889 Phil. 68, 78 (2020) [Per J. Inting, Third Division].

¹⁰ *Ponencia*, p. 6.

¹¹ *Id.*



contract of sale. After all, Article 1478 of the Civil Code expressly allows parties in a contract of sale to stipulate that ownership shall not pass until the purchaser has fully paid the price, *viz.*:

ARTICLE 1478. The parties may stipulate that ownership in the thing shall not pass to the purchaser until he has fully paid the price.

Professor Araceli Baviera, a noted civil law professor, distinguished the definition of a contract of sale under Article 1445¹² of the Spanish Civil Code and Article 1458¹³ of the New Civil Code, advancing the view that the latter now contemplates a contract of sale where reservation of ownership may be made by the seller despite delivery of the property to the buyer:

The Spanish Civil Code defined a contract of purchase and sale as one where a contracting party obligates himself to deliver a determinate thing and the other to pay a certain price therefor in money or in something representing it. *The New Civil Code defines a contract of sale as a contract where one of the parties obligates himself to transfer the ownership of and to deliver a determinate thing*, and the other party to pay therefor a price certain in money or its equivalent. The Uniform Sales Act defines a *sale of goods* as an agreement whereby the seller *transfers* the property in goods to the buyer for a consideration called the price, while a *contract to sell goods* is a contract whereby the seller *agrees to transfer* the property in goods to the buyer for a consideration called the price. Under the Uniform Commercial Code, a “contract for sale” includes both a present sale of goods and a contract to sell goods at a future time, and a “sale” consists in the passing of title from seller to the buyer for a price.

The Spanish Civil Code followed the Roman law definition imposing a duty on the seller to deliver, but the seller was not bound to make the buyer owner immediately and directly. According to the Code Commission, the definition in the Spanish Civil Code is unsatisfactory because even if the seller is not the owner of the thing sold, he may validly sell, subject to the warranty against eviction. *The present definition is similar to the definition in the German Civil Code imposing two obligations on the seller. The implication of these separate obligations is that the seller may reserve ownership over the thing sold, notwithstanding delivery to the buyer.*¹⁴ (Citations omitted; emphasis supplied)

Despite the foregoing, the *ponencia*’s characterization of the agreement as a contract to sell, i.e., an agreement where the “seller does not yet agree or consent to transfer ownership until the happening of an event, usually the full payment of the purchase price,”¹⁵ is in accord with prevailing jurisprudence.

¹² ARTICLE 1445. By the contract of purchase and sale one of the contracting parties binds himself to **deliver a determinate thing** and the other to pay a certain price therefor in money or in something representing the same. (Emphasis supplied)

¹³ ARTICLE 1458. By the contract of sale one of the contracting parties obligates himself to **transfer the ownership of and to deliver a determinate thing**, and the other to pay therefor a price certain in money or its equivalent.

A contract of sale may be absolute or conditional. (Emphasis supplied)

¹⁴ *Heirs of Corazon Villeza v. Aliangan*, 891 Phil. 443, 459–460 (2020) [Per J. Caguioa, First Division], citing ARACELI T. BAVIERA, SALES 3–4 (2005).

¹⁵ *Ponencia*, p. 8.



Contract to Sell—a jurisprudential concept

The concept of a contract to sell—one where title remains with the vendor until full payment of the price—was first articulated in the 1960 case of *Manuel v. Rodriguez, Sr.*¹⁶ penned by esteemed civilist Associate Justice J. B. L. Reyes:

Plaintiff-appellant, however, argues (Errors I–IV; VI; VIII) that the Payatas Subdivision had no right to cancel the contract, as there was no demand by suit or notarial act, as provided by Article 1504 of the Old Code (Art. 1592, N.C.C.). This is without merit, because Article 1504 requiring demand by suit or notarial act in case the vendor of realty wants to rescind, does not apply to a contract to sell or promise to sell, where title remains with the vendor until fulfillment to a positive suspensive condition, such as full payment of the price . . .¹⁷ (Citations omitted; emphasis supplied)

Such characterization of a contract to sell in *Manuel* found footing in earlier rulings, the earliest of which is the 1940 case of *The Caridad Estates, Inc. v. Santero*.¹⁸ In *Caridad Estates*, the Court held that Article 1504¹⁹ of the Spanish Civil Code—which allows a vendee in default of payment to still proceed to pay, as long as there is no judicial or notarial demand for resolution by the vendor—does not apply to an agreement where the parties *expressly stipulate* that non-payment warrants the cancellation of the contract and repossession upon demand. Notably, however, the Court still consistently referred to the agreement as a contract of sale, with its ruling anchored on the parties' freedom to stipulate, rather than a reclassification of the contract's nature.

The 1950 case of *Albea v. Inquimboy*²⁰ marked the first time the Court expressly denominated the agreement in *Caridad Estates* as a “contract to sell.” While *Albea* also involved a contract of sale on installment—with a stipulation that failure to timely pay the first installment would automatically cancel the sale²¹—the Court emphasized a notable difference between the two cases. The *Albea* contract contained a provision requiring the vendee to “execute and give the corresponding deed of cancellation and rescission”²² in case of default, which the Court interpreted as indicative of an absolute sale—i.e., ownership had already passed to the vendee, hence the need to reconvey title. In contrast, the Court characterized *Caridad Estates* contract as one where “title had not passed to [the vendee],”²³ and classified it as a “mere contract to sell,” viz.:

¹⁶ 109 Phil. 1 (1960) [Per J. Reyes, J. B. L., Second Division].

¹⁷ *Id.* at 9.

¹⁸ 71 Phil. 114 (1940) [Per J. Laurel, *En Banc*].

¹⁹ ARTICLE 1504. In the sale of real property, even though it may have been stipulated that in default of the payment of the price within the time agreed upon, the resolution of the contract shall take place *ipso jure*, the purchaser may pay even after the expiration of the period, at any time before demand has been made upon him either by suit or by notarial act. After such demand has been made the judge cannot grant him further time.

²⁰ 86 Phil. 477 (1950) [Per J. Ozaeta, Second Division].

²¹ *Id.* at 482.

²² *Id.*

²³ *Id.* at 483.



The contract Exhibit A involved in the present case, was one of absolute sale whereby the vendor Inquimboy transferred and conveyed his title to the land in question to the vendee[.] ... In a separate document (Exhibit B) he agreed to pay that price as follows: [PHP] 2,500[.00] on or about November 15, 1941, and [PHP] 500[.00] in May, 1942, with the proviso that should he fail to pay the said sum of [PHP] 2,500[.00] on or before November 15, 1941, the deed of absolute sale Exhibit A “shall *ipso facto* be deemed cancelled and rescinded and that I shall execute and give the corresponding deed of cancellation and rescission.” In other words, the vendee agreed to retransfer or reconvey the property to the vendor should the former fail to pay the first sum of [PHP] 2,500[.00] on the date stipulated.

That contract is different from the one involved in the Caridad Estates case, in that the latter was not an absolute deed of sale but a mere contract to sell whereby the vendee agreed to pay the purchase price in various installments with the stipulation that, upon failure to pay any installment within 60 days after due date, the vendor may, at his option, recover possession of the property and consider any and all amounts already paid as rental for the use and occupancy of the property. In that case there was no need for the vendee to execute any deed of reconveyance to the vendor because by the said contract to sell the title had not passed to him.

*The contract involved in the present case is similar to that involved in Villaruel vs. Tan King, in that both contracts were absolute sales which passed title to the vendee, although the purchase price was not fully paid. ...*²⁴ (Emphases supplied)

Albea, thus, introduced the defining feature of what is now understood in jurisprudence as a contract to sell—the vendor’s reservation of ownership until the fulfillment of a positive suspensive condition, such as full payment of the price. This characteristic was later adopted in formulating the definition of a contract to sell in *Manuel*, and has since been recognized in case law as the hallmark of a contract to sell.

It is worth emphasizing, however, that the subject contracts in *Caridad Estates*, *Albea*, and *Manuel* were all executed before August 30, 1950 or before the New Civil Code came into effect.²⁵ As such, the subject contracts were governed by, and interpreted in the context of the Spanish Civil Code. Accordingly, the Court, in these cases, had no occasion to consider: (i) the revised definition of a contract of sale under Article 1458 of the New Civil Code; and (ii) Article 1478—a new provision in the New Civil Code—which expressly allows contracting parties to “stipulate that ownership in the thing shall not pass to the purchaser until he has fully paid the price,” without divesting the agreement of its nature as a contract of sale.

Contract of Sale vis-à-vis Contract to Sell

²⁴ *Id.* at 482–483.

²⁵ *Lara v. Del Rosario, Jr.*, 94 Phil. 778, 783 (1954) [Per J. Montemayor, *En Banc*].



Since its introduction to Philippine jurisprudence, the concept of a “contract to sell”—where ownership of the property is retained by the owner-vendor until full payment of the purchase price by the vendee—has been upheld even in subsequent cases involving contracts governed by the New Civil Code.²⁶ By definition, pivotal in the Court’s determination that an agreement is a contract to sell—and verily distinguishing it from a contract of sale—is the finding of an *evident intent* of the parties to reserve the seller’s ownership of the property pending the buyer’s payment. So it must be, for as a general rule, with the seller’s delivery or tradition of the object, ownership is acquired by the buyer, i.e., satisfying the obligations of the seller in a contract of sale as set forth in Article 1495²⁷ of the Civil Code.

In this connection, it must be remembered that under Article 712²⁸ of the Civil Code, ownership and other real rights over property are acquired and transmitted by tradition, in consequence of certain contracts, such as sale. Specifically, Articles 1477 and 1496 of the Civil Code on Sales state that:

ARTICLE 1477. The ownership of the thing sold shall be transferred to the vendee upon the actual or constructive delivery thereof.

....

ARTICLE 1496. The ownership of the thing sold is acquired by the vendee from the moment it is delivered to him in any of the ways specified in articles 1497 to 1501, or in any other manner signifying an agreement that the possession is transferred from the vendor to the vendee.

Furthermore, Article 1498 of the Civil Code provides that the execution of a public instrument is equivalent to the delivery of the object of the sale: “[w]hen the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the thing which is the object of the contract, if from the deed the contrary *does not appear or cannot clearly be inferred*.”²⁹

From the foregoing, to take an agreement out of the ambit of a contract of sale—which is perfected by mere consent and under which the seller’s prestation is performed by either actual or constructive delivery—the *reservation of ownership pending full payment must be expressly provided for, or should be capable of being clearly construed from the terms of the agreement*.

²⁶ See *Visayan Sawmill Company, Inc. v. Court of Appeals*, 292 Phil. 382 (1993) [Per J. Davide, Jr., *En Banc*]; *Ang Yu Asuncion v. Court of Appeals*, 308 Phil. 624 (1994) [Per J. Vitug, *En Banc*].

²⁷ ARTICLE 1495. The vendor is bound to transfer the ownership of and deliver, as well as warrant the thing which is the object of the sale.

²⁸ ARTICLE 712. Ownership is acquired by occupation and by intellectual creation.

Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition. They may also be acquired by means of prescription.

²⁹ Emphasis supplied.



Harmonizing the provisions of the Civil Code on contracts of sale with the decades-long body of jurisprudence on contracts to sell, it appears that as a *general rule*, where an agreement contains all the essential elements of a contract of sale under Article 1475³⁰ of the Civil Code (i.e., consent, determinate subject matter, price certain), such agreement is a contract of sale. Jurisprudence, however, establishes an *exception*: if the contracting parties further stipulate that the transfer of ownership to the buyer is conditioned upon the full payment of the purchase price—which arrangement may be instituted through an express provision or may be clearly inferred from the other terms of the agreement—the deed takes the nature of a contract to sell.

In the absence of an express stipulation on reservation of ownership, the most commonly recognized indicator in jurisprudence of a contract to sell is a provision requiring the execution of a separate deed of absolute sale upon full payment of the purchase price. In *Diego v. Diego*,³¹ the Court pronounced such stipulation as “a unique and distinguishing characteristic of a contract to sell,”³² evidently implying the reservation of title in the vendor until the vendee has completed the payment.

As applied in the present case, I concur that the subject agreement falls within the jurisprudential exception and is indeed contracts to sell. To recall, no contract has yet been executed by the parties. However, from the language of the Acknowledgment Receipt—the only documentary evidence as to the parties’ agreement—it can be clearly inferred that the petitioners did not intend to immediately transfer ownership over the subject properties. The Acknowledgment Receipt indicates that the following must be provided by Spouses Gopez for the purchase of the subject properties: [i] PHP 31,500,00.00; [ii] contract to sell; [iii] deed of absolute sale; and [iv] extrajudicial settlement of estate. The necessity of crafting these documents, particularly a separate deed of absolute sale, for purposes of conveying ownership implies that no such transfer is yet intended by the parties, consistent with the current understanding of a contract to sell.

However, I must underscore a deeper jurisprudential concern as I have advanced in my Concurring Opinion in *Spouses Kaw*:³³ the “general rule-exception” framework on contracts of sale vis-à-vis contracts to sell is largely the product of judicial construction, rather than legislative design.

As demonstrated herein, the concept of a contract to sell built upon judicial foundations governed by the Spanish Civil Code—may warrant a reassessment within the legal architecture introduced by the New Civil Code. To reiterate, a strict application of the latter reveals that any meeting of the minds as to the delivery and the transfer of ownership of a determinate thing

³⁰ ARTICLE 1475. The contract of sale is perfected at the moment there is a meeting of minds upon the thing which is the object of the contract and upon the price.

³¹ 704 Phil. 373 (2013) [Per J. Del Castillo, Second Division].

³² *Id.* at 384.

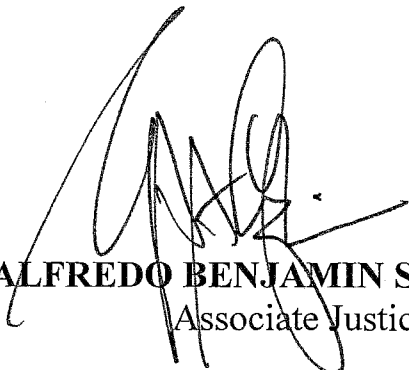
³³ *Supra* note 6.



in exchange for a price certain is defined as a contract of sale,³⁴ and any stipulation that ownership shall not pass unless the price has been fully paid³⁵ should not negate its character as such.

Admittedly, however, the concept of a contract to sell now forms part of the underpinning of Philippine sales law, and recalibrating this construct may carry far-reaching implications for the broad body of jurisprudence that has been built around it.

ACCORDINGLY, I CONCUR with the *ponencia* and vote to **GRANT** the Petition.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

³⁴ See Art. 1458 of the Civil Code, the relevant portion of which provides:
ARTICLE 1458. By the contract of sale one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

.....
³⁵ See Art. 1478 of the Civil Code, which provides:
ARTICLE 1478. The parties may stipulate that ownership in the thing shall not pass to the purchaser until he has fully paid the price.