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**Republic of the Philippines**  
**Supreme Court**  
**Manila**

**THIRD DIVISION**

**SPOUSES RENE LUIS GODINEZ G.R. No. 225449**  
**and SHEMAYNE GODINEZ,**

Petitioners,

Present:

-versus-

LEONEN, *J.*, *Chairperson*,  
 GESMUNDO,  
 CARANDANG,  
 ZALAMEDA, and  
 GAERLAN,\* *JJ.*

**SPOUSES ANDREW T. NORMAN**  
**and JANET A. NORMAN,**

Respondents.

**Promulgated:**  
**February 26, 2020**

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**DECISION**

**LEONEN, J.:**

Generally, partial payments of the purchase price on a contract to sell should be returned to the buyer if the sale does not push through, unless forfeiture of such partial payments was stipulated. However, these partial payments may be retained and considered as rentals by the seller if the buyer was given possession or was able to use the property prior to transfer of title.<sup>1</sup>

This is a Petition for Certiorari<sup>2</sup> under Rule 65 filed by spouses Rene Luis Godinez and Shemayne Godinez (the Godinez Spouses) alleging that the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction when it ordered them to reimburse the amounts paid

\* On leave.

<sup>1</sup> *Olivares Realty Corporation v. Castillo*, 738 Phil. 737, 766–767 (2014) [Per J. Leonen, Third Division].

<sup>2</sup> *Rollo*, pp. 3–21.



by spouses Andrew and Janet Norman (the Norman Spouses) under a contract to sell.

In a Resolution dated August 22, 2016,<sup>3</sup> this Court dismissed the Petition for Certiorari for being the improper remedy, and for failure to sufficiently show grave abuse of discretion on the part of the Court of Appeals.

The Godinez Spouses filed a Motion for Reconsideration,<sup>4</sup> which was granted by this Court in its January 25, 2017 Resolution.<sup>5</sup> The Petition for Certiorari was, therefore, reinstated, and the Norman Spouses were required to file their Comment thereto. The Norman Spouses commented on the motion on April 3, 2017,<sup>6</sup> and the Godinez Spouses replied to the comment on May 3, 2017.<sup>7</sup>

The facts derived from the proceedings *a quo* reveal that sometime in August 2006, the Godinez Spouses agreed to sell the leasehold rights over a housing unit at 8-A and 8-B Grouper Street, East Kalayaan, Subic Bay Freeport Zone, to the Norman Spouses for US\$175,000.00.<sup>8</sup>

On August 23, 2006, the Norman Spouses paid US\$10,000.00 to the Godinez Spouses as partial payment. The parties agreed that the remaining balance would be paid within 30 working days from the payment of the US\$10,000.00. After payment of this initial installment, the Norman Spouses moved their furniture and appliances into the houses, and assigned a house helper to act as their caretaker. However, the Norman Spouses eventually asked the Godinez Spouses for an extension of time to pay the remaining balance. The Godinez Spouses agreed to give them more time, provided they pay US\$30,000.00 to the account of Rene Godinez. Thus, on December 1, 2006, or around three (3) months after the full payment on the property was due, Andrew Norman transferred US\$30,000.00 to the account of Woodra Enterprises, a corporation owned by the Godinez Spouses.<sup>9</sup>

Despite the extension, the Norman Spouses were still unable to pay the remaining balance by the end of January 2007. Thus, the parties agreed that the Norman Spouses would remove their furniture and appliances, so that the Godinez Spouses could use the units again.<sup>10</sup>

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<sup>3</sup> Id. at 90.

<sup>4</sup> Id. at 91-100.

<sup>5</sup> Id. at 101.

<sup>6</sup> Id. at 107-114.

<sup>7</sup> Id. at 119-127.

<sup>8</sup> Id. at 53.

<sup>9</sup> Id.

<sup>10</sup> Id. at 54.

Around three (3) months later, the Norman Spouses learned that the housing unit had been sold to another buyer.<sup>11</sup> The Norman Spouses requested the return of their payments from the Godinez Spouses, writing demand letters on October 23, 2007 and on November 20, 2007. When their demand letters went unheeded, they filed a complaint against the Godinez Spouses, praying for the return of the US\$40,000.00.<sup>12</sup>

The Regional Trial Court granted the Norman Spouses' prayer for the return of their partial payments.<sup>13</sup> It found that the spouses had a perfected contract of sale, and that the partial payments were in the form of earnest money, which formed part of the purchase price. Upon rescission of the contract of sale due to substantial breach, the earnest money should have been returned to the Norman Spouses, since the parties never stipulated its forfeiture in favor of the Godinez Spouses. The trial court also denied the Norman Spouses' claims for moral and exemplary damages for lack of basis, but granted the prayer for attorney's fees in the amount of ₱50,000.00.

**WHEREFORE**, premises considered, defendants Spouses Rene Luis Godinez and Shemayne R. Godinez are hereby **ORDERED TO RETURN** to plaintiffs Spouses Andrew T. Norman and Janet A. Norman, the amount of US\$40,000.00 (or its peso equivalent) with legal interest thereon from the date of the filing of the complaint, until the amount is fully paid.

In addition, said defendants are hereby **ORDERED TO PAY PLAINTIFFS THE AMOUNT OF** Php50,000.00 and the costs of suit.

Furnish copies of the decision to the parties and their respective counsels.

**SO ORDERED.**<sup>14</sup> (Emphasis in the original)

The Godinez Spouses appealed to the Court of Appeals, which affirmed<sup>15</sup> the Regional Trial Court's ruling that the amounts paid by the Norman Spouses should be returned. However, the Court of Appeals found that the contract was not a contract of sale, but a contract to sell. Thus, the nonfulfillment of the obligation to pay the full amount of the purchase price was not a breach of contract but rather an unfulfilled suspensive condition, which prevented the seller from conveying title to the buyer. Thus, the Norman Spouses' failure to pay was not a breach that could result in their partial payments being forfeited as compensatory damages. Instead, it rendered the contract to sell "ineffective and without further force and

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<sup>11</sup> Id.

<sup>12</sup> Id. at 22–32.

<sup>13</sup> Id. at 38–50. The December 20, 2013 Decision was penned by Presiding Judge Benjamin T. Pozon of the Regional Trial Court of Makati City, Branch 139.

<sup>14</sup> Id. at 50.

<sup>15</sup> Id. at 52–69. The October 26, 2015 Decision was penned by Associate Justice Apolinario C. Bruselas, Jr. (Chair) and concurred in by Associate Justices Danton Q. Bueser and Socorro B. Inting, of the Special 14th Division of the Court of Appeals, Manila.

effect.”<sup>16</sup> Furthermore, their partial payment could not be retained as there was no stipulation to that effect between the parties.<sup>17</sup>

The Court of Appeals cited *Olivarez Realty Corporation v. Castillo*,<sup>18</sup> which clarified that while amounts already paid on a contract to sell will generally be returned in case the full purchase price is not paid, the same may be retained if the buyer was given possession of the property prior to transfer of title. The Court of Appeals held that the Norman Spouses were not given “full possession” of the housing unit because they were restricted to storing their furniture and appliances to a single room, and that the Godinez Spouses retained a key to the premises. Thus, the absence of “full possession” rendered the partial payments on the contract refundable. In any event, the parties never stipulated on the forfeiture of the partial payments made by the Norman Spouses in case the contract to sell failed to push through.<sup>19</sup>

**WHEREFORE**, the appeal is **DISMISSED** and the Decision on appeal is **AFFIRMED**. As discussed above, the legal interest to be paid on the amount of US40,000.00 or its peso equivalent is twelve percent (12%) per annum, reckoned from the date of the filing of the complaint until 30 June 2013, and six percent (6%) per annum from 1 July 2013 until finality. Thereafter, the principal amount due as adjusted by interest shall likewise earn interest at six percent (6%) per annum until fully paid.

**IT IS SO ORDERED.**<sup>20</sup>

The Godinez Spouses moved for reconsideration of the Court of Appeals’ Decision, arguing that *Olivarez* applied in their favor because it allowed the sellers to retain the partial payments made on the contract.<sup>21</sup> However, the Court of Appeals denied the Motion in a Resolution dated May 12, 2016.<sup>22</sup>

The Court of Appeals maintained that the cited portion of *Olivarez* did not apply to the Godinez Spouses’ case.<sup>23</sup> According to the Court of Appeals, *Olivarez* allowed the retention of the partial payments on the contract to sell only because the prospective buyers were “given full possession of the subject property.”<sup>24</sup> Since the Norman Spouses were not allowed such full possession, the amounts paid on the contract should be reimbursed to the Norman Spouses.<sup>25</sup>

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<sup>16</sup> Id. at 63.

<sup>17</sup> Id. at 64.

<sup>18</sup> 738 Phil. 737 (2014) [Per J. Leonen, Third Division].

<sup>19</sup> *Rollo*, pp. 67–68.

<sup>20</sup> Id. at 68.

<sup>21</sup> Id. at 73–75.

<sup>22</sup> Id. at 87–88.

<sup>23</sup> Id. at 88.

<sup>24</sup> Id. at 88.

<sup>25</sup> Id.

Thus, the Godinez Spouses filed before this Court a Petition for Certiorari under Rule 65, arguing that the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction by misapplying *Olivarez*. While petitioners agreed that the contract was one to sell, they asserted that the ruling in *Olivarez* actually justified their retention of the partial payments.<sup>26</sup>

According to petitioners, *Olivarez* allowed the prospective seller to retain the partial payments made by the prospective buyers, because the latter were placed in full possession of the subject property pending transfer of title. Here, petitioners alleged that although the Norman Spouses did not occupy the property, they were in full possession of it from August 23, 2006 to January 2007, having stored furniture, household appliances, and groceries in the property, and even having a caretaker occupy the premises.<sup>27</sup>

Petitioners also argued that the partial payments should be forfeited in their favor as reasonable rentals for their inability to derive income from the property. Petitioners admitted that this argument on reasonable rentals was raised for the first time on appeal, but claimed exception since issues presenting matters of public policy may be considered for the first time on appeal. According to petitioners, respondents stand to be unjustly enriched at petitioners' expense, as respondents have enjoyed possession of the housing unit without having to pay any rent.<sup>28</sup>

This Court dismissed the Petition for Certiorari for being an improper remedy, and for its failure to establish any grave abuse of discretion on the part of the Court of Appeals.<sup>29</sup>

Petitioners moved for reconsideration,<sup>30</sup> maintaining that a party's resort to a wrong remedy may be liberally construed in pursuit of substantial justice, and in view of the merits of their arguments. They insist that *Olivarez* allows them to retain respondents' partial payments since possession had been turned over to the latter pending transfer of title. Petitioners also argue that respondents' failure to actually reside within the housing unit does not detract from their full possession or occupation of the premises.<sup>31</sup>

On January 25, 2017, this Court issued a Resolution granting the Motion for Reconsideration, reinstating the Petition for Certiorari and requiring the Norman Spouses to file a comment.<sup>32</sup>

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<sup>26</sup> Id. at 13.

<sup>27</sup> Id. at 12.

<sup>28</sup> Id. at 15–16.

<sup>29</sup> Id. at 101.

<sup>30</sup> Id. at 91–100.

<sup>31</sup> Id. at 95.

<sup>32</sup> Id. at 101.

Respondents filed their Comment on April 3, 2017,<sup>33</sup> arguing that a petition for certiorari cannot substitute for a lost appeal. They assert that the petition was filed beyond the 15-day period for filing a petition for review, rendering the assailed decision of the Court of Appeals final. Respondents also point out that the petition did not raise any errors of jurisdiction, but instead raised errors of law.<sup>34</sup> Petitioners allegedly failed to discharge the burden of presenting “extraordinary circumstances which may justify a deviation from the rules on timely filing of appeals,”<sup>35</sup> thus, precluding a relaxation of procedural rules.

In any event, respondents argue that petitioners misconstrued the ruling in *Olivarez*. According to respondents, *Olivarez* allowed the sellers to retain the prospective buyer’s partial payments because the latter “illegally retained possession of the property for fourteen (14) long years and illegally withheld payments of the purchase price.”<sup>36</sup> The illegal possession and withholding of payment, as well as the subsequent sale of the property without notice to the buyer, were allegedly the “primary considerations” for allowing retention of the partial payments. Without these circumstances, *Olivarez* was allegedly inapplicable.<sup>37</sup>

On May 3, 2017, petitioners filed a Motion for Leave to File a Reply to respondents’ Comment, with their Reply attached.<sup>38</sup> The Motion was granted, and the Reply was noted in a subsequent Resolution.<sup>39</sup> Petitioners argue in their Reply that the reinstatement of the petition for certiorari already mooted any issue on the procedural vehicle’s propriety. They then reiterated that *Olivarez* applies because of the matters regarding the illegality of possession, illegality of withholding of payments, and absence of notice of subsequent sale to another buyer were irrelevant to *Olivarez*’s interpretation of when partial payments made on a contract to sell could be retained by the prospective seller. Rather, these circumstances were only relevant to the issue of whether or not rescission of the contract would have been proper.<sup>40</sup>

The issue for this Court’s resolution is whether or not the Court of Appeals committed grave abuse of discretion when it dismissed petitioners’ appeal and ordered the reimbursement of the amounts paid by respondents.

Preliminarily, this Court is tasked with resolving whether or not petitioners’ recourse to a petition for certiorari is proper.

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<sup>33</sup> Id. at 107–114.

<sup>34</sup> Id. at 107–108.

<sup>35</sup> Id. at 110.

<sup>36</sup> Id.

<sup>37</sup> Id.

<sup>38</sup> Id. at 116–127.

<sup>39</sup> Id. at 128.

<sup>40</sup> Id. at 120.

On substantive matters, this Court must resolve whether or not the prospective buyer's failure to fully pay the purchase price on a contract to sell may result in the forfeiture of such partial payments absent a stipulation to that effect.

This Court grants the petition.

## I

While petitioners raise errors of judgement that fall outside the purview of the remedy sought, procedural rules may be relaxed in view of the ultimate goal of rendering substantive justice:

The law abhors technicalities that impede the cause of justice. The court's primary duty is to render or dispense justice. "It is a more prudent course of action for the court to excuse a technical lapse and afford the parties a review of the case on appeal rather than dispose of the case on technicality and cause a grave injustice to the parties, *giving a false impression of speedy disposal of cases* while actually resulting in more delay, if not miscarriage of justice."<sup>41</sup> (Emphasis in the original, citation omitted)

*Microsoft Corp. v. Best Deal Computer Center*<sup>42</sup> teaches that a petition for certiorari corrects only errors of jurisdiction, and cannot correct errors of judgment. As such, a Rule 65 petition "must raise not errors of judgment but the acts and circumstances showing grave abuse of discretion amounting to lack or excess of jurisdiction."<sup>43</sup>

Petitioners cite *Olivarez Realty Corporation v. Castillo*,<sup>44</sup> indicating that the amounts already paid to the sellers under a contract to sell may be retained when the prospective buyers were placed in possession of the property prior to transfer of ownership. Petitioners are clearly arguing a point of law, which is correctible by an appeal and not by a petition for certiorari.<sup>45</sup>

While a petition for certiorari may not substitute for a lost appeal,<sup>46</sup> this rule is not absolute. *Punongbayan-Visitacion v. People*<sup>47</sup> discussed instances when procedural rules may be relaxed:

<sup>41</sup> *Heirs of Zaluda v. Zaluda*, 729 Phil. 639, 651 (2014) [Per J. Mendoza, Third Division].

<sup>42</sup> 438 Phil. 408, 413 (2002) [Per J. Bellosillo, Second Division].

<sup>43</sup> *Philippine National Bank v. Gregorio*, 818 Phil. 321, 337 (2017) [Per J. Jardeleza, First Division].

<sup>44</sup> 738 Phil. 737 (2014) [Per J. Leonen, Third Division].

<sup>45</sup> *Microsoft Corp. v. Best Deal Computer Center*, 438 Phil. 408, 413 (2002) [Per J. Bellosillo, Second Division].

<sup>46</sup> *Malayang Manggagawa ng Stayfast Phils., Inc. v. National Labor Relations Commission*, 716 Phil. 500, 513 (2013) [Per J. Leonardo-De Castro, First Division].

Nevertheless, the general rule that an appeal and a *certiorari* are not interchangeable admits exceptions. In *Department of Education v. Cuanan*, the Court exercised liberality and considered the petition for *certiorari* filed therein as an appeal:

The remedy of an aggrieved party from a resolution issued by the CSC is to file a petition for review thereof under Rule 43 of the Rules of Court within fifteen days from notice of the resolution. Recourse to a petition for *certiorari* under Rule 65 renders the petition dismissible for being the wrong remedy. Nonetheless, there are exceptions to this rule, to wit: (a) when public welfare and the advancement of public policy dictates; (b) when the broader interest of justice so requires; (c) when the writs issued are null and void; or (d) when the questioned order amounts to an oppressive exercise of judicial authority. As will be shown forthwith, exception (c) applies to the present case.<sup>48</sup> (Citation omitted, emphasis supplied)

In *Punongbayan-Visitacion*, petitioner filed a petition for *certiorari* before the Court of Appeals, which was dismissed for being an improper remedy. Upon reaching this Court, it was held that a petition for *certiorari* may be treated as an appeal if the “interest of substantial justice warrants the relaxation of the rules.”<sup>49</sup> Further, in *Curammeng v. People*,<sup>50</sup> procedural rules were relaxed “where strong considerations of substantive justice are manifest in the petition.”<sup>51</sup>

Likewise, an argument raised for the first time on appeal may still be considered in order to recognize “jurisprudential developments since the RTC decision and the needs for substantial justice.”<sup>52</sup> *Olivarez* was decided in 2014, and clarified relevant points of law that may not have been apparent to the lower courts at the time. Thus, petitioners’ argument regarding “reasonable rentals” may be duly considered.

While *Punongbayan-Visitacion* stressed the importance of timeliness in filing a petition for *certiorari*, even compliance with prescriptive periods may be relaxed when “the application of the Rule would tend to frustrate rather than promote justice.”<sup>53</sup> In *Tan v. Bausch & Lomb*<sup>54</sup> this Court excused the delay in the filing of the petition for *certiorari* “on the basis of

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<sup>47</sup> *Punongbayan-Visitacion v. People of the Philippines*, G.R. No. 194214, January 10, 2018, 850 SCRA 222 [Per J. Martires, Third Division].

<sup>48</sup> *Id.* at 231.

<sup>49</sup> *Id.* at 232.

<sup>50</sup> 799 Phil. 575 (2016) [Per J. Perlas-Bernabe, First Division].

<sup>51</sup> *Id.* at 581.

<sup>52</sup> *Punongbayan-Visitacion v. People of the Philippines*, G.R. No. 194214, January 10, 2018, 850 SCRA 222, 233 [Per J. Martires, Third Division].

<sup>53</sup> *Nala v. Barroso*, 455 Phil. 999, 1006 (2003) [Per J. Ynares-Santiago, First Division].

<sup>54</sup> 514 Phil. 307 (2005) [Per J. Corona, Third Division].



equity to afford respondent the chance to prove the merits of the complaint.”<sup>55</sup>

Needless to state, the acceptance of a petition for *certiorari* as well as the grant of due course thereto is, in general, addressed to the sound discretion of the court.

Besides, *the provisions of the Rules of Court, which are technical rules, may be relaxed in certain exceptional situations. Where a rigid application of the rule that certiorari cannot be a substitute for appeal will result in a manifest failure or miscarriage of justice, it is within our power to suspend the rules or exempt a particular case from its operation.*

....

Likewise, *the one-day delay in the filing of the petition may be excused on the basis of equity to afford respondent the chance to prove the merits of the complaint.*<sup>56</sup> (Citations omitted, emphasis supplied)

Thus, the merits of the petition and the need to accord substantial justice should outweigh a petition’s nomenclature and the parties’ procedural lapses.

## II

Having resolved the procedural issues regarding the propriety of the remedy sought, this Court now resolves the substantive issues raised by petitioner’s claims. Based on the parties’ allegations, the key issue pertains to the applicability of *Olivarez Realty Corporation v. Castillo*,<sup>57</sup> which similarly involves the retention of partial payments made on a failed contract to sell.

*Olivarez* involved the sale of a parcel of land, which the buyer undertook to pay in several installments. The parties executed a deed of conditional sale, stipulating that in addition to the installment payments, the buyer would also institute the necessary legal actions to clear the property of tenants, and of an adverse claim by the Philippine Tourism Authority. It was also stipulated that the buyer could immediately take possession of the property after signing the deed of conditional sale, which it did.

However, the deed of absolute sale would be executed by the seller only after the full payment of the purchase price. While the buyer was able to pay a portion of the agreed purchase price, it failed to pay the succeeding installments and to institute the legal action required under the contract. This led the seller to rescind the contract. However, in view of the buyer’s

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<sup>55</sup> Id. at 313.

<sup>56</sup> Id.

<sup>57</sup> 738 Phil. 737 (2014) [Per J. Leonen, Third Division].

14-year occupancy of the premises without full payment of the purchase price, the sellers also sought to have the partial payments forfeited in their favor.<sup>58</sup>

The foregoing circumstances allowed this Court to rule that the contract between the parties in *Olivarez* was a contract to sell. As such, this Court made the following pronouncements as to the effects of the buyer's failure to fully pay the purchase price on a contract to sell.

As this case involves a contract to sell, Article 1191 of the Civil Code of the Philippines does not apply. *The contract to sell is instead cancelled, and the parties shall stand as if the obligation to sell never existed.*

.....

As for prospective sellers, *this court generally orders the reimbursement of the installments paid for the property when setting aside contracts to sell. This is true especially if the property's possession has not been delivered to the prospective buyer prior to the transfer of title.*

*In this case, however, Castillo delivered the possession of the property to Olivarez Realty Corporation prior to the transfer of title. We cannot order the reimbursement of the installments paid.*

In *Gomez v. Court of Appeals*, the City of Manila and Luisa Gomez entered into a contract to sell over a parcel of land. The city delivered the property's possession to Gomez. She fully paid the purchase price for the property but violated the terms of the contract to sell by renting out the property to other persons. This court set aside the contract to sell for her violation of the terms of the contract to sell. *It ordered the installments paid forfeited in favor of the City of Manila "as reasonable compensation for [Gomez's] use of the [property]" for eight years.*

In this case, Olivarez Realty Corporation failed to fully pay the purchase price for the property. It only paid PhP2,500,000.00 out of the PhP19,080,490.00 agreed purchase price. Worse, petitioner corporation *has been in possession of Castillo's property for 14 years since May 5, 2000 and has not paid for its use of the property.*

Similar to the ruling in *Gomez*, we order the PhP2,500,000.00 forfeited in favor of Castillo as *reasonable compensation for Olivarez Realty Corporation's use of the property.*<sup>59</sup> (Emphasis supplied, citations omitted)

*Olivarez* also cited the case of *Gomez v. Court of Appeals*,<sup>60</sup> where this Court clarified that partial payments on a failed contract to sell may be retained by the seller as "reasonable compensation for use of the [property]."

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<sup>58</sup> Id. at 744-747.

<sup>59</sup> Id. at 765-767.

<sup>60</sup> 395 Phil. 115 (2000) [Per J. Buena, Second Division].

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Applying the foregoing, we are of the considered view that the payment of the purchase price of P3,556.00, constitutes *fair and reasonable rental for the period in which said property was under the control of awardee Luisa Gomez, her heirs and successors-in-interest*. Undeniably, the awardee together with her heirs and successors-in-interest, *have gained benefits, financial or otherwise, for a period of eight years — from the time of actual award of the lot to the time of cancellation thereof (1978-1986).*<sup>61</sup> (Emphasis supplied)

The same circumstances are present here. The parties entered into an oral contract to transfer the leasehold rights over a housing unit at an agreed price of US\$175,000.00.<sup>62</sup> They do not dispute the Court of Appeals' finding that the oral contract is a contract to sell. However, respondents dispute whether or not cancelling such a contract would entail the consequences discussed in *Olivarez*.

This Court finds the application of *Olivarez* in order.

Here, petitioners turned over possession of the premises to respondents after the latter made partial payments amounting to US\$10,000.00. Respondents then moved their furniture and groceries into one of the housing unit's rooms and also hired a house helper to watch over the premises in the interim.<sup>63</sup> Respondents made subsequent payments, bringing its total to US\$40,000.00, but the contract to sell still failed to take effect because of respondents' subsequent default in paying the balance. During this five (5) month period, petitioners were unable to enjoy their property despite retaining a key to the premises.<sup>64</sup> Thus, petitioners should have been compensated for respondents' use of the property, consistent with *Olivarez*.

The conversion of partial payments into rentals is also consistent with Article 1378 of the Civil Code, which teaches that doubts in the interpretation of onerous contracts "should be settled in favor of the greatest reciprocity of interests."<sup>65</sup> We find it only proper that respondents reciprocate their use of the premises with the payment of rentals while full payment on their contract to sell was still pending.

*Olivarez* also recognized that compensation for use of the property must be reasonable. In *Olivarez*, this Court allowed the seller to retain the partial payments because the buyers possessed and used the property without paying rentals. Likewise, *Gomez* considered the "benefits, financial or

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<sup>61</sup> Id. at 130.

<sup>62</sup> *Rollo*, p. 53.

<sup>63</sup> Id. at 55.

<sup>64</sup> Id. at 55-56.

<sup>65</sup> *Philippine National Construction Corporation v. Mars Construction Enterprises*, 382 Phil. 510, 514 (2000) [Per J. Panganiban, Third Division].

otherwise”<sup>66</sup> enjoyed by the buyer in determining whether or not to retain partial payments as reasonable compensation. In both cases, the sellers were unable to use their respective properties because the buyers were in possession thereof.

While there is no definitive legal standard for computing reasonable rentals on residential properties, this Court notes that US\$40,000.00 amounts to 22.9%, or over a fifth, of the total purchase price of petitioner’s housing unit, which is not commensurate to the value respondents may have derived from their four (4) month possession of the property. While respondents’ possession prevented petitioners from using the premises, even petitioners recognized that respondents did not actually occupy the housing unit.<sup>67</sup> There is also no evidence before this Court indicating the “benefits, financial or otherwise,”<sup>68</sup> that respondents may have derived from their possession. Thus, respondents’ limited use of the premises requires us to temper the amount of partial payments that petitioners may reasonably retain.

Determining reasonable rentals would depend on the circumstances of the parties, the nature of the property being rented, and the prevailing situation in the relevant market at the time of the transaction, among others. Ordinarily, this would require reception of evidence, and thus, a remand of the case to the lower courts. However, in order to speedily dispose of this case, and in view of the time already spent litigating this issue, a recourse to the analogous case of *Olivarez* is proper.

In *Olivarez*, this Court effectively allowed the prospective seller to convert partial payments to rentals, with such rentals amounting to 13.1% of the property’s total purchase price. Having already determined the applicability of the *Olivarez* ruling on the retention of partial payments, the circumstances of this case would warrant the retention of a similar amount. Thus, rentals for the housing unit may be set at 13.1% of the US\$175,000.00 total purchase price, or US\$22,925.00. Petitioners may, therefore, retain US\$22,925.00 of the US\$40,000.00 partially paid by respondents, but must return the remaining US\$17,075.00 to respondents.

The Court of Appeals’ insistence that compensation is not warranted because respondents were unable to fully occupy the property is unmeritorious. *Olivarez*<sup>69</sup> and *Gomez*<sup>70</sup> both allowed the retention of partial payments as reasonable compensation for the prospective buyer’s possession or use of the property. Full occupation of the premises is not required; neither is this Court persuaded by respondents’ argument that *Olivarez* does not apply because respondents did not illegally withhold possession of the

<sup>66</sup> *Gomez v. Court of Appeals*, 395 Phil. 115, 130 (2000) [Per J. Buena, Second Division].

<sup>67</sup> *Rollo*, p. 122.

<sup>68</sup> *Gomez v. Court of Appeals*, 395 Phil. 115, 130 (2000) [Per J. Buena, Second Division].

<sup>69</sup> *Olivarez Realty Corporation v. Castillo*, 738 Phil. 737 (2014) [Per J. Leonen, Third Division].

<sup>70</sup> *Gomez v. Court of Appeals*, 395 Phil. 115 (2000) [Per J. Buena, Second Division].

premises or of payment of the purchase price. The payment of reasonable rentals is not meant to punish the illegality of respondents' actions, but to compensate petitioners' inability to enjoy or use its own property.<sup>71</sup> Here, the record shows that petitioners were unable to use the property for the duration of their contract with respondents.<sup>72</sup> Thus, this Court finds that the partial payments made by respondents may be converted into rentals.

As to the parties' claims for damages, this Court reiterates that respondents' failure to fully pay the purchase price effectively cancelled the contract to sell. As such, "the parties shall stand as if the obligation to sell never existed."<sup>73</sup> Since the contract to sell was effectively nonexistent, there was no basis for the alleged violations that would have given rise to damages.

As to the payment of attorney's fees, *ABS-CBN v. Court of Appeals*<sup>74</sup> is instructive.

The general rule is that *attorney's fees cannot be recovered as part of damages because of the policy that no premium should be placed on the right to litigate*. They are not to be awarded every time a party wins a suit. The power of the court to award attorney's fees under Article 2208 demands factual, legal, and equitable justification. *Even when a claimant is compelled to litigate with third persons or to incur expenses to protect his rights, still attorney's fees may not be awarded where no sufficient showing of bad faith could be reflected in a party's persistence in a case other than an erroneous conviction of the righteousness of his cause.*<sup>75</sup> (Emphasis supplied, citations omitted)

Respondents did not act in bad faith when they sought the return of their partial payments. Attorney's fees are, therefore, unwarranted in this case.

**WHEREFORE**, the Petition for Certiorari is **GRANTED**. The Court of Appeals' Decision, promulgated on October 26, 2015, and its Resolution promulgated on May 12, 2016, are hereby **REVERSED** and **SET ASIDE**. Likewise, the Regional Trial Court's December 20, 2013 Decision is hereby **REVERSED** and **SET ASIDE**.

Of the partial payments amounting to US\$40,000.00 made by respondents Andrew T. Norman and Janet A. Norman, US\$22,925.00 is considered reasonable rentals paid for use of the property of petitioners Rene

<sup>71</sup> *Car Cool Philippines, Inc. v. Ushio Realty and Development Corporation*, 515 Phil. 376, 383 (2006) [Per J. Carpio, Third Division].

<sup>72</sup> *Rollo*, pp. 55–56.


<sup>73</sup> *Olivarez Realty Corporation v. Castillo*, 738 Phil. 737, 765 (2014) [Per J. Leonen, Third Division], citing *Heirs of Atienza v. Espidol*, 642 Phil. 408 (2010) [Per J. Abad, Second Division].

<sup>74</sup> 361 Phil. 499 (1999) [Per C.J. Davide, First Division].

<sup>75</sup> *Id.* at 529.

Luis Godinez and Shemayne Godinez. Petitioners Rene Luis Godinez and Shemayne Godinez are, however, ordered to return US\$17,075.00 of the US\$40,000.00 to respondents Andrew T. Norman and Janet A. Norman.


**SO ORDERED.**

  
**MARVIC M.V.F. LEONEN**  
Associate Justice

WE CONCUR:

  
**ALEXANDER G. GESMUNDO**  
Associate Justice


  
**ROSMARIE D. CARANDANG**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

On leave  
**SAMUEL H. GAERLAN**  
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.

  
**MARVIC M.V.F. LEONEN**  
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.



**DIOSDADO M. PERALTA**  
Chief Justice