

G.R. No. L-2886

[G.R. No. L-2886. December 22, 1952]

GREGORIO ARANETA, INC., PLAINTIFF AND APPELLANT VS. PAZ TUASON DE PATERNO AND JOSE VIDAL, DEFENDANTS AND APPELLANTS.

R E S O L U T I O N

TUASON, J.:

The motion for reconsideration of the plaintiffs Gregorio Araneta, Inc., and the defendant, Paz Tuason de Paterno, are in large part devoted to the question, extensively discussed in the decision, of the validity of the contract of sale Exhibit "A". The arguments are not new and at least were given due consideration in the deliberation and study of the case. We find no reason for disturbing court decision on this phase of the case.

The plaintiff-appellant's alternative proposition to wit: "Should this Honorable Court declare that the purchase price was not paid and that plaintiff has to bear the loss due to the invalidation of the occupation currency, its loss should be limited to: (a) the purchase price Php.139,083.32 less Php.47,825.70 which plaintiff paid and the defendant actually collected during the occupation, or the sum of Php.92,233.32, or at most, (b) the purchase price of the lot in the sum of Php.139,083.82,"-as well as the alleged overpayment by the defendant-appellee, may be taken up in the liquidation under the reservation for the purpose of liquidation under the reservation in the judgment that "The court (below) shall hold a rehearing for the purpose of liquidation as herein provided" and "shall also hear and decide all other controversies relative to the liquidation which may have been overlooked in this decision, in the manner not inconsistent with the above findings and judgment."

These payments and disbursements are matters of accounting which, not having been put directly in issue or given due attention at the trial and in the appealed decision, can better be threshed out in the purposed rehearsing where each party will have opportunity to put forward his views and reasons, with supporting evidence if necessary, on how the various items in question should be regarded and credited, in the light of our decision.

As to Jose Vidal's motion: There is nothing to add or to detract from what has been said in the decision relative to the interest on the loans and attorney's fees. There are no substantial feature of the case that have not been weighed carefully in arriving at our conclusions. It is our considered opinion that the decision is in accord with law, reason and equity.

The vehement protest that this Court should not modify the conclusion of the lower court on interest and attorney's fees is actually and entirely contrary to the cross-claimant's own suggestion in his brief. From page 20 of his brief, we copy these passages:

"We submit that this Hon. Court is in a position now to render judgment in the foreclosure of mortgage suit as no further issue of fact need be acted upon by the trial court. Defendant Paz Tuason has admitted the amount of capital due. That is a fact. She only requests that interest be granted up to October 20, 1943, and that moratorium law be applied. Whether this is possible or not is a legal question, which can be decided by the Court. Unnecessary loss of time and expenses to the parties herein will be avoided by this Hon. Court by rendering judgment in the foreclosure of mortgage suit as follows:

"x x x x x x x x x x x x x"

In reality, the judgment did not adjudicate the foreclosure of the mortgage nor did it fix the amount due on the mortgage. The pronouncement that the mortgage was in full force and effect was a conclusion which the mortgage did not and does not now question. There was therefore virtually no decision that could be executed.

Vidal himself moved in the Court of First Instance for amendment of the decision alleging, correctly, that "the court failed to act on the cross-claim of Jose Vidal dated April 22, 1947, where he demanded foreclosure of the mortgage x x x." That motion like Paz Tuason's motion to complete the judgment was summarily denied.

In strict accordance with the procedure, the case should have been remanded to the court of origin for further proceedings in the form stated by Paz Tuason's counsel. Both the mortgage and the mortgage agree on this. We did not follow the above course believing it best, in the interest of the parties themselves and following Vidal's attorney's own suggestion, to decide the controversies between Vidal and Paz Tuason upon the records and the brief's already submitted.

The three motions for reconsideration are denied.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ.,
concur.

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