

SPOUSES ISIDRO AND MARIETA ROFLO, PLAINTIFFS-APPELLANTS, VS. MRS. MARINA VDA. DE MAYOL, DEFENDANT-APPELLEE.

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BORJA, J.,:

This treats of plaintiffs-appellants' motion[1] seeking reconsideration of this Court's October 25, 2012 Decision denying the appeal and affirming the RTC's February 3, 2008 Decision in Civil Case No. 6871.[2]

In their motion, movants advance the following grounds for the consideration of this Court –

a)

The Memorandum Agreement dated June 7, 1993 prevails over the March 1993 Agreement;

b)

Under either Section 119 of CA 141, or Article 1606, Civil Code, Appellants are still entitled to exercise legal redemption of land acquired through free patent.

Movants stress that the aforementioned agreements were both declared valid by the lower court. The June 7, 1993 agreement between the parties should prevail considering that three months after the previous agreement (March 1993 Agreement) was executed, the parties changed their minds and decided to an absolute sale with additional consideration and condition. The parties impliedly abandoned the first agreement and the subsequent agreement expressed their true intent.

Movants further claim that under either Section 119 of CA 141 or Article 1606 of the Civil Code, they still have the time to exercise legal redemption. Movants submit that ownership over the land sold requires judicial action to consolidate title by the buyer a retro. After the court renders a judgment, the seller a retro is still entitled to exercise redemption within thirty days from date of finality of judgment.

Movants' claim is without merit.

In the herein assailed Decision, this Court held thus –

It is evident, therefore, that Mayol acquired ownership of the land in question upon the execution of the Deed of Sale with Right to Repurchase in March 1993. The redemption period must be reckoned from the date of the execution of the contract conveying the property.

In the instant case, the parties agreed that the Spouses Roflo could not exercise their right of redemption within six years from the date of the execution of the instrument. The Deed of Sale with Right to Repurchase was executed in March 1993. Hence, the Spouses Roflo could not exercise their right of redemption until March 1999. Since the parties failed to stipulate the period of time within which when the Spouses Roflo can exercise their right to redeem after the lapse of the 6[th] year, the provision of the Civil Code will apply. Article 1606 of the Civil Code states:

Art. 1606. The right referred to in Article 1601, in the absence of an express agreement, shall last four years from the date of the contract.

Should there be an agreement, the period cannot exceed ten years.

However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase.

[Italics added]

Applying the second paragraph of Article 1606 of the Civil Code, appellants still had four years after the end of the 6[th] year to exercise their right to redeem the property. Nonetheless, they failed to exercise their right of repurchase within the said period. Accordingly, it follows that appellants' claim over the property has already been forfeited, while the title of Mayol over it has become consolidated with all the rights thereunto appertaining.

Upon a careful study of the points raised in the present appeal, the Court agrees with the RTC that appellants can no longer exercise their right to repurchase the subject property inasmuch as the stipulated period to redeem the same had already expired.

Anent movants' contention that they, being the seller a retro, are still entitled to exercise redemption within thirty days from date of finality of judgment, deserves scant consideration.

The applicability of the third paragraph of Article 1606 was thoroughly explained by the Supreme Court in *Abilla v. Gobonseng*,^[3] thus -

The above-quoted provision applies only where the nature and character of the transaction – whether as a pacto de retro sale or as an equitable mortgage – was put in issue before the court.^[4] In other words, it applies in a situation where, in a case, one of the contending parties claims that the transaction was a sale with right to repurchase and the other counters that the same was an equitable mortgage, and the court declares in a final judgment that the transaction was really a sale with pacto de retro.

xxx xxx xxx

In *Vda. de Macoy*,^[5] citing the earlier ruling in *Felicen, Sr. v. Orias*,^[6] we held:

The application of the third paragraph of Article 1606 is predicated upon the bona fides of the vendor a retro. It must appear that there was a belief on his part, founded on facts attendant upon the execution of the sale with pacto de retro, honestly and sincerely entertained, that the agreement was in reality a mortgage, one not intended to affect the title to the property ostensibly sold, but merely to give it as security for a loan or other obligation. In that event, if the matter of the real nature of the contract is submitted for judicial resolution, the application of the rule is meet and proper; that the vendor a retro be allowed to repurchase the property sold within 30 days from rendition of final judgment declaring the contract to be a true sale with right to repurchase. Conversely, if it should appear that the parties' agreement was really one of sale — transferring ownership to the vendee, but accompanied by a reservation to the vendor of the right to repurchase the property — and there are no circumstances that may reasonably be accepted as generating some honest doubt as to the parties' intention, the proviso is inapplicable. The reason is quite obvious. If the rule were otherwise, it would be within the power of every vendor a retro to set at naught a pacto de retro, or resurrect an expired right of repurchase, by simply instituting an action to reform the contract — known to him to be in truth a sale with pacto de retro — into an equitable mortgage. xxx xxx xxx.

Hence, the third paragraph of Article 1606 is intended to cover suits where the seller claims that the real intention was a loan with equitable mortgage but the trial court decides otherwise.

In the case at bar, the parties expressly admitted that in March 1993, the parties executed and signed a deed of sale with the right to repurchase. It was also admitted by the parties that on June 7, 1993, they signed a memorandum

of agreement wherein the subject land was to be sold to the appellee in the total amount of P170,000.00 and there was only a balance of P28,000.00.[7]

Moreover, the following issues were agreed by the parties before the lower court, thus –

- Whether or not the plaintiffs can exercise redemption.
- If so, how much is the redemption price.[8]

Clearly, therefore, whether the transaction between the parties was a sale with pacto de retro or an equitable mortgage was never put in issue. Undoubtedly, the agreement between them, as can be inferred from the facts, was in reality a sale with pacto de retro. Thus, the third paragraph of Article 1606 is not applicable in favor of the movants.

In fine, there is no cogent reason for this Court to disturb the October 25, 2012 Decision.

ACCORDINGLY, plaintiffs-appellants' Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.

Camello[*]and Contreras[*], JJ., concur.

[*] Vice J. Badelles, who inhibited, per raffle dated May 8, 2014.

[*] Vice J. Singh, who is on leave, per raffle dated May 15, 2014.

[1] Rollo, pp. 79-83.

[2] Rollo, pp. 65-78.

[3] G.R. No. 146651, August 6, 2002.

[4] V Tolentino, Civil Code of the Philippines, 166 1992.

[5] 206 SCRA 244 1992.

[6] 156 SCRA 586, at 589-590 1987.

[7] Pages 4-5 of the Appellants' Brief; Rollo, pp. 15-16.

[8] Id. at p. 16.

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