

IN RE: PETITION FOR CONSOLIDATION OF OWNERSHIP OF REAL PROPERTY, ANGEL FUNIESTAS, PETITIONER AND APPELLEE, VS. SEVERO ARCE, RESPONDENT AND APPELLANT.

G.R. No. L-15891. February 29, 1964

Ponente: DIZON, J.

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DIZON, J.:

On July 10, 1948, Severo Arce executed a document entitled "Deed 797 of Sale with the Right to Repurchase of Real Property". in relation to a parcel of riceland situated in Barrio Feria, San Felipe, Zambales, in favor of Angel Funiestas, for the sum of P2,750.00. The contract provided that the vendor, his heirs, executors, administrators or assigns, could repurchase the property with- in ten years from the date of its execution, and that, upon their failure to do so, absolute title thereto shall vest, in the vendee without the need of executing another deed to that effect.

The vendor having failed to redeem the property within the stipulated period, Funiestas filed on December 10, 1958 with the Court of First Instance of Zambales (Civil Case No. 145) a petition to consolidate his ownership over the property. Arce opposed the petition alleging, (1) that the purchase price was inadequate; (2) that petitioner failed to make a demand upon him to redeem the property one year prior to the expiration of the ten-year redemption period, as had been agreed upon verbally between them. As a result he prayed that he be allowed an extension of one year from the date of his opposition within which to effect the repurchase.

In an order dated January 16, 1959, the Court referred the case to the Clerk of Court for the presentation of evidence in view of the questions of fact arising from their pleadings. However, as far as the record discloses, no such evidence was ever presented. On the other hand, on January 31 of the same year, the Court issued another order to the effect that, as the question for resolution was merely one of law, the parties should submit "their simultaneous memoranda on the matter". This they did, and thereafter the court issued the order appealed from declaring "the ownership of petitioner over the land more particularly described in the pacto de retro sale Annex 'A', * * * consolidated" (Record on Appeal, p. 29).

The findings of the Court to the effect that the question involved was merely one of law (Record on Appeal, pp. 18-19) and that there was "no question as to the nature of the contract entered into between the parties" (Ibid, pp. 28-29) are not supported by the record. Aside from the allegations made in appellant's opposition mentioned heretofore which obviously raised questions of fact appellant, in his memorandum (Record on Appeal, p. 22) maintained that the true contract between the parties was not a sale with right to repurchase but ,one "of pledge" (meaning probably equitable mortgage). Consequently, the basic petition should not have been resolved without requiring the parties to submit their respective evidence on the questions of fact involved.

WHEREFORE, the order appealed from is hereby set aside, and the case is remanded to the lower court for further proceedings. Without costs.

Bengzon, C. J., Padilla, Bautista Angelo, Concepción, Reyes, J. B. L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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