

FELIPA FERIA, CARLOS F. CRUZ, CLARA DE LA CRUZ, LEONILA DE LA CRUZ, PETRONILA DE LA CRUZ, ROSARIO DE LA CRUZ, FAUSTINO DE LA CRUZ AND RUFINO DE LA CRUZ, PLAINTIFFS AND APPELLANT...

G. R. No. L-5515. April 24, 1953

Ponente: LABRADOR, J.

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LABRADOR, J.:

This is an appeal from a judgment of the Court of First Instance of Nueva Ecija dismissing a complaint filed by plaintiffs-appellants on the ground of *res adjudicata*, i.e., that the right sought to be enforced has already been previously decided adversely against them in a judgment of the Court of Appeals.

The record disclose that plaintiff herein conveyed to the defendant on April 18, 1938, by way of sale with the right to repurchase, a parcel of land, together with its improvements, situated in the District of Cruz, Municipality of Quezon, Province of Nueva Ecija, executing to that effect a deed of sale with *pacto de retro*. On September 14, 1944, plaintiffs, who were the vendors a *retro*, brought an action in the Court of First Instance of Nueva Ecija alleging the existence of said *pacto de retro* sale, and praying that they be allowed to redeem the property, as the defendant had agreed to re-sell the property after the harvest of 1943-1944. The defendant in that previous action, who is also the defendant herein, admitted the existence of the contract of *pacto de retro*, but denied that he had ever allowed the plaintiffs to make a redemption of the property in the year 1944, after the expiration of the period fixed for the repurchase, as claimed by the plaintiffs. Trial having been had on the above issue, the Court of First Instance of Nueva Ecija found that the original term fixed for the redemption was not extended and, therefore, dismissed the complaint. The case was appealed to the Court of Appeals, but this court affirmed the judgment of the trial court. It found that the transaction was a true sale with right to repurchase, that there was no extension of the period of redemption, and that no tender of the purchase price was made in due time. It, therefore, affirmed the judgment in so far as the denial of the right to redeem was concerned, although it modified it in the sense of making the sale ineffective with respect to the share of two co-owners of the property, who had not participated in the sale.

The present action was filed on October 14, 1951, exactly one day after the judgment rendered by the Court of Appeals in the previous action had become final. The complaint alleges that the Court of Appeals found that the contract entered into by the parties was a sale with right to repurchase, but that the plaintiffs were confused and were not clear about the date when the repurchase should have been made. The complaint further alleges that on October 9, 1951, plaintiffs herein had demanded that the defendant allow them to repurchase the land, offering the full amount of the price, but that the defendant ignored the said offer. The action is evidently brought under the provisions of the last paragraph of article 1606 of the Civil Code of the Philippines, which is as follows:

ART. 1606. * * *.

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.

After the complaint was filed, the defendant presented a motion to dismiss on the ground that the action is barred by the prior judgment of the Court of Appeals. The court sustained the motion and dismissed the complaint, and the plaintiffs-appellants have appealed. It is contended on their behalf that the Court of Appeals did not pass upon the applicability of Article 1606 of the Civil Code of the Philippines. It is further claimed that the above provision may be invoked, in view of the express provision of article 2253 ordaining that rights declared for the first time shall be effective at once.

The pertinent part of the decision of the Court of Appeals is as follows:

As to the nature of the original transaction represented by Exhibit A, that the complaint expressly avers that plaintiffs executed a pacto de retro sale in favor of defendant, with option on the part of herein plaintiffs to repurchase said parcel of land within five years from April 18, 1938 (Rec. on App., pp. 2-3), and that a copy of the deed was made part of the complaint as Annex A (Rec. on App., p. 12 et seq.), without any allegation that it did not express the true intent of the parties; and the answer expressly admitted such pacto de retro sale. The case was tried on that theory, and the counsel for defendant in fact objected at the trial to any reference to the transaction as "mortgage."

* * * * *

As to article 1602, 1603, 1605 and 1606 of the New Civil Code, we find no reason for applying their presumptions retroactively to a transition that took place in 1938, which both parties have specifically pleaded to be a sale with pacto de retro, and which was tried on that theory one year before the new Code became operative.

(Record on Appeal, pp. 19-20, 21-22.)

A cursory study of the decision readily shows that the Court of Appeals did not refuse to apply the provisions of the New Civil Code. It expressly applied article 1606 but it denied the right granted thereunder because the transaction was, in the very words of the decision, "specifically pleaded to be a sale with pacto de retro and was tried on that theory." The last paragraph of said article 1606 provides that "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." One of the members of the Code Committee, commenting on the afore-quoted provision, says:

Paragraph three of the article is a new provision formulated by the Code Commission. It is intended to cover suits where the seller claims that the real intention was a loan with equitable mortgage, but the court decides otherwise. (IV Capistrano on the Civil Code, p. 1507)

The refusal of the Court of Appeals to grant the plaintiffs-appellants the privilege of redemption under the above-quoted provision of article 1606 of the New Civil Code was based on the fact that the nature and character of the transaction as a pacto de retro sale or as an equitable mortgage was never in question before the trial court, the transaction being admittedly one of sale with pacto de retro.

But even if the decision of the Court of Appeals be interpreted in the sense indicated by appellants, i.e., that the transaction is not covered by the provisions of article 1606 of the New Civil Code because it took place before the latter took effect, and the action thereon brought before the said code took effect, a claim which we do not now decide being unnecessary, the said decision would still bar the present action. The finality of decisions would still bar the present action. The finality of decisions of courts is not dependent upon their correctness, but upon the expiration of the period fixed by the rules thereof. (Layda vs. Legazpi, 39 Phil., 83.) Evidently, as indicated in appellee's brief, the question now raised was actually passed upon adversely by the Court of Appeals in a

resolution on a motion for reconsideration, and also by this Court in G. R. No. L-5025. From whatever point the decision of the Court of Appeals may be considered, it is evident that the present action is barred thereby.

The order appealed from is hereby affirmed, with costs against the plaintiffs-appellants.

Paras, C. J., Feria, Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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