

JOSE L. GOMEZ ET AL., PETITIONERS, VS. MIGUELA TABIA, RESPONDENT.*G.R. No. L-1826. August 05, 1949*

Ponente: MONTEMAYOR, J.

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This case originated from the Court of First Instance of Laguna where Jose L. Gomez and his wife Sinforasa Azores, claiming to be owners and in actual possession of a parcel of land covered by T. T. No. 19817, filed an action against Miguela Tabia for the purpose of securing judgments: (a) compelling the defendant to disclose the facts upon which she based her claim to the property; (b) declaring thereafter that the defendant has no title or interest said parcel; (c) declaring plaintiffs' title thereto as valid and binding as against the whole world; and, (d) perpetually restraining defendant from asserting her supposed rights to said real property. The action by the plaintiffs was founded on a deed of sale with pacto de retro, Exhibit A executed by the defendant Miguela in favor of the plaintiffs on June 24, 1944, on the parcel above referred to for the sum of P5,000 in Japanese military notes. The stipulation about the redemption by the defendant is contained in the following paragraph of the deed:

"That our agreement is to the effect that within 30 days after the expiration of one year from June 24, 1944, the aforementioned land may be redeemed or repurchased 'sa ganito ding halaga' (at the same price), and should the said land be not redeemed, the spouses Jose L. Gomez and Sinforosa Azores shall be the owners thereof, and this sale shall be final, without the necessity of preparing or executing any document."

The Court of First Instance of Laguna, after hearing, found that in 1945, after liberation, but before the expiration of the period for redemption the defendant tendered P500, Philippine currency to the plaintiffs to redeem the land, but the tender was refused. The defendant then deposited the sum of P100, Philippine Currency, with the Clerk of Court of the Court of First Instance of Laguna and tried to deposit the sum of P5,000 in Japanese war notes in the same court, for the redemption of the land which had been refused by the plaintiff. Interpreting the paragraph of the deed we have quoted above, the lower court held that the intention of the parties was to redeem the land in an amount equivalent, to the value of the P5,000 in Japanese military notes. The lower court further found that on the date of the sale on June 24, 1944, the rate of exchange of P1, Philippine money with Japanese military notes was one-to-thirty, so that the equivalent of P5,000 in Japanese military notes would be P150 in Philippine currency, and that, inasmuch as the defendant had made a valid tender of P500 Philippine currency, which was refused by the plaintiff, she thereby preserved, her right to redeem the land in question. In view thereof, the court held that if the defendant added P50 to the P100 she had deposited in court to pay the plaintiffs, the latter would be compelled to execute in her favor the corresponding deed of reconveyance.

Upon appeal to the Court of Appeals by the plaintiffs, the latter court found, as did the trial court that the purchase price of P5,000 in Japanese war notes was the aggregate of the different loans contracted by the defendant from the plaintiffs since 1943, said total of P5,000 having been converted by the parties into the purchase price of the parcel already mentioned. Interpreting the stipulation regarding redemption, particularly the phrase "sa ganito ding halaga" (at the same price), the Court of Appeals, like the Court of First Instance, held that the intention of

the parties was to have the land redeemed in a sum equivalent to the value of the P5,000 Japanese military notes, and, by applying the Ballantine schedule, and, considering the dates of the different loans since 1943, the Court of Appeals found that P790.26 was the equivalent of the P5,000 in Japanese military notes. The Court then held that, upon payment of this amount, the defendant can have the land reconveyed to her. The Court of Appeals, further held that inasmuch as the deed of sale with pacto de retro was never registered in the office of the register of deeds, and that the owner's duplicate transfer certificate of title covering the parcel was still in the name of Simeona Bautista, mother of defendant Miguela, pursuant to the provisions of the Land Registration Act, what Miguela sold by virtue of the deed of sale with pacto de retro was her right and interest, as heir, in the land, and that in case Miguela failed to redeem the parcel, the plaintiffs may file an action or take such steps necessary to have the parcel in question conveyed to her so that she could later convey it to them thru the usual execution of a valid and sufficient instrument of sale. The plaintiffs have brought this case before us on appeal through certiorari.

While we accept the findings of fact of the Court of Appeals, we cannot agree to its interpretation of the contract of sale with pacto de retro regarding the stipulation on redemption. In our opinion, considering the circumstances surrounding the case, the phrase "sa ganito ding halaga" (at the same price), contrary to the interpretation given by the Court of First Instance and by the Court of Appeals, meant the same price of P5,000, in the currency prevailing at the time of redemption and not the equivalent in Philippine currency of P5,000 in Japanese war notes. So, we may not apply here the Ballantine schedule as did the Court of Appeals. The trial court held that the contracts of loan relative to the different sums borrowed by the defendant from plaintiffs since December 1943, and totalling P5,000 in June 1944, were novated and converted into a contract of sale, but, we cannot help but consider the terms of said different loan agreements, as shown by the receipts evidencing the same, to the effect that the loans were to be paid in the currency then prevailing at the time of repayment. As explained by counsel for petitioners, the plaintiffs wanted to have the repurchase price in the same amount as the sales price and in the prevailing currency, but that, through fear of the Japanese, the parties did not dare, express that agreement and intention in detail, specially in view of the warning contained in the proclamation by the Commander-in-Chief of the Imperial Japanese Forces, dated January 3, 1942, which provided, among other things, that any attempt to interfere with the circulation of the Japanese war notes such as rejection of payment in said currency, would be punished severely.

Our view of the case is that the parties herein gambled and speculated on the date of the termination of the war and the liberation of the Philippines by America. This can be gleaned from the stipulation about redemption, particularly that portion to the effect that redemption could be effected not before the expiration of one year from June 24, 1944. The plaintiffs, to be sure that the redemption price should be paid in Philippine currency after liberation, must have wanted a relatively long period,—say two or more years, before the land could be redeemed. The defendant, however, must have wanted as short a period as possible so that she could redeem the land during the Japanese occupation and in the same Japanese currency which was fast depreciating. Both parties took chances and ran quite a serious risk. If by July 1945 the Philippines, particularly Laguna, was still under the Japanese rule and occupation, defendant Miguela could redeem the property with Japanese war notes which, considering the steady and fast depreciation of said notes since 1943, shall have been nigh worthless, though still legal tender. If, however, by July 1945, the Philippines shall have been liberated, then the defendant must redeem the land in Philippine currency and in the same amount of P5,000.

This kind of agreement is permitted by law. We find nothing immoral or unlawful in it. It may be viewed in the same light as insurance contracts, or sales of grain, sugar or other commodities to be delivered at some future date, whose price is subject to fluctuation, and may, at the time of delivery, be way above or below the sales price.

Recently, this Court decided a similar case on the same principle. (*Roño vs. Gomez*, G. R. No. L-1927).[1] One who borrowed P4,000 in Japanese military notes on October 5, 1944, to be paid one year after, in currency then prevailing was ordered to pay said sum after October 5, 1945, that is, after liberation, in Philippine currency. It is true that in that case, there was express stipulation that the loan was to be paid in the currency prevailing at the time of repayment, while in the present case, such stipulation is absent. But is clear that such agreement is unnecessary and superfluous. In the absence of any agreement to the contrary, it is always understood that all payment of an obligation is to be made in legal tender, namely, Philippine silver peso, half peso and gold coins of the United States. (Section 1612, Rev. Adm. Code.) In fact, one may regard the present case as a stronger one in the sense that while in the *Roño* case, the obligor was compelled to discharge an obligation which because of the difference in currency, proved quite burdensome, though all in accordance to law, here the appellee need not pay back the repurchase price if she does not want to.

In view of the foregoing, we find that the redemption should be made at P5,000 Philippine currency. Should appellee *Tabia* fail to exercise her right to repurchase within thirty days from the date this decision becomes final, the plaintiffs may take the necessary steps indicated by the Court of Appeals to have the title to the parcel transferred to them. With this modification, the decision of the Court of Appeals is hereby affirmed, with costs.

Moran, C.J., Ozaeta, Bengzon, Tuason, and Reyes, JJ., concur.

[1] 81 Phil. Reports.

CONCURRING

FERIA, J.:

I concur in the result of the decision of the majority, because it is in conformity with one of the following rules (e) that we may lay down for the guidance of practising attorneys and inferior courts.

Unless the parties had agreed otherwise, all obligations incurred during the period of the Japanese invasion or occupation by contracts stipulating for, or executory judgment of the courts ordering, payment of money presumably in Japanese war or military notes, including payment of repurchase price in pacto de retro sales, shall be paid or satisfied after the liberation of the Philippines in accordance with the following rules:

(a) An obligation incurred or payable during the occupation shall be revalued on the basis of the relative value of the Japanese military notes in Philippine currency at the date the obligation was payable, according to Ballantine sliding scale of value in the absence of evidence to the contrary. Because to compel the debtor to pay his obligation in Philippine currency at the rate of one Philippine peso for each peso due in Japanese military notes would be to make him pay, as damages or penalty for the delay in making the payment, the difference in value between the Japanese military notes at the time the obligation was incurred and the Philippine currency at the time of the payment.

(b) Had the parties expressly agreed that an obligation shall be paid in Philippine currency, or merely in the currency that is the legal tender at the time it becomes payable, after the liberation, the obligation shall be paid in Philippine currency at par value or the rate of one peso in Philippine currency for one peso in Japanese war notes; because "the contracting parties may establish any pacts, clauses and conditions they may deem advisable, provided they are not contrary to law, morals, or public order." (Article 1255, Civil Code.)

(c) The same rule (b) is applicable had the parties simply agreed that an obligation shall be payable after the

liberation of the Philippines; because then the law applicable is section 1612 of the Revised Administrative Code, which provides that "the Philippine silver peso and half peso and gold, coins of the United States at the rate of one dollar for two pesos, shall be the legal tender for all debts, public and private, unless otherwise specifically provided by contract."

(d) If the parties had stipulated that the obligation shall be payable within a certain period of time, that is, at any time within that period, and the whole or a part of the period coincides with the Japanese occupation aid, therefore, the debtor might have paid his obligation in Japanese war notes during the occupation, the above-stated rule (a) shall be applied; because the debtor had the right to pay his obligation in Japanese war notes at the time it became payable, and his mere failure to pay it would not, as above stated, make him liable to pay as damages or penalty, the difference between the value of the Japanese war notes at the time the obligation became payable and of the Philippine currency at the date of the payment.

(e) Had the parties stipulated that the debt shall be paid after a certain period of time had elapsed and not earlier, if the period had expired during the Japanese occupation, the preceding rule (d), and therefore (a), shall be applied; but if it had elapsed after the liberation of the Philippines the above-stated rule (c) and therefore (b), shall be applicable; because in such case the implied agreement of the parties in accordance with law would be that the obligation shall be paid in legal tender at the time it becomes payable, that is, in Japanese military notes if during the occupation, in Philippine currency if after the liberation.

DISSENTING

PARAS, J.:

I dissent on the fundamental grounds set forth in my dissenting opinion in the case of *Roño vs. Gomez*, G. R. No. L-1927, promulgated on May 21, 1949. In addition, I may observe that the latter case, invoked by the majority herein is factually different. In the *Roño vs. Gomez* case, there was an express stipulation in the promissory note that the loan was payable in the currency prevailing at the time of payment and that the debtor waived any post-war arrangement devaluating the Japanese military notes. In the present case, the stipulation is merely to pay the indebtedness "sa ganito ding halaga" and the phrase can only refer to the amount of the same currency in which the loan was granted. Said stipulation cannot mean the currency which is legal tender at the time of payment. It is true that, under section 1612 of the Revised Administrative Code, the payment of an obligation is to be made in legal tender, namely, Philippine silver peso, half peso or gold coin of the United States, but said provision does not require the payment of an obligation in the same amount of such legal tender, in the absence of express stipulation.

The majority also hold that the contract here in question is aleatory. This is open to doubt. Aleatory contracts, or those depending on chance, are covered by Title XII, Book IV, of the Civil Code. It is to be noted that, under article 1790, an aleatory contract involves the occurrence of an event which is uncertain or will happen at an indeterminate time. Moreover, the contracts contemplated by the code as being aleatory, are grouped under insurance contracts, gambling and betting, and life annuities. It follows that the contract now under consideration, which is one of loan, does not fall under any of those groups of aleatory contracts. At any rate, the contract of loan herein involved, is clearly not dependent upon any uncertain event. The loan was granted on a definite date and has to be paid on a definite date. Both dates are certain. The payment of the loan has to be effected regardless of the result of the war.

As the contract in question contemplated that the payment is to be made in the same currency that was loaned, and

the parties are presumed never to have intended that said payment would be made in what has become valueless money, justice demands that the indebtedness be paid in actual Philippine currency at an equivalent amount determined in the Ballantine schedule, in the absence of evidence as to such value. The exceptions mentioned in the Ballantine schedule refer to contracts in which the obligation is payable by something other than legal tender. Indeed, the majority in *Hilado vs. De la Costa*, (83 Phil., p. 471) held that "what the debtor should pay is the value of the Japanese war notes in relation to the peso of Philippine currency obtaining on the date when and at the place where the obligation was incurred, unless the parties had agreed otherwise." This underscored clause undoubtedly contemplates an agreement to pay in a consideration other than legal tender of the Philippines, such as gold dollars, pounds sterling, Spanish pesetas, or the like. It cannot be otherwise, since if the intention is merely to pay in legal tender, no express stipulation is necessary, because under section 1612 of the Revised Administrative Code, the Philippine currency is the legal tender for all debts.

In reiteration of my stand in the case of *Roño vs. Gomez*, supra, I wish to emphasize that to require the herein respondent to pay the sum of P5,000, actual Philippine currency, in return for an indebtedness obtained in Japanese military notes equivalent in actual Philippine currency according to the Ballantine schedule, to only P790.26 as found by the Court of Appeals, is unconscionable.

DISSENTING

PERFECTO, J.:

Although we concurred in the decision in the *Roño* case, L-1927, we are constrained to dissent from the majority decision in the present case and rather inclined to accept the reasons stated by Mr. Justice Paras in his dissent in the present case. The facts in both cases are substantially different. While in the *Roño* case it was expressly stipulated that the payment would have to be made in the currency prevailing at the time of payment, in the present case, the Tagalog phrase "sa ganito ding halaga," is used. The stipulation in the *Roño* case specified a definite currency. The stipulation in the present case sets as standard "actual value" in any currency. We are of opinion that the decision of the Court of Appeals should be affirmed. To compel defendant to pay plaintiffs P5,000 for what, without any dispute, has been conclusively found to be worth only P790.26, is shocking to the conscience. It is contrary to the tenets of morals and violative of the constitutional guarantee against deprivation of property without due process of law. We cannot find any reason why the amount of more than P4,000, the difference in value, should be paid by respondent to petitioners without any legal consideration at all.

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