

RAMON B. MELENDEZ, PLAINTIFF AND APPELLANT, VS. TOMASA LAVARIAS, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-17724. November 29, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from a decision of the Court of First Instance of Pangasinan. Originally certified to the Court of Appeals, the latter subsequently forwarded the records to this Court, only questions of law being raised in the appeal.

On September 27, 1944, two (2) deeds of "sale with right to repurchase" within two (2) years from said date were executed, one (Annex A) by defendant Tomasa Lavarias de Sajonas, for the sum of P1,000.00, and another (Annex B) by her so- defendant Brigida Estrada de Sajonas, for the sum of P700, both in favor of Rodolfo Sajonas, of a residential lot of about 565 sq. m. situated in Binmaley, Pangasinan, belonging to said defendants as co-owners thereof. Over eight (8) years later, or on April 7, 1953, Rodolfo Sajonas executed an "absolute deed of sale" (Annex C) of said lot in favor of plaintiff Ramon Melendez, who instituted the present action on July 22, 1954, alleging that he is the owner of the lot aforementioned, in view of said "absolute deed of sale" by Rodolfo Sajonas, and the two (2) deeds of "sale with right to repurchase" adverted to above, and to the failure of the aforesaid defendants to exercise their right of redemption within the stipulated period, and that said defendants, who had remained in possession of the lot in question, began to claim the same, on or about November 25, 1953, as owners thereof. Hence, plaintiff prayed that he be declared owner of said lot and that the defendants be ordered to remove their house therefrom, to turn over to him the possession of said lot, and to pay him the value of the products thereof, as well as damages and costs.

In their verified answer, defendants denied the genuineness and due execution of said deeds of "sale with right of repurchase", and alleged that Brigida Estrada de Sajonas had merely borrowed from Rodolfo Sajonas the sum of P700.00 mentioned in Annex B, that this debt of P700 had already been settled and that plaintiff knew that the lot in question belongs to the defendants.

After the introduction of the testimony of, several witnesses for the plaintiff, both parties agreed in open court that defendants Tomasa Lavarias de Sajonas and Brigida Estrada de Sajonas had received the aforementioned sums of P1,000 and P700, respectively, in Japanese money, and the Annexes A and B were executed merely as security for the payment of said amounts. Then they submitted the case for decision on the amount to be paid by said defendants to the plaintiff.

Subsequently, the lower court rendered the decision appealed from, holding that, since defendants could have settled their aforementioned debt at any time within 2 years from September 27, 1944, the Ballantyne scale was applicable, and that for this reason, and considering that the "present peso is only P.315 compared to the pre-war peso," defendants should pay to the plaintiff the sum of P180.00, with interest thereon at the rate of 6% per annum from July 22, 1954, and the costs. Plaintiff has appealed from this decision.

The first issue raised by him refers to the aforementioned stipulation. It appears that several days after it was made

and upon receipt of copy of defendants' memorandum maintaining that, pursuant to the Ballantyne scale, plaintiff was entitled to recover no more than P56.66, his counsel moved that plaintiff be relieved from said stipulation, upon the ground that he (counsel) had agreed thereto "improvidently, inadvertently, mistakenly, or as a consequence of fraudulent inducements," because he had "failed to realize fully the possible effects" of the stipulation and "he further forgot that his client who is a third party and is a purchaser in good faith, * * * had paid P600.00 for the property in question * * *." The denial of this motion by the lower court is assigned by the plaintiff as an error, upon the theory that the stipulation would lead to an injustice. We find no merit in this pretense.

Although plaintiff wanted to collect the aggregate sum of P1,700 on the peso to peso basis, the issue between the parties really boiled down to whether, under the facts and the law, the Ballantyne scale should apply. As regards the consideration paid by plaintiff to Rodolfo Sajonas, it may not be amiss to note that, according to defendants' answer, "plaintiff had full knowledge of the fact that the property in question did not belong to his vendor at the time he bought the same but that it belonged to the defendants because the plaintiff as notary public ratified a * * * deed of sale with right to repurchase on May 14, 1947 involving the parcel of land in question executed by Brigida Estrada de Sajonas, so that when the plaintiff allegedly bought the parcel of land in question from Rodolfo Sajonas on April 7, 1953, he knew that fact * * *." Although there is no evidence in support of this allegation, owing to the stipulation in question, it is obvious that, in the absence thereof, defendants would be entitled to introduce such evidence.

Under his second assignment of error plaintiff maintains that, in view of defendants' failure to pay their obligation within the stipulated period of two (2) years from September 27, 1946, they may no longer avail of the benefits of the Ballantyne scale. This pretense is devoid of merit. Non-payment of said obligation, despite the expiration of said period, had no other effect than to give creditor the right to sue for the recovery of the amount due, plus damages for said default in the performance of said obligation. (Articles 1170 and 1193, Civil Code of the Philippines.)

Wherefore, the decision appealed from is hereby affirmed, with the costs of this instance against plaintiff-appellant, Ramon B. Melendez. It is so ordered.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Barrera, Paredes, Regala, and Makalintal, JJ., concur.

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