

MARIA T. GUANZON, ASSISTED BY HER HUSBAND GENARO GUANZON, PETITIONER, VS. HON. MANUEL ARGEL, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF ANTIQUE, JUAN, ERNESTO, ESTRELLA, ...

G.R. No. L-27706. June 16, 1970

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Special civil action for certiorari, prohibition and mandamus to annul and set aside the orders issued by the Court of First Instance of Antique, in its Civil Case No. 334, under date of 6 January and 4 March 1967, denying petitioner Guanzon's motions to require the Sheriff to convey and restore to her the possession and ownership of Lot 5250 of the cadastral survey of San Jose, Antique.

The factual background of the case is as follows:

The respondents Dumaraogs filed an action against petitioner Guanzon for the redemption of a parcel of rice land situated in barrio Inabasan, San Jose, Antique, which their mother, Ines Flores, had mortgaged to defendant, and to recover damages, before the Antique Court of First Instance, presided by respondent judge. They prayed that the purported pacto de retro sale be declared a mortgage and that Guanzon be ordered to execute an instrument of reconveyance after payment by Dumaraog of the loan of P1,500.00.

Guanzon denied the material allegations of the complaint and alleged that the document executed by Flores was in fact a pacto de retro sale and that her title as vendee had been consolidated.

After trial, the lower court rendered judgment declaring the document involved to be one of equitable mortgage, and ordered Guanzon to execute an instrument of reconveyance in favor of Dumaraog upon payment by the latter of P1,500.00 within 20 days from the finality of the decision, otherwise execution may issue and the Provincial Sheriff may execute the necessary document of conveyance, with costs against Dumaraog. The trial court also declared that whatever additional amounts were loaned to the vendor-a-retro, Flores, by Guanzon were offset by the value of the 30 cavans of palay a year she received from 1949 to 1962.

Thereafter, alleging that although the aforesaid decision had become final and that the Dumaraogs had not paid to her P1,500.00 within 20 days from the date of the decision, Guanzon filed a motion for execution wherein she prayed that the Provincial Sheriff be ordered to execute the necessary conveyance of the property in question in her favor and that she be placed in the possession thereof.

Acting upon Guanzon's motion for execution, the trial court ordered the Dumaraogs to deposit the P1,500.00 redemption price with the clerk of court, which Guanzon shall receive, and that Guanzon shall within 10 days from receipt of the order execute the deed of reconveyance in favor of Dumaraog, otherwise the Provincial Sheriff shall execute the necessary conveyance in favor of Dumaraog and Guanzon could withdraw the said amount.

Dumaraog filed with the lower court a bill of costs for its approval which Guanzon opposed on the ground that she could be liable for costs only if Dumaraog paid her P1,500.00 within 20 days from the finality of the decision. Despite this opposition, the respondent judge by order approved the said bill of costs and issued an execution of the same.

Meanwhile, in pursuance of the decision, Dumaraog filed a notice of deposit of the redemption price of P1,500.00.

From the orders of the respondent judge (1) directing Dumaraog to deposit the P1,500.00 redemption price and for her to receive the said amount and to execute a deed of reconveyance in favor of Dumaraog, and (2) approving the Dumaraog's bill of costs, Guanzon filed a motion for reconsideration, alleging that the lower court has no jurisdiction to issue the said orders for lack of jurisdiction, considering that the decision has become final and executory, hence it becomes the ministerial duty of the court to issue the writ of execution.

In an order dated 4 March 1967, the respondent judge denied Guanzon's motion for reconsideration for lack of merit. Respondent Judge stated that it is not contemplated in the decision that Guanzon is entitled to a deed of conveyance, and that at most, she could withhold execution of the deed of reconveyance until Dumaraog pays P1,500.00, otherwise the Provincial Sheriff shall execute the necessary conveyance in her favor.

Guanzon filed this petition claiming that the respondent judge acted in excess of jurisdiction and with grave abuse of discretion, arguing that the respondent judge altered his original decision, because although she was directed to execute a reconveyance within 20 days in the original decision declaring the questioned document as an equitable mortgage, in the order of 6 January 1967 herein complained of she was given another additional 10 days to do so; and also in its order of 4 March 1967, the respondent judge allowed Dumaraog to deposit the redemption price of P1,500.00 even after the lapse of 20 days after the finality of the judgment. The petitioner states that while the decision of 31 August 1966 has become final and executory on 14 October 1966, it was only on 6 January 1967 that Dumaraog deposited the said amount with the clerk of court.

We find the charge of grave abuse of discretion not justified. The final decision of the respondent court, in its operative clause, provided the following:

"WHEREFORE, the Court hereby renders judgment:

1. - Declaring the document executed on 26 April 1949 by Ines Flores in favor of Maria T. Guanzon, Exhibit A (same as Exhibit 2) an equitable mortgage instead of a pacto de retro sale;
2. - Ordering the defendant Maria T. Guanzon to execute a reconveyance in favor of the plaintiffs herein upon payment by the said plaintiffs of the amount of P1,500.00 within twenty (20) days from the finality of this decision otherwise execution may issue and that Provincial Sheriff may execute the necessary conveyance, with costs against the defendants.
3. - Counterclaim is dismissed for lack of proof.

SO ORDERED."

While paragraph 2 is not as clear as it could have been, nevertheless, its purport is plain that should the plaintiffs (now private respondents Dumaraog) fail to pay the P1,500.00 within the specified 20 days, petitioner Guanzon would be entitled to have execution issue to collect the said amount from the properties of the respondents Dumaraog whereupon the deed of reconveyance would be executed by Guanzon. A converso, should respondents Dumaraog deposit the money, but Guanzon refused to reconvey, the reconveyance could then be made by the Provincial Sheriff. This is in accord with the provisions of section 10, Rule 39, of the Revised Rules of Court:

"SEC. 10. Judgment for specific acts; vesting title. - If a judgment directs a party to execute a conveyance of land, or to deliver deeds or other documents, or to perform any other specific act, and the party fails to comply within the time specified, the court may direct the act to be done at the costs of the disobedient party by some other person appointed by the court and the act when so done shall have like effect as if done by the party. If real or personal property is within the Philippines, the court in lieu of directing a conveyance thereof may enter judgment divesting the title of any party and vesting it in others and such judgment shall have the force and effect of a conveyance executed in due form of law."

In no way can the judgment at bar be construed to mean that should the Dumaraogs fail to pay the money within the specified period then the property would be conveyed by the Sheriff to Guanzon. Any interpretation in that sense would contradict the declaration made in the same judgment that the contract between the parties was in fact a mortgage and not a pacto de retro sale. The only right of a mortgagee in case of non payment of a debt secured by mortgage would be to foreclose the mortgage and have the encumbered property sold to satisfy the out-standing indebtedness. The mortgagor's default does not operate to vest in the mortgagee the ownership of the encumbered property, for any such effect is against public policy, as enunciated by the Civil Code.[1] The court can not be presumed to have adjudged what would be contrary to law, unless it be plain and inescapable from its final judgment. No such purport appears or is legitimately inferable from the terms of the judgment aforequoted. Hence, the orders of the court below refusing to command the sheriff to convey the property to petitioner Guanzon, as she demanded, and instead ordering her to reconvey the property to respondents Dumaraog and receive the P1,500.00 deposited by the latter, were in conformity with the original decision that had become final and executory.

The writs prayed for are denied. Costs against the petitioner.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, Barredo, and Villamor, JJ., concur.
Castro, J., did not take part.

[1] "ART. 2088. The creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void. "

"This forfeiture clause has traditionally been outlawed, because it is contrary to good morals and public policy." (Code Commission Report, page 156)

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