

CIRILO CASABAR. PETITIONER-APPELLANT, VS. PEDRO SINO CRUZ AND MELCHORA OCANG, RESPONDENTS-APPELLEES.

G.R. No. L-6882. December 29, 1954

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Cirilo Casabar filed an action in the Court of First Instance of Pangasinan praying that the contract marked Annex A, which purports to be a deed of sale, be declared merely as a contract of mortgage; that plaintiff be declared absolute owner of the three parcels of land known as Lot Nos. 1, 4, and 5, and that Pedro Sino Cruz and Melchora Ocang be ordered to return the possession thereof to the plaintiff, and to pay the sum of P3,000 as damages, and the costs of action.

The defendants in their amended answer denied that the transaction was a loan with a mortgage and averred that Cirilo Casabar had sold to them the five parcels of land described in the complaint "for the amount of P610 and other additional amounts." These additional amounts were alleged in the special defenses it have been paid by the defendants to the plaintiff at his request "after some few months from August 7, 1933", because he was then in need of money, which have reference to the sums of P440 and P1,120 paid as additional consideration of the sale. Defendants also alleged as special defense that plaintiff's action had prescribed.

After due trial, the court rendered its decision declaring that the document in question is only one of mortgage; that the plaintiff is entitled to redeem the three lots 1, 4, and 5 from the defendants upon payment of the sum of P1,120, plus the sum of P4,000 which was incurred by the defendants as improvements on the lands and that after the payment of said amounts is effected, the defendants should execute a deed of reconveyance of the three lots in favor of the plaintiff, without pronouncement as to costs.

From this decision both plaintiff and defendants have appealed to the Court of Appeals, the plaintiff from that part which orders him to pay to the defendants the sum of P1,120 and the further sum of P4,000 for alleged expenses incurred in the improvements made on the fishponds in question, and the defendants from the portion which declares that the document Exhibit A is merely an instrument of mortgage and not a contract of sale as claimed. This decision was reversed, the Court of Appeals holding that the contract is one of sale with option to repurchase, and this option not having been exercised within the period stipulated, plaintiff has lost his right to recover the lots in litigation and, furthermore, plaintiff's right of action is already barred it appearing that the same had accrued more than 15 years ago.

Plaintiff has interposed the present petition for review and now contends that:

"I

The Court of Appeals erred in holding that the contract evidenced by Exhibits A, 3, and 6 is not an equitable mortgage but a deed of sale with option to repurchase.

II

The Court of Appeals erred in disregarding article 1602 of the Civil Code, which had been cited and relied upon by the trial court.

III

The Court of Appeals erred in holding that the respondents had acquired title to the property in question by acquisitive prescription.

IV

The Court of Appeals erred and neglected the performance of its duty in failing and refusing to pass upon and decide the appeal of the petitioner as plaintiff below from a specific portion of the judgment of the trial court. The Court of Appeals erred in not rendering judgment modifying that of the trial court by ordering the respondents to reconvey and deliver to the petitioner lots 1, 4 and 5 described in transfer certificate of title No. 7978 of the register of deeds of Pangasinan and to pay to the petitioner P3,639.00."

This being a petition for review of a decision of the Court of Appeals, the only questions that may be looked into are those of law, the findings of fact made in said decision being valid and binding upon this Court, even if the same may appear to be "sketchy and garbled" as claimed by counsel for petitioner. Our only function is to determine if the facts as found support the conclusions of law which form the basis of the decision. This is more so if the evidence brought into play is both oral and documentary and has been duly considered by the Court of Appeals. We would therefore quote hereunder the pertinent portions of the decision of the latter court without prejudice of pin-pointing the facts which might have been overlooked, if any, in connection with the arguments advanced by both parties.

"El 7 de agosto de 1933, Cirilo Casabar y Valentina S. Cruz otorgaron la escritura de venta absoluta Exh. A, de cinco parcelas de terreno cuyas descripciones tecnicas aparecen en el Certificado de Transferencia de Titulo No. 7978, de la Oficina del Registrador de Titulos de la provincia de Pangasinan, que el dia siguiente se expidio a nombre de Pedro Sino Cruz, casado con Melchora Ochang. En la misma fecha 7) de agosto de 1933) Pedro otorgo la escritura de opcion de compra, Exh. 3 de las citadas parcelas de terreno a favor de Saturnina Casabar, hija de Cirilo, dentro del plazo de cinco anos. Algun tiempo despues, Cirilo obtuvo de Pedro y Melchora un aumento de P440.00 y, en 19 de mayo de 1933) otra cantidad adicional de P1,120.00, que Pedro pido agenciar, vendiendo con pacto de retro al Dr. Gonzalo Montemayor las parcelas 1, 3 y 5 por dicta cantidad de 1,120.00, que entrego a Cirilo anulandose en virtud de este pago adicional la escritura de opcion de compra Exh. 3 a favor de Saturniria, pero otorgandose, en su sustitucion, por Pedro otro documento a favor de Cirilo, permitiendo 4 este recomprar las repetidas cinco parcelas, dentro del plazo de seis meses, desde el 19 la cantidad total de P2,170. Transcurrido este plazo de de 1939, (6 y 6-A). es, sin que Cirilo hiciera uso de su derecompra, Pedro y Melchora el 20 y 30 de de mayo 00 (Exhs seis mes recho de diciembre de 1939 vendieron y transfirieron la parcela segunda a favor de Valentina S. Cruz y los esposos Severino Cruz y Feliciania Casabar y la tercera a favor de Valentina S. Cruz, por los precios de P600,00 y P300.00 respectivamente (Record on Appeal, pp. 22 al 25). Desde el 7 de agosto de 1933) en que Cirilo y Valentina otorgaron a favor de los esposos Pedro y Melchora la escritura de venta absoluta Exh. A, estos han estado continuamente en la posesion y el disfrute de la pareelas en cuestion, primera, euarta y quinta, sin haber sido en lo minimo molestados por Cirilo sino ya en, segun Valentina, despues que se terminara el asunto que aquel tenia contra Turner.

"Cirilo y Valentina otorgaron la escritura de venta absoluta Exh. A con pleno conocimiento de su eontenido, significado y consecuencias. Asi, Valentina dice:

Q.

So that consigned Exhibit 'A', document deed of sale in favor of defendant, Pedro Sino Cruz on August 7, 1933,

you know pretty well that the document signed by you was an absolute deed of sale of that 5 parcels of land and not a loan with security or mortgage?

A.

Well, it was made to appear as an absolute sale, but our agreement was entrusting only.¹ (t.n.t., p. 25);

y, Cirilo, a su vez, declara:

Q.

Do you mean to say that it was a common agreement between you and Pedro Sino Cruz to make a deed of sale and not a mortgage in order to save your lands in Lingayen from being attached by Mr. Turner, is that what you mean?

A.

We have agreed with my brother-in-law to have that document prepared as deed of sale in order that the parcels of land therein described will be saved from Mr. Turner so that we have anywhere) to stay in case we lose the case against him and those lands were just entrusted to him.' (t.n.t., p. 73).

"En La escritura de venta Exh. A se dice que Valentina era soltera, pero, segun ella, se caso con Cirilo, probablemente despues.

"Se lentina, tres par vera en el testimonio de ambos, Cirilo y Vaque ellos nunca ham tratadp de hipotear les selas en litigio a favor de los esposos Pedro y Melchora, sino que, en todo caso, usando sus mismas palabras 'just entrusted to him', 'entrusting him'. Teniendo en cuenta que Cirilo trataba de prevenir las consecuencias de una ejocucion que contra el pudiera conseguir Turner, es posible que su idea era poner las cinco parcelas del Certificado de Transferencia de Titulo No. 7978 a nombre de los esposos Pedro y Melchora, por el actual modico precio que estos pudieron pagar de P610.00, pero reservando para su hija fiaturnina la opcion de compra de las mismas, dentro del plazo de cinco anos. Mas, ocurrio que tuvo necesidad de mis fondos, y los ha ido pidiendo, en concepto deprecios dicionales, a los esposos Pedro y Melchora, * * *."

There is no dispute that the contract Exhibit A is a deed of sale whereby, on August 7, 1933, Cirilo Casabar and Valentina S. Cruz sold, transferred, and conveyed to Pedro Sino Cruz the five parcels of land therein described in consideration of the sum of P610 and that from the date of the sale, the possession of the lands was then and there transferred to the purchaser. This is what clearly appears on the face of the document. There is also no dispute that on the same date, August 7, 1933, another document, Exhibit A-1, was executed, entitled "Opcion de Hecompra", whereby Pedro Sino Cruz, in consideration of the sum of P1.00, granted to Saturinina Casabarv petitioner's daughter, an option to repurchase the same five parcels of land for the same price of P610 within five years from said date. This also clearly appears on the face of said document. Then, additional sums totalling P1,560 were taken by petitioner from respondents, the result being that the option to repurchase given to Saturnina was cancelled and another option was granted to petitioner to redeem the lands for a period of six months. Because of these facts, and some Evidence aliuhde appearing in the record, the Court of Appeals concluded that the real transaction between the parties is one of sale with pacto de retro and not merely an equitable mortgage.

Petitioner, however, contends that this finding is erroneous because it is contrary to what petitioner and his wife had testified and to what was found by the trial court that the aforesaid documents were merely executed as a scheme to hide the aforesaid parcels of land from E. G. Turner who was then expected to bring suit against said spouses to collect a huge indebtedness and not with the real intention of parting with the ownership of said

properties. Thus, speaking on the alleged scheme, Cirilo Casabar and his wife Valentina S. Cruz testified that they agreed with Pedro Sino Cruz that the document Exhibit 1 be prepared "as deed of sale in order that the parcels of land therein described will be saved from Mr. Turner so that we I have anywhere to stay in case we lose the case against him, and those lands were just entrusted to him" (Pedro Sino Cruz); and, it is contended, this was found by the trial court to be a correct picture of the situation because "on the same date Pedro Sino Cruz executed in favor of Saturnina Casabar, daughter of the plaintiff and not to the plaintiff, an option to repurchase these 5 parcels of land within 5 years, marked Exhibit A-1, for the purpose of better concealing the real nature of their contract." And to bolster up this claim, counsel for petitioner makes the additional plea that the Court of Appeals erred in not considering Article 1602 of the new Civil Code which prescribes certain rules whereby the court may be guided in determining when a contract should be presumed to be an equitable mortgage.

While the transaction under consideration took place in 1933 and our new Civil Code came into effect only on August 30, 1950, and for that reason the provisions of this Code can not apply to that transaction unless they are given retroactive effect expressly or impliedly, there is merit in the claim that Article 1602 of said Code may be considered in determining the nature of the transaction in question if the court thinks it necessary. It being remedial in nature and not one which creates or takes away new or vested rights. The rule is that "remedial statutes, or statutes relating to remedies or modes of procedure, which do not create new or take away vested rights, but only operate in furtherance of the remedy or confirmation of rights already existing, do not come within the legal conception of a retrospective law, or the general rule against the retrospective operation of statutes. To the contrary, statutes or amendments pertaining to procedure are generally held to operate retrospectively, where the statute or amendment does not contain language clearly showing a contrary intention." (50 Am. Jur., Section 482, pp. 505-506) But, has the Court of Appeals erred in not taking into account Article 1602 of the new Civil Code in the same manner as the trial court did in determining the nature of the contract under consideration?

We are not prepared to answer the question in the affirmative considering that, among the rules prescribed in said article which may be considered as guide in determining the nature of a given contract, none could properly apply if we are to take into account strictly the facts proven in this case. As to the inadequacy of the price, the evidence on the matter does not appear clear, even if the lower court has made a finding based on a mere estimate, which is probably the reason why the Court of Appeals did not deem it necessary or pertinent to look into the matter. But the fact however is that the consideration of the sale is not merely the sum of P610, as was made to appear in the document Exhibit A, but, the sum of P2,170, which represents the totality of all the sums given by the defendants to the plaintiff as the consideration of the sale. Whether this is adequate or not the record or the evidence does not appear clear and so rule 1 of Article 1602 of the new Civil Code cannot apply.[1] The only possible rule that may have some application is No. 2 which provides: "When the vendor remains in possession as lessee or otherwise", but even as to this there is some conflict in the evidence, for while there is some testimonial evidence to the effect that the two residential lots remained in possession of the vendor after the sale, this testimony is belied by the very document Annex A wherein it was made emphatically clear that the five parcels of land subject of the sale were placed in the possession of the vendee on the very day of the sale. And much less can be said with regard to rule No. 3 which provides, "When upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed", for we have here a clear instance derogatory of the rule when the vendee executed the document Exhibit 6 granting petitioner merely a period of six months within which to repurchase the lands after the option granted to his daughter for a period of five years had been cancelled. This situation is very revealing, for instead of giving petitioner more days of grace, the period was cut short. We cannot therefore blame the Court of Appeals for not making use of said Article 1602 as a guide in the form and manner desired by counsel for petitioner.

But the pivotal question which is now pressed before us for determination does not merely hinge on a mere appreciation of documentary evidence or of the conclusion that should be drawn from its contents, but rather on a matter which touches the credibility of witnesses, as may be inferred from the findings made by the Court of Appeals. Indeed, the question to be determined is not so much of how the documents Exhibits A, 3, and 6 should be appreciated or interpreted, because in so far as these documents are concerned, their contents are not disputed and their terms are clear and unambiguous, but whether the testimony of petitioner and his wife as to the circumstances surrounding the execution of said documents should be given credit even in derogation of the nature and validity of said documents. And if such is the case, which apparently is the stand taken by the Court of Appeals, as reflected throughout the length and breadth of its decision, we are of the opinion that the conclusions reached by that court on the matter are conclusive and are not now open for review.

Analyzing the decision of the Court of Appeals, we find that, after stating the facts as may be inferred from the evidence which appear to be undisputable, that court made the finding that petitioner did not really intend to mortgage the lands in question to respondents but merely "just entrusted to him" or "entrusting him", and considering that the purpose of that scheme is to prevent the consequences of an adverse action that may be taken against the petitioner by his creditor Turner, - the court said, - it is possible that his idea be merely to put the lands or their title in the name of respondents for the nominal sum of P610 by reserving to his daughter Saturnina the right to repurchase the land within five years. Later, however, petitioner found himself in need of money and demanded additional sums from respondents who gladly agreed to help him by giving him the additional sums of P440 and P1,120, or a total of P1,560. And to put things aright, the document Exhibit 6 or 6-a was executed giving petitioner the right to repurchase the lands within a period of 6 months. From that time on, according to the court, the transaction became truly one of sale with pacto de retro, and as the vendor failed to exercise his right to repurchase within the period stipulated, he forfeited such right and the lands became consolidated in favor of the vendee. These are findings of the Court of Appeals that said court drew not only from the documentary evidence that had a bearing on the transaction but especially from the testimony given by the parties of this case. We feel that we are not now in a position to review nor disturb these findings as we are now urged by counsel for petitioner.

Another factor which should not be overlooked is the motive or purpose why, according to petitioner, the scheme allegedly represented by the execution of the three documents has been adopted which is to place the lands in question beyond the reach of E.G. Turner who was then threatening to institute an action to collect a credit he had against petitioner. Even if this were true, it appearing that the transaction was done with an improper design, the same should not be looked with favor by this Court. A litigant should come to court with clean hands.

It is true that the Court of Appeals did not make any mention in the body of its decision of the merits of the appeal of petitioner as plaintiff from a portion of the judgment of the trial court, although it took notice of the fact that both parties have appealed from that judgment, and that such failure is now assigned as error which might necessitate the remand of this case to the Court of Appeals with appropriate instructions to make a finding and enter a judgment on this branch of the case. But while this is true, we find that the only mistake, if any, the Court of Appeals may be deemed to have committed lies in not making clearer its position by stating even in a short paragraph that to pass upon such appeal of petitioner would not be necessary considering the conclusion reached by the court in its decision. We can surmise that this is the only reason for such apparent disregard of a clear procedural duty and in this sense we find: the stand of the Court justified, for, having reached the (Conclusion that the nature of the transaction is one of sale with pacto de retro and the plaintiff has already lost his right to redeem the lands, the only alternative is to declare respondents owners of the lands and dismiss the action taken against them. There would then be no need for any further determination of the value of the repairs or improvements that may have been made on said lands for after all they would redound to the benefit of respondents. There is

therefore no consequence or prejudice Resulting from the silence of the court and, hence, this error does not merit consideration.

Having reached the foregoing conclusion, we deem it unnecessary to discuss the other points raised by counsel for petitioner in his brief.

The decision appealed from is hereby affirmed, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Concepcion, JJ., concur.

Reyes, J.B.L., J., in the result.

[1] The only evidence on the value of the land is one transaction in 1930 and another in 1939. These transactions are inapplicable because the contract in question took place in 1933.

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