

SOFIA MAGTIRA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND ZACARIAS PANGAN, RESPONDENTS.

G.R. No. L-27547. March 31, 1980

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition for Review on Certiorari of the Decision of the Court of Appeals affirming the trial Court Decision and holding that the contract between the parties was one of pacto de retro and not of equitable mortgage, to which we gave due course in a Resolution dated May 22, 1967.

The parcel of riceland in controversy, situated in Barrio Santo Rosario, Paombong, Bulacan, measuring approximately 3,412 square meters, belonged to ISIDORO Magtira who died intestate in 1953 leaving petitioner, SOFIA Magtira, as his sole heir.

On February 8, 1926, ISIDORO Magtira, for and in consideration of the amount of Seven Hundred and Twenty-Five (P725.00) Pesos, which he obtained from herein private respondent ZACARIAS Pangan, had entered into an agreement with the latter involving the aforesaid parcel of land evidenced by a public instrument (Exhibit "A"), containing the following terms and conditions:

"ANNEX 'A'

KASULATANG SANGLAAN

MATANTO NANG LAHAT AT NANG

SINOMANG MAKABABASA NITO, na:-

Akong, Isidoro Magtira, balo, may ganap na gulang, nagtitira sa Nayon nang San Isidro, Municipio nang Paombong, Bulacan, kinatawan nang aking anak na Sofia Magtira, sa kasulatang itoy sinasaysay ko ang manga sumusunod:

Alangalang sa halagang PITONG-DAAN AT DALAWAMPO AT LIMANG PISO PI. (P725.00) na aking tinanggap at ibinayad sa akin ni G. Zacarias Pangan, may asawa, taga Malolos, Bulacan, ngayon ay nagtitira sa San Isidro, nasa Paombong, sa kasulatang itoy, aking inilipat, ipinagbili nang biling mabibiling muli sa nasabi nang G. Zacarias Pangan at sa kaniyang manga taga-pagmana, ang isang lagay na lupang bukid na panagaraw, sa lugar nang Gusi, sakop nang Paombong, Bulacan, ang laki ay 34 areas at 12 centi--areas, humigit kumulang, humahangga sa Lubugang Araw, ay Ilog Gusi, sa Habagatan, Adriano Clemente, sa Sikatang Araw, Rita Giron, at sa Sabalasan, Eulalio Clemente; ang lupang itoy aking tinubos sa kay G. Eusebio Cabilagao sa araw na ito, alinsunod sa kasulatang pinagtibay sa harap nang Notario G. Honorio Briones, (Ama) Reg. No. 26, Pag. No. 97, serie 1926, sa Paombong, Bulacan;

Sinasaysay ko rin namang Isidoro Magtira na akoy hindi makapanunubos sa nasabing G. Zacarias Pangan nang lupang na-banggit na sa itaas nito, kung hindi makaraan ang hustong apat na taon, samakatuwid sa ika-30 nang Abril taong 1930, akoy maka-panunubos sa halagang nabanggit sa itaas nito.

Sinasaysay ko rin namang Isidoro Magtira na samantalang hindi ko natutubos nang lupang ito sa napagsanglaang G. Zacarias Pangan, ay ito ang may tungkuling magbayad nang buwis sa amiliaramiento sa municipio.

Akong Zacarias Pangan, may ganap na gulang taga Malolos, may asawa ngayo'y nagtitira sa San Isidro nang Paombong, sinasaysay ko naman sa ganang sarili na akoy lubos na umaayon sa kasulatang ito.

Sa lubos na katotohanan, nag-pirma kami sa ibaba nito, ngayon ika-8 ng Pebrero taong 1926, sa Paombong, Bulacan.

(Sgd.) ISIDORO MAGTIRA

(T) ISIDORO MAGTIRA

(Sgd.) ZACARIAS PANGAN

(T) ZACARIAS PANGAN

SA HARAP NILA: -

(Sgd.) HONORIO BRIONES, SR.

(T) HONORIO BRIONES, SR.

(Sgd.) PAULA NI BRIONES

(T) PAULA NI BRIONES

(Acknowledgment)" (*Italics supplied*)[1]

It should be noted that while the document is entitled "Kasulatang Sanglaan" the body thereof contains a statement that "inilipat ipinagbili nang biling mabibiling muli."

ZACARIAS took possession of the property beginning February 8, 1926 and paid taxes thereon pursuant to the aforementioned agreement.

Almost two and a half years after the execution of Annex "A", or on June 12, 1928, ISIDORO and his daughter SOFIA obtained from ZACARIAS an additional amount of One Hundred and Forty Pesos (P140.00) evidenced by a receipt marked as Exhibit "3", which states as follows:

"ANNEX 'A-4'

Akong Sofia Magtira, dalaga at sapat na gulang, na anak ni G. Isidoro Magtira, ay kumuha ng halagang isang daan at apat na pong piso, kuantang pilipino (P140.00), ke G. Zacarias Pangan na itoy nauukol sa dagdag na aking lupa palayan panagaraw sa lugar ng Gusi ng Sto. Rosario sa Municipio ng Paombong, Provincia ng Bulacan, na hindi ko isinaysay ang takal at iba pa nitong nasabing lupa pagkat mapagkikilala na ito sa documentong makakalaki nito.

At sa katunayan ay nagfirma kaming magama sa ibaba nito ngayon pecha a 12 de Junio ng 1928.

(Sgd.) ISIDORO MAGTIRA

(T) ISIDORO MAGTIRA

(Sgd.) SOFIA MAGTIRA

(T) SOFIA MAGTIRA "

(*italics supplied*)[2]

Another amount of P35.00 was obtained by SOFIA from ZACARIAS on May 17, 1929, evidenced by a receipt marked as Exhibit "3-a". Finally, on May 1, 1930, ISIDORO received the amount of P100.00 from ZACARIAS

as shown by a receipt marked as Exhibit "3-b". The amounts thus obtained by the Magtiras reached a total of P1,000.00.

In an undated private instrument signed by SOFIA and ZACARIAS, quoted hereunder, the Magtiras asked for and were given an extension of five years, or up to April 30, 1935, within which to "redeem."

"ANNEX 'A-1'

KASULATANG KASUNDUAN

Kaming magama na Isidoro at Sofia Magtira ay kusang loob na humingue at pinahintulutan naman ng magasawang Zacarias Pangan at Ambrocia Santiago ng ilan pang panahon na gaya nitong sumusunod:

Mula sa pechang katubusan na nakalagda sa yaring notario na makakalakip nitong kasulatang ito na dili iba at ang pechang nabanggit ay ang ika 30 ng Abril ng 1930 ay humingue pa kami na sa loob ng limang taon magmula sa pechang nabanggit sa itaas nito samakatuwid hanggang ika 30 ng Abril ng 1935 ay magaganap ang aming panunubos.

At ang kabilangan ng lahat na kuantang nakukuha namin sa mag-asawang nabanggit ay isang libong piso (P1,000.00) na kuantang pili-pino na siya rin namang kantidad na isasauli sa magasawang ito. At sa katunayan ay nagfirma na ang aking ama ay ipinagkatiwala na sa akin ang firma gawa ng ang amillaramiento nitong lupang ito ay nasalin na rin lamang sa aking pangalan na ang katibayan ay mapag-kikilala o makikita sa pagkakare-histro sa Gobierno ng provincia ng Bulacan at Municipio ng Paombong. (Sgd.) ZACARIAS PANGAN

(Sgd.) SOFIA MAGTIRA"[3]

Petitioner maintains that on three occasions, she orally sought the redemption of the property by offering to ZACARIAS the sum of P1,000.00: the first was sometime before April 30, 1935; the second was shortly before the outbreak of the Second World War; and the third was immediately after the Japanese occupation, but in all these instances, ZACARIAS pleaded for more time to remain in possession, giving as a reason his wish to see his daughter, who is the god-daughter of SOFIA a chance to complete her studies. To these entreaties of her "compadre", SOFIA declared she could not turn a deaf ear.[4]

On August 23, 1945, or ten (10) years and four (4) months after the extended period up to April 30, 1935, ZACARIAS filed with the Register of Deeds of Bulacan an Affidavit for Consolidation of Ownership reading as follows:

"AFFIDAVIT FOR CONSOLIDATION OF OWNERSHIP

I, ZACARIAS PANGAN, Citizen of the Philippines, of legal age, married and resident of Malolos, Bulacan, having been duly sworn to in accordance with law, depose and say:

That by public instrument dated February 8, 1926, executed and ratified before the Notary Public, Honorio Briones, Sr. of Paombong, Bulacan, bearing his Notarial Pro-protocol as Document No. 27, Page 98, series of 1926, Isidoro Magtira in representation of his daughter, Sofia Magtira, sold to me by way of conditional sale (Pacto de Retro) a certain parcel of riceland consisting of 3,412 square meters, more or less, situated in the Sitio of Gusi, Paombong, Bulacan, for the sum of P725.00 repurchaseable on or before April 30, 1930;

That, by written agreement of the parties in their private document without date, the said amount of P725.00 was augmented three times, the first, on June 12, 1928 by P140.00; the second, on May 17, 1929, by P35.00; and the third, on May 1, 1930, by P100.00, or a total of P1,000.00 the entire consideration now involved in the contract for which the land stands as sold. The three receipts representing the amplification of the original amount are hereby attached and made integral part hereof;

That the date of repurchase as later on agreed upon by virtue and in the strength of the said private document, was fixed on or before April 30, 1935 or five years extension for the sum of P1000.00;

That the period for which to exercise the right of repurchase has already elapsed without the vendor or his duly authorized representative complying to all conditions stipulated in the contract leading to the re-sale of the said land, subject matter of this consolidation of ownership;

WHEREFORE, in view of the foregoing considerations as above stated and previous payment of the corresponding legal fees of his Office, the good office of the Register of Deeds of Bulacan is hereby petitioned to consolidate in my favor the full ownership and all inherent rights in and over the parcel of land as above referred to.

IN WITNESS WHEREOF, I have hereunto affixed my signature at Malolos, Bulacan, this 17th day of August, 1945.

(Sgd.) ZACARIAS PANGAN

(T) ZACARIAS PANGAN

(Jurat)"[5]

Isidoro Magtira died intestate in 1953 leaving as his sole compulsory heir, the petitioner SOFIA.[6]

It is SOFIA's submission that it was only some-time in 1955 during the cadastral survey in Paombong, Bulacan, that she came to know that ZACARIAS was claiming ownership of the land which the latter wanted to be surveyed in his name.[7]

On June 18, 1956, SOFIA commenced this action against ZACARIAS for "accounting, cancellation of real estate mortgage and for recovery of ownership" in the Court of First Instance of Bulacan, Branch II, docketed therein as Civil Case No. 1318.

The Amended Complaint alleged mainly that the amount of P725.00 obtained by ISIDORO from ZACARIAS was a loan secured by a real estate mortgage over the subject land, evidenced by a public instrument (Annex "A"); that while a phrase in said document speaks of a contract of sale with right of repurchase, the whole agreement and the only intention of the parties was in reality one of loan with equitable mortgage.

In his Answer to the Amended Complaint, ZACARIAS insisted that the sum of P725.00 which ISIDORO had obtained from him was not a loan secured by a real estate mortgage but the consideration paid by ISIDORO by virtue of a sale with pacto de retro of the property being litigated; that the additional amounts secured from him represented an additional consideration for the sale with right to repurchase; that in the interpretation of contracts, the title of the instrument is not controlling but only the recitals thereof; that during the period for repurchase the Magtiras evidenced no intention to repurchase the property, nor had they made any tender of payment, nor did they file the necessary action for the protection of their rights; that he has been in possession of the property for exactly 30 years, 4 months and ten days computed from February 28, 1926 to the date of the filing of the Complaint on June 18, 1956, so that he has acquired absolute ownership by extraordinary acquisitive prescription and plaintiff's right to recover the same had been extinguished by prescription; and finally, the property having been sold by pacto de retro, he is under no obligation to render an accounting of the fruits thereof.

On February 23, 1959, the trial Court rendered its Decision dismissing the Complaint reasoning that from the documentary evidence it is shown that ISIDORO intended to sell his property by means of a pacto de retro sale for a term of 4 years, which was later extended to 5 years, and he failed to take any step to recover said property notwithstanding the lapse of a considerable length of time; and that whatever doubt there may be as to the exact

nature of their agree-ment has lost significance because ZACARIAS Pangan has become owner of the property by acquisitive prescription.[8]

SOFIA appealed to the Court of Appeals which, in a Decision[*] promulgated on January 22, 1966, affirmed the judgment of dismissal of the trial Court.[9] SOFIA's Motion for Reconsideration was denied by the majority in a Special Division of Five,**] with two (2) Justices voting to grant reconsideration.[10]

In the present Petition for Review on Certiorari, petitioner maintains that the Court of Appeals erred in concluding 1) that the agreement between the parties is a sale with pacto de retro instead of a loan with equitable mortgage and 2) that she is guilty of laches which estops her from asserting her cause of action.

We uphold respondent Court's finding that the words "aking inilipat, ipinagbili nang biling mabibi-ling muli" used by the parties in the document, Exhi-bit "A", are expressive of their intent that the property be sold with a right of repurchase. Those words must be given their ordinary and common meaning. That the document, Exhibit "A", is entitled "Kasulatang Sanglaan" is not a decisive factor. It is settled that:

"To determine the nature of a contract courts do not have or are not bound to rely upon the name or title given it by the contracting parties, should there be a controversy as to what they really had intended to enter into, but the way the contracting parties do or perform their respective obligations stipulated or agreed upon may be shown and inquired into, and should such performance conflict with the name or title given the contract by the parties, the former must prevail over the latter."[11]

The actuations of both parties after entering into the agreement show that ZACARIAS immediately entered into the possession of subject land, paid taxes thereon, and enjoyed its fruits. In fact, Exhibit "A" made specific mention of ZACARIAS' obli-gation to pay taxes, a burden attached to ownership of property. Thus, the document, Exhibit "A", can-not even be presumed as one of equitable mortgage considering that the conveyance does not fall within the purview of any of the cases mentioned in Article 16.02 of the new Civil Code, a provision which may be applied retroactively since it is remedial in nature.[12]

Nor did respondent Court err in holding SOFIA guilty of laches. Not even once did she disturb ZACARIAS' possession for exactly 30 years, 4 months and 10 days from February 8, 1926, the date the first agreement (Exhibit "A") was entered into, up to the time of the filing of the complaint on June 18, 1956. Further, SOFIA showed inexcusable negligence in effectively asserting and protecting her rights as the alleged mortgagee by her failure to either seek a reformation of their agreement, or to make proper consignment of the repurchase price, or to file the action for redemption and cancellation of the alleged mortgage as early as after the Japanese occu-pation when for the third time her alleged offer to redeem was refused by ZACARIAS. Again, from April 30, 1935, the last day of redemption, up to August 23, 1945, the date of the filing of the Affidavit for Consolidation by ZACARIAS, more than ten years had elapsed without SOFIA having undertaken any positive and decisive step to assert and protect her rights to the property, contenting herself with mere feeble requests for redemption.

SOFIA's contention that the consolidation of ownership in ZACARIAS' name in 1945 was kept a secret from her and that ZACARIAS had done nothing else to her knowledge which indicated that he was claiming the land as his own,[13] does not negate the presence of laches. "It is a general rule that actual knowledge on the part of the plaintiff of the existence of a cause of action against the defendant, is not necessary or essential, but that it is enough if such knowledge may be imputed to plaintiff by reason of the existence of opportunity on his part to acquire such knowledge, or because of circumstances of which he was cognizant."[14] Respondent Court, therefore, correctly considered peti-tioner guilty of laches.

"Laches, in a general sense, is failure or neglect, for an unreasonable and unexplained length of time, to do that

which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it".[15]

Additionally, acquisitive prescription operates to bar any action by SOFIA. From the date of the filing of the Affidavit for Consolidation of Owner-ship by ZACARIAS with the Register of Deeds on August 23, 1945 up to the date of the filing of the complaint by SOFIA on June 18, 1956, or for almost eleven (11) years, ZACARIAS enjoyed an uninterrupted, adverse, public and peaceful possession of the liti-gated property in the concept of owner, which under Article 1134 of the Civil Code ripened into owner-ship by ordinary prescription through possession of at least ten years.[16] Contrary to SOFIA's claim, the period of prescription should be reckoned not merely from the time when she allegedly came to know of the claim of ownership of ZACARIAS during the cadastral survey in 1955, but from the date of regis-tration of the Affidavit for Consolidation with the Register of Deeds because registration of an instru-ment in the Office of the Register of Deeds consti-tutes constructive notice to the whole world.[17]

The collective weight of the foregoing consi-derations justify the conclusion of respondent Court that the contract between the parties was indeed a conditional sale. It appearing that SOFIA had failed to exercise the right of repurchase, ZACARIAS acted well within his rights under the old Civil Code when he consolidated the ownership unto himself in 1945.

WHEREFORE, the judgment appealed from, dismissing the Complaint, is hereby affirmed.

With costs against petitioner.

SO ORDERED.

Teehankee, (Chairman), Acting C.J., Makasiar, Fernandez, Guerrero, and De Castro, JJ., concur.

[1] Pp. 34-37, Record on Appeal.

[2] P. 49, Record on Appeal.

[3] Pp. 47-48, Record on Appeal.

[4] Pp. 2-3, Court of Appeals Decision.

[5] Pp. 45-47, Record on Appeal.

[6] p. 26, *ibid.*

[7] p.4 Petitioner's Brief.

[8] Pp. 62-67, Record on Appeal.

[*] Former Fourth Division composed of Capistrano, Canizares (ponente) and Martin, JJ.

[9] Pp. 16-24, Rollo.

[**] Penned by J. Yatco with JJ. Mojica and Martin, concurring; and J. Cañizares dissenting, to which J. Capistrano concurred.

[10] Pp. 37-45, *ibid.*

[11] *Shell Co. of the Phils., Ltd. vs. Firemen's Ins. Co. of Newark, N.J., et al.*, 100 Phil 757, 764, cited in Balbas

vs. Domingo, 21 SCRA 444, 449 (1967); Borromeo vs. Court of Appeals, 47 SCRA 65, 74 (1972); Baluran vs. Navarro, 79 SCRA 309, 313 (1977).

[12] Santos vs. Duata, 14 SCRA 1041 (1965).

[13] P. 16, Petitioner's Brief.

[14] Go Chi Gun, et al. vs. Co Cho, et al., 96 Phil 622,638 (1955).

[15] Tijam vs. Sibonghanoy, 23 SCRA 29 (1968), cited in Castañeda vs. Ago, 65 SCRA 505, 510 (1975).

[16] Joaquin vs. Cujuangco, et al., 20 SCRA 769 (1967); Agolto vs. Court of Appeals, 33 SCRA 765 (1970).

[17] Guinoo vs. The Court of Appeals, et al., 97 Phil 235, 238-239 (1955); Avecilla vs. Hon. Yatco, et al., 103 Phil 666, 670 (1958); Gerona vs. De Guzman, 11 SCRA 153, 157 (1964); Carantes vs. Court of Appeals, 76 SCRA 514, 523 (1977); and Duque vs. Domingo, 80 SCRA 654, 664 (1977).

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