

**PERFECTO ADRID, ET AL., PLAINTIFFS AND APPELLANTS, VS.
ROSARIO MORGA, ETC., DEFENDANT AND APPELLEE, AND
MAMERTO MORGA, ET AL., INTERVENORS AND APPELLEES.**

G.R. No. L-13299. July 25, 1960

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

On August 8, 1938, Perfecto Adrid and his wife Carmen Silangcruz, then owners of Lot No. 550 of the San Francisco Malabon Estate Subdivision, situated in General Trias, Cavite, executed a document entitled "Sale with Right to Repurchase", Exhibit A, purporting to sell the lot to Eugenio Morga for the sum of P2,000 with the right to repurchase the same within two years for the same sum of P2,000, plus 12% interest per annum. The vendors never repurchased said Lot No. 550. But in 1956, Perfecto Adrid and his son, (Carmen Silangcruz then being already dead) brought the present action against the administratrix of the deceased Eugenio Morga to recover the same Lot No. 550, offering to pay the sum of P2,000, and asking for accounting of all the produce of the lot since 1938, this on the theory that the original contract of sale with pacto de retro (Exhibit A) was by acts of the parties to the said contract, converted into one of antichresis. The parties plaintiff and defendant instead of presenting evidence, submitted a stipulation of facts with the prayer that decision be rendered on the basis of such facts. For purposes of reference, we reproduce the pertinent portions of said stipulation of facts:

"1. That on August 8, 1938, the spouses Perfecto Adrid and Carmen Silangcruz executed a deed of sale for P2,000.00 with 12% interest per annum with right to repurchase Lot No. 550 of the Malabon Estate within the period of two (2) years from date and covered by Trans. Cert. of Title No. 10028, Exh. 'A';"

"3. That said deed of sale was registered in the office of the Register of Deeds of Cavite and inscribed at the back of Trans. Cert. of Title No. 10028, covering lot 550, on August 11, 1939, a copy of which is hereto attached as Exh. 'B';

"4. That on August 8, 1938, the date of the execution of said deed of sale with right to repurchase, the vendee Eugenio Morga took possession of the land and benefited himself of the yearly produce of palay, and upon his death on August 25, 1952, said possession and yearly harvest of palay were transferred to his heirs, the herein defendant and intervenors;

"5. That in par. 5 of the notarial document Exh. 'A' there is stipulation which reads: 'Should we Perfecto Adrid and Carmen Silangcruz, fail to repurchase the abovementioned parcel of land under the stipulations above mentioned, then Eugenio Morga shall be the complete and absolute owner of the same without the necessity of further executing a deed of conveyance or any other document';

"6. That this lot 550 appears assessed in the names of the spouses Perfecto Adrid and Carmen Silangcruz under Tax Declaration No. 47, Exh. 'C', and its yearly taxes amounting to P17.00 were being paid by Eugenio Morga;"

"11. That the yearly harvest of palay of this lot No. 550 (is) 30 cavanese net since its area is 35,844 square

meters, as stated in Trans. Cert. of Title No. 10028, and that the price per cavan is P10.00."

The Court of First Instance of Cavite on July 15, 1957, rendered a decision, the dispositive part of which reads as follows:

"In view of the foregoing considerations, this Court is of the opinion and so holds that the contract entered into between the spouses Perfecto Adrid and Carmen Silangcruz on one hand, and the spouses Eugenio Morgia and Genoveva Vasquez on the other, is a contract of sale with the right to repurchase. The plaintiffs having failed to repurchase the land within the stipulated period of two years from the date of the execution of the contract, the title of the deceased vendee a retro, Eugenio Morgia and Genoveva Vasquez, became consolidated by operation of law." * * *

"Wherefore, judgment is hereby rendered against the plaintiffs, with costs. They are likewise ordered to pay the amount of P1,350.00 as attorney's fees."

We have carefully studied this case, examined the document entitled "Sale with Eight to Repurchase" (Exhibit A) and the acts of the parties thereto subsequent to its execution and we have come to the conclusion that the intention of the parties was merely for Perfecto and his wife Carmen to borrow the sum of P2,000 from Eugenio Morgia, Lot No. 550 being given as security. In other words, we have here a clear case of equitable mortgage. Otherwise, there would be no reason for the agreement made for the payment of 12% interest per annum. This interest must refer to the use of P2,000 by the alleged vendors until the same shall have been paid to Eugenio. The parties to the contract must have contemplated the lot remaining in the possession of the vendors inasmuch as it was considered a mere security. However, after the execution of the contract, the creditor, Morgia according to the contention of the plaintiff, decided to take possession of the land, pending payment of the loan, finding it financially advantageous to receive the products thereof, valued at P300.00 a year, in lieu of the payment of interest at 12% a year, which would only be P240.00. But this did not convert, as contended by plaintiffs, the contract from a sale with pacto de retro to that of antichresis.

Some of the reasons behind our conclusion that the present case is one of equitable mortgage, are the following. Despite the expiration of the two year period for the alleged repurchase, which should have been done in 1940, neither Morgia nor his heirs have consolidated their title to the land. The certificate of title remained in the name of the alleged vendors. Not only this, but the tax declaration for the lot also remained in the name of said vendors, and all these years, Eugenio during his lifetime, and his heirs after his death, continued to pay the real estate tax in the name of the vendors.[1] It is also a fact that the price of P2,000 would be rather inadequate for the supposed sale of Lot No. 550 which has an area of about 3½ hectares and has a yearly production of thirty cavans of palay valued P10.00 a cavan, that is to say, P300.00 a year. A parcel of land with an annual production of P300.00 would or should command more than P2,000.00 for its sale. Besides, the contract provided for the payment of interest which is characteristic of a loan or equitable mortgage.[2]

The contention of plaintiffs that although the original contract was one of sale with right to repurchase, it was converted, into one of antichresis just because the vendee took possession of the land, is clearly untenable. There is nothing in the document, Exhibit A, nor in the acts of the parties subsequent to its execution to show that the parties had entered into a contract of antichresis. In the case of *Alojado vs. Lim Siongco*, 51 Phil., 339, this Court said:

"What characterizes a contract of antichresis is that the creditor acquires the right to receive the fruits of the property of his debtor with the obligation to apply them to the payment of interest, if any is due, and then to the principal of his credit, and when such a covenant is not made in the contract, which speaks unequivocally of a sale with right of repurchase, the contract is a sale with the right to repurchase and not an antichresis."

In view of the foregoing, the appealed decision is hereby reversed. The defendants are hereby ordered to give up the possession of the lot in question to the appellants upon the payment of P2,000. No interest will be paid inasmuch as Eugenio and his heir have received the products of the land in lieu of the payment of interest. No costs.

Paras, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Endencia, Barrera and Gutierrez David, JJ., concur. Bengzon, J., took no part.

[1] Escoto vs. Arcilla, 89 Phil., 199.

[2] Ocampo vs. Potenciano, 89 Phil., 159.

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