

PEDRO A. FELICEN, SR. (DECEASED), SUBSTITUTED BY HIS WIDOW, BEATRIZ LANUEVO AND HIS CHILDREN, ELEUTERIO, PEDRO, JR., CLARITA, FERNANDO AND JOSE MARIA, ALL SURNAMED FELICEN, PETI...

G.R. No. L-33182. December 18, 1987

Ponente: NARVASA, J.

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NARVASA, J.:

This appeal on certiorari[1] involves Article 1606 of the Civil Code. The first paragraph of this article declares that in cases of conventional redemption,[2] i.e., when the vendor reserves the right to repurchase the thing sold -- with the obligation to return the price of the sale as well as the expenses of the contract, any other legitimate payments made by reason of the sale, the necessary and useful expenses made on the thing sold,[3] and other stipulations which may have been agreed upon -- the right to repurchase, in the absence of an express agreement, shall last four years from the date of the contract. The second paragraph says that should there be an agreement, the period cannot exceed ten years. And the third and last paragraph -- and it is this which is directly relevant to the case at bar -- reads as follows:

"However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase."

Under a "Deed of Sale With Right to Repurchase,"[4] the spouses Severino Orias and Milagros O. Lim (private respondents herein) sold to Pedro A. Felicen, Sr. (petitioner) a parcel of land in the Municipality of Salcedo, Province of Samar with an area of 7.8 hectares at the price of P3,000.00. The deed expressly reserved to the vendors the right to redeem within two (2) years. That period expired without any offer having been made by the vendors a retro to repurchase the land.

Some eight (8) years afterwards,¹ the vendors a retro filed suit in the Court of First Instance against the vendees to compel the latter to resell and reconvey the property to them. After due proceedings, the Trial Court rendered judgment, finding that the contract between the parties was in truth one of sale with pacto de retro, and that the period stipulated for the repurchase had already expired; but this notwithstanding, the vendors a retro still had the right to repurchase the property within thirty (30) days from the time the judgment becomes final, in accordance with the third paragraph of Article 1606 of the Civil Code, by complying with the requirements of Article 1616.²

The Court of Appeals affirmed the decision of the Trial Court.³ It pronounced as correct the Lower Court's conclusion that the claim of the vendors a retro -- that they had twice offered to repurchase the land but that these had been refused -- had not been proven, the proffered proofs being totally devoid of details that could engender persuasiveness. It also pronounced correct the finding that the contract in question could not be deemed to be one of loan, its terms being so plainly and distinctly indicative of a sale with pacto de retro as to preclude its construction as some other kind of agreement, besides bearing none of the well known indicia of a disguised mortgage, enumerated in Article 1602 of the Civil Code. Nevertheless, the Appellate Court deemed proper the

application of the third paragraph of Article 1606 since the main issue in the case was the obtention of a judicial declaration that the agreement was a simple mortgage.

The thesis of both the Trial Court and the Appellate Court, in other words, was that although the vendors a retro had failed in their suit to prove that their contract with the vendees was actually one of loan with mortgage, the contract having on the contrary been confirmed to be a sale with conventional redemption, they could nonetheless still repurchase the property "within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase", pursuant to said third paragraph of Article 1606. The thesis cannot upon the undisputed facts be sustained.

The application of the third paragraph of Article 1606 is predicated upon the bona fides of the vendor a retro. It must appear that there was a belief on his part, founded on facts attendant upon the execution of the sale with pacto de retro, honestly and sincerely entertained, that the agreement was in reality a mortgage, one not intended to affect the title to the property ostensibly sold, but merely to give it as security for a loan or other obligation. In that event, if the matter of the real nature of the contract is submitted for judicial resolution, the application of the rule is meet and proper: that the vendor a retro be allowed to repurchase the property sold within 30 days from rendition of final judgment declaring the contract to be a true sale with right to repurchase.¹ Conversely, if it should appear that the parties' agreement was really one of sale -- transferring ownership to the vendee, but accompanied by a reservation to the vendor of the right to repurchase the property -- and there are no circumstances that may reasonably be accepted as generating some honest doubt as to the parties' intention, the proviso is inapplicable. The reason is quite obvious. If the rule were otherwise, it would be within the power of every vendor a retro to set at naught a pacto de retro, or resurrect an expired right of repurchase, by simply instituting an action to reform the contract -- known to him to be in truth a sale with pacto de retro -- into an equitable mortgage. As postulated by the petitioner,² "to allow herein private respondents to repurchase the property by applying said paragraph * * to the case at bar despite the fact that the stipulated redemption period had already long expired when they instituted the present action, would in effect alter or modify the stipulation in the contract as to the definite and specific limitation of the period for repurchase (2 years from date of sale or only until June 25, 1958) thereby not simply increasing but in reality resuscitating the expired right to repurchase * * and likewise the already terminated and extinguished obligation to resell by herein petitioner." The rule would thus be a made a tool to spawn, protect and even reward fraud and bad faith, a situation surely never contemplated or intended by the law.

This Court has already had occasion to rule on the proper interpretation of the provision in question. In *Adorable v. Inacala*,³ where the proofs established that there could be no honest doubt as to the parties' intention, that the transaction was clearly and definitely a sale with pacto de retro, the Court adjudged the vendor a retro not to be entitled to the benefit of the third paragraph of Article 1606.

The case at bar is on all fours with *Adorable*. Here, as in the earlier case, the evidence persuasively establishes not only the utter paucity of the vendors' assertion that they had tried to exercise the right to repurchase within the stipulated period, but also that the contract was clearly and distinctly a contract of sale with pacto de retro and contained no provision from which another kind of contract could fairly and reasonably be deduced, and furthermore exhibited none of the familiar badges of a covert mortgage specified by the Civil Code. The Court perceives no reason to deviate from the doctrine in *Adorable*, and a disposition in accord therewith is thus inevitable.

WHEREFORE, the judgments of the Court of Appeals and the Trial Court are reversed, and another entered declaring the private respondents' right to repurchase to have expired upon expiration of the period stipulated therefor, and that ownership of the property in question has long since been acquired by and now rests in the

petitioner, his heirs, successors and assigns. Costs against private respondents.

Teehankee, C.J., Cruz, Paras, and Gancayco, JJ., concur.

[1] From the Decision of the Court of Appeals in CA-G.R. No. 36353-R promulgated on November 24, 1970, affirming the judgment of the Trial Court in Civil Case No. 126 rendered on June 30, 1965

[2] Art. 1601

[3] Art. 1616

[4] Executed on June 25, 1956

1 October 6, 1964

2 Petitioners' brief, pp. 45-52

3 By judgment promulgated on November 24, 1970, Lucero, J., ponente

1 SEE Ceynas v. Ulanday, 105 Phil. 1007, and Gonzales v. de Leon, 114 Phil. 274, 4 SCRA 332, in both of which the action to reform and/or redeem was instituted before the expiration of the stipulated period for repurchase.

2 His brief, p. 41, rollo, p. 74

3 L-10183, April 28, 1958 (103 Phil. 181), cited in Paras, E.L., Civil Code of the Philippines Annotated, 11th ed., Vol. V, p. 219

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