

**FELICISIMA DAPITON, FAUSTINO DAPITON, ASUNCION DAPITON,
OLIMPIA DAPITON AND MELECIO DAPITON, PLAINTIFFS AND
APPELLANTS, VS. NICOLAS VELOSO, DEFENDANT AND APPELLEE.**

G. R. No. L-4716. May 15, 1953

Ponente: PADILLA, J.

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PADILLA, J.:

This is an appeal from a judgment dismissing the plaintiffs' complaint; holding that the defendant is the lawful owner of the parcel of land in litigation; and directing the Register of Deeds for the province of Leyte to cancel original certificate of title No. 16923 issued by him in the name of Pedro Dapiton married to Carmen Libran, and upon payment of the fees to issue in lieu thereof another in the name of the defendant Nicolas Veloso, without costs.

The claims of the parties are stated in the stipulation of facts which reads, as follows:

COME now the parties plaintiffs and defendant by their respective undersigned counsels and to this Honorable Court respectfully submit the following stipulation of facts:

- That the parties plaintiffs and defendant have agreed on the following facts, to wit:

(a) That the land in question is registered in the name of Pedro Dapiton under Original Certificate of Title No. 16923 which is hereto attached as an integral part of this stipulation as Appendix "A";

(b) That the plaintiffs are the heirs in law of said Pedro Dapiton;

(c) That the land in question as described in paragraph 4 of the complaint is assessed under Tax Declaration No. 4636 for P570;

(d) That the land in question was sold with a right to re-purchase by the registered owner thereof Pedro Dapiton on the 11th day of March, 1936 in favor of one Benvenuto Managbanag as evidenced by a public document therefor which is hereto attached and made an integral part hereof as Appendix "B" and about which herein plaintiffs admit its authenticity and due execution;

(e) That on the 14th day of July of 1936 aforesaid Benvenuto Managbanag as vendee-a-retro of the land in question sold his rights thereover in favor of Arsenio Veloso, now deceased, under the same terms as Appendix "B," as evidenced by a public document thereto which is hereto attached and made an integral part hereof as Appendix "C" and about which herein plaintiffs hereby admit its authenticity and due execution;

(f) That the plaintiffs herein admit that neither Pedro Dapiton, now deceased, nor his heirs in law by themselves and/or by any authorized representatives have repurchased the land in question either from Benvenuto Managbanag or Arsenio Veloso within the period stipulated in aforementioned Appendices "B" and "C" until at present;

(g) That the defendant is the heir in law of Arsenio Veloso and the land in question had been allotted the defendant as his share from the estate of the late Arsenio Veloso;

(h) That the defendant by himself and or by his agents as well as by his predecessors in interest have been in the open, continuous and uninterrupted possession of the premises of the land in question since March 11, 1936 by virtue of aforementioned Appendices "B" and "C," having received the produce regularly therefrom;

(i) That the aforementioned documents, Appendices "B" and "C" have not been duly registered nor annotated at the back of Original Certificate of Title No. 16923, Appendix "A," covering the land in question;

- That the only question at issue in the present case is whether or not the document executed by Pedro Dapiton in favor of Benvenuto Managbanag on March 11, 1936 (Appendix "B") is a conditional sale as to pass real and effective title to the land in question in favor of the successors in interest of the therein vendee-a-retro after the conditions therein have not been complied with, or whether said Appendix "B" is merely an equitable mortgage, on its face and on the tenor of the language therein contained.

The instrument which is the subject matter of the controversy reads, as follows:

Que yo, Pedro Dapiton, mayor de edad, viudo y vecino del barrio Caridad del Municipio de Baybay, Provincia de Leyte, Islas Filipinas, en consideracion a la suma de CIENTO SETENTA Y OCHO (P178.00) PESOS en moneda filipina, que me ha pagado y he recibido con mi entera satisfaccion del Sr. Benvenuto Managbanag, tambien mayor de edad, casado con Hilaria Palermo, vecino del municipio de Baybay, Leyte, I. F., por las presente,

HAGO CONSTAR:

Que vendo, cedo y traspaso en calidad de venta con pacto de retro por 5 años, a contar desde la fecha de esta escritura al mencionado Benvenuto Managbanag, sus herederos y causahabientes, la parcela de terreno secano o maizal en el barrio Caridad, sitio Hipgup, del municipio de Baybay, cuya descripcion mas detallada es como sigue:

Al Norte, confina con el riachuelo sin nombre;

Al Este, con Arsenio Veloso;

Al Sur, con Arsenio Veloso y

Al Oeste, con Magdaleno Mantua;

Es conocido como Lote No. _____ y Tax No. _____

Sus mojones son los postes de cemento por la medicion Catastral;

Del que terreno soy propietario y lo adquiri por herencia de mi difunta madre, posesionando quieta y pacificamente hasta la fecha.

Hago constar tambien, que queda convenido y pactado con el mencionado Benvenuto Managbanag, sus herederos y causahabientes, que si yo lo devolviera o hiciere pagar la suma de P178.00 en o antes de 5 años, como se ha dicho arriba, el o sus representantes me otorgara una escritura de retroventa y quedara nula o de ningun valor esta escritura, pero si transcurre dicho termino sin haberse utilizado el derecho de redencion, adquirira el caracter de absoluta esta venta o irrevocablemente consumada. Por ultimo hago constar, que esta parcela de terreno esta libre de toda carga y gravamen y que prometo defender ahora y siempre contra las reclamaciones justas de quien las presentare.

En testimonio de lo cual, firmo la presente ante los testigos presenciales en el Municipio de Baybay, Leyte, hoy 11 de Marzo de 1936.

(Fdo.) PEDRO DAPITON

Vendedor

En presencia de:

(Fdo.) F. SOFRO

(Fdo.) MARTIN DAPITON

(The acknowledgment before a notary public follows.)

The plaintiffs cannot question now the identity of the parcel of land by claiming that it is different from the lot described in original certificate of title No. 16923 issued in the name of Pedro Dapiton, because the stipulation of facts states that it is the same parcel of land.

The instruments in the cases cited in the opinion of the trial court and in the briefs of the parties reveal the intent of the parties not to sell but just to convey the parcel of land as a security for the payment of a loan. In the case of *Olinos vs. Medina*, 13 Phil. 379, a previous creditor indorsed the documents on the parcel of land to the defendant Medina who at the request of the plaintiff furnished the money with which to redeem it; in *Padilla vs. Linsañgan*, 19 Phil. 65, the terms "pledged" and "debt" are used in the instrument; in *Cuyugan vs. Santos*, 34 Phil. 100, citing *Lichauco vs. Berenguer*, 20 Phil. 12, partial payments were accepted by the vendee which is inconsistent with the idea of sale; in *Manlagnit vs. Sanchez*, 34 Phil. 325, the word "mortgage" and three times the word "creditor" are used in the instrument; in *Pamintuan vs. Rodriguez et al.*, 37 Phil., 876, the rule laid down in *Cuyugan vs. Santos*, supra, was reiterated; in *Villa vs. Santiago*, 38 Phil., 157, the same rule in *Cuyugan vs. Santos*, supra, was adhered to; in *Cuyugan vs. Santos*, 39 Phil., 970, the rule in *Cuyugan vs. Santos*, supra, was again reiterated.

The instrument in the instant case reveals clearly the intention of the parties. It is a sale with a right reserved by the vendor to repurchase the parcel of land sold. There is no room for doubt or interpretation as to the intent of the parties.[1]

As to inadequacy of the price, the rule in *Askay vs. Cosalan*, 46 Phil., 179, that mere inadequacy is not sufficient ground for the rescission or resolution of a contract when both parties were in a position to form an independent judgment concerning the transaction, and that in *Manalo vs. Gueco*, 42 Phil., 925 which holds that the purchase price of P3,728, whereas the value of the property was estimated at P7,000, was not grossly inadequate or unconscionable to indicate that it was a mortgage and not a pacto de retro sale, are in point.

The judgment appealed from is modified thus: the plaintiffs or anyone of them who is in possession of the owner's duplicate of original certificate of title No. 16923 are directed to surrender it to the Registrar of Deeds for the province of Leyte and the defendant to attach documentary stamps as by law provided to the notarial document executed by Pedro Dapiton on 11 March 1936 and to the other notarial document executed by Benvenuto Managbanag on 16 July 1936 in favor of Arsenio Veloso, to pay the required fees not only for the issuance of a new transfer certificate of title in lieu of No. 16923 to be cancelled but also the fees for the registration of all the documents, including the order of the probate court or the extrajudicial partition or adjudication, as the case may be, of the parcel of land in favor of the defendant Nicolas Veloso, to be recorded, and the fee provided for in section 99, Act No. 496, and to show to the Registrar of Deeds that he has paid the inheritance tax. The rest of the judgment not inconsistent herewith is affirmed, with costs against the appellants.

Paras, C. J., Pablo, Bengzon, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

[1] *Gatmaitan vs. Nepomuceno*, 42 Phil. 295; *Manalo vs. Gueco*, 42 Phil. 925; *Alderete vs. Amandoron*, 46 Phil. 488; *Tolentino vs. Gonzalez*, 50 Phil. 558; *Villarosa vs. Villamor*, 53 Phil. 350; *Balmori vs. Sison*, 45 Off. Gaz. (9th Supp.) 104; *Lim vs. Calaguas*, 46 Off. Gaz. (11th Supp.) 247; *Morales vs. Ventanilla*, 47 Off. Gaz. 704; 84 Phil. 459.

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