

WILFREDO VERDEJO, PETITIONER, VS. HONORABLE COURT OF APPEALS, HERMINIA PATINIO AND JOHN DOE, RESPONDENTS.

G.R. No. 106018. December 05, 1994

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari under Rule 45 of the Revised Rules of Court of the decision of the Court of Appeals in CA-G.R. CV No. 22638, titled "Wilfredo Verdejo v. Herminia Patinio and John Doe."

On January 11, 1985, petitioner instituted an action for sum of money against private respondents, docketed as Civil Case No. 2546-P before the Regional Trial Court, Branch 111, Pasay City. He alleged that on November 17, 1983, private respondents executed in his favor a Deed of Sale with Right to Repurchase for the sum of P60,560.00, to be paid every 15 days starting January 1984 until fully paid. Private respondents failed to make any payment notwithstanding repeated demands by petitioner, causing the latter to file said action (Rollo, p. 22).

In their answer with counterclaim, private respondents denied having received the amount of P60,560.00 from petitioner. They claimed that they had been previously borrowing from petitioner and for the purpose of reconciling their outstanding accounts of P20,000.00 at 10% interest per month, and P7,000.00 at 12% interest per month, the said deed of sale was executed. However, it was understood by the parties that the amount of P60,560.00 represented their outstanding account of P27,000.00 plus 10% interest per month. Private respondents pointed out that the actual loan received sometime in 1982 was much lower than P60,650.00 and that the same had already been paid (Rollo, pp. 25-29).

Private respondents further argued that petitioner charged usurious interest rates of 10% to 12% per month in contravention of the Usury Law. They sought the recovery of P12,490.00 representing overpayment of interest, damages and attorney's fees.

The trial court dismissed the complaint in its Decision dated September 3, 1986, the dispositive portion of which reads:

WHEREFORE, judgement is hereby rendered dismissing plaintiff's complaint for lack of merit.

On defendants' counterclaim, plaintiff is hereby ordered to refund to defendants the amount of P13,890.00 and to further pay to defendants the amount of P5,000.00 as attorney's fees and the costs of this suit (Rollo, p. 41).

The trial court found that the Deed of Sale with Right to Repurchase was the culmination of a series of loan transactions entered into by the parties. Of the P60,650.00 consideration, the actual amount received by private respondents by way of loan was P22,000.00 with the balance of P38,560.00 representing interest. It ruled that the usurious interest rates were incorporated to the main consideration of P60,650.00 to circumvent the laws against usury. Considering that at the time the loans were entered into, the Usury Law was still in effect and beyond the scope of Central Bank (CB) Circular No. 905, January 1, 1983, which lifted the ceiling on interest rates prescribed under the Usury Law, it held that the contract of loan was valid as to the loan but void as to the usurious interest

(Rollo, pp. 37-39).

The trial court also found that private respondents made a total payment of P35,890.00 with an overpayment of P13,890.00 (Rollo, p. 41).

On appeal by petitioner, the Court of Appeals modified the judgment of the trial court in its Decision dated April 30, 1992, the dispositive portion of which provides:

WHEREFORE, except for the modification that plaintiff Wilfredo Verdejo should be ordered to refund defendant Herminia Patinio the amount of P15,990.00 instead of P13,890.00 as found by the lower court, and that the award of attorney's fees of P5,000.00 should be disallowed, the Decision of September 3, 1986 of the RTC-Pasay City, Branch 111, in Civil Case No. 2546-P, is hereby AFFIRMED, in all other respects (Rollo, p. 106).

The appellate court explained that the loans were obtained by private respondents before the promulgation of CB Circular No. 905, thus:

xxx While Exhibit A, Deed of Sale with Right to Repurchase, was executed on November 17, 1983, the same was a consolidation or carry over of previous loan transactions in February, 1982 (Exhibit 1), November, 1982 (Exhibit 2), and November-December, 1982 (Exhibit 1), before the "open ceiling policy" of the Central Bank Circular No. 905 took effect. At the time the transactions took place per Exhibits 1, 2 and 3, the Usury Law was still in effect, and Exhibit A, which was merely a carry over of transactions in Exhibits 1, 2 and 3 could not legalize previous unlawful loan transactions (Rollo, p. 103, Underscoring supplied).

The Court of Appeals denied petitioner's motion for reconsideration in its Resolution dated June 23, 1992 (Rollo, p. 111).

Hence, the instant petition where petitioner raised the following errors of the appellate court in: (1) holding that the Deed of Sale with Right to Repurchase cannot be enforced against private respondent Herminia Patinio notwithstanding the effectivity of CB Circular No. 905; and (2) making conclusions of fact unsupported by substantial evidence.

The petition is bereft of merit and merely raises factual issues, the determination of which is best left to the trial court. Well-settled is the rule that findings of fact of the trial court and the Court of Appeals are not to be disturbed on appeal and are entitled to great weight and respect (Tay Chun Suy v. Court of Appeals, 229 SCRA 151 [1993]). We see no reason to depart from the findings of the Court of Appeals.

CONSIDERING THE FOREGOING, the Court Resolved to DENY the petition for lack of merit.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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