

PEPITO BERNARDO, ROSITA BERNARDO AND LILY BERNARDO, PETITIONERS, VS. HON. COURT OF APPEALS AND FRUCTUOSO TORRES, RESPONDENTS.

G.R. No. 107791. May 12, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The instant Petition for Review seeks to set aside the August 11, 1987 Decision of respondent Court of Appeals in CA-G.R. CV No. 65844[1] which reversed the December 28, 1978 Decision of the then Court of First Instance of Nueva Ecija, Branch 2, dismissing Civil Case No. 5735.[2]

The facts are as follows:

Private respondent Fructuoso Torres was the owner of five (5) parcels of land, under Transfer Certificate of Title No. NT-21520 of the Register of Deeds of Nueva Ecija, with a total area of 23.2922 hectares, located in Sta. Rosa, Nueva Ecija.

On January 24, 1957, private respondent mortgaged the subject land to the Philippine National Bank for P1,500.00, and redeemed the same on March 23, 1960. Following such redemption, or on June 22, 1960, the subject land was again mortgaged for P4,200.00, this time to the Development Bank of the Philippines.

Two days after the mortgage, or on June 24, 1960, the land became the subject of a Deed of Sale with Assumption of Mortgage[3] executed by private respondent Fructuoso Torres and his wife, Maura Jawili, in favor of the spouses Modesto Bernardo and Cecilia Buenavides (hereinafter referred to as the spouses Bernardo), predecessors-in-interest of petitioners. The spouses Bernardo thereafter took possession of the subject land, and since then possession thereof has remained with them and their successors-in-interest, petitioners herein.

On December 6, 1971, private respondent filed a Complaint for Annulment of Contract, Reconveyance with Damages and Preliminary Injunction[4] against petitioners, as heirs of the spouses Bernardo, both now deceased, which was docketed as Civil Case No. 5735 before the Court of First Instance of Nueva Ecija. He alleged that he does not know how to read and write; and that neither he nor his wife knew that the document they signed was one for sale inasmuch as they were made to believe that what they had executed was a contract for the transfer of possession, or lease, of the subject land to the spouses Bernardo for a ten (10) year period, in exchange for P9,000.00. This P9,000.00, which the spouses Bernardo advanced, supposedly represented the P4,800.00 private respondent loaned from the spouses Bernardo sometime in 1960 to redeem the subject land from the PNB; and the payment for their P4,200.00 loan from DBP, which the spouses Bernardo were to assume. The amount of P9,000.00 was to be returned by private respondent to the spouses Bernardo after ten (10) years, simultaneous with the return to them of possession of the subject land. Private respondent claims that he and his wife thought the document presented to them by the Bernardo spouses and which they signed was an agreement for "Hiraman ng Lupa".

Previously, on June 3, 1970, private respondent obtained another agricultural loan from DBP in the amount of P4,900.00, part of which he used to pay off the remaining balance of P1,600.00 left unpaid by the spouses Bernardo.

However, instead of returning the subject land to private respondent after the lapse of ten (10) years, petitioner Pepito Bernardo filed an Affidavit of Adverse Claim and a criminal complaint against private respondent for estafa, both on account of the additional loan obtained by the latter from the DBP using the subject land as collateral, despite the fact that ownership of the same had long been transferred to the spouses Bernardo.

In their Answer in Civil Case No. 5735,[5] petitioners insisted that the transaction between private respondent and their deceased parents was one of sale with assumption of mortgage. They accused private respondent of bad faith in securing the P4,900.00 liquidation loan from DBP after learning that the remaining balance of the original loan was only P1,600.00, and even as they had no more right to derive any benefit from the subject land. Petitioners claim that this prompted them to file an Affidavit of Adverse Claim with the Register of Deeds of Nueva Ecija on October 16, 1970, followed by a criminal case for estafa[6] filed on December 28, 1970. Petitioners argued that private respondent filed the Complaint in reaction to the criminal case they filed against them after private respondent admitted the existence of the Deed of Sale with Assumption of Mortgage. They asserted that private respondent's sole objective in filing the civil action was to escape criminal liability.

Meanwhile, the estafa case filed by petitioners against private respondent was held in abeyance until after the termination of Civil Case No. 5735.

Following trial on the merits in the civil action, the lower court rendered its Decision of December 28, 1978, dismissing the Complaint upon a finding that the verbal allegations of private respondent cannot overcome the documentary and testimonial evidence presented by petitioners. In particular, the court upheld the presumption of regularity of the subject document which was notarized by a PNB notary public who would not have allowed himself to be used as a tool in deceiving private respondent and his wife. In dismissing the Complaint, the lower court also took the following into consideration: (1) the lack of evidence showing any unusual interest of the spouses Bernardo over the subject land prior to the transaction or of circumstances showing private respondent in dire need of money, which could have caused spouses Bernardo to take advantage of his situation; (2) the immediate transfer of the property to the spouses Bernardo, together with the DBP loan account passbook; (3) the fact that private respondent never paid taxes on the land during the alleged ten year "lending" period; (4) the fact that the consideration of P9,000.00 for the land did not appear inadequate as the land was at that time unirrigated and had a total assessed value of only P7,000.00; and (5) the lapse of eleven years from the time the contract was executed until the time of the filing of the Complaint.

On appeal, respondent Court of Appeals reversed the lower court's Decision and annulled the subject Deed of Sale with Assumption of Mortgage. Petitioners were also ordered to vacate the subject land and to pay private respondent P5,000.00 as and for attorney's fees. In so ruling, respondent Court of Appeals took note of the illiteracy of private respondent and his wife, following Article 24 of the Civil Code which enjoins the courts to be vigilant in the protection of the rights of those disadvantaged in contractual relations by virtue of their ignorance and mental handicap. The Court of Appeals also found the failure of petitioners to pay taxes on the land and to have title to the same transferred in their name as indicative of their status as mere lessees of the land and not vendees thereof. Finally, it found that prescription has not set in, since the four year period within which to bring an action for annulment of contract commences only upon discovery of the mistake or fraud, which it found to be only in 1970.

With the denial of their Motion for Reconsideration on October 28, 1992, petitioners filed the instant Petition for

Review anchored upon the following grounds –

I. THE RESPONDENT COURT ERRED AND EXERCISED GRAVE ABUSE OF DISCRETION IN DISREGARDING THE LEGAL EFFECTS AND PROBATIVE VALUE OF A PUBLIC AND DULY NOTARIZED DOCUMENT THE EXECUTION OF WHICH IS NOT DISPUTED.

II. THE RESPONDENT COURT ERRED AND EXERCISED GRAVE ABUSE OF DISCRETION IN FINDING THAT THE PRESUMPTION OF LEGALITY AND REGULARITY OF A NOTARIAL ACT COULD BE DEFEATED BY MERE DENIAL OF THE PARTY EXECUTING THE NOTARIZED INSTRUMENT.

III. THE RESPONDENT COURT ERRED AND EXERCISED GRAVE ABUSE OF DISCRETION IN RELYING ON THE TESTIMONY OF PRIVATE RESPONDENT THAT HE DOES NOT KNOW HOW TO READ AND WRITE DESPITE ADMISSION BY THE LATTER OF THE CONTENTS OF THE WRITTEN AGREEMENT.

IV. THE RESPONDENT COURT ERRED AND EXERCISED GRAVE ABUSE OF DISCRETION IN REVERSING THE DECISION OF THE TRIAL COURT BASED SOLELY ON THE TESTIMONY OF THE PRIVATE RESPONDENT THAT HE DOES NOT KNOW HOW TO READ AND WRITE IN UTTER DISREGARD OF THE EVALUATION AND FINDINGS OF THE TRIAL JUDGE OF THE EVIDENCE PRESENTED BEFORE HIM.

V. THE RESPONDENT COURT OF APPEALS ERRED AND EXERCISED ABUSE OF DISCRETION IN NOT FINDING THAT THE COMPLAINT IS BARRED BY THE STATUTE OF LIMITATIONS.[7]

Stripped to the core, the issue in the case before us is simply whether or not the transaction over the subject land was one of sale or one of lease. On one hand, we have the stark documentary evidence entitled "Deed of Sale with Assumption of Mortgage"; while on the other, we have private respondent's and his wife's denial that they had intended to sell the subject land.

It is a fact that the transaction between private respondent and the spouses Bernardo was reduced into writing by way of a document denominated "Deed of Sale with Assumption of Mortgage".[8] This document, admitted as signed by private respondent and his wife, was duly notarized by Notary Public Pedro B. Binuya and had two instrumental witnesses. Being a notarized document, it had in its favor the presumption of regularity, and to overcome the same, there must be evidence that is clear, convincing and more than merely preponderant; otherwise the document should be upheld.[9]

The question that must be addressed, therefore, is: Was the evidence presented by private respondent against the Deed of Sale with Assumption of Mortgage clear, convincing and more than merely preponderant? We do not think so.

Far from being clear and convincing, all that private respondent offered by way of evidence was his and his wife's mere denial that they had intended to sell the subject land. Such bare and unsubstantiated denial will not suffice to overcome the positive presumption of the due execution of the subject Deed, being a notarized document. Indeed, when the evidence is conflicting, the public document must still be upheld.[10]

The same strict requirements apply with respect to the contents of the subject Deed. As held in *Sierra v. Court of Appeals*[11] –

The Rules of Court provide that "when the terms of an agreement have been reduced to writing, it is to be considered as containing all such terms, and, therefore, there can be, between the parties and their successors in interest, no evidence of the terms of the agreement other than the contents of the writing." It is true that parol evidence may be admitted to challenge the contents of such agreement "where a mistake or imperfection of the

writing, or its failure to express the true intent and agreement of the parties, or the validity of the agreement is put in issue by the pleadings." However, such evidence must be clear and convincing and of such sufficient credibility as to overturn the written agreement.

Again, mere denial by private respondent cannot refute the contents of the subject Deed which, from its very title, in no uncertain terms holds out the transaction covered as one of "Sale with Assumption of Mortgage". Further, paragraph 4 of the document clearly and unequivocally provides –

"4. That, for and in consideration of the sum of Four Thousand Eight Hundred Pesos (P4,800.00), Philippine currency, receipt of which is hereby acknowledged to have been received by the Vendors from the Vendees, the Vendors have sold, transferred and conveyed, and by these presents do hereby sell, transfer and convey by way of absolute sale unto the Vendees, their heirs successors and assigns, the above described parcels of land, subject to the mortgage lien in favor of the Development Bank of the Philippines." (emphasis ours)

Respondent Court of Appeals relied on the claim by private respondent that neither he nor his wife could understand English and knew not what the subject Deed was about. However, the records of the case show that private respondent was not totally unschooled as he, himself, testified that he reached Grade Two.[12] And one who reaches Grade Two would very well know the import and meaning of the word "sale" which appears not only in the body of the subject document but even in its very title in capital letters. Indeed, we cannot see how private respondent can recognize the caption "Declaration of Real Estate Property"[13] and not "Deed of Sale with Assumption of Mortgage". His knowledge of the English language is suspiciously selective. The deed of sale is not the only document in English language entered into by private respondent. He and his wife had previously entered into the two DBP mortgage contracts[14] which were likewise written in English. Private respondent's own Exhibit "F", his letter/application to DBP, is entirely written in the English language. All told, we fail to see how private respondent could not have known that the document he signed was one for sale of his property when the very title thereof as well as its provisions contained the word "sale", a simple word he would have perfectly recognized and understood.

Moreover, we note that the specific provisions of the subject document contained details which could have been known only to private respondent and his wife (i.e., the mortgage with the DBP, the amount and notarial incidents thereof, and the balance of the loan proceeds) – these signify that both of them had full participation in the drawing up of the said document and knew fully well what it was all about.

Finally, granting, without conceding, that private respondent and his wife were both illiterate, this still does not save the day for them. As stressed in *Tan Sua Sia v. Yu Baio Sontua*, 56 Phil. 711, cited in *Mata v. Court of Appeals*[15] --

"x x x. The rule that one who signs a contract is presumed to know its contents has been applied even to contracts of illiterate persons on the ground that if such persons are unable to read, they are negligent if they fail to have the contract read to them. If a person cannot read the instrument, it is as much his duty to procure some reliable persons to read and explain it to him, before he signs it, as it would be to read it before he signed it if he were able to do so and his failure to obtain a reading and explanation of it is such gross negligence as will estop him from avoiding it on the ground that he was ignorant of its contents."

We also find that the contemporaneous and subsequent acts of the parties point to sale as having been effected. Private respondent admitted turning over the DBP loan passbook to the spouses Bernardo,[16] an act which was consistent with the assumption of mortgage referred to in the subject document. Possession of the subject land was also transferred to the spouses Bernardo who by themselves and, later, through petitioners, cultivated the same. On the part of private respondent, it is noteworthy that from the time the document of sale was signed, he never paid realty taxes on the subject land, a fact inconsistent with his claim of continued ownership. Private

respondent only paid taxes on the land in June 1970. Coincidentally, his letter/application for agricultural loan with the DBP on May 22, 1970[17] contains a notation regarding certification as to land tax payment and tax declarations, leading us to conclude that the payment of taxes on the land was a requirement for any loan to issue or, at the very least, had some bearing on the loan application.

As for petitioners, we find their failure to have title to the subject land transferred to their name adequately explained by paragraph 7 of the Deed of Sale with Assumption of Mortgage, to wit –

"7. That it is further agreed that this instrument shall not be registered with the office of the Register of Deeds of Nueva Ecija, until the obligation with the Development Bank of the Philippines which is hereby assumed by the Vendees is fully paid, and the title to the properties released by the said bank."

Stated differently, it was impossible for petitioners or their predecessors-in-interest to have the title transferred to their name until the original loan with DBP was paid, since the said bank retained the title of the property until such full payment.

Recapitulating, we find that the validity of the notarized Deed of Sale with Assumption of Mortgage has not successfully been overthrown, hence the Complaint for Annulment of Contract and Reconveyance with Damages must be dismissed.

WHEREFORE, premises considered, the instant Petition for Review is GRANTED. The August 11, 1987 Decision of respondent Court of Appeals in CA-G.R. CV No. 65844 is REVERSED and SET ASIDE and the December 28, 1978 Decision of the then Court of First Instance of Nueva Ecija, Branch II, dismissing Civil Case No. 5735 is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Pardo, JJ., concur.

Puno, J., no part due to relationship to one counsel.

[1] Records, C.A. G.R. CV No. 65844, pp. 39-51.

[2] Penned by Judge Bienvenido C. Vera Cruz; Records, Civil Case No. 5735, pp. 71-77.

[3] Simultaneously Exh. "B" and "1".

[4] Civil Case No. 5735, pp. 1-14.

[5] Id., at pp. 24-37.

[6] See Exh. "G", Information, Criminal Case No. 20013.

[7] Petition for Review, p. 5; Rollo, p. 16.

[8] See Note 3.

[9] Spouses Caoili vs. Court of Appeals, G.R. No. 128325, 14 September 1999.

[10] See R & B Insurance Corporation vs. Court of Appeals, G.R. No. 108472, 9 October 1999.

[11] G.R. No. 90270, 211 SCRA 785, 789-790 (1992)

[12] T.S.N., 27 February 1974, p. 8.

[13] T.S.N., 27 February 1974, p. 14.

[14] Exhs. "J" and "L".

[15] G.R. No. 87880, 207 SCRA 753, 760 (1992)

[16] T.S.N., 11 December 1975, p. 7.

[17] Exh. "F".

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