NATALIA P. BUSTAMANTE, PETITIONER VS. SPOUSES RODITO F. ROSEL AND NORMA A. ROSEL, RESPONDENTS.

G.R. No. 126800. November 29, 1999

Ponente: PARDO, J.

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PARDO, J. :

The case before the Court is a petition for review on certiorari[1] to annul the decision of the Court of Appeals,[2] reversing and setting aside the decision of the Regional Trial Court,[3], dated November 10, 1992, Judge Teodoro P. Regino. 3 Quezon City, Branch 84, in an action for specific performance with consignation.

On March 8, 1987, at Quezon City, Norma Rosel entered into a loan agreement with petitioner Natalia Bustamante and her late husband Ismael C. Bustamante, under the following terms and conditions:

> "1. That the borrowers are the registered owners of a parcel of land, evidenced by TRANSFER CERTIFICATE OF TITLE No. 80667, containing an area of FOUR HUNDRED TWENTY THREE (423) SQUARE Meters, more or less, situated along Congressional Avenue.
>
> "2. That the borrowers were desirous to borrow the sum of ONE HUNDRED THOUSAND (P100,000.00) PESOS from the LENDER, for a period of two (2) years, counted from March 1, 1987, with an interest of EIGHTEEN (18%) PERCENT per annum, and to guaranty the payment thereof, they are putting as a collateral SEVENTY (70) SQUARE METERS portion, inclusive of the apartment therein, of the aforestated parcel of land, however, in the event the borrowers fail to pay, the lender has the option to buy or purchase the collateral for a total consideration of TWO HUNDRED THOUSAND (P200,000.00) PESOS, inclusive of the borrowed amount and interest therein;
>
> "3. That the lender do hereby manifest her agreement and conformity to the preceding paragraph, while the borrowers do hereby confess receipt of the borrowed amount."[4]

When the loan was about to mature on March 1, 1989, respondents proposed to buy at the pre-set price of P200,000.00, the seventy (70) square meters parcel of land covered by TCT No. 80667, given as collateral to guarantee payment of the loan. Petitioner, however, refused to sell and requested for extension of time to pay the loan and offered to sell to respondents another residential lot located at Road 20, Project 8, Quezon City, with the principal loan plus interest to be used as down payment. Respondents refused to extend the payment of the loan and to accept the lot in Road 20 as it was occupied by squatters and petitioner and her husband were not the owners thereof but were mere land developers entitled to subdivision shares or commission if and when they developed at least one half of the subdivision area.[5]

Hence, on March 1, 1989, petitioner tendered payment of the loan to respondents which the latter refused to accept, insisting on petitioner's signing a prepared deed of absolute sale of the collateral.

On February 28, 1990, respondents filed with the Regional Trial Court, Quezon City, Branch 84, a complaint for specific performance with consignation against petitioner and her spouse.[6]

Nevertheless, on March 4, 1990, respondents sent a demand letter asking petitioner to sell the collateral pursuant to the option to buy embodied in the loan agreement.

On the other hand, on March 5, 1990, petitioner filed in the Regional Trial Court, Quezon City a petition for consignation, and deposited the amount of P153,000.00 with the City Treasurer of Quezon City on August 10, 1990.[7]

When petitioner refused to sell the collateral and barangay conciliation failed, respondents consigned the amount of P47,500.00 with the trial court.[8] In arriving at the amount deposited, respondents considered the principal loan of P100,000.00 and 18% interest per annum thereon, which amounted to P52,500.00.[9] The principal loan and the interest taken together amounted to P152,500.00, leaving a balance of P 47,500.00.[10]

After due trial, on November 10, 1992, the trial court rendered decision holding:

> "WHEREFORE, premises considered, judgment is hereby rendered as follows:
>
> "1. Denying the plaintiff's prayer for the defendants' execution of the Deed of Sale to Convey the collateral in plaintiffs' favor;
>
> "2. Ordering the defendants to pay the loan of P100,000.00 with interest thereon at 18% per annum commencing on March 2, 1989, up to and until August 10, 1990, when defendants deposited the amount with the Office of the City Treasurer under Official Receipt No. 0116548 (Exhibit "2"); and
>
> "3. To pay Attorney's Fees in the amount of P 5,000.00, plus costs of suit.
>
> "SO ORDERED.
>
> "Quezon City, Philippines, November 10, 1992.
>
> "TEODORO P. REGINO
> "Judge"[11]

On November 16, 1992, respondents appealed from the decision to the Court of Appeals.[12] On July 8, 1996, the Court of Appeals rendered decision reversing the ruling of the Regional Trial Court. The dispositive portion of the Court of Appeals' decision reads:

> "IN VIEW OF THE FOREGOING, the judgment appeal (sic) from is REVERSED and SET ASIDE and a new one entered in favor of the plaintiffs ordering the defendants to accept the amount of P 47,000.00 deposited with the Clerk of Court of Regional Trial Court of Quezon City under Official Receipt No. 0719847, and for defendants to execute the necessary Deed of Sale in favor of the plaintiffs over the 70 SQUARE METER portion and the apartment standing thereon being occupied by the plaintiffs and covered by TCT No. 80667 within fifteen (15) days from finality hereof. Defendants, in turn, are allowed to withdraw the amount of P153,000.00 deposited by them under Official Receipt No. 0116548 of the City Treasurer's Office of Quezon City. All other claims and counterclaims are DISMISSED, for lack of sufficient basis. No costs.
>
> "SO ORDERED."[13]

Hence, this petition.[14]

On January 20, 1997, we required respondents to comment on the petition within ten (10) days from notice.[15] On February 27, 1997, respondents filed their comment.[16]

On February 9, 1998, we resolved to deny the petition on the ground that there was no reversible error on the part of respondent court in ordering the execution of the necessary deed of sale in conformity the with the parties' stipulated agreement. The contract is the law between the parties thereof (Syjuco v. Court of Appeals, 172 SCRA

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111, 118, citing Phil. American General Insurance v. Mutuc, 61 SCRA 22; Herrera v. Petrophil Corporation, 146 SCRA 360).[17]

On March 17, 1998, petitioner filed with this Court a motion for reconsideration of the denial alleging that the real intention of the parties to the loan was to put up the collateral as guarantee similar to an equitable mortgage according to Article 1602 of the Civil Code.[18]

On April 21, 1998, respondents filed an opposition to petitioner's motion for reconsideration. They contend that the agreement between the parties was not a sale with right of re-purchase, but a loan with interest at 18% per annum for a period of two years and if petitioner fails to pay, the respondent was given the right to purchase the property or apartment for P200,000.00, which is not contrary to law, morals, good customs, public order or public policy.[19]

Upon due consideration of petitioner's motion, we now resolve to grant the motion for reconsideration.

The questions presented are whether petitioner failed to pay the loan at its maturity date and whether the stipulation in the loan contract was valid and enforceable.

We rule that petitioner did not fail to pay the loan.

The loan was due for payment on March 1, 1989. On said date, petitioner tendered payment to settle the loan which respondents refused to accept, insisting that petitioner sell to them the collateral of the loan.

When respondents refused to accept payment, petitioner consigned the amount with the trial court.

We note the eagerness of respondents to acquire the property given as collateral to guarantee the loan. The sale of the collateral is an obligation with a suspensive condition.[20] It is dependent upon the happening of an event, without which the obligation to sell does not arise. Since the event did not occur, respondents do not have the right to demand fulfillment of petitioner's obligation, especially where the same would not only be disadvantageous to petitioner but would also unjustly enrich respondents considering the inadequate consideration (P200,000.00) for a 70 square meter property situated at Congressional Avenue, Quezon City.

Respondents argue that contracts have the force of law between the contracting parties and must be complied with in good faith.[21] There are, however, certain exceptions to the rule, specifically Article 1306 of the Civil Code, which provides:

> "Article 1306. The contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy."

A scrutiny of the stipulation of the parties reveals a subtle intention of the creditor to acquire the property given as security for the loan. This is embraced in the concept of pactum commissorium, which is proscribed by law.[22]

> "The elements of pactum commissorium are as follows: (1) there should be a property mortgaged by way of security for the payment of the principal obligation, and (2) there should be a stipulation for automatic appropriation by the creditor of the thing mortgaged in case of non-payment of the principal obligation within the stipulated period."[23]

In Nakpil vs. Intermediate Appellate Court,[24] we said:

> "The arrangement entered into between the parties, whereby Pulong Maulap was to be "considered sold to him (respondent) xxx in case petitioner fails to reimburse Valdes, must then be construed as tantamount to pactum commissorium which is expressly prohibited by Art. 2088 of the Civil Code. For, there was to be automatic

> appropriation of the property by Valdes in the event of failure of petitioner to pay the value of the advances. Thus, contrary to respondent's manifestation, all the elements of a pactum commissorium were present: there was a creditor-debtor relationship between the parties; the property was used as security for the loan; and there was automatic appropriation by respondent of Pulong Maulap in case of default of petitioner."

A significant task in contract interpretation is the ascertainment of the intention of the parties and looking into the words used by the parties to project that intention. In this case, the intent to appropriate the property given as collateral in favor of the creditor appears to be evident, for the debtor is obliged to dispose of the collateral at the pre-agreed consideration amounting to practically the same amount as the loan. In effect, the creditor acquires the collateral in the event of non payment of the loan. This is within the concept of pactum commissorium. Such stipulation is void.[25]

All persons in need of money are liable to enter into contractual relationships whatever the condition if only to alleviate their financial burden albeit temporarily. Hence, courts are duty bound to exercise caution in the interpretation and resolution of contracts lest the lenders devour the borrowers like vultures do with their prey.

WHEREFORE, we GRANT petitioner's motion for reconsideration and SET ASIDE the Court's resolution of February 9, 1998. We REVERSE the decision of the Court of Appeals in CA-G. R. CV No. 40193. In lieu thereof, we hereby DISMISS the complaint in Civil Case No. Q-90-4813.

No costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Under Rule 45, 1964 Revised Rules of Court.

[2] In CA-G.R. CV No. 40193, promulgated on July 8, 1996.

[3] In Civil Case No. Q-90-481

[4] Exhibit "A", RTC Record, p. 142.

[5] Regional Trial Court Decision, Rollo, p. 31.

[6] Civil Case No. Q-90-4813

[7] Exhibit "2", RTC Record, p. 182.

[8] Under Official Receipt No. 0719847 dated February 28, 1990, issued by the City Treasurer, Quezon City, with the Clerk of Court, Regional Trial Court, National Capitol Judicial Region, Quezon City, as payee, RTC Record, p. 162.

[9] (P100,000.00 x 18%) 2 years and 11 months (March 8, 1987 up to February 9, 1990) P18,000 x 2 years and 11 months = P 52,500.

[10] Comment, Rollo, pp. 41-45.

[11] Decision, Regional Trial Court, Quezon City, Rollo, pp. 30-39.

[12] Docketed as CA-G.R. CV No. 40193

[13] Court of Appeals Decision, Rollo, pp. 19-26.

[14] Petition, filed on November 29, 1996. Rollo, pp. 7-17. On November 27, 1996, the Court granted petitioner an extension of thirty days from the expiration of the reglementary period within which to file a petition for review on certiorari (Rollo, p. 14).

[15] Rollo, p. 40.

[16] Rollo, pp. 41-45.

[17] Rollo, p. 55.

[18] Motion for Reconsideration, Rollo, pp. 56-58.

[19] Rollo, pp. 60-65.

[20] Article 1181, Civil Code. In conditional obligations, the acquisition of the rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.

[21] Article 1159, Civil Code.

[22] Article 2088, Civil Code. The creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void.

[23] Development Bank of the Philippines vs. Court of Appeals, 284 SCRA 14, 26 (1998), citing Tolentino, Arturo M., Commentaries & Jurisprudence on the Civil Code of the Philippines, Vol. V, pp. 536-537 (1992), citing Uy Tong vs. Court of Appeals, 161 SCRA 383 (1988).

[24] 225 SCRA 456,467 (1993).

[25] Article 2208, Civil Code, quoted above.

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