

**LYDIA R. LAPAT, ASSISTED BY HER HUSBAND JIMMY LAPAT,
PETITIONER, VS. JOSEFINO ROSARIO, MARIA ROSARIO, HON.
HENEDINO EDUARTE, IN HIS CAPACITY AS PRESIDING JUDGE, RTC
– BR. 20, CA...**

G.R. No. 127348. August 17, 1999

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This is a petition for review on certiorari of the 27 November 1996 decision of the Court of Appeals affirming that of the Regional Trial Court, Br. 20, Cauayan, Isabela, which dismissed the complaint of petitioner and declared that the disputed two (2) Deed(s) of Sale of Realty with Right to Repurchase were equitable mortgages.

On 12 February 1993 petitioner Lydia R. Lapat, assisted by her husband Jimmy Lapat, filed a complaint for consolidation of ownership against respondent spouses Josefino Rosario and Maria Rosario. Petitioner alleged that on 5 June 1991 respondents sold to her two (2) parcels of land with right of repurchase on or before 30 May 1992: the first parcel covered by TCT No. T-127984 containing an area of 613 square meters for P100,000.00,[1] and the second, covered by TCT No. T-7347 containing an area of 4.9998 hectares for P400,000.00.[2] When respondents failed to redeem the property on or before 30 May 1992 petitioner filed a complaint for consolidation of ownership.

In their answer respondents denied having sold the two (2) parcels of land to petitioner; instead, they alleged that sometime in 1991 petitioner offered to sell to them an Isuzu Elf truck, which they could use for hauling their agricultural products, for P300,000.00 payable as follows: P120,000.00 as downpayment upon delivery and P180,000.00 on or before 30 May 1992.

Respondents paid P120,000.00 upon delivery of the truck. Later however it was discovered that the vehicle had a defective motor and the purchase and installation of a replacement would entail P60,000.00 which respondents did not have. Consequently, they offered to return the vehicle to petitioner. Instead of accepting the vehicle, petitioner proposed to loan respondents P60,000.00 at 40% interest to be deducted in advance from the P60,000.00. Respondents accepted the offer and petitioner gave them P36,000.00 representing the P60,000.00 minus the 40% interest, the loan to be paid on or before 30 May 1992.

To secure payment of the purchase price of P300,000.00 of the Isuzu Elf truck and the P60,000.00 loan, petitioner required respondents to sign two (2) documents purporting to be Deed(s) of Sale with Right to Repurchase, which the latter did on the basis of trust and confidence in petitioner the latter being a close friend and long-time business associate of the former. In addition, respondents allowed petitioner to till the land with the condition that the fruits and benefits derived therefrom would be credited to the purchase price of the truck.

Unfortunately, setback after setback and poor harvests prompted respondents to return the Isuzu Elf truck to petitioner. On 13 February 1992 petitioner accepted the truck back and released respondents from paying the

balance of the purchase price as well as the P60,000.00 loan. As regards the two (2) Deed(s) of Sale with Right to Repurchase, petitioner promised to cancel them. Meanwhile, respondents allowed petitioner to continue tilling the lands in order to recover her investment and as compensation for the use of the vehicle.

Respondents claimed that the two (2) Deed(s) of Sale with Right to Repurchase were in truth equitable mortgages under Art. 1602 of the New Civil Code which provides that "[t]he contract shall be presumed to be an equitable mortgage, in any of the following cases: (6) In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation."

On 16 December 1993 the Regional Trial Court of Cauayan, Isabela, rendered a decision^[3] the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of defendants and against the plaintiff Lydia Lapat: (1) declaring the two (2) deeds of sale with right to repurchase as equitable mortgage;(2) dismissing the complaint; (3) ordering the plaintiff to return the possession of the two (2) parcels of land described in the two (2) deeds of sale with right to repurchase, to the defendants; (4) ordering the plaintiff to pay to the defendants P20,000.00 attorney's fee and to pay cost.

Petitioner appealed to the Court of Appeals imputing the following errors to the court a quo: (a) in interpreting the two (2) Deed(s) of Sale with Right to Repurchase as equitable mortgages; and, (b) in giving credence to appellees' bare denial of actual receipt of the purchase price as against the overwhelming documentary evidence of such payments for the two (2) Deed(s) of Sale with Right to Repurchase.^[4]

But the Court of Appeals found no reversible error in the appealed decision. Consequently, the decision of the court a quo was affirmed in toto.

In this Petition for Review on Certiorari, petitioner seeks reversal of the decision of the Court of Appeals on the same grounds relied upon in the appellate court.^[5]

The petition is without merit. The records of the case coupled with the testimonial and documentary evidence of the parties indubitably show that the Court of Appeals committed no reversible error in affirming the decision of the trial court. Article 1602 of the New Civil Code enumerates the instances when a contract, regardless of its nomenclature, may be presumed to be an equitable mortgage. Specifically, Art. 1602 provides that a contract shall be presumed to be an equitable mortgage (1) when the price of a sale with right to repurchase is unusually inadequate; (2) when the vendor remains in possession as lessee or otherwise; (3) when upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed; (4) when the purchaser retains for himself a part of the purchase price; (5) when the vendor binds himself to pay the taxes on the thing sold; and, (6) in any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation.

The instant case falls squarely under par. (6) of Art. 1602, to wit: In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation. Circumstances abound pointing to this conclusion.

First. Petitioner claims that in June 1991 she bought two (2) parcels of land from respondents paying the latter P500,000.00 in cash. If this were true then why could not respondents afford the P60,000.00 needed for the repair of the Isuzu Elf truck? Why would they take the extra burden of borrowing P60,000.00 from petitioner at a grossly exorbitant interest rate of 40%?

Second. Petitioner supposedly paid P500,000.00 cash to the respondents. If petitioner indeed paid, why did she

have to shell out the full amount of P500,000.00 considering that respondents were allegedly indebted to her in the amount of P60,000.00? The most prudent course for petitioner to take, an astute businesswoman that she was, would have been to set-off the P60,000.00 owing her by respondents as against the P500,000.00 purchase price.

Third. The last day to redeem the two (2) parcels of land purportedly fell on 30 May 1992. Interestingly, this coincided with the date respondents were supposed to pay the remaining balance of the purchase price of the truck.

Fourth. The cash receipts signed by respondents when they received the P100,000.00 and P400,000.00 in cash from petitioner were of questionable value and origin. To illustrate, they were written thuswise:

CASH RECEIPT

Received in trust from LAPAT PALAY/CORN BUYING STATION of Antonino, Alicia, Isabela, the sum of (P100,000.00) One Hundred Thousand Pesos only as advance for the purchase of palay/corn for the crop year 1991 for which I promise to deliver in the warehouse at Antonino, Alicia, Isabela on or before Oct. 30, 1991 at the price of P4.00 per kilo.

I further bind myself to return whatever amount I hold in trust, not spent for the purchase of palay/corn on or before Nov. 30, 1991 or upon demand by the said LAPAT PALAY/CORN BUYING STATION. In case of any violation in the above agreement, I hereby obligate myself to pay all damages and attorney's fee any suits that LAPAT PALAY/CORN BUYING STATION may deem necessary to take against me.

Signed in the presence of witnesses this 5th day of June 1991.[6]

Exhibit "I" was similarly worded thus:

CASH RECEIPT

Received in trust from LAPAT PALAY/CORN BUYING STATION of Antonino, Alicia, Isabela the sum of (P400,000.00) Four Hundred Thousand Pesos Only as advance for the purchase of palay/corn for the crop year 1991 for which I promise to deliver in the warehouse of Antonino, Alicia, Isabela on or before Oct. 30, 1991 at the price of P4.00 per kilo.

I further bind myself to return whatever amount I hold in trust, not spent for the purchase of palay/corn on or before Nov. 30, 1991 or upon demand by the said LAPAT PALAY/CORN BUYING STATION. In case of any violation in the above agreement, I hereby obligate myself to pay all damages and attorney's fee any suits that LAPAT PALAY/CORN BUYING STATION may deem necessary to take against me.

Signed in the presence of witnesses this 25 day of June 1991.[7]

Nowhere is it stated in the foregoing cash receipts that they were intended as payment for the two (2) parcels of land supposedly sold by respondents. On the contrary, they were purportedly advances by respondents who in turn obliged themselves to deliver their rice produce to petitioner at harvest time. Interestingly, the date when respondents were supposed to return the excess amount, together with the quoted price per kilo, was specifically indicated. If these receipts were indeed documents to support the two (2) Deed(s) of Sale with Right to Repurchase, then there would have been no need to indicate the abovementioned date. More surprisingly, these exhibits were offered only as rebuttal evidence. Considering the import the cash receipts had to the main issue in the instant case, we are at a loss as to why these receipts were not presented at the first opportunity.

Fifth. The two (2) Deed(s) of Sale with Right to Repurchase were likewise of questionable origin. A closer scrutiny of Exh. "B"[8] hectares of land covered by TCT No. T-7347 reveals some very telling details. The

amount of P400,000.00 was written using a different typewriter. The TCT number was not typewritten along with the other details pertaining to the land. It would appear that it was only written by hand on top of the paragraph describing the metes and bounds of the land. The exact date on which the supposed contract was entered into was left blank although it was allegedly executed in June 1991.

With regard to the other Deed of Sale with Right to Repurchase,[9] again, the amount of P100,000.00 was written using a different typewriter. Although the deed was supposedly one of sale with right to repurchase, the first paragraph revealed otherwise. It was therein stated:

That I, MARIA ROSARIO x x x for and in consideration of the sum of ONE HUNDRED THOUSAND PESOS (P100,000.00) x x x the receipt of which in full is hereby acknowledged from LYDIA R. LAPAT x x x under and by virtue of these presents, do hereby sell, cede, and assign, by way of absolute sale, unto said LYDIA R. LAPAT, her heirs, assigns and successors-in-interest, the following described parcel of land, to wit x x x (underscoring supplied).

On the same note, further perusal would reveal that under the signature of Maria Rosario was her supposed residence certificate bearing number "6801861" issued at "Alicia, Isabela" on "June 10, 1991." Unfortunately, even this residence certificate proved fictitious. The Office of the Municipal Treasurer of Alicia, Isabela, certified that the residence certificate bearing number "6801861" was not recorded in their office. Likewise of interest is the fact that per Exh. "B," another number, "01292125," appeared as the supposed residence certificate of Maria Rosario.

These circumstances attending the execution of the two (2) Deed(s) of Sale with Right to Repurchase cast serious doubt on petitioner's claim that the real intention of the parties was a sale over the properties and not equitable mortgage. But we can only conclude, on the basis of the foregoing, that the purported "Deed(s) of Sale with Right to Repurchase" were in fact equitable mortgages. The form of the instrument cannot prevail over the true intent of the parties as established by the evidence.[10] We have also decreed that in determining the nature of a contract, courts are not bound by the title or name given by the parties. The decisive factor in evaluating such agreement is the intention of the parties, as shown not necessarily by the terminology used in the contract but by their conduct, words, actions and deeds prior to, during and immediately after execution of the agreement. As such, documentary and parol evidence may be submitted and admitted to prove such intention. And, in case of doubt, a contract purporting to be a sale with right to repurchase shall be construed as an equitable mortgage.[11]

A contract should be construed as a mortgage or a loan instead of a pacto de retro sale when its terms are ambiguous or the circumstances surrounding its execution or its performance are incompatible or inconsistent with a sale. Even when a document appears on its face to be a sale with pacto de retro, the owner of the property may prove that the contract is really a loan with mortgage by raising as an issue the fact that the document does not express the true intent and agreement of the parties. In such case, parol evidence then becomes competent and admissible to prove that the instrument is in truth and in fact given merely as a security for the repayment of a loan. And upon proof of the truth of such allegations, the court will enforce the agreement or understanding in consonance with the true intent of the parties at the time of the execution of the contract.[12]

Significantly, both the lower court and the Court of Appeals arrived at the same conclusion, i.e., the two (2) Deed(s) of Sale with Right to Repurchase were in fact equitable mortgages. According to the lower court -

If defendants sold the two parcels of land and received the total consideration of P500,000.00, they would not have returned the Isuzu Elf to the plaintiff. They returned the Elf because of their inability to pay. There would have been no necessity for the defendants to borrow P60,000.00 from the plaintiff to replace the defective engine of the Elf x x x x Thus, the two (2) deeds of sale are not in truth and in fact deeds of sale with right to repurchase. They are equitable mortgages intended, as they were, to secure the payment of the obligation of the

defendants to the plaintiff. Such being the case, ownership was not transferred by the defendants to the plaintiff. Consequently, plaintiff has no ownership to consolidate.

It is established that defendants returned the Elf to the plaintiff because of their inability to pay the purchase price and their loan with very high interest. Plaintiff accepted the return of the vehicle and eventually returned it also to Toyoso Commercial. Thus, under the circumstances, there is no more obligation of the defendants to secure. The deeds of sale which are in truth equitable mortgages become null and void.[13]

The Court of Appeals after reviewing the evidence, testimonial and documentary, affirmed the findings of the court a quo thus -

This Court, after a careful and dispassionate examination of the evidence, testimonial and documentary, finds no room to justify consolidation of ownership of the two (2) parcels of land in favor of appellant.[14]

In *Reyes v. Court of Appeals*[15] this Court held that factual findings of the trial court, adopted and confirmed by the Court of Appeals, were final and conclusive and may not be reviewed on appeal, except: (a) when the inference made was manifestly mistaken, absurd or impossible; (b) when there was a grave abuse of discretion; (c) when the finding was grounded entirely on speculations, surmises or conjectures; (d) when the judgment of the Court of Appeals was based on misapprehension of facts; (e) when the findings of fact were conflicting; (f) when the Court of Appeals, in making its findings went beyond the issues of the case and the same was contrary to the admissions of both appellant and appellee; (g) when the findings of the Court of Appeals were contrary to those of the trial court; (h) when the findings of fact were conclusions without citation of specific evidence on which they were based; (i) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, (j) when the findings of fact of the Court of Appeals were premised on the absence of evidence and are contradicted by evidence on record.

None of the above exceptions is availing in the instant case.

WHEREFORE, the petition is DENIED. The decision of the Court of Appeals - affirming that of the Regional Trial Court which dismissed the complaint of petitioner, declared the disputed two (2) Deed(s) of Sale with Right to Repurchase as equitable mortgages, ordered petitioner to return the two (2) subject parcels of land to private respondents and to pay P20,000.00 attorney's fees plus costs - is AFFIRMED.

SO ORDERED.

Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Exh. "A," Original Records, p. 4.

[2] Exh. "B," id., p. 6.

[3] Decision penned by Judge Henedino P. Eduarte, RTC-Br. 20, Cauayan, Isabela; Original Records, pp. 132-137.

[4] Brief for the Appellant, p. 5; CA Records, p. 31.

[5] Petition for Review on Certiorari, p. 6; Rollo, p. 13.

[6] Exh. "H," Original Records, p. 92.

[7] Exh. "I," id., p. 93.

[8] See Note 2.8 purporting to convey 4.999

[9] Exh. "A," see Note 1.

[10] Salazar v. Court of Appeals, G.R. No. 118203, 5 July 1996, 258 SCRA 317.

[11] Zamora v. Court of Appeals, G.R. No. 102557, 30 July 1996, 260 SCRA 10-11.

[12] Olea v. Court of Appeals, G.R. No. 109696, 14 August 1995, 247 SCRA 280-281.

[13] RTC Decision, p.4; Original Records, p. 135.

[14]CA Decision, p. 11; Rollo, p. 41.

[15] G.R. No. 110207, 11 July 1996, 258 SCRA 659.

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