

SANTIAGO ABAPO (NOW DECEASED), SUBSTITUTED BY ONE OF HIS HEIRS, NATIVIDAD ABAPO-ALMARIO, PETITIONER, VS. HONORABLE COURT OF APPEALS, (FIRST DIVISION-MANILA); AND HEIRS OF SPOUSE...

G.R. No. 128677. March 02, 2000

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision[1] and the Resolution[2] of the Court of Appeals[3] dated July 15, 1996 and March 3, 1997, respectively, in its affirmance of the decision[4] of the Regional Trial Court of Cebu City, Branch 8 in an action for quieting of title, declaring private respondents as absolute owners of a 1,695 square meter property in Inawayan, Cebu, otherwise known as Lot 3912 of the Cadastral Survey of Cebu.[5]

The facts are as follows:

The late spouses Victoriano Abapo and Placida Mabalate owned a 1,695 square meter parcel of land located in Inawayan, Cebu identified as Lot 3912 of the Cadastral Survey of Cebu. Of the five (5) children[6] the spouses left behind, only Santiago[7] and Crispula[8] have heirs, who are currently the antagonists in this drawn-out melodrama.

Dispute over the land, designated as Lot 3912 of the Cadastral Survey of Cebu, can be traced to a contract executed by Crispula Abapo-Bacalso and Santiago Abapo in favor of Teodulfo Quimada, their tenant. Under the contract denominated as "Deed of Sale Under Pacto de Retro"[9] dated August 8, 1967, the land was sold for P500.00, with right of repurchase within five (5) years failing which the conveyance would become absolute and irrevocable without the necessity of drawing up a new deed. No redemption was done within the five (5) year period.

More than seven (7) years later, Teodulfo Quimada, through a notarized "Deed of Absolute Sale"[10] dated February 13, 1975, yielded ownership of the property to Crispula Abapo-Bacalso and her husband, Pedro Bacalso, for the amount of P500.00. Since then until their deaths[11], the spouses Bacalso had possession, enjoyed the fruits of the land and paid the corresponding real estate taxes thereon to the exclusion of Santiago Abapo.

In an "Extrajudicial Declaration of Heirs"[12] dated February 20, 1990 private respondents, heirs of the spouses Bacalso, allotted unto themselves the subject land in equal pro indiviso shares and succeeded to the possession and enjoyment of the land and paid real property taxes thereon, again to the exclusion of Santiago.

On April 19, 1990, Santiago Abapo instituted[13] a petition for reconstitution of the original certificate of title over the property. The petition was granted and a reconstituted Original Certificate of Title No. RO-2998[14] in the name of Victoriano Abapo was issued, with the owner's copy handed to Santiago.

Upon discovery of the said reconstitution of title, private respondents interposed[15] on July 29, 1991 a petition to surrender owner's copy of the reconstituted Original Certificate of Title No. RO-2998 in the hands of Santiago Abapo. In an Order[16] dated December 23, 1991, the trial court dismissed the petition without prejudice to the filing of the appropriate action.

Thus, on January 31, 1992, private respondents instituted the complaint[17] for "Quieting of Title with Damages" against Santiago Abapo contending, among other things, that the latter's possession of the owner's copy of the reconstituted original certificate of title and his claim as owner of the property constitute a cloud over their title to it.

In his answer[18], petitioner assailed the due execution of both the Deed of Sale under Pacto de Retro and the Deed of Absolute Sale. He vehemently swore that he never sold in 1967 his interest in the disputed land. To strengthen his contentions, Teodulfo Quimada testified for him.

In due time, the trial court rendered its decision in favor of private respondents, the decretal portion of which reads:

"THE FOREGOING CONSIDERED, judgment is hereby rendered in favor of the plaintiffs and against the defendant, declaring the former the absolute owners of the property, subject matter of this case; directing the defendant to deliver to the plaintiffs the Owner's copy of OCT RO-22998 (sic) or if for any reason it cannot be given, then for the said title to be declared as null and void; with costs against the defendant.

SO ORDERED."[19]

Finding the said decision unacceptable, petitioner interposed[20] an appeal to the public respondent Court of Appeals. Santiago Abapo died in August 13, 1994 while his appeal was pending. He was substituted in his cause by one of his heirs, Natividad Abapo-Almario. On July 15, 1996, respondent appellate court affirmed[21] the challenged decision of the trial court. Petitioner moved[22] for reconsideration of the said adverse decision. However, this was denied in a Resolution[23] dated March 3, 1997.

Hence, the instant petition anchored on four (4) assigned errors, to wit:

"A.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT FINDING THE DEED OF SALE UNDER PACTO DE RETRO DATED AUGUST 8, 1967 (EXH. "C", EXH. "1", EXH. "1-A") TO BE THAT OF A MORTGAGE.

B.

THE RESPONDENT COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT FINDING THE DEED OF ABSOLUTE SALE DATED FEBRUARY 13, 1975 (EXH. "D", EXH. "2", EXH. "2-A") ILLEGAL AND VOID, EVEN ASSUMING WITHOUT CONCEDED THAT THE DEED OF ABSOLUTE SALE UNDER PACTO DE RETRO DATED AUGUST 8, 1967 (EXH. "C", EXH. "1", EXH. "1-A") WAS THE TRUE TRANSACTION COVERING THE SUBJECT PARCEL OF LAND.

C.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT DECLARING THE PETITIONER SANTIAGO ABAPO A LAWFUL CO-OWNER OVER THE SUBJECT PARCEL OF LAND WITH CRISPULA ABAPO-BACALSO, THE MOTHER OF THE RESPONDENTS HEIRS, AND THAT THE PETITIONER SANTIAGO ABAPO IS THUS ENTITLED TO ONE-HALF (1/2) SHARE OF THE SUBJECT

PARCEL OF LAND.

D.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT AWARDING DAMAGES AGAINST THE RESPONDENT HEIRS AND IN FAVOR OF THE PETITIONERS."[24]

Petitioner is unrelenting in his insistence that what he entered into in 1967 may be considered only as an "equitable mortgage" in view of the "unusually inadequate" consideration of P500.00 which was the same consideration in the Deed of Absolute Sale in favor of the spouses Bacalso executed in 1975.

It is a truism that the Supreme Court is not a trier of facts. Thus, factual findings of trial courts, adopted and confirmed by the Court of Appeals, are final and conclusive and, generally, will not be reviewed on appeal.[25] There is no cogent reason why we should deviate from this rule for none of the circumstances enumerated in Article 1602[26] of the Civil Code, exist in the case at bench.

Thus, the instant petition must fail.

First. The price of P500 is not unusually inadequate. The extant record reveals that the assessed value of the land in dispute in 1970[27] was only P400. Thus, at the time of sale in 1967 the price of P500 is indisputably over and above the assessed value of P400.

Besides, the mere fact that the price is inadequate does not per se support the conclusion that the contract was a loan or that the property was not at all sold to Teodulfo Quimada. The price fixed in a sale with right to repurchase is not necessarily the true value of the land sold. The rationale is that the vendor has the right to repurchase the land. It is the practice to fix a relatively reduced price, although not a grossly inadequate one, in order to afford the vendor a retro every facility to redeem the land.[28] Thus, inadequacy of price is not sufficient to set aside a sale unless it is grossly inadequate[29] or purely shocking to the conscience.[30]

Furthermore, Teodulfo Quimada himself unequivocally admitted that from 1967 until 1975 all the fruits of the land belonged to him and only when the spouses Bacalso bought the land in 1975 did he, as tenant anew, share the fruits of the land with the spouses Bacalso.[31] This additional fact is clearly opposing to petitioner's stance that the contract executed in 1967 is an equitable mortgage for this is incompatible to the provisions of Article 1602.

Second. The contracts in dispute, having been executed and attested through the intervention of the notary public, are public documents. As such, they are evidence of the facts in clear, unequivocal manner therein expressed.[32] They have the presumption of regularity, which the petitioner failed to overcome by clear, strong and convincing evidence.

In all the instances in which petitioner Santiago Abapo and Teodulfo Quimada were requested to sign, there was, however, no proof that they were pressured, forced or intimidated by Pedro Bacalso.[33] Apart from allegations and testimonies referring to deceitful manipulations attributed to Pedro Bacalso, petitioner showed no other evidence. Oral testimony, depending as it does exclusively on human memory, is not as reliable as written or documentary evidence.[34] Thus, there is no room for construction inasmuch as the words of the contracts in dispute are clear and readily understandable.

It took petitioner and his witness, Teodulfo Quimada, more than two decades before they questioned the validity of the disputed documents. Their silent acquiescence speaks strongly of the staleness of their claim.

Because of the conclusions we have thus reached, there is no need to delve any further on the other assigned errors as there is no basis to justify a reversal of the decision of the public respondent.

WHEREFORE, the subject petition is hereby DENIED. The Decision and Resolution of the Court of Appeals dated July 15, 1996 and March 3, 1997, respectively, in CA-G.R. CV No. 43706 are hereby AFFIRMED. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur. Misedp

[1] Penned by Associate Justice Conchita Carpio Morales and concurred in by Presiding Justice Nathanael P. De Pano, Jr. and Fermin A. Martin, Jr. in CA-G.R. CV No. 43706, Annex "C" of the Petition, Rollo, pp. 34-44.

[2] Annex "F" of the Petition, Id., pp. 53-55.

[3] First Division.

[4] Decision dated November 5, 1993 and penned by Judge Bernardo LL. Salas, now Justice of the Court of Appeals, in Civil Case No. CEB-11256, Court of Appeals (CA) Rollo, pp. 28-36.

[5] Docketed as Civil Case No. CEB-11256.

[6] The children of Victoriano Abapo and Placida Mabalata are Rufino, Miguel, Loreta, Santiago and Crispula, the first three died with no heirs.

[7] Natividad, Felicisima, Rhea and Salud are the children of Santiago Abapo, Rollo, p.33.

[8] Carina, Camilo, Macrina and Lydia are the children of Spouses Bacalso, Original Record, p. 12.

[9] Id., pp. 8-9.

[10] Id., pp. 10-11.

[11] Pedro Bacalso died on August 3, 1983, and his wife Crispula Abapo-Bacalso died on April 18, 1989, Id., pp. 89-90.

[12] Original Record, p. 12.

[13] Docketed as Cadastral Case No. 14 LRC Rec. No. 9470 and assigned to RTC Cebu City Branch 14, Id., pp. 65-67.

[14] Id., p. 6.

[15] Id., pp. 91-94.

[16] Penned by Judge Renato C. Dacudao, now Justice of the Court of Appeals, Order, p. 11, Id., pp. 113-123.

[17] Id., pp. 1-5.

[18] Original Record, pp. 37-40.

[19] See Note No. 4, supra at p. 36.

[20] CA Rollo, pp. 11-27.

[21] See Note No. 1, supra at 44.

[22] Annex "D" of the Petition, Motion for Reconsideration dated September 17, 1996, Rollo, pp. 45-52.

[23] See Note No. 2, supra at p. 54.

[24] Supra, pp. 15 - 17.

[25] Yam v. Court of Appeals, 303 SCRA 1, 8 [1999].

[26] "Article 1602. The contract shall be presumed to be an equitable mortgage, in any of the following cases:

(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;

(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."

[27] Exh. "J", Folder of Exhibits.

[28] Ignacio v. Court of Appeals, 246 SCRA 242, 248-249 [1995]; Vda. De Macoy v. Court of Appeals, 206 SCRA 244, 253 [1992].

[29] Noel v. Court of Appeals, 240 SCRA 78, 87 citing Askay v. Cosalan, 46 Phil. 179, 182 [1924].

[30] Cachola, Sr. v. Court of Appeals, 208 SCRA 496, 501 [1992]; Prudential Bank v. Martinez, 189 SCRA 612, 617 [1990]; Vda. De Cruzon v. Carriaga, Jr., 174 SCRA 330, 345-346 [1989].

[31] TSN, March 3, 1993, p. 8.

[32] Salame v. Court of Appeals, 239 SCRA 356, 359 [1994]; Gevero v. Intermediate Appellate Court, 189 SCRA 201, 206 [1990]; Cabrera v. Villanueva, 160 SCRA 672, 678 [1988]; Section 23, Rule 132 of the Rules of Court.

[33] TSN, January 21, 1993, p. 4; March 3, 1993, pp. 12-13.

[34] Abella v. Court of Appeals, 257 SCRA 482, 487 [1996]; De Leon v. Court of Appeals, 205 SCRA 612 [1992].

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