

CAROLINA P. RAMIREZ, FERDINAND P. RAMIREZ, FRANCIS P. RAMIREZ, FREDERIC P. RAMIREZ, AND THE INTESTATE ESTATE OF FRANCISCO RAMIREZ, JR., PETITIONERS, VS. HON. COURT OF APPEALS, H...

G.R. No. 133841. August 15, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

It appears that on December 29, 1965, private respondents spouses Loreto Claravall and Victoria Claravall executed a deed of sale in favor of the spouses Francisco Ramirez, Jr. and Carolina Ramirez covering a parcel of land, including improvements thereon, situated in Ilagan, Isabela. On even date, another instrument was executed granting the spouses Claravall an option to repurchase the property within a period of two years from December 29, 1965 but not earlier nor later than the month of December, 1967.[1]

At the expiration of the two-year period, the Claravalls failed to redeem the property, prompting them to file a complaint against the spouses Francisco Ramirez, Jr. and Carolina Ramirez to compel the latter to sell the property back to them.[2]

The complaint of Claravall and his wife, herein private respondents, against the spouses Ramirez was docketed as Civil Case No. 2043 at the Ilagan, Isabela Regional Trial Court (RTC).[3]

After trial, judgment was rendered in favor of the spouses Ramirez which was, on appeal, affirmed by the Court of Appeals. On review, however, this Court, finding that the Deed of Absolute Sale with option to repurchase executed by private respondents in favor of the spouses Ramirez was one of equitable mortgage, reversed the decision of the appellate court by Decision of October 15, 1990[4] the dispositive portion of which reads:

WHEREFORE, the decision of respondent Court promulgated on April 22, 1976 and its resolution of June 22, 1977 are hereby reversed and set aside. The Deed of Absolute Sale between the parties with the option to repurchase is declared an equitable mortgage and, petitioners [Claravalls] are declared entitled to redeem the mortgaged property which shall be effected upon the payment of their mortgage debt to private respondents [Ramirezes] in the amount of P85,000.00 with legal rate of interest from December 31, 1967, the time the loan matured until it is fully paid.[5] (Emphasis supplied)

The decision of this Court having become final and executory,[6] possession of the property was turned over to private respondents after they settled their obligation to the spouses Ramirez.

Following the death of Francisco Ramirez, Jr. or on November 21, 1994, private respondents filed a complaint[7] before the RTC of Ilagan for accounting and damages against herein petitioners, namely, Ramirez's Intestate Estate, his widow Carolina P. Ramirez, and their children Ferdinand P. Ramirez, Francis P. Ramirez and Frederic P. Ramirez. The complaint, docketed as Civil Case No. 834, alleged, inter alia, that:

(1)

the spouses Ramirez acted fraudulently and in bad faith in refusing and obstructing the redemption of the property by private respondents from January 1, 1968 up to December 31, 1993 during which petitioners were receiving rentals from the tenants of the property which must be accounted for and returned to private respondents;

(2)

before the possession of the property was turned over to private respondents, petitioners "vandalized, destroyed and carried away many portion[s]/parts" of the improvements on the property, causing damages amounting to Five Hundred Thousand (P500,000.00) Pesos which petitioners must pay and be liable for; and

(3)

private respondents were forced to litigate in order to protect their rights and interests over the property, hence, petitioners must be held liable for actual damages and expenses of litigation.[8]

Petitioners filed a motion[9] to dismiss private respondents' complaint, alleging that "since the issue of rentals [was] raised in [Civil Case No. 2043], but not favorably acted upon in favor of [private respondents], the latter are barred from raising anew the same issue in another litigation." [10] Further, petitioners alleged that the complaint does not state a cause of action since prior to the date when redemption was to be effected, the registered owners of the property were the spouses Ramirez who were entitled to the rentals and fruits thereof, and "under our law on succession, debt or liability is not passed to the heirs of a decedent." [11]

By Order of June 7, 1995, [12] Branch 18 of the Ilagan RTC deferred the resolution of petitioners' Motion to Dismiss upon a finding that the grounds raised therein did not appear indubitable. Petitioners' motion [13] for reconsideration of said order having been denied, [14] they filed a petition [15] for certiorari before this Court, which referred it to the Court of Appeals, [16] imputing grave abuse of discretion amounting to lack of jurisdiction on the part of the trial court in not dismissing private respondents' complaint.

Finding that the trial court's order denying the motion to dismiss cannot be the basis of a petition for certiorari and that private respondents' complaint is not barred by prior judgment, the appellate court dismissed the petition by Decision [17] of October 21, 1997. Their Motion for Reconsideration [18] having been denied by Resolution [19] of May 13, 1998, petitioners filed the present Petition [20] for Review on Certiorari under Rule 45 faulting the appellate court with

I.

GRAVE ABUSE OF DISCRETION . . . IN NOT DISMISSING THE PRESENT COMPLAINT INsofar AS IT SEEKS TO RE-LITIGATE THE ISSUES OF RENTALS BECAUSE IT IS CRYSTAL CLEAR THAT THE PRESENT ACTION FOR RECOVERY OF RENTALS IS BARRED BY PRIOR JUDGMENT BETWEEN THE SAME PARTIES ON THE SAME MATTER IN CIVIL CASE NO. 2043 [21] [AND]

II.

GRAVE ABUSE OF DISCRETION . . . IN NOT DISMISSING THE COMPLAINT FOR LACK OF CAUSE OF ACTION. CONSIDERING (1) THAT PRIOR TO REDEMPTION THE REGISTERED OWNERS OF THE PROPERTY WAS THE LATE FRANCISCO RAMIREZ, JR. AND PETITIONER CAROLINA RAMIREZ WHO WERE ENTITLED TO THE FRUITS AND (2) THAT THE CLAIMS OF PRIVATE RESPONDENTS, IF ANY, SHOULD BE FILED IN THE SPECIAL PROCEEDINGS FOR THE SETTLEMENT OF THE ESTATE OF THE LATE FRANCISCO RAMIREZ, JR., AND NOT IN AN ORDINARY CIVIL ACTION FOR DAMAGES AGAINST HIS HEIRS BECAUSE THE LIABILITY FOR DAMAGES MAY NOT BE PASSED ON TO THE HEIRS BY INHERITANCE. [22] (Underscoring supplied)

At the outset, it must be stressed that only questions of law may be raised in petitions for review before this Court under Rule 45 of the Rules of Court.[23] It was thus error for petitioners to ascribe to the appellate court grave abuse of discretion. This procedural lapse notwithstanding, in the interest of justice, this Court shall treat the issues as cases of reversible error.[24]

Petitioners insist that the complaint in Civil Case No. 834 is barred by prior judgment insofar as it seeks to re-litigate the issue of rentals, it having already been put in issue in Civil Case No. 2043 which was not favorably acted upon in favor of private respondents.[25]

In their complaint in Civil Case No. 834, aside from the recovery of rentals, private respondents raised the issue of damages arising from petitioners' alleged destruction of some improvements on the property, which latter issue was not touched upon in petitioners' Motion to Dismiss.

The issue of damages arising from the alleged destruction of improvements on the property could not of course have been raised in Civil Case No. 2043 for such issue arose only upon the execution of this Court's final decision in said case. Thus, private respondents' complaint in Civil Case No 834 alleges:

x x x

[W]hen [petitioners] abandoned the commercial property abovedescribed for the sheriff to turn over the possession thereof to [private respondents, petitioners] vandalized, destroyed and carried away many portion/parts of said building. . .[26]

x x x

In other words, the fourth of the following requisites of res judicata, to wit: (1) the former judgment must be final; (2) it must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) it must be a judgment on the merits; and (4) there must be between the first and second action identity of parties, identity of subject matter, and identity of causes of action,[27] is not present, there being no identity of causes of action between the two cases. For while the cause of action in Civil Case No. 2043 arose from the spouses Ramirez's alleged refusal to allow redemption of the property, one of the causes of action in Civil Case No. 834 arose from the alleged damage to the improvements on the property attributed to petitioners before it was turned over to the sheriff upon execution of the final judgment in the first case. In fine, Civil Case No. 834 is not barred by the judgment in Civil Case No. 2043.

At all events, petitioners aver that the complaint in Civil Case No. 834 alleges no cause of action because it was they who were entitled to the fruits of the property and not private respondents as, prior to the redemption thereof, the registered owners were the spouses Ramirez and not private respondents.[28]

The flaw in petitioners' argument stems from their submission that the spouses Ramirez, as "vendees," were the owners of the property after it was registered in their names following the execution of the deed of sale in their favor. The declaration, however, by this Court in the first case that the deed of sale with option to repurchase entered into by the spouses Ramirez and private respondents was an equitable mortgage necessarily takes the deed out of the ambit of the law on sales and puts into operation the law on mortgage.[29]

It is a well-established doctrine that the mortgagor's default does not operate to vest the mortgagee the ownership of the encumbered property[30] and the act of the mortgagee in registering the mortgaged property in his own name upon the mortgagor's failure to redeem the property amounts to pactum commissorium,[31] a forfeiture clause declared by this Court as contrary to good morals and public policy and, therefore, void.[32] Before perfect title over a mortgaged property may thus be secured by the mortgagee, he must, in case of non-payment of the debt, foreclose the mortgage first and thereafter purchase the mortgaged property at the foreclosure sale.[33]

In fine, the ownership of the property was not vested to the spouses Ramirez upon private respondents' failure to pay their indebtedness, the registration of the property in the former's names notwithstanding, absent any showing that they foreclosed the mortgage and purchased the property at a foreclosure sale.

Petitioners furthermore allege that since the action in Civil Case No. 834 was for "recover[y of] damages and for rent[als, t]he action does not survive Francisco Ramirez, Jr.," hence, the claims of private respondents should have been filed in the special proceedings for the settlement of his estate, and not in an ordinary civil action for damages against his heirs, liability for damages not being passed on to the heirs by inheritance.[34]

Private respondents' complaint, however, is not only for the recovery of rentals. As priorly discussed, the complaint alleges a second cause of action, i.e., for the recovery of damages as a result of alleged destruction and vandalism to the improvements on the property.

The complaint clearly alleges that the destruction of and vandalism to the property were caused by the "defendants," herein petitioners, and not by Francisco Ramirez, Jr. alone. Assuming that this allegation is true,[35] private respondents have a cause of action against Francisco's widow Carolina and their children Ferdinand, Francis and Frederic Ramirez in their personal capacities. On this score alone, the complaint stands.

WHEREFORE, the instant petition is hereby DENIED.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Claravall v. Court of Appeals, 190 SCRA 439, 442 (1990).

[2] Ibid.

[3] Id. at 441.

[4] Id. at 443, 448-452.

[5] Id. at 452.

[6] Rollo at 9; CA Rollo at 54.

[7] CA Rollo at 17-54.

[8] Id. at 18-34.

[9] Id. at 55-58.

[10] Id. at 56.

[11] Id. at 57.

[12] Id. at 76.

[13] Id. at 77-82.

[14] Id. at 98.

[15] Id. at 3-105.

[16] In a Resolution dated February 14, 1996; CA Rollo at 106.

[17] CA Rollo at 162-167.

[18] Id. at 162- 174.

[19] Id. at 177.

[20] Rollo at 8-37.

[21] Id. at 16.

[22] Id. at 19.

[23] Section 1, Rule 45, Rules of Court.

[24] AB Leasing and Finance Corporation v. Commissioner of Internal Revenue, G.R. No. 138342, July 8, 2003; Panado v. Court of Appeals, 298 SCRA 110, 116 (1998); People's Aircargo and Warehousing Co., Inc. v. Court of Appeals, 297 SCRA 170, 181 (1998).

[25] Rollo at 16.

[26] CA Rollo at 32.

[27] Allied Banking Corporation v. Court of Appeals, 229 SCRA 252, 258 (1994).

[28] Rollo at 19.

[29] The Civil Code provides:

Art. 2087. It is also the essence of these contracts that when the principal obligation becomes due, the things in which the pledge or mortgage consists may be alienated for the payment to the creditor.

Art. 2088. 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.

[30] Montevirgen v. Court of Appeals, 112 SCRA 641, 648 (1982).

[31] Reyes v. Sierra, 93 SCRA 472, 480 (1979).

[32] Vide note 30 at 647.

[33] Id. at 647-648.

[34] Rollo at 19.

[35] In Galeon v. Galeon, 49 SCRA 516, 520 (1973), this Court held:

It is well-settled that in a motion to dismiss a complaint based on lack of cause of action, "the question submitted to the court for determination is the sufficiency of the allegations of fact made in the complaint to constitute a cause of action, and not whether these allegations of fact are true, for said motion must hypothetically admit the truth of the facts alleged in the complaint; * * *." (Emphasis supplied.)

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