

SPOUSES BARTIMEO AND CARIDAD VELASQUEZ AND SPOUSES JOHN AND GRACE VELASQUEZ-BALINGIT, PETITIONERS-APPELLANTS, VS. COURT OF APPEALS AND FILOMENA TEJERO, RESPONDENTS-APPELLEES.

G.R. No. 136857. November 22, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is a petition for review of the decision of the Court of Appeals dated July 15, 1998 in CA-G.R. No. 136857 affirming in toto the decision of the Regional Trial Court of Quezon City, Branch 94 in Civil Case no. RTC-Q-38613, an action for annulment of document and damages.

The antecedents are as follows:

On June 24, 1983, herein private respondent Tejero filed this action for annulment of document and damages alleging that she has been residing in a 185 sq. meter lot located at Project 4, Quezon City since 1953 and that she applied with the People's Homesite and Housing Corporation (PHHC) to purchase the same. To be able to make final payment to the PHHC and to secure registration of the lot in her name, she obtained a loan from petitioner spouses Atty. Caridad and Bartimeo Velasquez sometime in May 1967 in the amount of P5,000.00. From this amount, the spouses Velasquez allegedly deducted the amount of P900.00 as advance interest for six months at the rate of 3% a month. The loan is covered by a deed of mortgage dated May 26, 1967.[1] After full payment was made to PHHC Tejero was issued Transfer Certificate of Title No. 120513[2], which she delivered to the Velasquez spouses as agreed upon. On August 18, 1967 Tejero obtained another loan from the Velasquez spouses in the amount of P2,000.00 and from this amount P1,260 was deducted as advance interest for six months at the rate of 3% per month, P429.76 for taxes and P250.00 for attorney's fees. On this date, Tejero was asked by the Velasquez spouses to sign another deed of mortgage[3] for the total amount of her indebtedness of P7,000.00, wherein the mortgagor, Tejero, was given three months from date within which to pay the total loan.

Tejero admitted before the trial court that although she made small payments in cash and in kind to the spouses Velasquez she failed to pay the loan in full.[4] She alleged that upon the suggestion of the Velasquez spouses who told her that they are very influential and can easily secure a loan from a bank using the subject lot as collateral, she signed a deed of sale over the subject lot in their favor. Tejero claimed that she did not receive any consideration for the sale because they agreed that after the spouses had obtained a bank loan they will reconvey the lot to her and she will then assume the obligation with the bank, and that from the proceeds of the bank loan Tejero's previous loan of P7,000.00 plus interest will be deducted.[5] Thus, on January 17, 1970 three documents were executed by the parties: 1) a deed of cancellation of the August 18, 1967 mortgage stating that Tejero has fully paid the loan obligation of P7,000.00;[6] 2) a deed of absolute sale over the subject lot in favor of the Velasquez spouses for P19,000.00;[7] and 3) a document captioned "Agreement"[8] wherein the Velasquez spouses agreed to re-sell the lot to Tejero upon payment of the purchase price of P19,000.00 within one year from

date or until January 17, 1971; otherwise, Tejero shall immediately vacate the premises.

The projected bank loan did not materialize. The Velasquez spouses registered the lot in their names and was issued Transfer Certificate of Title No. 155273 dated July 14, 1970^[9] and in 1973 sold it to their daughter, Grace Velasquez-Balingit, who likewise registered the lot in her and her husband's name under Transfer Certificate of Title No. 19442.^[10] Hence this action for annulment of (1) the January 17, 1970 deed of sale in favor of the Velasquez spouses, (2) the deed of sale executed by the Velasquez spouses in favor of their daughter Grace Velasquez-Balingit and (3) the Transfer Certificate of Title No. 19442 issued in favor of the latter. Plaintiff also prayed for the award of actual and moral damages.

Defendants spouses Velasquez filed Answer with counterclaim^[11] stating that Tejero sold the lot to them as she could not pay the mortgage loan. The spouses claim that they agreed to sell the lot to Tejero upon full payment of the purchase price within one year from January 17, 1970, otherwise Tejero will pay rent for the use and occupation of the premises at the rate of P150.00 per month. Defendants allege that Tejero failed to repurchase the lot within the period agreed upon, and hence they sold it to their daughter and her husband, co-defendants Grace Velasquez-Balingit and her husband.

After almost six years of protracted proceedings which was successively presided over by four trial court judges the trial court rendered judgment on April 4, 1989 in favor of the plaintiff as follows:

"Wherefore, the Court renders judgment in favor of the plaintiff and against the defendants by:

- Declaring the Deed of Sale executed by the plaintiff in favor of the defendant-spouses Bartemio Velasquez and Caridad Velasquez, together with that of Transfer Certificate of Title No. 155273 of the Registered of Deeds of Quezon City, in the name of Caridad Velasquez as null and void;
- Declaring further Transfer Certificate of Title No. 19442 in the name of Grace Velasquez-Balingit of the Register of Deeds of Quezon City as null and void;
- Ordering the Register of Deeds of Quezon City to issue a new certificate of title on the subject property, after payment of the required fees, in favor of Filomena C. Tejero, the plaintiff herein;
- The court further orders the defendants to pay attorney's fees in the amount of P10,000.00, plus cost of the suit.

SO ORDERED.

The spouses Velasquez as defendants-appellants before the Court of Appeals raised mainly procedural issues i.e., that they were erroneously declared in default by the first trial judge who heard the case which amounted to a denial of due process; that the trial court erred in reinstating the case after the order of dismissal dated January 15, 1985 for Tejero's failure to appear at the pre-trial had attained finality; that the trial court erred in deciding the case despite Tejero's non-compliance with the order of the court requiring her to submit the records of the proceedings before Judge Arturo Tayag, and finally that the trial court erred in rendering judgment without competent evidence on record as basis thereof. The appellants prayed for the remand of the case for further proceedings.

The plaintiff-appellee Tejero refuted the appellants' contentions and argued that the decision of the trial court is based on competent evidence duly presented in court and that the trial court exhaustively considered the facts of the case in reaching the assailed conclusions. Tejero added that the notice of appeal filed by the appellant before the trial court was filed beyond the 15-day reglementary period.

The appellate court affirmed the decision of the trial court in toto. The appellate court held that the procedural

issues raised by the appellants were mooted when they filed Answer with counterclaims before the trial court and that the order of dismissal was subsequently reinstated by the trial court in the higher interest of justice. The appellants' contention that the case should have been dismissed for the appellee's failure to comply with the trial court's order dated September 27, 1988 requiring the appellee to present the records of the proceedings or evidence presented before Judge Tayag is without merit. The trial court found that the appellee had complied with the said order. Finally, the appellate court held that only the testimony of appellee Tejero taken on August 11, 1987 was ordered stricken off the record and not her entire testimony; the trial court had sufficient evidence upon which its judgment was founded and the findings of facts of the trial court when so founded is entitled to great respect upon review of the case on appeal.

Hence this petition for review.

The petitioners reiterate the procedural issues raised before the appellate court and pray for this Court to review the entire records of the case. They contend in their memorandum that the order of dismissal dated May 3, 1985 became final and so all proceedings subsequent thereto, including the decision of the trial court dated April 4, 1989, are void. Secondly, the alleged compliance made by herein private respondent Tejero with the September 27, 1988 order is belied by the records of the case which states that the said compliance was made on May 4, 1989 or a month after the decision of the trial court was rendered. Moreover, the complete records of the proceedings before Judge Arturo Tayag could not have been presented by the respondent in view of the certification of the Branch Clerk of the said sala that the entire records of the case were burned in the fire that razed the Quezon City Hall on June 11, 1988.

Private respondent Tejero prays for the affirmance of the findings of the trial court that the deed of sale in favor of the Velasquez spouses is void and accordingly the certificate of title of petitioner Velasquez-Balingit derived from her mother's title is likewise void. Private respondent reiterates the finding of the appellate court that only the testimony of respondent Tejero on August 11, 1987 was expunged from the record and not her entire testimony. It is argued that the trial court's decision is based on competent and substantial evidence on record.

The appeal has no merit.

It is not disputed by the parties that on January 17, 1970 they executed three documents bearing the same date. The parties do not contest the existence of the said documents but proffered contradictory explanations for their execution. The private respondent argued that the deed of sale is a fictitious contract and that she received no valid consideration therefor and accordingly, the petitioners' title derived from such void contract is likewise void; on the other, the petitioners claim that the contract between them is that of sale and lease.

The real nature of a contract may be determined from the express terms of the agreement and from the contemporaneous and subsequent acts of the parties thereto.[12] When the parties do not intend to be bound at all by the purported contract, it is called an absolutely simulated contract which under the law is void and the parties may recover what they gave under the simulated contract. If, on the other hand, the parties state a false cause in the contract to conceal their real agreement, the contract is relatively simulated and the parties' real agreement may be held binding between them.[13]

We uphold the findings of the trial court which was affirmed by the Court of Appeals that the evidence is in accord with the contentions of the plaintiff-private respondent. The trial court held:

"First, the Deed of Sale was executed without consideration. No amount representing the purchase price was ever received by the plaintiff. A contract without a cause, produces no effect whatsoever and is contrary to law, morals, good customs, public order and public policy and has no binding effect.

Second, it is evident that the deed of sale was a sham agreement. It was a fictitious sale since when it was executed, plaintiff had no intention to divest herself of the possession of the title and control of the said property. The intention was merely to facilitate the loan by utilizing the property as collateral to the said loan, where upon perfection of the loan, title shall be reconveyed to the plaintiff after deducting the balance of the plaintiff's previous loan plus expenses. However, although no loan was ever obtained, title to the property was not reconveyed to the plaintiff. Instead, it was further transferred to a third party, Grace Velasquez-Balingit, who is the defendants' daughter. This is clearly an act done to bring title to the property further away from the plaintiff. This subsequent transfer of title indicates fraudulent machination and bad faith to defraud the plaintiff, hence the transfer of said title to Grace Velasquez-Balingit conveys no title or right whatsoever. Moreover, defendant-spouses Bartemio Velasquez and Caridad Velasquez not having acquired a valid title to the property, their transferee spouses John and Grace Velasquez-Balingit, acquired no better title to it." [14]

We are convinced that the execution of the three documents bearing the same date validates Tejero's claim that she did not sell her land to the Velasquez spouses but that to be able to pay her loan from them she agreed to transfer title over the lot on the condition that the spouses will secure a bank loan in the amount of thirty-five thousand pesos (P35,000.00), using the subject lot as a collateral, and for the latter to subsequently reconvey the lot to Tejero who will then assume the loan obligation with the bank. The arrangement was intended to benefit both parties by enabling Tejero to pay the spouses her P7,000.00 loan plus interest from the proceeds of the bank loan and for her to gain additional funds from the balance thereof, payable to the bank within a longer term. [15]

It would appear to us that the January 17, 1970 deed of cancellation of the August 18, 1967 mortgage is a superfluity which the parties would not have executed if their real intention was simply to enter into a contract of sale. The petitioners, spouses Velasquez, who are both lawyers, [16] must have known that as the mortgagee under the 1967 deed it was unnecessary for them to execute a cancellation of mortgage. They could have simply foreclosed the mortgage when Tejero failed to pay the loan within the three month period agreed upon, but they did not. The petitioners allege that under the deed of absolute sale they purchased the subject lot and paid Tejero the sum of P19,000.00 for it. We do not find the petitioners' assertion credible considering that the deed of sale was executed more than two years after the expiration of the term of the loan, secured by a mortgage, which at that time remained outstanding. On the assumption that the lot was sold to them, still there was no need for them to execute a cancellation of mortgage on the same day the deed of sale in their favor was executed as they themselves are the mortgagees. The execution of the third document, the "Agreement", separately from the deed of absolute sale appears to have been done also pursuant to their private arrangement. Only the deed of absolute sale was to be presented to the bank to make it appear that the petitioners' title over the lot is clean and absolute while the "Agreement" wherein the Velasquez spouses agreed to re-sell the lot to respondent Tejero upon payment of the purchase price of P19,000.00 on or before January 17, 1971 was intended for the Velasquez spouses to reconvey the lot to Tejero and to enable the latter to subsequently assume the loan obligation with the bank. There was no need for the parties to execute the two documents separately on the same day just to segregate Tejero's right to repurchase the lot, which could have been included in the deed of sale.

The execution of the three documents on the same day sustains Tejero's allegation that the contract of sale was simulated and that she received no consideration for it. The said documents were executed by the parties for the sole purpose of obtaining a bank loan and to present the subject lot as a collateral, free from any prior lien.

Furthermore, the inaction of the petitioners subsequent to the expiration of the purported period to repurchase belies the petitioners claim that the subject lot was sold to them. The pertinent portion of the "Agreement" states "That the party of the Second Part (Tejero) shall automatically vacate the premises subject matter of this agreement, upon failure to make payment on or before January 17, 1971." Contrary to the terms thereof, respondent Tejero remained in possession of the house and lot long after the lapse of the period to repurchase

until in 1980 when petitioner Grace Velasquez-Balingit, represented by her mother and co-petitioner, Atty. Caridad Velasquez, filed an action for unlawful detainer to gain possession of the subject realty. In the action for unlawful detainer, herein petitioner Velasquez-Balingit, alleged that they entered into an oral contract of lease on a month-to-month basis with Tejero who occupied the premises without paying rent from April 1971 to July 1980.[17] The petitioners' inaction for nine years either to gain possession of the premises or to demand payment of rentals or both further confirms Tejero's assertion that the parties did not enter into a contract of sale and that the deed of sale dated January 17, 1970 is a simulated contract which under Art 1346 of the Civil Code is void.

From the foregoing observations, it is clear that the parties have had no intention to be bound by the contract of sale and its accompanying documents and that the said documents were executed pursuant to a scheme conceived by the spouses Velasques who now wish to renege therefrom. Although the planned bank loan did not materialize, the parties were still bound as mortgagor and mortgagee under the August 18, 1967 deed of mortgage. But instead of foreclosing the mortgage, the spouses Velasquez registered the land in their names and held on to the title derived from the void deed of sale. Such void title under the simulated deed of sale cannot ripen into a valid title by reason of the unpaid loan under the 1967 deed of mortgage as the two contracts are independent of each other. The deed of sale was intended by the parties to enable respondent Tejero to pay the 1967 loan and not to supersede the latter. Without a valid foreclosure of the 1967 mortgage the spouses Velasquez cannot claim any color of title over the property.[18]

Grace Velasquez Balingit and her husband cannot feign ignorance of the irregularities surrounding her parents' title over the property. Petitioner Velasquez-Balingit supposedly acquired the property in 1973 and yet it took her until 1980 to file action for ejectment to gain possession of the land. As it was, the case was filed not by petitioner Balingit but by petitioner Caridad Velasquez, in behalf of her daughter. It would appear that the Velasquez spouses sold the lot to their daughter to place it beyond the reach of respondent Tejero who in the meantime, maintained possession of the subject property. There is nothing in the record that would disclose who has actual possession of the property now. Suffice it to say that on the basis of the evidence before us, petitioners Velasquez-Balingit cannot invoke the doctrine favoring an innocent purchase for value.

Accordingly, we sustain the finding of the trial court that the three documents all executed on January 17, 1970 produced no legal effect whatsoever and the purported successive titles derived by the Velasquez spouses then by the spouses Velasquez-Balingit over the subject lots are likewise void.

The procedural issues raised by the petitioners were correctly dismissed by the appellate court. The argued failure of the respondent to present in court the records of the proceedings before Judge Arturo Tayag has no bearing in this case. From our own extensive examination of the records of this case, Judge Tayag is not one of the four judges who heard this action for declaration of nullity of title but was the one who heard the ejectment case between the parties herein.[19] Whether or not the records of the proceedings before Judge Tayag was timely presented in court is of no consequence to the resolution of the main issues of the case.

WHEREFORE, the petition is denied for lack of merit.

Melo, (Chairman), Vitug, and Panganiban, JJ., concur.

[1] OR., p.6, Annex A, Complaint.

[2] Exh. B, p. 71, OR.

[3] Exh. C, p. 72, OR.

[4] Plaintiff's Memorandum, OR., pp. 62, 65.

[5] Tejero, tsn., pp. 6-7, May 28, 1984.

[6] Exh. D, p. 73, OR.

[7] Exh. F, p. 75, OR.

[8] Exh. E, p. 74, OR.

[9] OR., p. 78.

[10] OR., p. 76, Exh. G.

[11] OR., p. 119, filed on November 21, 1984.

[12] Cruz vs. Court of Appeals, 293 SCRA 239; Sicad vs. Court of Appeals, 294 SCRA 183; People's Aircargo and Warehouse Co. Inc., vs. Court of Appeals, 297 SCRA 170.

[13] Civil Code, Art. 1345. Simulation of a contract may be absolute or relative. The former takes place when the parties do not intend to be bound at all; the latter when the parties conceal their true agreement.

Art. 1346. "An absolutely simulated contract is void. A relative simulation, when it does not prejudice a third person and is not intended for any purpose contrary to law, morals, good customs, public order or public policy binds the parties to their agreement."

[14] Court of Appeals Rollo, p. 75.

[15] Tejero, tsn., pp. 7-9, May 28, 1984.

[16] OR., pp. 100, 103.

[17] OR., p.44, Annex "A", Complaint for Ejectment, par. III.

[18] Tolentino, Civil Code, vol IV, p. 151, 1992 ed; Aquino, Civil Code, vol III, pp. 536-537, 1990 ed.

[19] OR., p. 49.

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