

FRANCISCO CAPALUNGAN, PLAINTIFF AND APPELLEE, VS. FULGENCIO MEDRANO, DEFENDANT AND APPELLANT.

G.R. No. 13783. May 18, 1960

Ponente: GUTIERREZ DAVID, J.

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GUTIERREZ DAVID, J.:

This is an appeal by defendant Fulgencio Medrano from a decision of the Court of First Instance of Ilocos Norte.

On May 3, 1931, Francisco Capalungan executed in favor of Fulgencio Medrano a deed denominated "compraventa con pacto de retro" whereby he transferred to the latter for P1,200.00 a parcel of land in San Laureano, No. 18, Dingras, Ilocos Norte, with right to repurchase within ten years from the sale. The contract provided further that the vendee a retro shall have no right to dispose of the land while the contract was in force but would only have the right to enjoy possession thereof. On January 31, 1933, Francisco Capalungan executed in favor of Pedro Medrano a deed over another parcel of land in the same sitio, which deed was similarly denominated and contained substantially the same provisions as the first mentioned contract. On May 22, 1944, Francisco Capalungan paid and delivered to Pedro Medrano the total sum of P1,800.00 for the redemption and/or repurchase of the two parcels of land subject matter of the two deeds.

Fulgencio and Pedro Medrano then filed in the Court of First Instance of Ilocos Norte a suit against Francisco and Paciano Capalungan to annul the repurchase of the lands made from Pedro Medrano and to secure judgment declaring that Francisco Capalungan has lost the right to repurchase said lands, and that ownership over them had been consolidated in the plaintiffs. The trial court, after finding the two contracts to be equitable mortgages, declared valid the redemption of the land mortgaged to Pedro Medrano and invalid the redemption of the land mortgaged to Fulgencio Medrano, ordered the defendants to receive from the clerk of court the redemption price of P1,200.00 deposited there by Fulgencio Medrano and ordered Pedro Medrano to receive from the clerk of court the redemption price of P600.00 he had deposited there, and to deliver to defendants possession of the land redeemed from him. On appeal, the Court of Appeals affirmed the lower court's decision.

On June 23, 1954, Francisco Capalungan filed in the same court, Court of First Instance of Ilocos Norte, the present action against Fulgencio Medrano, alleging substantially the facts outlined above, and further averring that he tried to redeem the land from defendant by tendering the sum of P1,200.00 but defendant refused to accept it and to execute the corresponding deed of redemption; and therefore prayed that defendant be ordered to receive said amount from plaintiff and to execute the proper deed of release; to deliver to plaintiff the palay he received for the agricultural year 1953-1954 and all other palay he may have received from that time until actual execution of the deed of release; and to pay plaintiff P2,500.00 as actual and moral damages resulting from his unwarranted refusal. After trial, the lower court ordered defendant to give plaintiff 10 ½ uyones of palay or their total value in the amount of P577.50; and to pay moral damages of P100.00 and the costs. The court subsequently amended its decision by ordering plaintiff "to ask for the issuance of the corresponding writ of execution for the satisfaction of the decision of the Court of Appeals rendered in Civil Case No. 235".

Defendant Fulgencio Medrano appealed to this Court, alleging that the lower court erred (1) in ordering appellee to ask for the issuance of a writ of execution for the satisfaction of the decision of the Court of Appeals in Civil Case No. 235; (2) in concluding that appellant was not justified in refusing the offer of payment; (3) in not finding that the redemption price should be P1,205.50 and not P1,200.00 only; and (4) in ordering appellant to deliver to appellee 10 ½ uyones of palay and moral damages in the amount of P100.00.

As declared in the appellate court's decision in Civil Case No. 235, the contract between the parties is an equitable mortgage. Appellee still owes appellant the sum of P1,200.00, which indebtedness is secured by the mortgage on the property of appellee located in San Laureano, No. 18, Dingras, Ilocos Norte. The decision of the Court of Appeals did not order appellant to do anything for or to pay any amount to appellee. It merely specified the nature of the contract between the parties and defined their rights thereunder. Consequently, there was nothing to be executed under said decision, and the lower court erred in directing appellee to ask for execution thereof.

Under the contract, appellee is still under obligation to pay the indebtedness of P1,200.00. One of the modes by which an obligation is extinguished is tender of payment and consignation. This is a kind of payment. In May, 1953, appellee personally approached appellant and offered to pay him the sum of P1,200.00, but the latter refused to accept the money. If the creditor to whom tender of payment has been made refused without just cause to accept it, the debtor shall be released from responsibility by the consignation of the thing due (Article 1256, N.C.C.). Inasmuch as appellee never consigned the sum due with the court, payment was never effected.

The contract expressly provided that the mortgage creditor, the appellant, has the right to possess the land and to enjoy the fruits thereof, as long as the sum of P1,200.00 has not been paid to him. Consignation not having been made, the indebtedness was not discharged and the effects of payment cannot take place. Hence appellant still has the right to enjoy the property, and he cannot be made liable to appellee for the fruits he may have received from the time tender of payment was made. Neither can he be made liable for other kinds of damages which may have resulted from his non-acceptance of the proffer of payment. He would have been liable only from the moment valid consignation had been made.

We have to distinguish the case of a mortgage debtor attempting to redeem the mortgaged property, from the cases of the legal redemptioner and the vendor a retro trying to repurchase the property. In the first case, the mortgage debtor is discharging an obligation. In the latter two cases, the legal redemptioner and the vendor a retro are exercising a privilege. So, in order to preserve their right, all they have to do is to tender payment within the prescribed period. Should the repurchase price be refused, they do not have to effectuate consignation. [De Jesus vs. Garcia (CA), 47 Off. Gaz. 2406; Rosales vs. Reyes, 25 Phil. 495], whereas with respect to debts, tender of payment without consignation does not constitute valid payment (Paez vs. Magno, 83 Phil., 104, 46 Off. Gaz. 5425).

There is no basis for appellant's contention that appellee should pay him P1,205.50, the P5.50 representing the expenses incurred by reason of the execution of the deed. The contract indeed provides that appellee should pay for such expenses. And it is also true that the record discloses that said sum of P5.50 was spent for registering the document in the registry of deeds. However, there is no showing that it was appellant who paid for the same, so we cannot order appellee to reimburse him therefore.

Wherefore, the appealed decision is hereby modified. Appellant does not have to pay damages nor does he have to deliver to appellee the products he received from the time payment was tendered. He is ordered, however, to accept payment and to execute the proper release paper upon payment to him by appellee of the sum of P1,200.00. Without costs.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, and Barrera, JJ., concur.

Concepcion, J., reserved his vote.

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