

**DIONISIA DORADO VDA. DE DELFIN, represented in this act by her heirs,
Petitioner, vs. SALVADOR D. DELLOTA, represented by his heirs, and THE
INTESTATE ESTATE OF THE LATE GUMERSI...**

G.R. No. 143697. January 28, 2008

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For the Court's resolution is the instant petition for review on certiorari assailing the Decision[1] of the Court of Appeals (Ninth Division) dated April 11, 2000 in CA-G.R. CV No. 37210.

The facts as found by the appellate court are:

In her lifetime, the late Dionisia Dorado Delfin, herein petitioner, represented by her heirs, was the registered owner of Lot No. 1213 situated in Panitan, Capiz with an area of 143,935 square meters covered by Original Certificate of Title No. RP-1124 (14972).

On June 16, 1929, Dionisia executed an "Escritura De Venta Con Pacto de Retro" over a 50,000-square meter portion of Lot No. 1213 in favor of spouses Ildefonso Dellota and Patricia Delfin. However, Dionisia failed to exercise her right of redemption.

On June 9, 1949, Dionisia sold another portion of Lot No. 1213 consisting of 50,000 square meters to Gumersindo Deleña (respondent herein represented by his estate), as evidenced by a notarized "Deed of Sale with Right of Redemption," thus, leaving an unsold area of more than 43,000 square meters.

Dionisia never redeemed this 50,000-square meter portion from Gumersindo. Records show that Salvador Dellota (also a respondent represented by his heirs) leased this area from Gumersindo.

On October 12, 1956, Dionisia executed a "Deed of Mortgage and Promise To Sell" in favor of Salvador over a 90,000-square meter portion of Lot No. 1213, without specifying whether it included the 50,000-square portion sold (with right of redemption) to Gumersindo.

On June 8, 1964, Dionisia filed with the then Court of First Instance, Branch 2, Roxas City, a complaint for recovery of possession and damages with an application for a writ of preliminary mandatory injunction, docketed as Civil Case No. V-2760. Impleaded as defendant was respondent Salvador D. Dellota, represented by his wife Genoveva D. Dellota and their children.

For his part, Gumersindo filed a motion for intervention.

On April 30, 1991, after the hearing/proceedings lasting for almost three decades, the trial court rendered its Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered:

- Ordering defendant Genoveva D. Dellota to allow the plaintiffs to redeem the 40,000-square meter portion of

subject Lot 1213, Panitan Cadastre, after plaintiffs shall have paid the defendant the amount of P2,000;

- Declaring the ownership over the 50,000-square meter portion of the subject lot as consolidated by operation of law to and in the name of the Interventors and heirs of Gumersindo Delena; and

- Ordering the plaintiffs to pay the costs of this suit.

SO ORDERED.

On appeal by Dionisia, the Court of Appeals rendered a Decision affirming in toto the judgment of the trial court.

Hence, the present petition.

Dionisia's heirs now contend that the Court of Appeals erred in not holding that the Deed of Sale with Right of Redemption dated June 9, 1949 entered into by Dionisia and Gumersindo is an equitable mortgage under Article 1602 of the Civil Code. They insist that the price of P5,300.00 for a five-hectare portion of Lot No. 1213 is grossly inadequate. This readily shows that the contract is an equitable mortgage, not a sale with right of redemption. They invoke this Court's ruling in *Santos v. Court of Appeals*.^[2]

An equitable mortgage is one which, although lacking in some formality, or form, or words, or other requisites demanded by a statute, nevertheless reveals the intention of the parties to charge real property as security for a debt, and contains nothing impossible or contrary to law.^[3] The essential requisites of an equitable mortgage are: (1) the parties enter into what appears to be a contract of sale, (2) but their intention is to secure an existing debt by way of mortgage.^[4]

Article 1602 of the Civil Code provides:

ART. 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 extended;

(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.

In any of the foregoing cases, any money, fruits, or other benefit to be received by the vendee as rent or otherwise shall be considered as interest which shall be subject to the usury laws.

Jurisprudence recognizes that there is no conclusive test to determine whether a deed purporting to be a sale on its face is really a simple loan accommodation secured by a mortgage.[5] However, our case law consistently shows that the presence of even one of the circumstances enumerated in Article 1602 suffices to convert a purported contract of sale into an equitable mortgage.[6] In this case, what should be determined is whether the consideration of P5,300.00 paid by Gumersindo to Dionisa for a five-hectare portion of Lot No. 1213 on June 9, 1949 is “unusually inadequate.”

In *Aguilar v. Ribato and Gonzales Vila*,[7] this Court ruled that there is gross inadequacy in price if a reasonable man will not agree to dispose of his property.

In *De Ocampo and Custodio v. Lim*,[8] this Court held that in sales denominated as *pacto de retro*, the price agreed upon should not generally be considered as the just value of the thing sold, absent other corroborative evidence. This is because, on the part of the vendor, the right to repurchase the land makes it immaterial to him whether or not the price of the sale is the just value thereof. As for the vendee, the price does not induce him to enter into the contract as he does not acquire the thing irrevocably, but subject to repurchase at the stated period. Rather, the vendee pins his hope on the expectancy that he will acquire the thing absolutely at a favorable price should the vendor fail to redeem the thing sold. Subsequently, in *Buenaventura v. Court of Appeals*,[9] this Court ruled that there is no requirement in sales that the price be equal to the exact value of the thing subject matter of the sale.

Following *De Ocampo* and *Buenaventura*, this Court finds no cogent reason to conclude that the 1949 price of P5,300.00 as agreed upon by the parties was unreasonable or unusually inadequate. Moreover, under the rules of evidence, it is presumed that a person takes ordinary care of his concerns.[10] In the present case, there is no evidence herein whatsoever to show that Dionisia did not understand the ramifications of her signing the “Deed of Sale with Right of Redemption.” Nor is there any showing that she was threatened, forced or defrauded into affixing her signature on the said contract.

If the terms of the *pacto de retro* sale were unfavorable to Dionisia, this Court has no business extricating her from that bad bargain. Courts are not guardians of persons who are not legally incompetent,[11] like Dionisia.

Also, Dionisia failed to prove before the trial court that the price agreed upon by the parties in 1949 was grossly inadequate.

Even assuming that the contract of sale with right to repurchase executed by Dionisia and Gumersindo in 1949 is an equitable mortgage, the fact remains that from 1949 up to the filing of the complaint in 1964, or a period of 15 years, she failed to redeem the property. Her heirs claim that since Dionisia had been paying the realty taxes follows that she owns the property, not Gumersindo. Settled is the rule that tax receipts per se are not conclusive evidence of land ownership absent other corroborative evidence.[12] Moreover, we agree with the Court of Appeals that the timing of the payment of realty taxes raises some questions. We note that the real estate taxes corresponding to the period from 1955 to 1963 were paid only on December 27, 1963 or barely six (6) months before Dionisia filed Civil Case No. V-2760 on June 8, 1964. The inescapable conclusion is that she paid the taxes in preparation for the filing of Civil Case No. V-2760.

WHEREFORE, we DENY the petition. The Decision of the Court of Appeals (Ninth Division) dated April 11, 2000 in CA-G.R. CV No. 37210 is AFFIRMED. Costs against the heirs of Dionisia.

SO ORDERED.

Puno, C.J., Chairperson, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Rollo, pp. 203-223. Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justice Ramon Mabutas, Jr. (retired) and Associate Justice Demetrio G. Demetria (left the service) concurring.

[2] G.R. No. 83664, November 13, 1989, 179 SCRA 363.

[3] Go v. Bacaron, G.R. No. 159048, October 11, 2005, 472 SCRA 339, 347.

[4] Ramos v. Sarao, G.R. No. 149756, February 11, 2005, 451 SCRA 103, 113, citing Ceballos v. Mercado, 430 SCRA 230 (2004); Matanguihan v. Court of Appeals, 341 Phil. 379 (1997); Santos v. Court of Appeals, *supra*, footnote 2.

[5] Ching Sen Ben v. Court of Appeals, 373 Phil. 544, 551 (1999); Lapat v. Rosario, 371 Phil. 456, 465 (1999).

[6] San Pedro v. Lee, G.R. No. 156522, May 28, 2004, 430 SCRA 338; Lustan v. Court of Appeals, 334 Phil. 609 (1987); Olea v. Court of Appeals, 317 Phil. 338 (1995).

[7] 40 Phil. 570 (1919).

[8] 38 Phil. 579 (1918).

[9] G.R. No. 126376, November 20, 2003, 416 SCRA 263.

[10] Sec. 3(d), Rule 131, Revised Rules of Court.

[11] Pelayo v. Perez, G.R. No. 141323, June 8, 2005, 459 SCRA 475, citing Buenaventura v. Court of Appeals, *supra* footnote 9.

[12] Republic v. Court of Appeals, G.R. No. 74930, July 5, 1993, 224 SCRA 285; Director of Lands v. Intermediate Appellate Court, G.R. No. 73246, March 2, 1993, 219 SCRA 339; Sapu-An v. Court of Appeals, G.R. No. 91869, October 19, 1992, 214 SCRA 701.

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