RICARDO G. ENRIQUEZ, SR., PETITIONER, VS. HEIRS OF SPOUSES NIEVES AND ALFREDO BALDONADO, RESPONDENTS.

G.R. NO. 145844. August 10, 2006

Ponente: CORONA, J.

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CORONA, J.:

This petition filed under Rule 45 seeks a review of the judgment and resolution of the Court of Appeals (CA) in CA-G.R. CV No.49825. The controversy is rooted in the following facts.

In consideration of a loan extended by Ricardo Enriquez Sr., Nieves Basaca, wife of Alfredo Baldonado, executed a real estate mortgage on May 3, 1990. Among the terms of the contract were as follows.

> This AGREEMENT executed by and between Nieves Basaca, of legal age, married, resident of Bigaa, Cabuyao, Laguna, hereinafter known as the MORTGAGOR, and RICARDO ENRIQUEZ, of legal age, [F]ilipino, married, resident of Dita, Sta. Rosa, Laguna, hereinafter known as the MORTGAGEE in the sum of THIRTY SIX THOUSAND (P36.000.00) PESOS, Philippine Currency, payable within a period of SIX MONTHS (6):
>
> That for and in consideration of said indebtedness the MORTGAGOR does hereby convey and deliver by way of MORTGAGE unto said MORTGAGEE and the latter's heirs and assigns, the following realty together with all the improvements thereon and situated at Bigaa, Cabuyao, Laguna, and more particularly described [in Tax Declaration No. 12258].
>
> xxx xxx xxx[1]

Due to additional loans, the parties entered into another agreement on June 27, 1990. The pertinent provisions of the agreement read:

> WHEREAS, the First Party [Ricardo Enriquez] has extended to the Second Party [Nieves Basaca] various loans secured by a house and lot situated at Bigaa, Cabuyao, Laguna covered by Tax Declaration No. 12258, issued by the Assessor's Office, Municipality of Cabuyao, Laguna in the total amount of P153,000.00;
>
> xxx xxx xxx
>
> NOW THEREFORE, for and in consideration of the foregoing premises[,] the parties [agree] on the following:
>
> - The Second Party has agreed to settle the loan as they become due including interest thereon;
>
> - The Second Party however may elect to sell the property on her option and for which case the price of the sale would be the value of the property at P250,000.00 less the amount of loan of P153,000.00 including interest [thereon].[2]

The spouses Baldonado made payments amounting to P42,000 from July 14 to 25, 1990.

On August 1, 1990, Nieves Basaca as nagbili (vendor) and Ricardo Enriquez as bumili (vendee) entered into an agreement denominated as Pagbibili na may Sanglaan (sale with mortgage) over the property subject of Tax

Declaration No. 12258. The pertinent portions of the document read:

> Na ALANG-ALANG SA HALAGANG DALAWANG DAAN AT LIMAMPUNG LIBO (P250,000.00) salaping Pilipino, na ang paunang kabayaran sa halagang _____ ay pinatunayang tinanggap ngayon ng NAGBILI nang buong kasiyahang-loob mula sa BUMILI, ang NAGBILI ay NAGBIBILI, NAGLILIPAT at NAGSASALIN sa BUMILI at sa kanyang tagapagmana at kahalili ng lupang nasasaad sa itaas nito, kasama ng lahat ng mga kagalingang matatagpuan doon, ligtas sa anumang sagutin at pananagutan, maliban sa nasasaad sa ibaba nito:
>
> Na ang mga panig ay nagkasundo na ang natitirang huling hulog sa halagang Dalawang Daan at Limampung [Libong] Piso (P250,000.00) ay babayaran sa pamamagitan ng sumusunod:
>
> - Na ang halagang P250,000.00 ay babayaran sa loob ng (6) na buwan kasama ang interest o tubo na P75,000.00 sa 5 porsiyento isang buwan simula sa petsang nakasaad dito;
>
> - Na kung tutubusin ay may halagang P325,000.00;
>
> Na upang matiyak ang pagbabayad ng mga hulog sa mga araw na nabanggit sa itaas, at hanggang yaon ay hindi nababayarang lahat, ay ISINASANGLA ng BUMILI ang lupang isinasaysay sa itaas, sa NAGBILI sa ilalim ng pasubali ng kung sakali at mabayaran o maigawad ng BUMILI sa NAGBILI.[3]

Ten days later, on August 10, 1990, the same parties and their respective spouses executed an agreement known as Kasulatan ng Bilihang Muling Mabibili (sale with right of repurchase). The Kasulatan provided:

> Na ang NAGBILI ang siyang nakatalang may-ari ng [mga parsela ng] lupa, na lalong makikilala sa pamamagitan ng sumusunod [na Tax Declaration No. 12258 at TCT No. T-161470[4]].
>
> Na [ALANG-ALANG] SA HALAGANG TATLONG DAAN AT LIMAMPUNG LIBONG PISO (P350,000.00), salaping Pilipino, na ibinayad ng BUMILI at sumakamay nang buong kasiyahan-loob ng NAGBILI, itong huli ay NAGBIBILI, NAGLILIPAT AT NAGSASALIN sa pamamagitan nang BILIHANG MABIBILI MULI, sa BUMILI, at sa kanyang tagapagmana at kahalili, ng lupang isinaad sa itaas, kasama na ang lahat ng kagalingang naroroon, ligtas sa lahat ng pagkakautang o sagutin;
>
> Na INILAAN ng NAGBILI sa kanyang sarili, at sa kanyang tagapagmana at kahalili ang karapatang MULING BILHIN ang lupang binabanggit sa itaas pagkaraan ng taning na simula MAYO 17 hanggang NOBYEMBRE 17, 1990, mula sa pagsasagawa ng KASULATANG ito, sa katulad ding halagang TATLONG DAAN AT LIMAMPUNG LIBONG PISO (P350,000.00) salaping Pilipino, at ang BUMILI ay sumasang-ayon na kanyang IPAGBIBILING MULI sa NAGBILI, at sa kanyang tagapagmana at kahalili ang lupang isinasaad sa itaas, pagkaraan ng taning na panahon sa katulad ding halagang tatlong daan at limampung libong piso (P350,000.00) salaping Pilipino;
>
> Na kung [sakali't] hindi mabiling muli ng NAGBILI ang lupang nabanggit sa itaas pagkaraan ng pinagkasunduang taning na panahon, ang BUMILI ay may karapatang gawin ang kinakailangang hakbang upang maging ganap ang kanyang pagkamay-ari sa lupa, nang naayon sa itinatadhana ng batas at palakad ng hukuman.
>
> Na ang lupang ito ay hindi sakop ng Batas ukol sa Reporma sa Lupa at ng mga kaugnay na Kautusang Pangpanguluhan at palibot-kalatas.[5]

The records reveal that, prior to and about the time of the execution of the Kasulatan, the spouses Baldonado were in dire need of money to defray Nieves' hospitalization expenses.[6]

Due to the failure of the spouses Baldonado to exercise their right of repurchase, petitioner, on January 10, 1991, filed a case in the Regional Trial Court, Branch XXIV, Biñan, Laguna for consolidation of ownership of the two

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properties mentioned in the Kasulatan: (1) an untitled parcel of land covered by Tax Declaration No. 12258 and (2) a registered lot covered by Transfer Certificate of Title (TCT) No. T-161470. This was docketed as (special civil action) Case No. B-3461.

In an answer dated January 23, 1991, the spouses Baldonado admitted the allegations in the petition as to the execution of the Kasulatan but denied that it was a true sale with right of repurchase. They averred that the document was only a contract of loan with mortgage on the properties described therein.

Petitioner filed an amended petition on April 15, 1991, alleging that the redemption period had already expired and respondents no longer had the right to hold on to the properties.

On November 25, 1994, the trial court rendered summary judgment[7] in Case No. B-3461, the dispositive portion of which read:

> WHEREFORE, premises considered, summary judgment is hereby rendered in favor of petitioner and against respondents as follows:
>
> - Declaring the petitioner as the absolute owner of the real properties, including the improvements existing thereon, and more particularly described in the document denominated as "Kasulatan ng Bilihang Muling Mabibili" dated August 10, 1990;
>
> - Ordering the Register of Deeds, Laguna, Calamba Branch, to cancel TCT No. T-161470 in the name of respondents and to issue another one in the name of petitioner;
>
> - Ordering the Municipal Assessor of Cabuyao, Laguna, to cancel Tax. Decl. No. 12258 in the name of respondents and to issue a new one in the name of petitioner;
>
> - Ordering the respondents to deliver the duplicate copy of the aforesaid document and title to the Municipal Assessor of Cabuyao, Laguna and the Register of Deeds of Laguna, Calamba Branch;
>
> - Ordering the respondents to deliver to petitioner the possession of the subject real properties, including the improvements thereon; and
>
> - Ordering the respondents to pay petitioner the sum of P30,000.00 [for] attorney's fees and the sum of P6,000.00 as litigation expenses plus the sum of P500.00 per appearance in court including the costs of this suit.
>
> Petitioner's claim for moral and exemplary damages is hereby dismissed for want of evidence.
>
> Soon after the finality of the summary judgment, let a writ of execution and a writ of possession be issued accordingly.
>
> SO ORDERED.

On appeal, the CA held:

> WHEREFORE, the decision appealed from is hereby SET ASIDE. The "KASULATAN NG BILIHANG MULING MABIBILI" is hereby declared as an equitable mortgage and respondents are declared entitled to redeem the mortgaged properties, which shall be effected upon payment by them of their outstanding indebtedness to petitioner with legal rate of interest from November 17, 1990, the time [when] the loan matured, until it is fully paid.
>
> SO ORDERED.[8] (emphasis ours)

Petitioner's motion for reconsideration was denied but the CA ruled on the point that, having already found the contract to be one of equitable mortgage, the CA should have proceeded to fix the redemption period. The

appellate court stated:

> [W]e need only to cite the rule enunciated by the Supreme Court in the case of Gloria-Diaz v. Court of Appeals, 84 SCRA 483 [at 490] (1978), where it held that when a contract purporting to be a sale with right to repurchase is construed as one of equitable mortgage, the vendor has a period of thirty (30) days within which to redeem the subject property from the finality of the judgment rendered in the civil action.

Petitioner submits the following issues for our consideration:

> 1) WHETHER OR NOT RESPONDENT COURT GRAVELY ERRED IN SETTING ASIDE THE SUMMARY JUDGMENT RENDERED BY THE COURT A QUO WHEN ITS DECISION ITSELF ... CATEGORICALLY STATES THAT IT SUPPORTS THE TRIAL COURT'S ACTION IN RENDERING A SUMMARY JUDGMENT[;]
>
> 2) WHETHER OR NOT THE RESPONDENT COURT GRAVELY ERRED IN DECLARING THE AGREEMENT BETWEEN THE PARTIES AS ONE OF EQUITABLE MORTGAGE WHEN THE ONLY ISSUE TO BE RESOLVED IS WHETHER OR NOT THE RIGHT OF THE RESPONDENTS TO REDEEM UNDER THEIR AGREEMENT ... [EXPIRED] AND CONSEQUENTLY WHETHER OR NOT BY OPERATION OF LAW PETITIONER IS ENTITLED TO ASK FOR THE CONSOLIDATION OF THE TITLE IN HIS NAME[;]
>
> 3) WHETHER OR NOT THE RESPONDENT COURT GRAVELY ERRED IN NOT CONFIRMING THE AWARD OF DAMAGES IN FAVOR OF PETITIONER[.][10]

First of all, the issue of procedure.

Section 3, Rule 35 of the Rules of Court provides:

> Sec. 3. Motion and proceedings thereon.– xxx After the hearing, the judgment sought shall be rendered forthwith if the pleadings, supporting affidavits, depositions, and admissions on file, show that, except as to the amount of damages, there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. (emphasis supplied)

The trial court may render summary judgment as justice may require if, at the pre-trial, it finds that facts exist warranting such judgment. But there can be no summary judgment where questions of fact are in issue or where material allegations of the pleadings are in dispute.[11]Respondents' answer to petitioner's complaint raised a genuine issue regarding the true nature of their contract. The trial court should have thus heard the case on the merits. To this extent, the CA erred in upholding the trial court's recourse to summary judgment.

It is settled jurisprudence that the clarity of contractual terms and the name given to the contract do not bar the courts from determining the true intent of the parties. Respondents' admissions on the existence, execution and authenticity of the Kasulatan never conceded that the denomination of the contract defined the legal relationship between them and petitioner. Indeed, in Zamora v. Court of Appeals, we said that:

> [i]n determining the nature of a contract, courts are not bound by the title or name given by the parties. The decisive factor in evaluating such agreement is the intention of the parties, as shown not necessarily by the terminology used in the contract but by their conduct, words, actions and deeds prior to, during and immediately after executing the agreement. As such therefore, documentary and parol evidence may be submitted and admitted to prove such intention.[12]

The petition mainly asks why an alleged sale with right to repurchase should be treated as an equitable mortgage. On this substantive point, we are not inclined to reverse the CA decision and resolution finding the transaction between the parties to be an equitable mortgage and not a sale.

A contract of sale with right to repurchase is frequently used to conceal the true agreement which is one of loan with mortgage.[13] The existence of any of the circumstances in Article 1602 of the Civil Code is sufficient basis to declare a contract of sale with right to repurchase as an equitable mortgage.

Article 1602 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 the 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.
>
> 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. (emphases supplied)

The presumption in Article 1602 that an alleged contract of sale is, in reality, an equitable mortgage jibes with the rule that the law favors the least transmission of property rights. It is the existence of any of the conditions under Article 1602, not a concurrence nor an overwhelming number, which creates the presumption that the contract is an equitable mortgage.[14]

The circumstances in this case defy the logic of petitioner's arguments. Even prior to the execution of the Kasulatan on August 10, 1990, various agreements clearly manifesting the intention to secure the spouses Baldonado's loans had been entered into by the parties. The original loan secured by a real estate mortgage on the properties subject of this case was renewed several times in barely four months, until its "reincarnation" as a sale with right to repurchase.

Petitioner never contradicted respondents' allegations that from the date of execution of the Kasulatan to the present: (1) respondents (or their heirs) remained in possession of the subject properties; (2) they continued to pay the realty taxes on the land and (3) they enjoyed the fruits of the properties to the exclusion of the petitioner. Neither did petitioner challenge respondents' contention that the supposed purchase price of P350,000 in the Kasulatan was unusually inadequate for the two lots, considering that one had an area of 1,209 square meters and the other, 361 square meters.

More revealing of the true intention of the parties was the undisputed creditor-debtor relationship between Enriquez and the spouses Baldonado. This circumstance, taken together with the others already discussed, convinces this Court that the sale with right to repurchase was executed to serve merely as additional security for the loans extended to the spouses Baldonado.[15]

Reyes v. Court of Appeals echoes our sentiments:

> In determining whether a deed absolute in form is a mortgage, the court is not limited to the written memorials of the transaction. The decisive factor in evaluating such agreement is the intention of the parties, as shown not necessarily by the terminology used in the contract but by all the surrounding circumstances, such as the relative situation of the parties at that time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the deed, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding.[16] (emphasis and underscoring ours)

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WHEREFORE, the petition is hereby DENIED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1]Rollo, p. 114.

[2]Id., p. 53.

[3] Id., pp. 116-117.

[4] As noted in the Kasulatan, full technical description of the parcel of land covered by TCT No. T-161470 appears on a separate sheet of paper.

[5] Rollo, pp. 41-42.

[6] Nieves Baldonado passed away on March 9, 1992 while the case was being heard by the RTC. Alfredo Baldonado passed away on December 3, 1996 during the pendency of the appeal.

[7] Penned by Judge Rodrigo Cosico, RTC-Laguna, Br. 24, rollo, pp. 84-86.

[8] Decision in CA-G.R. CV No. 49825, penned by Associate Justice Oswaldo D. Agcaoili (retired) and concurred in by Associate Justices Eugenio S. Labitoria (retired) and Andres B. Reyes, Jr. of the Tenth Division of the Court of Appeals; id., p. 36.

[9] Resolution penned by Associate Justice Oswaldo D. Agcaoili (retired) and concurred in by Associate Justices Eugenio S. Labitoria (retired) and Andres B. Reyes, Jr. of the Former Tenth Division of the Court of Appeals; id., pp. 38-40.

[10] Id., pp. 13-14.

[11] Manufacturers Hanover Trust Co. v. Guerrero, 445 Phil. 772 (2003).

[12] G.R. No. 102557, 30 July 1996, 260 SCRA 10, 18-19.

[13]Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES (1992), pp. 156, citing Ramos v. Court of Appeals, G.R. No. 42108, 29 December 1989, 180 SCRA 635.

[14] Aguirre v. Court of Appeals, G.R. No. 131520, 28 January 2000, 323 SCRA 771, 775.

[15] Taopo-Banga v. Spouses Bello, G.R. No. 156705, 28 September 2005, 471 SCRA 653.

[16] G.R. No. 134166, 25 August 2000, 339 SCRA 97, 103.

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