

**SPOUSES CRISPIN AUSTRIA AND LEONISA HILARIO, PETITIONERS,
VS. SPOUSES DANILO GONZALES, JR., AND VERONICA GONZALES,
RESPONDENTS.***G.R. No. 147321. January 21, 2004*

Ponente: QUISUMBING, J.

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For review on certiorari is the Court of Appeals' decision[1] dated February 23, 1999, in CA-G.R. CV No. 49581, which reversed the decision[2] of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 12, in Civil Case No. 552-M-91. The RTC ruled that the disputed contract purporting to be a deed of sale was an equitable mortgage, and granted petitioners the right to redeem the subject property. Also assailed is the appellate court's Resolution[3] dated February 28, 2001, denying petitioners' motion for reconsideration.

The facts as culled from the records are as follows:

On September 4, 1991, petitioners Crispin Austria and Leonisa Hilario filed a civil action for Declaration of Nullity of Document and Reconveyance before the RTC of Malolos, Bulacan, against herein respondents Danilo Gonzales, Jr., and Veronica Gonzales. In their Complaint, docketed as Civil Case No. 552-M-91, petitioners alleged that they are the owners and possessors of three (3) parcels of land, with areas of 1,000, 1,000 and 1,363 square meters, more or less, and covered by the following Transfer Certificates of Title (TCT) Nos. T-210989, T-210990 and T-82297, respectively, all in the name of petitioner Leonisa Hilario.

Said parcels became the subject of two (2) Deeds of Absolute Sale, one dated July 21, 1979, priced at P50,000 and the other dated October 23, 1981 priced at P240,000. Both deeds were executed by petitioner Leonisa Hilario in favor of respondents. But petitioners claimed that the transactions entered between petitioners and respondents were not actually sales, but merely loans in the amount of P260,000. According to petitioners, they used this amount to redeem some mortgaged properties from the Rural Bank of Pandi, Bulacan. To secure the loan, however, respondents required petitioners to furnish them with ten (10) TCTs. Three of these certificates covered the petitioners' properties subject of the present case, while the other seven belonged to their relatives. Petitioners admitted that their debts to respondent spouses remained unpaid due to business reverses.

According to petitioners, respondents thereafter registered the disputed properties in their own names through the use of fraud, misrepresentation and falsification, using the fictitious contracts of sale. Petitioners alleged that they came to know of said acts of respondents only when they were served with a notice dated May 22, 1991, from respondents' counsel to vacate said lots. Thus, petitioners sought the reconveyance of the three parcels from respondents, with moral damages and attorney's fees.

For their part, respondents insisted in their Answer that on October 1981, petitioner Leonisa Hilario sold to them the three lots in question. Respondent Veronica Gonzales agreed to buy the same out of pity for petitioners, whose several properties had earlier been foreclosed by the bank. The transaction was embodied in a Deed of Absolute Sale and notarized before Notary Public Protacio Cortez, Jr. The original amount in the Deed of Absolute Sale

was P240,000. However, before the properties were registered, petitioner Leonisa Hilario in a letter dated July 20, 1983, requested for the execution of another Deed of Absolute Sale indicating a price of P50,000, purportedly to lessen the taxes and fees that they will be paying as the vendors. The letter, which was in the vernacular is reproduced in full below, thus:

Ika-ng Hulyo, 1983

Gng. Veronica R. Gonzalez
Baliwag, Bulacan

Mahal na Gng. Gonzales;

Nangyari kami ay lumihap sa inyo tungkol sa Kasulatan ng Bilihan na aming isinagawa sa inyong pangalan na tumutukoy sa lupang nasasa (sic) Bunsuran Pandi, Bulacan at nasa ilalim ng TCT Nos. T-82297, T-210989, T-210990 ng Register of Deeds of Bulacan na lalong magpapakikilala bilang Doc. No. 284; page no. 57; Book No. V; Series of 1981 ni Notary Public P. Cortez, Jr. ng Bulacan na ang gastos sa kaukulang capital gains tax, registration fees at ibang gastos pa na may kinalaman sa pagpapalipat sa pangalan ninyo ay kami ang mananagot na magbabayad.

Dahilan po dito ay nais po sana naming hilingin sa inyo na sana ay makapagsagawa kami ng isa pang kasulatan ng bilihan na tumutukoy din sa mga binanggit na lupa at babaan ang halaga nito at ang petsa nito ay maging bata or maaga para kami ay huwag namang masyadong magastusan at kami ay nananagot sa pagsasagawa ng bilinghang ito.

Salamat po at umaasa kami sa inyong pagdinig sa aming kahilingang ito.

Sumasainyo,

Sgd.

Gng. Leonisa H. Austria[4]

According to respondents, a new Deed of Absolute Sale indicating a selling price of P50,000 for the 3 lots was executed and notarized before Notary Public Jose Ramos. Shortly afterwards, according to respondents, the titles of said lots were transferred to them.

After respondents wrote petitioners on June 20, 1983, asking them to vacate the disputed properties, petitioners sent respondents on July 28, 1983, an UNDERTAKING[5] promising to vacate and surrender possession of the properties on or about December 15, 1983, without further extension. But then petitioners failed to vacate as promised on said date. Their failure to vacate and turn over the purchased lots prompted respondents to send a final demand letter asking petitioners to vacate the premises but petitioners still refused. As a result, said respondents were forced to file an ejectment suit docketed as Civil Case No. 2473 before the Municipal Trial Court of Pandi, Bulacan,[6] against petitioners. That suit was decided by the municipal court in respondents' favor. Hence the petitioners elevated their case to the Regional Trial Court of Malolos.

On August 11, 1995, after trial on the merits, the RTC of Malolos decided Civil Case No. 552-M-91 against respondents and in favor of herein petitioners. It decreed as follows:

WHEREFORE, conformably with all the foregoing, judgment is hereby rendered declaring the subject deeds of absolute sale (Exhs. "1" and "3") a loan transaction between the parties herein and, therefore, an equitable mortgage. Plaintiffs are declared entitled to redeem their mortgaged properties which shall be effected upon the payment of their mortgage debt to defendants in the total amount of P260,000.00 with legal rate of interest from October 23, 1981, the date of delivery of said loan amount to plaintiffs, until it is fully paid.

Further, defendants are hereby ordered to pay P20,000.00 for attorney's fee (sic) of plaintiffs and the costs of suit.

SO ORDERED.[7]

In finding for petitioners, the trial court described petitioners as the classic example of persons who are willing to enter into any kind of arrangement with another due to a desperate need of money. The trial court noted that petitioners had to sign all those documents, including the undertaking dated July 28, 1983, simply because their hands were forced by the need to avail of their last remaining chance to redeem their mortgaged properties from the foreclosing bank.

Citing *Uy v. Court of Appeals*,^[8] the RTC opined that "necessitous men are not, truly speaking, free men; but to answer a present emergency, will submit to any terms that the crafty may impose upon them."

Applying Article 1604^[9] of the Civil Code in relation to Article 1602,^[10] the RTC observed that: (a) petitioners as the vendor remained in physical possession of the lots even after the execution of the deed of sale; (b) petitioners paid the realty taxes for the years 1982 and 1983; and (c) the purchase price of P50,000.00 was unusually inadequate by any standard for realties totaling more than 3,000 square meters in area, with house built thereon and other improvements.

Respondents seasonably appealed the decision in Civil Case No. 552-M-91 to the Court of Appeals. It reversed the trial court's decision, to wit:

WHEREFORE, the decision dated August 11, 1995 of the Regional Trial Court of Malolos, Bulacan (Branch 12) is hereby SET ASIDE, and a new one rendered DISMISSING the complaint.

Costs against the plaintiffs-appellees.

SO ORDERED.[11]

Further, in holding that the contract between the parties was an absolute sale, rather than equitable mortgage, the Court of Appeals made the following observations in its decision on the ejectment suit: (1) petitioner Crispin Austria could not present the document to prove that their transaction with respondents was a loan; (2) Austria could not even testify as to the terms of such loan, i.e., he did not even know when the loan fell due; (3) petitioners had not paid any single centavo for such loan over a period of 13 years; (4) when confronted with the deed of sale during the trial, Austria could only claim that he could not remember if the signatures appearing thereon were his or his wife's; (5) petitioners did execute the Undertaking promising to vacate the disputed premises on or before December 14, 1983; and (6) petitioners did not deny writing the letter dated July 20, 1983 wherein they asked respondents to execute a second antedated deed of sale with a reduced selling price indicated therein.^[12]

Hence, the instant petition.

Before this Court, petitioners aver that the Court of Appeals erred in:

I

HOLDING THAT THE CONTRACT BETWEEN PETITIONERS AND RESPONDENTS OVER THE TEN (10) TRANSFER CERTIFICATE(S) OF TITLE, AND ALL IMPROVEMENTS EERECTED THEREON (sic) SUBJECT THREE (3) PARCELS OF LAND COVERED BY THREE (3) TRANSFER CERTIFICATE(S) OF TITLES INCLUDED WERE SALE AND NOT A MORTGAGE LOAN (sic).

II

DISREGARDING THE FACTS AND EVIDENCES PRESENTED WHICH CLEARLY SUPPORT THE REGIONAL TRIAL COURT'S FINDINGS IN FAVOR OF THE PETITIONERS.

- FROM HER OWN LIPS, RESPONDENT VERONICA GONZALES ADMITTED HAVING ACQUIRED THE FIVE (5) PROPERTIES OF PABLO HILARIO, JR., ONE (1) PROPERTY OF PABLO HILARIO, SR., AND ONE (1) PROPERTY OF MANSUETO DIE LA CRUZ;

- UNDER THE FACTUAL CIRCUMSTANCES OBTAINING IN THE INSTANT CASE AND EXISTING JURISPRUDENCE, THE CONTRACT BETWEEN PETITIONERS AND RESPONDENTS WAS, AT THE VERY LEAST, AN EQUITABLE MORTGAGE.

The pertinent issue for our resolution is whether the transaction in this case involves an absolute sale or equitable mortgage of real property.

Petitioners contend that the Court of Appeals erred in failing to consider the following circumstances: (a) they remained in possession of the premises until 1992; (b) the price of P50,000 is grossly inadequate; (c) they are paying the real estate taxes and that they were left with no choice but to yield to respondents' fraudulent scheme because they were in dire need of money.[13] They claim that all the foregoing are earmarks of an equitable mortgage. They add, quoting an adage in Filipino, "Ang taong nagigipit, kahit sa patalim ay kumakapit".[14]

For their part, respondents argue that the instant petition raises factual issues not proper in a petition for review on certiorari. On the merits, they aver that petitioners' mere denial is not sufficient to overcome the existence of the deed of sale, which was notarized by the notary public, who testified thereon in court as a witness. Moreover, they contend that petitioners are landowners used to transacting business involving real properties, including the prior loan arrangements with respondents. Thus, according to respondents, the petitioners cannot claim ignorance of the required documentation for realty transactions.

At this juncture, we must stress that while, as general rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court, nonetheless factual issues may be entertained by this Court in exceptional cases. These include instances where the findings of fact are conflicting or when the findings of the Court of Appeals are contrary to those of the trial court,[15] as in the present case. The different findings of the trial court and the Court of Appeals as to the nature of the transaction entered into between petitioners and respondents in this case compel us to make our own.

Decisive for the proper determination of the true nature of the transaction between the parties is the intent of the parties. There is no conclusive test to determine whether a deed absolute on its face is really a simple loan accommodation secured by a mortgage.[16] To determine whether a deed absolute in form is a mortgage in reality, the court is not limited to the written memorials of the transaction. This is so because 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 situations of the parties at that time; the attitudes, acts, conduct, and 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. As such, documentary and parol evidence may be submitted and admitted to prove the intention of the parties.[17]

At first blush, petitioners appear persuasive in invoking the presumption created by Articles 1602 and 1604 of the Civil Code as to an equitable mortgage. Petitioners point out that the requirements of an equitable mortgage have been satisfied by the following circumstances, to wit: (1) inadequacy of the selling price; (2) possession in the premises, and (3) payment of realty taxes. However, such presumption of equitable mortgage is not conclusive. It may be rebutted by competent and satisfactory proof to the contrary. In the instant case, petitioners' claim that the

selling price of the lots in question was inadequate needs closer scrutiny. Petitioners' allegation that the insufficiency of the selling price creates the presumption that the transaction is an equitable mortgage is unsupported by the evidence on record. Petitioners failed to present any proof whatsoever that the fair market values of the real property in the area at the time of the transaction were much higher than the selling price of the parcels in question. Mere allegation that the price paid by respondents was inadequate, without more, does not make a case favorable to petitioners. Moreover, there is candid testimony by respondents that the actual price paid was P240,000. This testimony was buttressed by a letter dated July 20, 1983, written by petitioner Leonisa H. Antonio that a price be put in the deed lower than what was actually paid, so as to lower the seller's taxes, fees, and other expenses.

As to the allegation that petitioners were in possession of the properties even after the sale, it is obviated by the fact that they executed an undertaking promising to vacate the premises. But they repeatedly delayed honoring it. The records also show that they did not object when improvements were made on the premises by respondents. As aptly stated by the Court of Appeals:

Plaintiffs responded to a demand to vacate made on them by the defendant by executing an "Undertaking" dated July 28, 1983 promising to vacate the premises on or before December 14, 1983. (Exh. "7"). Such undertaking was consistent with the fact that a sale was indeed made in October 1981. Plaintiffs, however, failed to make good their promise and so an ejectment suit was filed against them which eventually led to their ejectment from the subject properties. After their ejectment, a certain Mr. Rivera occupied the lots. The latter introduced permanent improvements thereon and had in fact converted the pigpens, which used to belong to plaintiff Austria, into a fishpond. When all these improvements were being undertaken, plaintiffs were aware thereof but did not object to any of the work done on the subject premises, (tsn, pp. 8-11, August 9, 1993). Such inaction is contrary to their claim of ownership over the subject properties, considering that the owner of a thing has the right to exclude any person from the enjoyment and disposal thereof and may, for this purpose, use such force as may be reasonably necessary to repel or prevent an actual or threatened unlawful physical invasion or usurpation of his property. (Article 429, Civil Code).[18]

Petitioners insist that they entered into a contract only to obtain a loan with respondents and nothing more. Petitioners failed, however, to present a copy of said contract in the proceedings before the RTC, nor could they testify as to its details. Petitioners surely cannot now pretend to be ignorant of the real nature of their transaction with respondents. For this was not the first time they dealt with each other. Petitioner Crispin Austria even admitted in his testimony that he knew the meaning of the phrase "hereby sell, transfer and convey" and "deed of sale".[19] But he was less than candid in his testimony under oath. While he could identify his own signature in the Complaint, he was struck with selective amnesia when shown the same signature in the Deed of Sale.[20] Moreover, he failed to rebut the testimony of the Notary Public who testified in court that the petitioners as vendors of the properties personally appeared and acknowledged the sale documents before him.

Lastly petitioners' contentions must fail in the face of Leonisa's letter of July 20, 1983 to respondent Veronica Gonzales, requesting respondents to execute another antedated deed of sale, providing for a decreased selling price, so as to reduce petitioners' taxes, e.g. capital gains tax. The existence and genuineness of the letter was never rebutted by petitioners. Note that in said letter Leonisa used the term "Kasulatan ng Bilihan" (Deed of Sale). Note likewise that she made mention about capital gains tax and registration fees, which can only find relevance and necessity in a contract of sale and not in a contract of mortgage. Apparently, petitioners were aware all along that what they had entered into with respondents is a contract of sale. Petitioners cannot feign ignorance and illiteracy as to its contents. Said letter is written not in English but in Filipino in which petitioners are conversant. Thus, we are constrained to find that indeed the true intent of the parties involves a contract of sale. It is not merely a loan, much less an equitable mortgage, that they had in mind. The decision reached by the appellate

court favoring the respondents over the petitioners, by reversing the trial court's judgment and dismissing the complaint, deserves our concurrence.

WHEREFORE, the petition is DENIED, and the decision of the Court of Appeals dated February 23, 1999, in CA-G.R. CV No. 49581 as well as its resolution dated February 28, 2001, is AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Associate Justice Salome A. Montoya, with Associate Justices Ruben T. Reyes and Eloy R. Bello, concurring. CA Rollo, pp.118-126.

[2] Rollo, pp. 39-44.

[3] Id. at 170-173.

[4] Folder of Exhibits, p. 27. Emphasis supplied.

[5] Id. at 36.

[6] Records, pp. 64 & 277; Rollo, p. 39.

[7] Rollo, pp. 43-44.

[8] G.R. No. 104784, 3 March 1994, 230 SCRA 664, 672.

[9] ART. 1604. The provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale.

[10] 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 of 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.

[11] Rollo, p. 54.

[12] Id. at 50-51.

[13] Id. at 10. "A person in dire straits clings even to a knife's edge."

[14] Id. at 13.

[15] Martinez v. Court of Appeals, G.R. No. 123547, 21 May 21, 2001, 358 SCRA 38, 49.

[16] Lorbes v. Court of Appeals, G.R. No. 139884, 15 February 2001, 351 SCRA 716, 725-726.

[17] Reyes v. Court of Appeals, G.R. No. 134166, 25 August 2000, 339 SCRA 97, 103.

[18] Rollo, p. 51.

[19] TSN, 17 October 1991, p. 11.

[20] Id. at 12-13.

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