

**SPOUSES NATALIO AND FELICIDAD SALONGA, PETITIONERS, VS.
SPOUSES MANUEL AND NENITA CONCEPCION AND FLORENCIA
REALTY CORPORATION, RESPONDENTS.***G.R. NO. 151333. September 20, 2005*

Ponente: CALLEJO, SR., J.

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The spouses Natalio Salonga and Felicidad Salonga were the owners of eight (8) prime parcels of land located in Dagupan City covered by Transfer Certificate of Title (TCT) Nos. 40886, 40887, 43547, 26506, 35156, 49460, 49459 and 53650.[1] They had a commercial building with four floors which stood on their property located along A.B. Fernandez Avenue, Dagupan City and covered by TCT No. 53650. The spouses leased the building to traders and merchants, and lived in a house along Arellano Street. The house stood on a lot which they also owned, covered by TCT No. 26506.

To finance their business, the spouses secured a loan from the Associated Bank. To secure the payment thereof, they executed a Real Estate Mortgage in favor of the bank over the property covered by TCT Nos. 40886, 40887, 43547, 35156 and 49459.[2] The spouses likewise secured a loan from the Philippine National Bank (PNB), and also executed a real estate mortgage over their property covered by TCT No. 26506.[3] A real estate mortgage over their property covered by TCT No. 53650 was also executed, including the commercial building thereon, as security for their loan from the Development Bank of the Philippines (DBP).[4] Their loan from the Rural Bank of Malasiqui, Inc. (Pangasinan) was secured by a real estate mortgage over their property covered by TCT No. 49460.[5]

The devastating earthquake of July 16, 1990 severely damaged the spouses' commercial building, adversely affecting their business.[6] Consequently, they defaulted in the payment of their loans. The creditor banks foreclosed or threatened to foreclose their real estate mortgages. On September 4, 1991, their property covered by TCT No. 49460 mortgaged to the Rural Bank of Malasiqui, Inc. was sold at public auction with the said bank as the highest bidder.[7] The DBP had the property covered by TCT No. 53650 sold at public auction on November 21, 1991.[8] The Certificate of Sale in favor of the bank as the winning bidder was filed with the Office of the Register of Deeds on January 2, 1992.[9]

On October 1, 1992, the Associated Bank filed a petition with the Regional Trial Court (RTC) of Dagupan City for the extrajudicial foreclosure of the Real Estate Mortgage over the property of the spouses covered by TCT Nos. 49459, 40886, 40887, 43547 and 35156, for the satisfaction of the balance of their loans and the increments thereof totaling P571,132.70 as of August 31, 1992. The sheriff set the sale at public auction on December 10, 1992.[10]

Beleaguered, the spouses Salonga secured a loan, this time, from the spouses Manuel and Nenita Concepcion, who were engaged in the business of lending money, to repay their loan to the PNB. The spouses Salonga borrowed P500,000.00 from the spouses Concepcion, which the latter remitted to the PNB on November 6, 1992

in payment of the spouses Salonga's account. The latter were issued a receipt.[11] They also paid P2,756.85 to the PNB for surcharges.[12] Thus, on November 11, 1992, the PNB executed a Deed of Release of Real Estate Mortgage[13] which the bank delivered to Manuel Concepcion; the receipt of the said payment and the owner's duplicate of TCT No. 26506 was likewise released to Manuel Concepcion.

The spouses Concepcion also agreed to the spouses Salonga's plea for another loan to enable them to settle their obligations with the Associated Bank. Concepcion remitted the amount of P200,000.00 to the bank on December 8, 1992;[14] P200,000.00, on December 21, 1992;[15] and P186,520.50 on January 18, 1993[16] for the account of the spouses Salonga, for which the latter were issued receipts by the bank.[17] The bank executed a Cancellation of the Real Estate Mortgage[18] on January 20, 1993 and delivered the amount together with the owner's duplicate of the titles over the five parcels of land, and the aforesaid receipt to spouses Concepcion.

The spouses Salonga secured another loan from the spouses Concepcion in the amount of P2,042,377.19, which the latter paid to the DBP for the account of the spouses Salonga. The bank executed a Deed of Redemption and Cancellation of Liens[19] on January 5, 1993. The spouses Concepcion took delivery of the deed and the owner's duplicate of TCT No. 53650 and the receipt issued by the DBP for said amount in the names of the spouses Salonga.

The spouses Concepcion required the spouses Salonga to pay 3% of the loans as monthly interest, on top of a 5% commission if the property was sold to third-parties.

The spouses Salonga failed to pay the loans, interest and commission despite the lapse of several months. In the meantime, they continued residing in the same house. Much as they tried, the spouses Salonga failed to sell their property to any interested buyer. Worse, the spouses Concepcion pressed them to pay their loan accounts, plus the interests thereon. Their property covered by TCT No. 49460 was sold at public auction with the Rural Bank of Malasiqui, Inc. as the winning bidder. The bank consolidated its title on August 20, 1993.[20] The Register of Deeds cancelled TCT No. 49460 and issued TCT No. 60384 to the bank.[21]

On August 31, 1993, the spouses Salonga executed, in favor of the spouses Concepcion, a Deed of Absolute Sale[22] over their property previously mortgaged to the Associated Bank covered by TCT Nos. 43547, 40886, 40887, 35156 and 49459. It appears on the said deed that the property was sold for the price of P575,000.00, and that the spouses Salonga received the amount from the spouses Concepcion.

On September 20, 1993, the spouses Concepcion executed a Deed of Absolute Sale over the property covered by TCT Nos. 40886, 40887, and 43547 in favor of the Florencia Realty Corporation for P600,000.00. On September 21, 1993, the spouses Concepcion filed the said deed in the Office of the Register of Deeds. The spouses Concepcion then filed the cancellation of real estate mortgage executed by the Associated Bank, the deed of absolute sale executed by the spouses Salonga, and the deed of absolute sale in favor of the Florencia Realty Corporation in the Office of the Register of Deeds, which issued TCT Nos. 60530, 60531 and 60532 in the names of the Florencia Realty Corporation, and TCT Nos. 60533, 60534 and 60694 in the names of the spouses Concepcion on September 21, 1993.

On October 18, 1993, the Spouses Salonga executed a Deed of Absolute Sale[23] over their properties previously mortgaged with the PNB and DBP, covered by TCT Nos. 53650 and 26506 including the improvements therein in favor of the spouses Concepcion. It appears that the lots were sold for P1,500,000.00, receipt of which was acknowledged by the spouses Salonga in the said deed. The spouses Concepcion filed the deed of absolute sale on the same day with the Office of the Register of Deeds, which issued TCT Nos. 60694 and 60695 in the names of the spouses Concepcion following the payment of the capital gains taxes. However, the spouses Salonga continued to reside in the same house.

Sometime in 1994, the daughter of the spouses Salonga arrived from abroad. The spouses and their daughter offered to redeem the property from the spouses Concepcion. However, the latter informed the spouses Salonga and their daughter that the title to the property had already been transferred to their names, and agreed to the redemption of the property for P8,000,000.00 and the spouses Concepcion increased it to P10,000,000.00.

On July 12, 1994, the spouses Salonga filed a complaint against the spouses Concepcion and the Florencia Realty Corporation with the RTC of Dagupan City for annulment of the August 31, 1993 and October 18, 1993 Deeds of Absolute Sale, as well as the reconveyance of the property subject of said deeds with damages.

The spouses Salonga alleged that the two deeds of absolute sale were simulated and did not reflect their true agreements, that is, that their property would guarantee the "payment of the total amount of remittances the defendants had paid to the mortgagors-banks for the redemption of their property, plus 3% a month of their loans as interests, and if the property were sold to a third-party, a 5% commission of the purchase price thereof." They also alleged that their agreement with the spouses Concepcion that the latter would not register the said deeds in the Office of the Register of Deeds and secure titles over the properties in their names; the defendants, in evident bad faith, registered the said deeds and secured titles in their names; the market price of the whole property amounted to P10,000,000.00, but it appeared that the property was sold to the spouses Concepcion for only P2,000,000.00, which was the amount the spouses Concepcion remitted to the bank in their account; they offered to repay their loans and their offers were rejected. The spouses Salonga prayed that judgment be rendered in their favor, thus:

WHEREFORE, it is respectfully prayed that after due hearing, judgment be rendered in accordance with the several causes of action hereof;

- Declaring the Deed[s] of Absolute Sales, (sic), (Annexes "I" and "J") dated August 31, 1993 and October 18, 1993, respectively as a simulated contracts and therefore VOID AB INITIO;

- Ordering the Register of Deeds of Dagupan City to cancel TCT Nos. 60533, 60534, 60695, 60694, 60624 in the name of the defendants and TCT Nos. 60530, 60531 and 60532 in the name of Florencia Realty Corporation, Inc., and to restore TCT Nos. 40886, 40887, 43547, 20506, 35156, 49460, 49459 and 53650 in the name of the plaintiffs Spouses Natalio Salonga and Felicidad Salonga;

- Ordering defendants spouses Manuel Concepcion and Nenita Viado to pay plaintiffs the sum of P500,000.00 as damages authorized to be awarded under Article 19 of the same code;

- Ordering defendants Spouses Manuel Concepcion and Nenita Viado to pay plaintiffs the sum of P2,000,000.00 for moral damages; the sum of P100,000.00 for exemplary damages;

- Ordering defendants Spouses Manuel Concepcion and Nenita Viado to pay plaintiffs the sum of P100,000.00 as and for attorney's fees plus the sum of P1,000.00 as per Court appearance fee; the sum of P100,000.00 for litigation expenses.

PLAINTIFFS further pray for such other reliefs just and equitable in the premises.[24]

In their answer to the complaint, the spouses Concepcion admitted that they gave loans to the spouses Salonga in the total amount of P3,131,154.54 which they remitted to the DBP, the PNB and Associated Bank for the plaintiffs' account, with the assurance that they would sell the property within three months; from the proceeds of the sale, their loans and the interest thereof at 3% per month and a commission of 5% of the purchase price of the property would be paid. They further alleged that despite extensions granted to them, the plaintiffs failed to pay their loans, and offered, instead, to sell their property for the price equivalent to the spouses Concepcion's remittances to the creditors-banks, plus an additional amount; the lots covered by TCT Nos. 53650 and 26506

were not part of the said sale; the spouses Salonga requested for more time to sell the remaining two lots.

The spouses Concepcion further alleged that they agreed to spouses Salonga's offer, and the latter executed a deed of absolute sale on August 31, 1993 covering the lots described in TCT Nos. 43547, 40886, 40887, 35156 and 49459; when the plaintiffs failed to sell the lots covered by TCT Nos. 53650 and 26506, they executed a deed of absolute sale over the said lots on October 18, 1993 and received the additional purchase price of P1,500,000.00 from the defendants; the plaintiffs promised to vacate their house in April 1994, but refused to do so; worse, the plaintiffs filed a complaint against them.

Subsequently, the spouses Concepcion as plaintiffs filed an action for ejectment against the spouses Salonga on August 23, 1994 with the Municipal Trial Court of Dagupan City, praying for their eviction from the subject property.[25] The case was docketed as Civil Case No. CV-95- 00671-D.[26]

Felicidad Salonga testified that there was no period agreed upon to repay their loans from the defendants, and while they executed the Deeds of Absolute Sale dated August 31, 1993 and October 18, 1993 in favor of the defendants, they did not receive the amounts stated therein. The plaintiffs also adduced in evidence Olivia Arafiles' valuation of the property, pegged at P10,270,600.00.[27] Julio A. Garcia testified that he was in the house of the plaintiffs and affixed his signature on a document signed by the defendant Manuel Concepcion, quoted, *infra*:

I Manuel Concepcion of legal aged (sic), married to Nenita Viado and resident of Bautista Pangasinan have agreed (sic) to Mr. And Mrs. Natalio Salonga a resident of Dagupan city to sign a Deed of Sale and I will not registered (sic) as long as the spouses Salonga will pay the principal cash involved plus the interest of 3% per month.[28]

Felicidad further testified that she and her husband continued residing in their house even after the spouses Concepcion had paid their loans to the creditor banks. However, upon the latter's suggestion, they had the commercial building repainted and leased to a tenant, with the agreement that the rentals would be credited to their (spouses Salonga's) account. The latter paid interests on their account, but the spouses Concepcion refused to issue receipts therefor. Felicidad further declared that on March 10, 1993, Manuel Concepcion arrived in their house and suggested that a deed of sale over the property be executed in their favor while looking for prospective buyers. The spouses Salonga agreed, provided that said deed would not be registered in the Office of the Register of Deeds. Felicidad wrote an undertaking on a piece of paper, in which the spouses Concepcion promised not to register the said deed of sale in the Office of the Register of Deeds. Manuel Concepcion signed the note in the presence of Julio Garcia.[29]

Felicidad likewise testified that when she and her husband failed to sell their property and pay their account with the spouses Concepcion, she and her husband executed on August 31, 1993 a deed of sale over five (5) parcels of land previously mortgaged with the Associated Bank, for the latter to assume the right of the creditor banks to collect their loan account and interests; the property will only serve as security for the payment of their account. She further testified that she and her husband did not receive from the defendant the P575,000.00 and P1,500,000.00 stated in the said deeds as the purchase price of the subject properties.

Felicidad further narrated that when her daughter arrived in the Philippines in 1994, they sought to redeem the property from the spouses Concepcion, but the latter informed them that the titles to the property had already been transferred in their names and that the property could be redeemed for P10,000,000.00. In April 1996, they were finally evicted from the property by a sheriff and soldiers.

Manuel Concepcion testified that he and his wife agreed to grant loans to the plaintiffs to enable them to pay their loan account with their creditor banks, with their assurance that they will be able to sell their property within 60

days and pay their accounts plus interests and 5% commission. Despite several extensions granted to the spouses Salonga, they failed to sell their properties. Sometime in April 1993, the spouses Salonga offered to sell their properties previously mortgaged with the Associated Bank in payment for the P586,520.50 advanced by them to the Associated Bank, plus P575,000.00 on top of said amount. The spouses Salonga agreed. The latter's lawyers then prepared a Deed of Absolute Sale dated August 31, 1993, which they signed following their receipt of P575,000.00. The spouses Salonga pleaded that they be given a period of one month to execute a deed of absolute sale over the two parcels of land previously mortgaged to the PNB and DBP and to a third-party, to which the spouses Concepcion also agreed. However, the spouses Salonga failed to sell the properties.

On October 18, 1993, the spouses Salonga executed a Deed of Absolute Sale[30] over the parcels of land covered by TCT Nos. 53650 and 26506 as payment of their loan account, plus P1,500,000.00. Manuel Concepcion further narrated that they spent P1,200,000.00 for the renovation of the commercial building[31] and had it leased to tenants. They also paid for the realty taxes due for the building.[32] He denied having known Julio Garcia and having signed the note[33] on March 10, 1993.

In the meantime, the MTC rendered judgment ordering the spouses Salonga to vacate the property. They appealed to the RTC of Dagupan City, docketed as Civil Case No. 94-00249-D. On December 4, 1995, the spouses Salonga filed a motion to stay the execution of the appealed decision, which the RTC denied. The spouses Salonga were ejected by a sheriff sometime in April 1996.

On December 10, 1996, the court a quo rendered judgment in favor of the spouses Concepcion ordering the dismissal of the complaint. The fallo of the decision reads:

WHEREFORE, the Complaint is DISMISSED. In this connection, the plaintiffs are ordered to pay defendants the sum of P500,000.00 as moral damages and the sum of P200,000.00 as exemplary damages.

The plaintiffs are also ordered to pay defendants the sum of P50,000.00 as and by way of attorney's fee plus P10,000.00 as litigation expenses aside from the costs of suit.

Furnish copies of this Decision to Atty. Mariano Mel Ramos and Atty. Rodolfo Palma.

SO ORDERED.[34]

The RTC ruled that the August 31 and October 18, 1993 Deeds of Absolute Sale were valid in fact and in law.

The spouses Salonga appealed the decision to the Court of Appeals (CA) wherein they alleged that:

- THE TRIAL COURT GRAVELY ERRED IN DISMISSING THE COMPLAINT OF PLAINTIFFS-APPELLANTS AND IN NOT HOLDING THAT THE DEEDS OF SALE SIGNED BY PLAINTIFFS-APPELLANTS CONVEYING THE PROPERTIES IN QUESTION TO DEFENDANTS-APPELLEES ARE ACTUALLY EQUITABLE MORTGAGE;
- THE TRIAL COURT GRAVELY ERRED IN HOLDING PLAINTIFFS-APPELLANTS LIABLE FOR MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES AND LITIGATION EXPENSES.[35]

They averred that, as admitted by Manuel Concepcion, the parties had agreed that the former would return their advance/s for their account, with 3% interest a month, and that no sale was agreed upon by the parties. They even granted extensions to the spouses Salonga to repay their loans.

The spouses Salonga assert that their transactions with the spouses Concepcion relative to their property were in the nature of equitable mortgages as shown, inter alia, by the fact that the prices of the property as appearing in the deeds of absolute sale were a little more than P2,000,000.00, grossly inadequate as compared to their market

value of P10,000,000.00;[36] the parties had agreed that the deeds of sale would not be registered in the Office of the Register of Deeds, but that the spouses Concepcion registered the said deeds in gross and evident bad faith; despite the existence of the deeds of absolute sale, the spouses Salonga remained in possession of the property.

On December 21, 2001, the CA rendered judgment dismissing the appeal and affirming the appealed decision with modification.[37] The CA ruled that the spouses Salonga had sold their property to the spouses Concepcion with a right to repurchase, and that the said spouses failed to repurchase the same. The appellate court also declared that the spouses Salonga failed to prove that the said transactions were in the nature of equitable mortgages. They took possession of the house for a limited period of time, while the spouses Concepcion took possession of the estate of the property after the execution of the deed of absolute sale.

The spouses Salonga, now the petitioners, filed the present petition for review on certiorari with this Court, assailing the decision and resolution of the CA. They contend that:

THE COURT OF APPEALS ERRED IN THAT ITS CONCLUSIONS ARE CONTRARY TO LAW AND JURISPRUDENCE, AS

I

THE DEEDS OF SALE IN FAVOR OF RESPONDENTS CONCEPCIONS ARE NULL AND VOID AS THEY ARE ABSOLUTELY SIMULATED AND THEIR CAUSES WERE INEXISTENT AT THE TIME OF THE TRANSACTION, AND IF UPHELD THEIR PURPOSE IS CONTRARY TO LAW AND PUBLIC POLICY, THUS VOID.

II

THE PETITIONERS DID NOT GIVE THEIR CONSENT TO A SALE.

III

ASSUMING EX GRATIA ARGUMENTI THAT THE DEEDS WERE NOT VOID AB INITIO, THEY ARE VOIDABLE OR AT LEAST THE PETITIONERS ARE ENTITLED TO REFORMATION OF THE DEEDS AS THEY DID NOT EXPRESS THE TRUE INTENT OF THE PARTIES AS THEY ARE EQUITABLE MORTGAGES AT BEST.[38]

The issues in this case are factual. Under Rule 45 of the Rules of Court, only questions of law may be raised in a petition for review on certiorari, the reason being that the Court is not a trier of facts; hence, is not to re-examine and re-evaluate the evidence on record. Furthermore, the conclusions of the CA on appeal are binding and conclusive on the Court, unless there is a convincing showing that the appellate court ignored, misapplied or misconstrued cogent facts and circumstances which, if considered, would warrant the modification or reversal of the outcome of the case.[39]

The Court is not proscribed, however, from delving into and resolving factual issues, if the findings and conclusions of the trial court are inconsistent with those of the appellate court; or where the findings of the trial court and the CA are contrary to the evidence on record or were arrived at arbitrarily.[40]

The petition is impressed with merit.

Article 1602 of the New Civil Code of the Philippines provides that a 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 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 case, 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.

The provision shall apply to a contract purporting to be an absolute sale.[41] In case of doubt, a contract purporting to be a sale with right to repurchase shall be considered as an equitable mortgage.[42] In a contract of mortgage, the mortgagor merely subjects the property to a lien, but the ownership and possession thereof are retained by him.[43]

For the presumption in Article 1602 of the New Civil Code to arise, two requirements must concur: (a) that the parties entered into a contract denominated as a contract of sale; and (b) that their intention was to secure an existing debt by way of a mortgage. The existence of any of the circumstances defined in Article 1602 of the New Civil Code, not the concurrence nor an overwhelming number of such circumstances is sufficient for a contract of sale to be presumed an equitable mortgage.[44]

If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.[45] However, if the records appear to be contrary to the evident intention of the contracting parties, the latter shall prevail.

The nomenclature given by the parties to the contract is not conclusive of the nature and legal effects thereof.[46] Even if a document appears on its face to be a sale, the owner of the property may prove that the contract is really a loan with mortgage, and that the document does not express the true intent of the parties.[47]

There is no conclusive test to determine whether a deed absolute on its face is really a simple loan accommodation secured by a mortgage. The decisive factor in evaluating such deed is the intention of the parties as shown by all the surrounding circumstances, such as the relative situation of the parties at that time, the attitude, acts, conduct, and declarations of the parties before, during and after the execution of said deed, and

generally all pertinent facts having a tendency to determine the real nature of their design and understanding.[48] As such, documentary and parol evidence may be adduced by the parties. When in doubt, courts are generally inclined to construe a transaction purporting to be a sale as an equitable mortgage, which involves a lesser transmission of rights and interests over the property in controversy.[49]

Articles 1602, 1603 and 1604 of the New Civil Code were designed to prevent the circumvention of the use of usury[50] and the prohibition against the creditor appropriating the mortgaged properties. Besides, in times of grave financial distress which render persons hard-pressed to answer an emergency, such persons would have no choice but to sign a deed of absolute sale of property if only to obtain a much-needed loan from unscrupulous money lenders.[51]

The notarization of the document does not guarantee its validity because it is not the function of the notary public to validate an instrument that was never intended by the parties to have any binding legal effect on him. Neither is the notarization of a document conclusive of the nature of the transaction conferred by the said document, nor is it conclusive of the true agreement of the parties thereto.

After a thorough examination of the records, we find and so hold that the August 31 and October 18, 1993 Deeds of Absolute Sale are mere equitable mortgages and not bona fide absolute sale of the parcels of land therein described.

FIRST. The petitioners were hard-pressed to pay their account to the respondents in the total principal amount of P3,198,886.47; the said amount paid by the respondents for the account of the petitioners to the PNB, the Associated Bank and the DBP, excluding the amount of 36% interest a month or 36% interest per annum. The petitioners tried to sell the property to third-persons, but failed. The respondents refused to give the petitioners any further extensions of time to sell the property, unless they execute the deeds of absolute sale in favor of the respondents and insure the payment of their account. The specter of the petitioners being evicted from their residence loomed large in the horizon. To give themselves more time to sell their property and avert eviction from their house, the petitioners opted to execute the deeds of absolute sale.

SECOND. It was made to appear under the August 31, 1993 Deed of Absolute Sale that the petitioners had sold their five parcels of land to the respondents for the principal amount of P575,000.00, and that the petitioners received the said amount from the respondents. However, at the time of the execution of said deed, the petitioners were indebted to the respondents for the principal amount of P586,520.50, which the respondents had remitted to the Associated Bank for the account of the petitioners. It is incredible that the petitioners would sell the said parcels of land to the respondents, and that the latter would remit the purchase price of P575,000.00 to the petitioners, and retain the said amount to be applied as payment to the petitioners' account of P586,520.50.

It was also made to appear under the October 18, 1993 Deed of Absolute Sale that the petitioners sold two parcels of land to the respondents (on which their commercial building and their house were constructed) for P1,500,000.00, and that the petitioners received the said amount from the respondents following the execution of the deed. However, the evidence on record shows that the petitioners had an outstanding account of P2,042,377.19 as of October 18, 1993 to the respondents. It is incredible that, instead of applying the aforesaid amount of P1,500,000.00 in partial payment of the petitioners' outstanding account, the respondents would choose to remit the same upon the execution of the October 18, 1993 deed of absolute sale. In fine, the petitioners' account to the respondents, in the total amount of P3,198,886.47, remained outstanding despite the sale of the petitioners' seven parcels of land in favor of the respondents.

We reject the respondents' contention that the petitioners sold their seven parcels of land, not only for P2,078,000.00 but also for the outstanding account of P3,198,886.47, for the total price of P5,876,886.47. The

respondents were burdened to prove that the petitioners agreed to sell their property partly in payment of the said account; the respondents failed to do so.

A plain reading of the two (2) deeds of absolute sale shows that the seven lots were sold to the respondents for only P2,078,000.00. There is no provision in said deeds stating that the petitioners sold their property in partial payment of their outstanding account to the respondents (P3,198,886.47), and partly for an additional P2,078,000.00. If it is true, as claimed by the respondents, that the petitioners sold the seven parcels of land to them not only for P2,078,000.00 as appearing in said deeds, but also for the outstanding account of P3,198,886.47, the same should have been specifically and positively stated in the said deeds. No such provision appears in the two deeds. There is likewise no provision in the said deeds that, by the execution thereof, the petitioners' outstanding account to the respondents in the amount of P3,198,886.47 was extinguished and paid. The absence of any provision in the two deeds of absolute sale that the seven parcels of land were sold by the petitioners to the respondents in partial payment of their outstanding account, and partly for P2,078,000.00, and any declaration therein that the said outstanding account was thereby extinguished negates the respondents' contention.

THIRD. Respondent Manuel Concepcion had earlier signed on March 10, 1993 an undertaking that he would not register the deed of absolute sale as long as the petitioners will pay their outstanding account plus interests thereon at the rate of 3% per month:

I Manuel Concepcion, of legal aged (sic), married to Nenita Viado and resident of Bautista, Pangasinan have agreed to Mr. & Mrs. Natalio Salonga, a resident of Dagupan City to sign a Deed of Sale and I will not registered (sic) as long as the spouses Salonga will pay the principal cash involved plus the interest of 3% per month

8 Titles

Witness: Sgd. ILLEGIBLE

ILLEGIBLE MANUEL D. CONCEPCION[52]

Respondent Manuel Concepcion's undertaking not to register the deed of sale with the Office of the Register of Deeds fortifies the petitioners' contention that the subject transaction under the two deeds of absolute sale was an equitable mortgage, and not bona fide conveyances of the said lots. Indeed, the respondents did not present the August 31, 1993 Deed of Absolute Sale to the Office of the Register of Deeds; the said deeds were only presented on September 21, 1993 when the respondents sold the five (5) parcels of land to Florencia Realty Corporation.

The respondents likewise failed to adduce clear and convincing evidence that respondent Manuel Concepcion's signature on the undertaking is a forgery. The bare claim that the signature on the note purporting to be that of the respondent is a forgery is not sufficient. It bears stressing that forgery is not presumed. Forgery must be proved with clear and convincing evidence.[53] The fact that respondent Manuel Concepcion signed the note on March 10, 1993, before the petitioners executed the said deeds of absolute sale in August and October 1993, does not militate against the probative weight thereof. The petitioners had only 60 days from January 1993 within which to repay the respondents from the proceeds of the sale; however, the petitioners failed to sell their property and repay the respondents. When the respondents pressed the petitioners for the payment of their account, the latter agreed to execute deeds of absolute sale by the petitioners over the property, with the agreement not to present the said deed to the Office of the Register of Deeds for registration. However, despite their written undertaking to the contrary, the respondents filed the August 31 and October 18, 1993 Deeds of Sale in the Office of the Register of Deeds and registered the same.

THIRD. When the petitioners' daughter arrived in the Philippines from abroad, they had offered to redeem the parcels of land from the respondents, only to discover that the two deeds of absolute sale had already been registered in the Office of the Register of Deeds; that the respondents had acquired titles over the said parcels of land; and that the said lots had been sold to Florencia Realty Corporation. Worse, the respondents demanded the amount of P8,000,000.00, later increased to P10,000,000.00, for the redemption of the property.

WITNESS:

A

When my daughter arrived from abroad, we're trying to pay same, there is no one year yet from that time when my daughter is trying to redeem the property.

Q

And you claim that Mr. Concepcion refuse to accept the payment?

A

He wanted that it may pay in accordance with the price which he is going to peg, and my daughter said, could it be possible that it be paid in the amount in respect to the principal and plus the interest.

Q

When was that?

A

1994, Sir.

Q

How much did Mr. Concepcion allegedly inform your daughter that you pay to him?

A

First he said 10 million and then earlier he said 8 million.

Q

Now, after your daughter went to his house Mr. Concepcion, allegedly to pay your indebtedness, and which was refuse[d] by Mr. Concepcion, what did you do, Madam Witness?

A

We went to the register of deeds, and we found out that it was already in the name of Mr. Concepcion, that (sic) why we already sought the help of a lawyer.

Q

Did you pay any interest in connection with this agreement?

A

Yes, Sir.

Q

Do you have any evidence to show that you really pay the interest?

A

He refused to issue as (sic) receipts.

Q

In other words, you don't have document or piece of paper to show that indeed you pay (sic) the interest?

A

None, Sir, because actually if we are going to ask for a receipt for the payment of the interest, he will say "why, are you going to pay the entire amount of your indebtedness.

Q

Despite the fact, Madam Witness, that you claimed that there was an agreement that you have to pay also the interest of the principal and you claim, that he refused to accept payments of that agreed upon you?

ATTY. PALMA:

That is misleading, Your Honor, the testimony of this witness Mr. Concepcion refused to issue a receipt, not to refuse to accept the payments.

...

ATTY. PALMA:

That is in respect to the daughter.

COURT:

Answer.

WITNESS:

He received the interest but he refused to received (sic) the payment made by my daughter.

ATTY. RAMOS:

Q

You claim Madam Witness, that Mr. Concepcion already sold the 3 parcels which is adjacent to the Lyceum University when did you learn that?

A

1994, Sir.

Q

After learning that Mr. Concepcion sold that (sic) parcels of land, what did you do?

A

That was the time we sought a help from a lawyer.

Q

Who is now in possession of that (sic) 3 parcels of land?

A

Lyceum, Sir.[54]

FOURTH. The petitioners remained in possession of the residential house even after October 18, 1993 without paying any rentals therefor. It was only on August 23, 1994, after the petitioners filed their complaint against the respondents in the trial court, that the respondents filed their complaint for ejectment against the petitioners.

FIFTH. The parcels of land covered by TCT Nos. 43547, 40886, 40887, 35156 and 49459 and TCT Nos. 53650 and 26506 had a total market value of P10,270,600.00.[55] However, under the two deeds of absolute sale, the seven parcels of land, including the petitioners' house, were sold to the respondents for only P2,078,000.00, an amount grossly disproportionate to the market value of the property. The respondents failed to adduce any evidence to controvert the petitioners' evidence relative to the market value of the seven parcels of land.

On the issue of whether respondent Florencia Realty Corporation is a purchaser in good faith or not, case law has it that he who alleges that he is a purchaser of registered land is burdened to prove such statement. Such burden is not discharged by invoking the ordinary presumption of good faith.[56] The defense of having purchased the property in good faith may be availed of only where registered land is involved and the buyer had relied in good faith on the clean title of the registered owner.[57] In this case, it appears that the respondent purchased the

parcels of land on September 20, 1993. At that time, the petitioners were still the registered owners of the property. The respondent did not allege in its answer to the complaint that it was a purchaser in good faith of the property; neither did it adduce a morsel of evidence to prove that it purchased the property in good faith.

IN LIGHT OF ALL THE FOREGOING, the Petition is GRANTED. The decisions of the Regional Trial Court and the Court of Appeals are REVERSED and SET ASIDE. Judgment is hereby rendered in favor of the petitioners, as follows:

(1)

The August 31 and October 18, 1993 Deeds of Absolute Sale executed by the petitioners in favor of the respondents are NULLIFIED. The transactions covered by said deeds are declared equitable mortgages, not bona fide sales of the lots therein covered; and

(2)

The petitioners' claims for damages and attorney's fees, and the respondents' counterclaims for damages and attorney's fees are DISMISSED. No costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Records, pp. 2-4.

[2] Records, pp. 16, 18, 20, 25 and 29. (dorsal side thereof)

[3] Id. at 22. (dorsal side thereof)

[4] Id. at 31.

[5] Id. at 27.

[6] Id. at 5.

[7] Id. at 27.

[8] Records, p. 31.

[9] Exhibit "I."

[10] Exhibit "1."

[11] Exhibit "2."

[12] Exhibit "2-A."

[13] Exhibit "3."

[14] Exhibit "4."

[15] Exhibit "4-A."

[16] Exhibit "4-B."

- [17] Exhibits "4" to "4-B."
- [18] Exhibit "5."
- [19] Exhibit "12."
- [20] Exhibit "G."
- [21] Ibid.
- [22] Exhibit "J."
- [23] Exhibits "K."
- [24] Rollo, pp. 72-73.
- [25] The plaintiffs in the court a quo.
- [26] Rollo, pp. 80-83.
- [27] Exhibit "U."
- [28] Rollo, p. 229.
- [29] Exhibit "A."
- [30] Exhibit "K."
- [31] TSN, 27 June 1996, p. 10.
- [32] Exhibits "13", "13-A" to "13-F."
- [33] Exhibit "A."
- [34] Records, p. 223.
- [35] Rollo, p. 42.
- [36] Exhibit "U."
- [37] Penned by Associate Justice Conchita Carpio Morales (now an Associate Justice of the Supreme Court) with Associate Justices Martin S. Villarama, Jr. and Sergio L. Pestaño, concurring; Rollo, pp. 39-47.
- [38] Rollo, p. 18.
- [39] Milestone Realty and Co., Inc. v. Court of Appeals, G.R. No. 135999, 19 April 2002, 381 SCRA 406.
- [40] Villanueva v. Court of Appeals, G.R. No. 107624, 28 January 1997, 267 SCRA 89.
- [41] Article 1604, New Civil Code.
- [42] Article 1603, New Civil Code.
- [43] Ching Sen Ben Court of Appeals, G.R. No. 124355, 21 September 1999, 314 SCRA 762.
- [44] Reyes v. Court of Appeals, G.R. No. 134166, 25 August 2000, 339 SCRA 97.
- [45] Article 1370, New Civil Code.
- [46] Ching Sen Ben v. Court of Appeals, *supra*.

[47] Hilado v. Heirs of Rafael Medalla, G.R. No. 144227, 15 February 2002, 377 SCRA 257.

[48] Lorbes v. Court of Appeals, G.R. No. 139884, 15 February 2001, 351 SCRA 716.

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

[50] Ibid.

[51] Matanguihan v. Court of Appeals, G.R. No. 115033, 11 July 1997, 275 SCRA 380.

[52] Exhibit "A."

[53] Fernandez v. Fernandez, G.R. No. 143256, 28 August 2001, 363 SCRA 811; R.F. Navarro & Co., Inc. v. Vailoces, G.R. No. 102313, 12 July 2001, 361 SCRA 139.

[54] TSN, 8 February 1996, pp. 22-26.

[55] Exhibit "U."

[56] Rayos v. Reyes, G.R. No. 150913, 20 February 2003, 398 SCRA 24.

[57] David v. Bandin, G.R. No. L-48322, 8 April 1987, 149 SCRA 140; Sales v. Court of Appeals, G.R. No. 40145, 29 July 1992, 211 SCRA 858.

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