

BENNY GO, PETITIONER, VS. ELIODORO BACARON, RESPONDENT.

G.R. NO. 159048. October 11, 2005

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

The present Contract, which purports to be an absolute deed of sale, should be deemed an equitable mortgage for the following reasons: (1) the consideration has been proven to be unusually inadequate; (2) the supposed vendor has remained in possession of the property even after the execution of the instrument; and (3) the alleged seller has continued to pay the real estate taxes on the property.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to set aside the October 17, 2002 Decision[2] and the May 20, 2003 Resolution[3] of the Court of Appeals (CA) in CA-GR CV No. 67218. The assailed Decision disposed as follows:

"WHEREFORE, premises considered, the Decision dated February 24, 2000 of the Regional Trial Court of Davao City, Branch 12, in Civil Case No. 25,101-97 is hereby REVERSED and SET ASIDE and a new one is hereby rendered ordering the reformation of the subject instrument, such that the same must be considered a mortgage contract and not a transfer of right. Costs against [petitioner]."[4]

The assailed Resolution denied Reconsideration.

The Facts

The antecedents are narrated by the CA as follows:

"As evidenced by the Transfer of Rights dated October 1, 1993, Eliodoro Bacaron conveyed a 15.3955-hectare parcel of land located in Langub, Talomo, Davao City, in favor of Benny Go for P20,000.00.

"About a year thereafter, Bacaron, seeking to recover his property, went to Go to pay his alleged P20,000.00 "loan" but the latter refused to receive the same and to return his property saying that the transaction between the two of them was a sale and not a mortgage as claimed by Bacaron.

"Consequently, on March 5, 1997, Eliodoro Bacaron, as plaintiff [herein respondent], filed a Complaint for Reformation of Instrument with Damages and prayer for the issuance of a writ of preliminary injunction, with the Regional Trial Court of Davao City, Branch 12, against the [petitioner] Benny Go, which case was docketed as Civil Case No. 25,101-97.

"In his Complaint, [respondent] alleged that in the middle part of 1993, he suffered business reversals which prompted him, being in urgent need of funds, to borrow P20,000.00 from the [petitioner]. He however averred that prior to extending said loan to him, the [petitioner] required him to execute a document purporting to be a Transfer of Rights but was told that the same would only be a formality as he could redeem the unregistered land the moment he pays the loan. Admitting that he signed the instrument despite knowing that the same did not express the true intention of the parties' agreement, i.e., that the transaction was a mere equitable mortgage,

the [respondent] explained that he did so only because he was in a very tight financial situation and because he was assured by the [petitioner] that he could redeem his property. To support this claim, [respondent] stressed the fact that the consideration in the instrument was merely P20,000.00, which is grossly inadequate as the selling price of a 15-hectare land considering that, at that time, the market value of land in Davao City amounts to P100,000.00 per hectare. [Respondent] narrated that a year thereafter, or in a middle part of 1994, he was able to raise the P20,000.00 and went to the [petitioner] to pay his loan but the latter refused to accept his payment, insisting that the transaction entered into by the parties was not an equitable mortgage, as the [respondent] insists, but a real transfer of right over the property. Because of said refusal, [respondent] continued, he was compelled to refer the matter to his lawyer in order to request the [petitioner] to accept his payment otherwise he would file the necessary action in court. Despite said formal demand by the [respondent], however, [petitioner] allegedly continued to refuse to recognize the "equitable mortgage", prompting [respondent] to consign the P20,000.00 with the Clerk of Court of the RTC of Davao City, Branch 12. He thus insisted that it is [petitioner] who is "dead wrong" in not recognizing the equitable mortgage since, aside from the fact that the consideration was unusually inadequate, [respondent] allegedly remained in possession of the property.

"[Respondent] thus prayed for an award for moral damages, in view of the [petitioner's] evident bad faith in refusing to recognize the equitable mortgage, and for attorney's fees as [petitioner's] alleged stubbornness compelled him to engage the services of counsel. He likewise sought an award for exemplary damages to deter others from committing similar acts and at the same time asked the court to issue a writ of preliminary injunction and/or temporary restraining order to prevent [petitioner] from dispossessing [respondent] of the subject property or from disposing of the same in favor of third parties as these acts would certainly work injustice for and cause irreparable damage to the [respondent]. The prayer for the issuance of a restraining order was however denied by the court in an Order.

"[Petitioner] filed his Answer on May 5, 1997, denying [respondent's] claim that the transaction was only an equitable mortgage and not an actual transfer of right. He asserted that the truth of the matter was that when [respondent] suffered business reverses, his accounts with the [petitioner], as evidenced by postdated checks, cash vouchers and promissory notes, remained unpaid and his total indebtedness, exclusive of interests, amounted to P985,423.70. [Petitioner] further averred that, in order to avoid the filing of cases against him, [respondent] offered to pay his indebtedness through dacion en pago, giving the land in question as full payment thereof. In addition, he stressed that considering that the property is still untitled and the [respondent] bought the same from one Meliton Bacarro for only P50,000.00, it is most unreasonable for him to agree to accept said land in exchange for over a million pesos of indebtedness. He claimed though that he was only forced to do so when [respondent] told him that if he did not accept the offer, other creditors would grab the same.

"By way of affirmative defenses, the [petitioner] pointed out that [respondent] has no cause of action against him as the [respondent] failed to comply with the essential requisites for an action for reformation of instrument. He moreover alleged that the [respondent] is in estoppel because, by his own admission, he signed the document knowing that the same did not express the true intention of the parties. Further, [petitioner] claimed that there was a valid transfer of the property herein since the consideration is not only the actual amount written in the instrument but it also includes the outstanding obligation of [respondent] to the [petitioner] amounting to almost P1 million.

"As counterclaim, [petitioner] averred that, because of this baseless complaint, he suffered mental anguish, wounded feelings and besmirched reputation, entitling him to moral damages amounting to P20,000.00, and that in order to deter others from doing similar acts, exemplary damages amounting to P20,000.00 should likewise be awarded in his favor. [Petitioner] also prayed for attorney's fees and litigation expenses claiming that, because he was constrained to litigate, he was forced to hire the services of counsel.

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"Trial ensued and thereafter the trial court rendered its Decision dated February 24, 2000 dismissing the complaint while finding the [petitioner's] counterclaim meritorious. In making said ruling, the lower court, citing Article 1350 (should be 1359) of the New Civil Code, found that [respondent] failed to establish the existence of all the requisites for an action for reformation by clear, convincing and competent evidence. Considering [respondent's] own testimony that he read the document and fully understood the same, signing it without making any complaints to his lawyer, the trial court held that the evidence on record shows that the subject instrument had been freely and voluntarily entered into by the parties and that the same expresses the true intention of the parties. The court further noted that the [respondent's] wife even signed the document and that the same had been duly acknowledged by the parties before a notary public as their "true act and voluntary deed."

"The trial court likewise observed that, contrary to [respondent's] claim that the transaction was a mere mortgage of the property, the terms of the instrument are clear and unequivocal that the property subject of the document was "sold, transferred, ceded and conveyed" to the [petitioner] "by way of absolute sale," and hence, no extrinsic aids are necessary to ascertain the intention of the parties as the same is determinable from the document itself. Moreover, said court emphasized that considering the fact that [respondent] is an educated person, having studied in an exclusive school like Ateneo de Davao, and an experienced businessman, he is presumed to have acted with due care and to have signed the instrument with full knowledge of its contents and import. [Respondent's] claim that he merely borrowed money from the [petitioner] and mortgaged the property subject of litigation to guarantee said loan was thus found to be specious by the court, which found that the [respondent] was actually indebted to the [petitioner] for almost a million pesos and that the true consideration of the sale was in fact said outstanding obligation.

"With respect to [respondent's] alleged possession of the property and payment of real estate taxes, both of which were relied upon by the [respondent] to boost his assertion that the transaction was merely an equitable mortgage, the trial court said that his claim of possession is belied by the fact that the actual occupants of the property recognize that the [petitioner] owns the same and in fact said occupants prevented [respondent's] wife from entering the premises. The court, noting that the [petitioner] also paid the realty taxes, was also of the opinion that [respondent] merely made such payments in order to lay the basis of his allegation that the contract was a mere equitable mortgage.

"Accordingly, the court held that [respondent] is also not entitled to his other claims and that his unfounded action caused [petitioner] to an award for moral damages, in addition to the expenses he incurred in defending his cause, i.e. services of a lawyer and transportation and other expenses, which justifies an award for the reimbursement of his expenses and attorney's fees."[5]

Ruling of the Court of Appeals

Granting respondent's appeal, the appellate court ruled that the Contract entered into by the parties should be deemed an equitable mortgage, because the consideration for the sale was grossly inadequate. By continuing to harvest the crops and supervise his workers, respondent remained in control of the property. True, upon the institution of this case, petitioner paid the required real estate taxes that were still in arrears. Respondent, however paid the taxes for 1995, 1996 and 1997 -- the years between the dates when the alleged absolute sale was entered into on October 1, 1993, and when this case was instituted on March 5, 1997.[6]

Granting respondent's prayer for reformation of the Contract, the CA ruled that the instrument failed to reflect the true intention of the parties because of petitioner's inequitable conduct.[7]

Hence, this Petition.[8]The Issues

Petitioner raises the following issues for this Court's consideration:

"I.

Whether o[r] not the Court of Appeals erred in ruling that there was inadequate consideration.

"II.

Whether o[r] not the Court of Appeals erred in ruling that the respondent remained in possession of the land in question.

"III.

Whether or not the Court of Appeals erred in ruling that the taxes were not paid by the petitioner.

"IV.

Whether or not the Court of Appeals erred in ruling that reformation is proper."[9]

Simply put, these are the issues to be resolved: (1) whether the agreement entered into by the parties was one for equitable mortgage or for absolute sale; and (2) whether the grant of the relief of contract reformation was proper.

The Court's Ruling

The Petition has no merit.

First Issue:

Equitable Mortgage

An equitable mortgage has been defined "as 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."[10]

The instances in which a contract of sale is presumed to be an equitable mortgage are enumerated in Article 1602 of the Civil Code as follows:

"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 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."

Furthermore, Article 1604 of the Civil Code provides that "[t]he provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale."

In the present case, three of the instances enumerated in Article 1602 -- grossly inadequate consideration, possession of the property, and payment of realty taxes --attended the assailed transaction and thus showed that it was indeed an equitable mortgage.

Inadequate Consideration

Petitioner Go avers that the amount of P20,000 was not unusually inadequate. He explains that the present parties entered into a Dacion en Pago, whereby respondent conveyed the subject property as payment for his outstanding debts to petitioner -- debts supposedly amounting to P985,243.70.[11] To substantiate his claim, petitioner presented the checks that respondent had issued, as well as the latter's testimony purportedly admitting the genuineness and due execution of the checks and the existence of the outstanding debts.[12] Petitioner Go contends that respondent failed to establish by sufficient evidence that those debts had already been paid.[13] Petitioner relies on the trial court's finding that respondent knowingly and intentionally entered into a contract of sale, not an equitable mortgage.[14]

On the other hand, Respondent Bacaron argues that the value of the property at the time of the alleged sale was P120,000 per hectare, and that the indicated sale amount of P20,000 was thus grossly iniquitous.[15] Allegedly, the previous cash advances secured from petitioner's father had been settled, as evidenced by the fact that petitioner did not negotiate further or encash the checks; the latter could have done so, if the obligation was still extant.[16] Respondent points out that he paid for that obligation with the coprax he had previously delivered to the father.[17] Petitioner allegedly admitted this fact, though inadvertently, when he testified that respondent had already paid some of the latter's previous cash advances.[18] Otherwise, petitioner would have then set off his own debt to respondent (amounting to P214,000) against the amount of almost one million pesos that the latter supposedly owed him.[19]

Checks have the character of negotiability. At the same time, they may constitute evidence of indebtedness.[20] Those presented by petitioner may indeed evince respondent's indebtedness to him in the amounts stated on the faces of those instruments. He, however, acknowledges (1) that respondent paid some of the obligations through the coprax delivered to petitioner's father; and (2) that petitioner owed and subsequently paid respondent P214,000.[21]

The parties' respective arguments show that the sum of P20,000, by itself, is inadequate to justify the purported absolute Transfer of Rights.[22] Petitioner's claim that there was a dacion en pago is not reflected on the instrument executed by the parties. That claim, however, confirms the inadequacy of the P20,000 paid in consideration of the Transfer of Rights; hence, the Contract does not reflect the true intention of the parties. As to what their true intention was -- whether dacion en pago or equitable mortgage -- will have to be determined by some other means.

Possession

According to Article 1602(2) of the New Civil Code, one of the instances showing that a purported contract of sale is presumed to be an equitable mortgage is when the supposed vendor remains in possession of the property even after the conclusion of the transaction.

In general terms, possession is the holding of a thing or the enjoyment of a right, whether by material occupation or by the fact that the right -- or, as in this case, the property -- is subjected to the will of the claimant.[23] In *Director of Lands v. Heirs of Abaldonado*,[24] the gathering of the products of and the act of planting on the land were held to constitute occupation, possession and cultivation.

In the present case, the witnesses of respondent swore that they had seen him gather fruits and coconuts on the property. Based on the cited case, the witnesses' testimonies sufficiently establish that even after the execution of the assailed Contract, respondent has remained in possession of the property. The testimonies proffered by petitioner's witnesses merely indicated that they were tenants of the property. Petitioner only informed them that

he was the new owner of the property. This attempt at a factual presentation hardly signifies that he exercised possession over the property. As held by the appellate court, petitioner's other witness (Redoña) was unconvincing, because he could not even say whether he resided within the premises.[25]

The factual findings of the trial court and the CA are conflicting and, hence, may be reviewed by this Court.[26] Normally, the findings of the trial court on the credibility of witnesses should be respected. Here, however, their demeanor while testifying is not at issue. What is disputed is the substance of their testimonies -- the facts to which they testified. Assuming that the witnesses of petitioner were indeed credible, their testimonies were insufficient to establish that he enjoyed possession over the property.

Payment of Realty Taxes

Finally, petitioner asserts that the trial court's finding that he paid the realty taxes should also be given corresponding weight.[27]

Respondent counters with the CA's findings that it was he who paid realty taxes on the property. The appellate court concluded that he had paid taxes for the years 1995, 1996 and 1997 within each of those years; hence, before the filing of the present controversy. In contrast, petitioner paid only the remaining taxes due on October 17, 1997, or after the case had been instituted. This fact allegedly proves that respondent has remained in possession of the property and continued to be its owner.[28] He argues that if he had really transferred ownership, he would have been foolish to continue paying for those taxes.[29]

On this point, we again rule for respondent.

Petitioner indeed paid the realty taxes on the property for the years 1980 to 1997. The records show that the payments were all simultaneously made only on October 31, 1997, evidently in the light of the Complaint respondent had filed before the trial court on March 5, 1997.[30] On the other hand, respondent continued to pay for the realty taxes due on the property for the years 1995, 1996 and 1997.[31]

That the parties intended to enter into an equitable mortgage is bolstered by respondent's continued payment of the real property taxes subsequent to the alleged sale. Payment of those taxes is a usual burden attached to ownership. Coupled with continuous possession of the property, it constitutes evidence of great weight that a person under whose name the realty taxes were declared has a valid and rightful claim over the land.[32]

That the parties intended to enter into an equitable mortgage is also shown by the fact that the "seller" was driven to obtain the loan at a time when he was in urgent need of money; and that he signed the Deed of Sale, despite knowing that it did not express the real intention of the parties.[33] In the present proceedings, the collapse of his business prompted respondent to obtain the loan.[34] Petitioner himself admitted that at the time they entered into the alleged absolute sale, respondent had suffered from serious business reversals.[35] Second Issue:

Reformation of Instrument

Petitioner claims that the CA erred in granting the remedy of reformation of contracts. He avers that the failure of the instrument to express the parties' true agreement was not due to his mistake; or to fraud, inequitable conduct, or accident.[36]

We rule for respondent.

Ultimately, it is the intention of the parties that determines whether a contract is one of sale or of mortgage.[37] In the present case, one of the parties to the contract raises as an issue the fact that their true intention or agreement is not reflected in the instrument. Under this circumstance, parol evidence becomes admissible and competent evidence to prove the true nature of the instrument.[38] Hence, unavailing is the assertion of petitioner that the

interpretation of the terms of the Contract is unnecessary, and that the parties clearly agreed to execute an absolute deed of sale. His assertion does not hold, especially in the light of the provisions of Article 1604 of the Civil Code, under which even contracts purporting to be absolute sales are subject to the provisions of Article 1602.

Moreover, under Article 1605 of the New Civil Code, the supposed vendor may ask for the reformation of the instrument, should the case be among those mentioned in Articles 1602 and 1604. Because respondent has more than sufficiently established that the assailed Contract is in fact an equitable mortgage rather than an absolute sale, he is allowed to avail himself of the remedy of reformation of contracts.

WHEREFORE, the Petition is hereby DENIED, and the assailed Decision and Resolution AFFIRMED.

SO ORDERED.

Sandoval-Gutierrez, Corona, Carpio Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 7-19.

[2] Id., pp. 21-37. Eleventh Division. Penned by Justice Mercedes Gozo-Dadole and concurred in by Justices Salvador J. Valdez Jr. (Division chair) and Sergio L. Pestaño (member).

[3] Id., p. 44.

[4] CA Decision, p. 16; rollo, p. 36.

[5] Id., pp. 2-7 & 22-27. Citations omitted.

[6] Id., pp. 14-15 & 34-35.

[7] Id., pp. 15-16 & 35-36.

[8] This case was deemed submitted for decision on May 6, 2004, upon this Court's receipt of petitioners' Memorandum, signed by Petitioner Benny Go, assisted by Atty. Leonardo D. Suario. Respondent's Memorandum, signed by Atty. Oswaldo A. Macadangdang, was received by this Court on April 13, 2004.

[9] Petitioners' Memorandum, p. 3; rollo, p. 291. Original in uppercase.

[10] Villanueva, Cesar L, Philippine Law on Sales, (1998 ed.), p. 271 (citing *Matanguihan v. Court of Appeals*, 341 Phil. 379, 389-390, July 11, 1997, per Davide Jr., J. [now CJ]).

[11] Petitioners' Memorandum, p. 6; rollo, p. 294.

[12] Id., pp. 3-6 & 291-294.

[13] Id., pp. 6 & 294.

[14] Id., pp. 7-8 & 295-296.

[15] Id., pp. 6 & 263.

[16] Respondent's Memorandum, p. 11; rollo, p. 268.

[17] Id., pp. 12 & 269.

[18] Ibid.

[19] Id., pp. 13-14 & 270-271.

[20] Pacheco v. CA, 377 Phil. 627, December 2, 1999; People v. Tugbang, 196 SCRA 341, April 26, 1991.

[21] The most prudent course for petitioner -- being the astute businessman that he was -- would have been to set off partially the P214,000.00 he owed respondent against the P985,243.70 the latter owed him (Lapat v. Rosario, 371 Phil. 456, August 17, 1999). Partial compensation would have been proper if indeed the present parties were reciprocal creditors and debtors of each other, and if all the elements provided in Article 1279 of the Civil Code existed.

"Article 1279. In order that compensation may be proper, it is necessary:

'(1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;

'(2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;

'(3) That the two debts be due;

(4) That they be liquidated and demandable;

'(5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor."

[22] Rollo, p. 54.

[23] Article 523 of the Civil Code; see also Tolentino, Arturo M. Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. II (1992), p. 238 (citing 4 Manresa 17).

[24]44 O.G. 3848.

[25] Assailed Decision, p. 14; rollo, p. 34.

[26] Misa v. Court of Appeals, 212 SCRA 217, August 5, 1992; Cebu Shipyard v. Eng'g. Works, Inc., 366 Phil. 439, May 5, 1999; Dee v. Court of Appeals, 238 SCRA 254, November 21, 1994.

[27] Petitioner's Memorandum, p. 11; rollo, p. 299.

[28] Respondent's Memorandum, pp. 22-23; rollo, pp. 279-280.

[29] Id., pp. 23 & 280.

[30] Assailed Decision, pp. 2 & 14; rollo, pp. 22 & 34; see also Exhibits "16-19"; rollo, pp. 110-113.

[31] Exhibit "K"; rollo, p. 92.

[32] Aguila Jr. v. CA, 377 Phil. 257, November 25, 1999; Matanguihan v. CA, 341 Phil. 379, July 11, 1997; Marquez v. Valencia, 77 Phil. 783, December 20, 1946; Escoto v. Arcilla, 89 Phil. 199, May 30, 1951.

[33] Spouses Uy v. CA, 411 Phil. 788, June 21, 2001; Labasan v. Lacuesta, 86 SCRA 16, October 30, 1978; Marquez v. Valencia, 77 Phil. 783, December 20, 1946; See also Art. 1362, New Civil Code.

[34] Respondent's Memorandum, p. 15; rollo, p. 272.

[35] TSN, March 17, 1999, p. 4.

[36] Petitioner's Memorandum, p. 12; rollo, p. 300.

[37] Tolentino, Arturo M. Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. V (1992),

p. 156.

[38] *Id.*, at p. 157 (citing *Macapinlac v. Gutierrez Repide*, 43 Phil. 770, September 20, 1922).

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