

**ELIODORO ALELIGAY, SUBSTITUTED BY CEFERINO ALELIGAY,
PETITIONER, VS. TEODORICO LASERNA, PRISCILLA VILLAGRACIA
AND ANGUSTIA VILLAGRACIA, RESPONDENTS.**

G.R. No. 165943. November 20, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition assails the Decision[1] and the Resolution[2] dated April 27, 2004 and October 25, 2004, respectively, of the Court of Appeals in CA-G.R. CV No. 18688, which had affirmed the Decision[3] dated March 21, 1988 of the Regional Trial Court (RTC) of Roxas City, Branch 18, in Civil Case No. V-4098 for Annulment of Deed of Sale, Damages, Recovery of Ownership, and Reconveyance.

Subject of the present controversy is a 124,554 sq. m. parcel of land located in the Barrios of Daplas and Matagnop, Dao, Capiz, identified as Lot No. 1235 of Cadastral Survey of Dao, originally owned by Anselmo Aleligay. Upon Anselmo's death in 1927, the lot passed on to his heirs, namely: Eleno, Maura, Juan, Consolacion, Rosario and herein petitioner Eliodoro (now deceased), all surnamed Aleligay.[4] At present, the lot is covered by Original Certificate of Title (OCT) No. 0-995 issued by the Register of Deeds of the Province of Capiz in the name of respondents Priscilla and Angustia Villagracia (the Villagracias).

In his Complaint, Eliodoro claimed that after inheriting Lot No. 1235, he mortgaged it in 1946 to respondent Teodorico Laserna although he retained its possession. He also averred he tried several times to redeem the property from Laserna but was persuaded by the latter not to hurry. He alleged that it was only in 1976 when he discovered a deed of sale in Laserna's favor. Allegedly it was signed by him, but he insisted that his purported signature was a forgery committed by Laserna. Hence, Laserna's sale of the lot to the Villagracias, according to complainant, was illegal and void.

In his Answer, Laserna alleged that in 1946, he and Diosdado Martirez bought the property from Eliodoro and his siblings.[5] Martirez later on sold his portion to Laserna.[6] In 1969, Laserna sold the entire property to the Villagracias. Contrary to Eliodoro's claim, Laserna insisted he had been in possession of the property since 1946.

For their part, the Villagracias averred that Laserna had been the owner of Lot No. 1235 since 1946 and had in fact leased the lot to one Gregorio Gecarane, Jr. They also claimed to have bought[7] the lot in good faith from Laserna on August 12, 1969 and had later on secured an order for the registration of said lot from the Court of First Instance (CFI) of Capiz; hence, OCT No. 0-995 was issued in their favor.

During the pre-trial, the parties, in the stipulation of facts,[8] admitted the authenticity and due execution of the August 12, 1969 Deed of Absolute Sale[9] between Laserna and the Villagracias.

On March 21, 1988, the RTC dismissed Eliodoro's complaint and disposed of the case as follows:

WHEREFORE, a decision is rendered dismissing plaintiff's complaint for lack of a (sic) cause of action, and;

- Declaring defendants Priscil[1]a Villagracia and Angustia Villagracia owners of Lot No. 1235 of the Cadastral Survey of Dao, Capiz, with right of possession, and ordering plaintiff and all persons under him, their agents and representatives to vacate the land;
- Ordering plaintiff to pay defendants the sum of P7,000.00 as attorney's fees and to pay defendants the sum of P10,000.00 as litigation expenses; and,
- To pay the costs of suit.

SO ORDERED.[10]

While the case was pending appeal, Eliodoro died and he was substituted by his son, Ceferino Aleligay. Thereafter, the Court of Appeals rendered its decision affirming the trial court's ruling. It also held that a valid Deed of Absolute Sale existed among respondents Laserna and the Villagracias. The dispositive portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Roxas City, Branch 18 dated March 21, 1988 in Civil Case No. V-4098 is hereby AFFIRMED.

SO ORDERED.[11]

In the instant petition, petitioner raises the following issues:

I.

WHETHER THE CONTRACT BETWEEN RESPONDENT [TEODORICO LASERNA] AND [ELIODORO ALELIGAY] WAS A MERE MORTGAGE AND NOT SALE.

II.

WHETHER RESPONDENTS PRISCILLA AND ANGUSTIA VILLAGRACIA WERE BUYERS IN GOOD FAITH.[12]

Simply stated, the issues raised are: (1) Is the Deed of Sale dated July 21, 1946 executed by the heirs of Aleligay and respondent Laserna only an equitable mortgage? (2) Did respondents Villagracias act as buyers in good faith?

Eliodoro contends that the questioned deed of sale should be declared as an equitable mortgage, because he had continued possession of Lot No. 1235 since 1946, which proves his ownership of Lot No. 1235. He further contends that if it was really intended by the parties to convey ownership over Lot No. 1235, then Laserna should have occupied the lot after the alleged transaction. Eliodoro insists that his possession had remained uninterrupted, public, adverse and in the concept of an owner.[13]

On the other hand, respondents Laserna and Villagracias were one in the assertion that they, in succession, owned and had possessed Lot No. 1235. Laserna, on his part, testified that he bought the lot from Eliodoro and his siblings, as evidenced by the Deed of Sale dated July 21, 1946 and duly registered with the Office of the Register of Deeds of Capiz. He also identified the signatures and thumbmarks appearing in the deed, including his own and those of the heirs.

Laserna also testified that he occupied the lot immediately after the sale and that he has consistently declared it in his name for taxation purposes.[14] He likewise presented a Joint Affidavit[15] executed by Eliodoro and one Presentacion Sion Vda. de Estialbo, both adjoining owners, attesting that Laserna owned Lot No. 1235.

Laserna also presented as witness, a certain Gregorio Gecarane, Jr., a government employee and resident of Matagnop, Dao, Capiz, who testified that he once leased the lot from Laserna. This fact was evidenced by a

notarized lease contract.[16] Gregorio also testified that before he leased it from January 1969 to February 1971, Laserna had occupied it.

Most significant, the Dactyloscopic Report FP Case No. 84-66[17] of the National Bureau of Investigation (NBI) confirmed the genuineness and authenticity of Eliodoro's signature and the fingerprints of other heirs, Maura and Rosario, on the questioned Deed of Sale.

The records also revealed that the Villagracias testified that they filed a case against Eliodoro for forcible entry docketed as Civil Cases Nos. 95[18] and 97.[19] They then possessed the lot after the sheriff turned over possession to them. However, Eliodoro re-entered the lot forcing them to file another case against him. For the record, another witness for respondents, namely Quirubin Franco, the officer-in-charge of the Municipal Trial Court of Dao-Ivisan, Capiz, identified the decision of the Court in Civil Cases Nos. 95 and 97. That decision ordered Eliodoro to vacate Lot No. 1235 or the portion illegally possessed by him.

Now, on the claim of petitioner that what he entered into was an equitable mortgage and not a contract of sale. Under Article 1602, in relation to Article 1604[20] of the Civil Code, the instances when a contract – regardless of its nomenclature – may be presumed to be an equitable mortgage are as follows:

- (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.
- x x x x

The presence of any of these circumstances is sufficient for a contract to be deemed an equitable mortgage. Both the trial and appellate courts, however, found none of the circumstances enumerated in Article 1602 of the Civil Code. Neither do we find any cogent reason to reverse their findings. *Actori incumbit onus probandi*. (Upon the plaintiff in a civil case lies the burden of proof.) Plaintiff must therefore establish his case by preponderance of evidence; failing to do so results in his defeat.[21]

On this point, we are in agreement that records on hand show that the questioned deed of sale is really one of sale and not an equitable mortgage. Eliodoro's assertion of continued possession over Lot No. 1235 was not substantiated by any indubitable evidence nor was it attested to by any other witness. Except for his self-serving claims, Eliodoro could not refute the overwhelming evidence of respondents that the disputed contract is one of sale.

First, being a notarized document, the questioned deed of sale carries the evidentiary weight conferred by law upon duly executed instruments; it is entitled to full faith and credit upon its face.[22] Second, not one of the Aleligays, except for petitioner, appeared in court to deny under oath their respective signatures and fingerprints appearing on the questioned deed of sale. On the contrary, respondents presented in evidence the Dactyloscopic Report FP Case No. 84-66 conducted by the NBI confirming the genuineness and authenticity of Eliodoro's signature and the fingerprints of other signatory heirs, namely Maura and Rosario, in the questioned Deed of Sale. Third, respondents presented a joint affidavit executed on September 9, 1967 by petitioner and one Presentacion Sion Vda. de Estialbo, both attesting to the fact of Laserna's continuous possession over Lot No. 1235 for about 20 years up to said date. Fourth, the lease granted in favor of Gregorio Gecarane, Jr. affirms Laserna's possession over Lot No. 1235.[23] Finally, respondents' payment of realty taxes after the consummation of the sale, though

not conclusive evidence of ownership, bolsters their right over the property in dispute.[24]

Finally, we need not tarry on the alleged issue on good faith. Good faith is always presumed, unless convincing evidence to the contrary is adduced.[25] Eliodoro failed to submit such contrary proof. Thus, the presumption of good faith in favor of the Villagracias stands. Whether there was good or bad faith on their part as buyers, in our view, is a non-issue, raised mainly by petitioner to beef up his scanty contention.

WHEREFORE, the petition is DENIED for lack of merit. The assailed Decision and Resolution dated April 27, 2004 and October 25, 2004, respectively, of the Court of Appeals in CA-G.R. CV No. 18688, are hereby AFFIRMED. Costs against the petitioner.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 82-89. Penned by Associate Justice Jose C. Reyes, Jr., with Associate Justices Portia Aliño-Hormachuelos and Josefina Guevara-Salonga concurring.

[2] Id. at 95.

[3] Id. at 53-64. Penned by Judge Jonas A. Abellar.

[4] Records, p. 110.

[5] Id. at 109.

[6] Id. at 111.

[7] Id. at 108.

[8] Rollo, pp. 84-85.

[9] Supra note 7.

[10] Rollo, p. 64.

[11] Id. at 88.

[12] Id. at 17.

[13] Id. at 120-121.

[14] Records, pp. 121-123.

[15] Id. at 149.

[16] Id. at 150-151.

[17] Id. at 300.

[18] Id. at 565-566.

[19] Rollo, pp. 145-148.

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

[21] San Pedro v. Lee, G.R. No. 156522, May 28, 2004, 430 SCRA 338, 347-348.

[22] Id. at 352.

[23] Rollo, pp. 63 and 88.

[24] See *Tuazon v. Court of Appeals*, G.R. No. 119794, October 3, 2000, 341 SCRA 707, 720.

[25] *Heirs of Severa P. Gregorio v. Court of Appeals*, G.R. No. 117609, December 29, 1998, 300 SCRA 565, 575.

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