

ALEXANDER AND JEAN J. BACUNGAN, PETITIONERS, VS. COURT OF APPEALS AND SPS. NAPOLEON AND VICTORIA VELO, RESPONDENTS.

G.R. No. 170282. December 18, 2008

Ponente: TINGA, J.

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TINGA, J.:

This is a petition for review on certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, assailing the decision[2] and resolution[3] of the Court of Appeals (CA) in CA-G.R. CV No. 64370. The Decision dated 21 March 2005 reversed and set aside the judgment[4] of dismissal by the Regional Trial Court (RTC), Branch 53, Pangasinan in the action for reconveyance filed by respondents against petitioners, while the resolution denied petitioners' motion for reconsideration of the CA decision.

The following factual antecedents are matters of record.

Respondents Napoleon and Victoria Velo instituted an action for reconveyance with damages against petitioners Alexander and Jean Jimeno Bacungan before the RTC of Rosales, Pangasinan. In the complaint,[5] docketed as Civil Case No. 1085-R, respondents alleged that they were the registered owners of 18 parcels of land situated in Rosales, Pangasinan and embraced in Transfer Certificate of Title (TCT) Nos. 34998, 36022, 35158, 36017, 18128, 26761, 36020, 28387, 35585, 25739, 36023, 40059, 40055, 40060, 40057, 40056, 36967 and 35268.[6]

Respondents claimed that sometime in February of 1993, they had experienced business reversals and financial difficulties and had sought assistance from petitioners in securing a loan. Petitioners allegedly proposed that they would obtain the loan from the bank provided that respondents secure the transfer of the titles to petitioners that would be used as security for the loan. Respondents agreed, executed the corresponding deeds of sale and caused the cancellation and issuance of new TCTs over the properties in favor of petitioners. However, respondents claimed that after petitioners had obtained the new titles, they never applied for a loan with the bank but had secretly negotiated for the sale of the properties to third parties.[7]

In their answer,[8] petitioners asserted that respondents offered to sell to them 23 parcels of land, 18 of which were used as collateral for the loan respondents had obtained from Traders Royal Bank. Petitioners claimed to have bought 22 parcels of land and executed the corresponding deeds of sale on 26 February 1993 and 10 March 1993. They also allegedly paid in full respondents' obligation with said bank but only 18 certificates of title released by the bank were delivered to petitioners. Petitioners further maintained that out of their gratuitousness, they returned one of the deeds of sale to respondents and considered the sale as cancelled. Petitioners averred that the amounts they paid to respondents, as well as their payments to the bank, were more than enough as consideration of the 23 contracts.[9]

After trial on the merits, the RTC rendered a decision on 20 April 1999, dismissing the complaint for lack of merit. The RTC gave evidentiary weight on the notarized deeds of sale, the presumed validity and due execution of which, according to the RTC, were not overcome by the uncorroborated testimony of respondent Victoria Velo. The RTC held that in any case, respondents admitted to have voluntarily consented to the simulation of the

contracts, thus, the principle of in pari delicto must prevail and both parties were at fault and should be left at where the law finds them.

Respondents elevated the matter to the CA via a petition for review, arguing that the contracts between respondents and petitioners were simulated.

On 21 March 2005, the CA rendered the assailed decision, reversing the RTC's judgment. The dispositive portion of the CA's decision reads:

WHEREFORE, the assailed decision dated 20 April 1999 of the Regional Trial Court of Rosales, Pangasinan is SET ASIDE. Judgment is hereby rendered:

- Declaring the Deeds of Sale covering parcels of land under TCT Nos. 34998, 36022, 35158, 36017, 18128, 26761, 36020, 28381, 35585, 25739, 36023, 40059, 40055, 40060, 40057, 40056, 36967 and 35268 as simulated; and

- Ordering the defendants-appellees to reconvey the aforesaid properties to the plaintiffs-appellants.

SO ORDERED.[10]

In reversing the RTC decision, the CA held that by their contemporaneous and subsequent acts, the deeds of sale were simulated as the parties did not intend to be bound by them at all. Among the indicators pointed out by the appellate court in support of its conclusion were the gross inadequacy of prices, respondents' failure to receive any part of the purchase price stated in the deeds of sale, the offer by petitioners to return some of the certificates of title and petitioner Alexander Bacungan's admission that the sale was simulated.[11]

Petitioners filed a motion for reconsideration,[12] raising the CA's failure to consider the amounts tendered by petitioners for the redemption of the properties as well as the amounts advanced by petitioners as payments of the properties. On 7 November 2005, the CA issued the assailed resolution, denying petitioners' motion for reconsideration.

Hence, the instant petition, raising the following arguments: (1) the deeds of sale embody the real agreement of the parties and are not nullified by the gross inadequacy of the prices; (2) the contracts of sale cannot be simulated because prior to their execution, petitioner extended a loan to respondents which was used to redeem the mortgaged properties; and (3) respondents admitted that the only agreement was the contracts of sale; thus, the appellate court erred in interpreting the acts of the parties before and after their execution.[13]

The petition is partly meritorious.

Respondents and petitioners advance contrasting claims. Petitioners would have this Court uphold the validity of the deeds of sale while respondents seek their nullification. Neither is claiming that they had agreed other terms and conditions not embodied in the deeds of sale or that the deeds of sale do not embody their real agreement. However, after a perusal of the records of the case, the Court finds that the resolution of the controversy cannot be limited only to determining whether the deeds of sale were void. Such issue may still be considered and resolved by the Court in the interest of substantial justice, if it finds that to do so is necessary to arrive at a just decision, or when an issue is closely related to an issue raised in the trial court and the Court of Appeals and is necessary for a just and complete resolution of the case.[14]

After a careful examination of the records of the case, the Court finds that the deeds of absolute sale do not embody the real intention of the parties. The records reveal that respondents had earlier executed several real estate mortgages over the properties to secure the payment of the total amount of P350,000.00.[15] Respondents defaulted on the payments, prompting the bank to foreclose the properties. However, as illustrated in the

testimony of respondent Victoria Velo, respondents and petitioners devised a plan in which they agreed that in exchange for the apparent transfer of ownership of the parcels of land to petitioners, the latter would provide for the funds for the redemption of the properties from the bank in addition to the loan that petitioners would obtain from the bank. Thus, respondents were able to redeem the properties for the amount of P369,000.00 that was advanced by way of mortgage to them by petitioners.[16] The amount approximates the total loans in the amount of P350,000.00 secured by the properties subject of the real estate mortgages executed by respondents.[17]

Thereafter, respondents executed several deeds of sale purporting to transfer the 18 parcels of lands for a total consideration of P232,000.00. The parties further agreed that upon the transfer of the properties in the name of petitioners, the latter would obtain another loan from the bank using the properties as collateral. Petitioners were supposed to remit the loan proceeds to respondents after deducting the amount of P369,000.00 lent by petitioners to respondents and, thereafter, allow respondents to buy back the properties. However, because petitioners had failed to secure a loan from the bank after the transfer of the titles in their names, respondents instituted the present action to nullify the deeds of sale on the ground that the sale was simulated.

This kind of arrangement, where the ownership of the land is supposedly transferred to the buyer who provides for the funds to redeem the property from the bank but nonetheless allows the seller to later on buy back the properties, is in the nature of an equitable mortgage governed by Articles 1602 and 1604 of the Civil Code, which provide:

Article 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 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.

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

From a reading of the above-quoted provisions, for a presumption of an equitable mortgage to arise, two requisites must be satisfied, namely: that the parties entered into a contract denominated as a contract of sale and that their intention was to secure an existing debt by way of mortgage. Under Art. 1604 of the Civil Code, a contract purporting to be an absolute sale shall be presumed to be an equitable mortgage should any of the conditions in Art. 1602 be present. The existence of any of the circumstances therein, not a concurrence or an overwhelming number of such circumstances, suffices to give rise to the presumption that the contract is an equitable mortgage.[18]

In the instant case, three telling circumstances indicating that an equitable mortgage exists are present. First, as established by the CA, the price of each of the properties was grossly inadequate. Second, petitioners retained part of the "purchase price" when they failed to turn over to the respondents the loan that they were supposed to secure

from the bank. Third, petitioners insisted that part of the consideration of the sale consisted of amounts previously borrowed by respondents from them, indicating that petitioners were using the properties as "security" for the payment of respondents' other loans from them.

The CA concluded that the sale was simulated because of the gross inadequacy of the prices and the failure by respondents to receive the purchase price.

Gross inadequacy of price by itself will not result in a void contract. Gross inadequacy of price does not even affect the validity of a contract of sale, unless it signifies a defect in the consent or that the parties actually intended a donation or some other contract. Inadequacy of cause will not invalidate a contract unless there has been fraud, mistake or undue influence.[19]

That respondents did not receive the purchase price is not entirely correct. As already discussed above, the consideration for the transaction was to secure the payment of respondents' loan to petitioners.

Also, the CA's conclusion that petitioner Alexander Bacungan admitted that the sale was simulated is not supported by the records of the case. Petitioners merely admitted that previous to the execution of the deeds of sale, respondents had borrowed other sums of money from them.

All told, while the deeds of sale do not reflect the true intention of the parties, their real agreement must nonetheless be recognized and enforced. While neither party claimed that the real agreement was an equitable mortgage, the factual circumstances of the case nudge the Court to declare the real agreement as such and enforce the rights and liabilities of the parties accordingly. This being the case, the proper remedy availed by either party was to institute an action for the reformation of the deeds of sale in order to reflect the true intention of the parties. However, instead of dismissing the complaint altogether, the just and expeditious manner is to settle once and for all the rights and obligations of the parties under the equitable mortgage.

It has been established that petitioners advanced the sum of P369,000.00 to respondents that prompted the latter to transfer the properties to petitioners. Thus, before the respondents can recover the said amount, respondents must first return the amount of P369,000.00 to petitioners. In *Lustan v. Court Appeals*, [20] where the Court established the reciprocal obligations of the parties under an equitable mortgage, the Court ordered the reconveyance of the property to the rightful owner therein upon the payment of the loan within 90 days from the finality of this decision.

WHEREFORE, the petition for review on certiorari is PARTLY GRANTED and the decision and resolution of the Court of Appeals in CA-G.R. CV No. 64370 are AFFIRMED with the following MODIFICATIONS:

- 1) DECLARING the Deeds of Absolute Sale as equitable mortgages; and
- 2) ORDERING petitioners to RECONVEY to respondents the properties covered by Transfer Certificate of Title Nos. 34998, 36022, 35158, 36017, 18128, 26761, 36020, 28381, 35585, 25739, 36023, 40059, 40055, 40060, 40057, 40056, 36967 AND 35268 of the Register of Deeds of Pangasinan UPON THE PAYMENT OF P369,000.00 by respondents within NINETY DAYS FROM THE FINALITY OF THIS DECISION.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 10-36.

[2] Penned by Vicente S.E. Veloso, J. and concurred in by Roberto A. Barrios, J., Chairman of the Ninth Division,

and Amelita G. Tolentino, J.; id. at 51.

[3]Id. at 85-88.

[4] Records, pp. 270-274.

[5]Id. at 1-4.

[6] Rollo, p. 52.

[7] Id. at 52.

[8] Id. at 79-82.

[9] Id. at 52-53.

[10] Rollo, pp. 65-66.

[11]Id. at 57-64.

[12] Id. at 69-81.

[13]Id. at 13-14.

[14] Boston Bank of the Philippines v. Manalo, G.R. No. 158149, 09 February 2006.

[15] Records, pp. 237-244.

[16] In her testimony dated 10 September 1998, respondent Victoria Velo admitted in open court that petitioners advanced to them the funds in the amount of P369,000.00 for the redemption of the properties from the bank.

[17] Records, pp. 237-244.

[18] Lustan v. Court of Appeals, 334 Phil. 609, 615-616 (1997).

[19] Bravo-Guerrero v. Bravo, G.R. No. 152658, 29 July 2005, 465 sCRA 244, 261.

[20]Lustan v. Court of Appeals, 334 Phil. 609 (1997).

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