RODOLFO MORLA, PETITIONER, VS. CORAZON NISPEROS BELMONTE, ABRAHAM U. NISPEROS, PERLITA NISPEROS OCAMPO, ARMANDO U. NISPEROS, ALBERTO U. NISPEROS, HILARIO U. NISPEROS, ARCHIMEDES...

G.R. No. 171146. December 07, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This petition for review on certiorari[1] seeks to annul and set aside the March 9, 2005 Decision[2] and December 29, 2005 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 53527, which affirmed with modification the February 19, 1996 Judgment[4] of the Regional Trial Court (RTC) of Ilagan, Isabela, Branch 17 in Civil Case No. 810.

Spouses Alfredo Nisperos and Esperanza Urbano (the Nisperos spouses) were the original homesteaders of an 80,873-square meter tract of public land known and identified as Lot No. 4353 of Pls. 62, situated in Caliguian, Burgos, Isabela,[5] by virtue of Original Certificate of Title (OCT) No. P-1542, issued on May 4, 1951.[6]

On June 8, 1988, the Nisperos spouses executed a Partial Deed of Absolute Sale,[7] wherein they sold a portion of Lot No. 4353 with an area of 50,000 square meters (subject land) to the brothers Ramon and Rodolfo Morla (the Morla brothers) for the sum of Two Hundred Fifty Thousand Pesos (?250,000.00).

On August 2, 1988, the Morla brothers acknowledged and confirmed in writing (the "1988 contract") that they had bought from the Nisperos spouses the subject land, and that they had agreed to give the Nisperos spouses a period of ten (10) years within which to repurchase the subject land for the price of Two Hundred Seventy-Five Thousand Pesos (?275,000.00). The 1988 contract was written in Ilocano and executed at the Office of the Barangay Captain in the Municipality of Burgos, Province of Isabela.[8]

On June 27, 1994, the Nisperos spouses filed a Complaint[9] for Repurchase and/or Recovery of Ownership Plus Damages against the Morla brothers. They alleged that the deed of sale was registered by the Morla brothers only when they had signified their intention to repurchase their property.[10] Thus, Transfer Certificate of Title (TCT) No. 225544 for the subject land was issued in favor of the Morla brothers, and TCT No. 225545,[11] for the remaining 30,870 square meters of Lot No. 4353, to the Nisperos spouses.

In response,[12] the Morla brothers claimed that the Nisperos spouses had no cause of action, as the repurchase of the subject land was improper for being outside the five-year period provided under Section 119 of Commonwealth Act No. 141.[13]

At the pre-trial conference held on June 19, 1995, the parties settled that the only issue to be resolved by the RTC was whether the 1988 contract executed by the parties, wherein it was stipulated that the Nisperos spouses may repurchase the land sold to the Morla brothers within a period of ten (10) years, was valid or not.[14]

On July 28, 1995, the RTC issued an Order[15] requiring the parties to submit their position papers or memoranda in light of their agreement to submit the case for Summary Judgment on the issue of the validity of the 1988 contract.

The Nisperos spouses then filed a Motion for Summary Judgment[16] on the ground that there was no genuine issue of material facts in the case except for damages and attorney's fees, which may be heard separately and independently.

On September 15, 1995, the Nisperos spouses deposited the amount of ?275,000.00, with the clerk of court of the RTC for the repurchase of the subject land.[17]

The RTC rendered its Judgment dated February 19, 1996, the dispositive portion of which reads:

> WHEREFORE, for and in consideration of the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendants ordering the defendants to reconvey the portion of five (5) hectares of plaintiff's land covered by their original title, Original Certificate of Title No. P-1542 unto the plaintiffs and to receive and accept the P275,000.00 from the plaintiffs as repurchase; to pay attorney's fees in the amount of P5,000.00 and to pay the costs of this suit.[18]

The RTC said that the only issue to be resolved was the validity of the 1988 contract, which the Morla brothers neither attacked nor denied. The RTC held that it was clear from the 1988 contract, which the Morla brothers executed, that they had bound themselves to its terms and conditions. The RTC further proclaimed that what was prohibited was the shortening of the five-year redemption period under Section 119 of Commonwealth Act No. 141, and not its prolongation.[19]

On March 14, 1996, the Morla brothers moved for the reconsideration[20] of the RTC's judgment on the ground that it could not affect them since they were no longer the real parties-in-interest as they had already sold the subject land to Rosie Ocampo, married to Delfin Gragasin, and Hilario Bernardino, married to Manolita Morla, on May 2, 1994.[21]

The Nisperos spouses, in their Opposition to the Motion for Reconsideration,[22] attacked the validity of the purported sale and alleged that such sale in favor of the Morla brothers' close relatives was a last ditch attempt to win the case. The Nisperos spouses pointed out that the Morla brothers never mentioned such sale considering that it supposedly happened in May 1994, before the case was instituted in June 1994.[23]

The RTC denied the Morla brothers' motion for reconsideration in an Order[24] dated July 19, 1996. The RTC noted how such purported sale was not mentioned by the Morla brothers in their confrontations with the Nisperos spouses prior to the filing of the case, or in any of their pleadings filed before the RTC. The RTC agreed with the Nisperos spouses' contention that if the sale really did happen, then the Morla brothers should have brought it up at the earliest opportune time. Finally, the RTC said that the belated issue would not in any way affect the standing of the parties.

The Morla brothers timely[25] appealed this decision to the Court of Appeals and assigned the following errors in support thereof:

> I
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> The TRIAL COURT GRAVELY ERRED IN HOLDING THAT APPELLANTS' AUGUST 2, 1988 private writing, Exh. "A" WAS AN AGREEMENT BY PARTIES FOR APPELLEES TO REPURCHASE WITHIN TEN (10) YEARS THEREFROM THE FIVE (5) HECTARES PORTION OF THEIR HOMESTEAD THEY SOLD TO THE FORMER AS PER JUNE 28, 1988 PARTIAL DEED OF ABSOLUTE SALE, EXH. "1" NOTWITHSTANDING THE MANDATORY FIVE (5) YEARS REPURCHASE PERIOD FROM THE

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> DATE OF SALE PROVIDED BY SECTION 119 OF THE PUBLIC LAND LAW (COMMONWEALTH ACT NO. 141).
>
> II
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> THE TRIAL COURT GRAVELY ERRED IN RELYING ON THE PRECEDENT LAID IN THE CASES OF MENJE, ET AL., VS. ANGELES, 101 PHIL. 563 AND MANUEL VS. PHILIPPINE NATIONAL BANK, 101 PHIL. 568, WHICH TREAT OF REDEMPTION OF FORECLOSED HOMESTEAD AFTER FORECLOSURE SALES NOTWITHSTANDING THE CLEAR ISSUE IN THE CASE AT BAR WHICH IS FOR REPURCHASE OF A PORTION OF A HOMESTEAD. [26]

On March 9, 2005, the Court of Appeals affirmed the RTC's decision, with the deletion of the award of attorney's fees for lack of basis in the decision, as the only modification. While the Court of Appeals agreed with the Morla brothers' assertion that the cases cited by the RTC were not applicable to their case, it declared that the RTC did not err in allowing the Nisperos spouses to repurchase the subject land. The Court of Appeals immediately noted that there clearly was no genuine issue as to any material fact, except for the claim of attorney's fees. It upheld the validity of the 1988 contract and concurred with the RTC's rationale that the arrangement to prolong the period for redemption of the subject land was not prohibited by law as it was in line with the intent of Section 119 "to give the homesteader or patentee every chance to preserve for himself and his family the land that the State had gratuitously given to him as a reward for his labor in cleaning and cultivating it." The Court of Appeals further held that the 1988 contract, contrary to the Morla brothers' contention, was not unenforceable as the necessity to embody certain contracts in a public instrument was only for convenience and not for its validity or enforceability.[27]

The Morla brothers sought to have this decision reconsidered on the strength of a "newly discovered" Contract of Sale of farm land dated June 28, 1978 (1978 contract). The Morla brothers alleged that this contract, which covered the subject land, was found only upon the prodding of their new lawyer; thus, even the ten-year period to repurchase the subject land under Article 1606 of the Civil Code had already expired.[28]

The Court of Appeals issued a Resolution[29] on December 29, 2005, denying the Morla brothers' motion for reconsideration in this wise:

> [The Morla brothers] assert a new theory on the basis of a handwritten "contract" dated June 28, 1978 - a private document - allegedly executed by [the Nisperos spouses]. Said document is being introduced for the first time on appeal. And it is settled that issues not raised in the court a quo cannot be raised for the first time on appeal - in the case at bench, in a motion for reconsideration - for being offensive to the basic rules of fair play, justice and due process x x x.[30]

As Ramon Morla died on March 5, 2001, single and without any descendants or ascendants, Rodolfo Morla (petitioner), by himself, elevated the instant case before this Court with the Nisperos spouses as respondents. Alfredo Nisperos, however, also died on September 19, 2010.[31] Consequently, Alfredo Nisperos' legal heirs filed a motion[32] to be substituted as respondents, in lieu of their deceased father. This motion was granted on October 3, 2011[33] thus, Corazon Nisperos Belmonte, Abraham U. Nisperos, Perlita Nisperos Ocampo, Armando U. Nisperos, Alberto U. Nisperos, Hilario U. Nisperos, Archimedes U. Nisperos, Buenafe Nisperos Perez, and Arthur U. Nisperos, now join their mother Esperanza Urbano Nisperos as respondents in this case.

Issue

Petitioner, claiming that his petition is of transcendental importance as it poses a novel question of law, is asking us to resolve the following question:

> [M]ay parties to a deed of sale of a land covered by a homestead patent extend or prolong the 5-year period of repurchase under Section 119 of Act 141, under a private writing subsequently executed by them?[34]

The Court's Ruling

This Court would like to address the admissibility of the 1978 contract at the outset as petitioner posits that by virtue of this contract, the respondents' claim had already prescribed, even if the redemption period under Section 119 of Commonwealth Act No. 141 were extended to ten years. Petitioner claims that the June 8, 1988 Partial Deed of Sale was actually the formal culmination of an earlier transaction between the Morla brothers and the Nisperos spouses, as shown by the 1978 contract. Hence, more than ten years have already lapsed from the time such contract was executed to the time the right to repurchase was sought to be exercised.[35]

Contrary to petitioner's allegation in its Motion for Reconsideration before the Court of Appeals, the 1978 contract did not surface only after the appeal; it was actually attached to the Morla brothers' Answer[36] filed with the RTC on July 12, 1994. Referencing this 1978 contract, the Morla brothers stated the following in their Answer:

> 8. Since June 28, 1978 and continuously up to the present, the defendants are in the open, continuous, exclusive, and notorious actual physical possession, occupation, and cultivation of the (50,000 SQUARE METERS) portion of Lot No. 4353, Pls-62, as evidenced by a private document, a xerox copy of which document is hereto attached as Annex "2" to this answer.[37]

During the pre-trial, the Morla brothers and the Nisperos spouses also agreed on only the following stipulation of facts, as stated in the RTC's June 19, 1995 Order:

> - That the land is a Homestead originally applied for by the plaintiffs and a Homestead Patent and Original Certificate of Title were issued to the plaintiffs;
>
> - That on August 2, 1988, at Caliguian, Burgos, Isabela, in the presence of the Barangay Captain, an Ilocano writing or contract was acknowledged and confirmed by the defendants and the defendants admitted as to its authenticity;
>
> - That the Transfer Certificate of Title No. T-225545 is the remaining portion of Three (3) hectares or 30, 873 square meters, which was only issued by the Register of Deeds of Isabela on March 11, 1994, and this remaining portion was derived from the Original Certificate of Title of Alfredo Nisperos, which is OCT No. P-1542 issued in 1951;
>
> - That on June 8, 1988, a Partial Deed of Absolute Sale was prepared, as per Doc. No. 419; Page 84; Book 17; Series of 1988, entered into the Notarial Book of Notary Public Severo Ladera;
>
> - That Transfer Certificate of Title No. T-225544 was registered in the name of the defendants, Rodolfo Morla and Ramon Morla at the Office of the Registry of Deeds of Isabela on March 11, 1994. [38]

The Morla brothers' Position Paper/Memorandum[39] likewise reiterated that the sale of the subject land happened on June 8, 1988, and referred to the 1978 contract only to prove their long possession of the subject land, just as they did in their Answer.

If it were true that the subject land's ownership was ceded to the Morla brothers as early as 1978, then it is inconceivable that they would forget to bring up this important fact and use it as their key defense when they filed their Answer to the Complaint on July 12, 1994. Even then, the Morla brothers had every opportunity to correct this lapse as they had always been aware and in possession of the 1978 contract. They could have stipulated it during the pre-trial conference, or at least stated it in their Position Paper. The theory advanced by the Morla brothers from the very beginning is that they are entitled to the possession of the subject land as the owner thereof

because the property was sold to them by virtue of the Partial Deed of Sale executed on June 8, 1988. They presented the 1978 contract only to prove that they had been in continuous and open possession since 1978. The first time the Morla brothers claimed ownership, and not mere possession, of the subject land by virtue of the 1978 contract, was in their motion for reconsideration, after they had lost their appeal before the Court of Appeals. The Court of Appeals was correct in not considering this argument for not having been raised at the earliest opportunity. It is a well-settled rule that "a party who deliberately adopts a certain theory upon which the case was decided by the lower court will not be permitted to change [it] on appeal."[40] "Petitioner is bound by the statements and stipulations he made while the case was being heard in the lower courts."[41] In Manila Electric Company v. Benamira,[42] we said:

> [I]t is a fundamental rule of procedure that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceedings below, but ventilated for the first time only in a motion for reconsideration or on appeal. The individual respondents are bound by their submissions that AFSISI is their employer and they should not be permitted to change their theory. Such a change of theory cannot be tolerated on appeal, not due to the strict application of procedural rules but as a matter of fairness. A change of theory on appeal is objectionable because it is contrary to the rules of fair play, justice and due process.[43]

Having settled the inadmissibility of the 1978 contract, we now go to the legality of the 1988 contract.

Since the subject land was acquired by the Nisperos spouses pursuant to a homestead patent, the applicable law is Commonwealth Act No. 141, or the Public Land Act. [44] Section 119 thereof specifically speaks about repurchases of a homestead or free patent land:

> Sec. 119. Every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs, within a period of five years from the date of the conveyance.

The petitioner does not dispute the existence or validity of the 1988 contract. He simply argues that the 10-year repurchase period he and his brother Ramon Morla had agreed to grant the Nisperos spouses, as evidenced by the 1988 contract, was contrary to law and jurisprudence, viz:

> In no uncertain terms can the statutory period of five (5) years, which is fixed and non-extendible, be prolonged or extended by agreement of the parties since it runs athwart with the express limitation of the right to repurchase provided for in Section 119, Act 141. Spouses Nisperos cannot, therefore, use the August 2, 1988 private writing to extend the already expired period granted under the law. To do so is to violate the law. The law must control over the revised intention of the parties.[45] (Emphasis supplied.)

Elucidating on the purpose of the homestead laws, this Court held in Republic of the Philippines v. Court of Appeals[46]:

> It is well-known that the homestead laws were designed to distribute disposable agricultural lots of the State to land-destitute citizens for their home and cultivation. Pursuant to such benevolent intention the State prohibits the sale or encumbrance of the homestead (Section 116) within five years after the grant of the patent. After that five-year period the law impliedly permits alienation of the homestead; but in line with the primordial purpose to favor the homesteader and his family the statute provides that such alienation or conveyance (Section 117) shall be subject to the right of repurchase by the homesteader, his widow or heirs within five years. This section 117 is undoubtedly a complement of section 116. It aims to preserve and keep in the family of the homesteader that portion of public land which the State had gratuitously given to him. It would, therefore, be in keeping with this fundamental idea to hold, as we hold, that the right to repurchase exists not only when the original homesteader makes the conveyance, but also when it is made by his widow or heirs. This construction is clearly deducible from the terms of the statute.[47]

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In Fontanilla, Sr. v. Court of Appeals,[48] we said:

> The applicant for a homestead is to be given all the inducement that the law offers and is entitled to its full protection. Its blessings, however, do not stop with him. This is particularly so in this case as the appellee is the son of the deceased. There is no question then as to his status of being a legal heir. The policy of the law is not difficult to understand. The incentive for a pioneer to venture into developing virgin land becomes more attractive if he is assured that his effort will not go for naught should perchance his life be cut short. This is merely a recognition of how closely bound parents and children are in Filipino family. Logic, the sense of fitness and of right, as well as pragmatic considerations thus call for continued adherence to the policy that not the individual applicant alone but those so closely related to him as are entitled to legal succession may take full advantage of the benefits the law confers.[49]

We are in full accord with the clear findings and apt ruling of the lower courts. Nowhere in Commonwealth Act No. 141 does it say that the right to repurchase under Section 119 thereof could not be extended by mutual agreement of the parties involved. Neither would extending the period in Section 119 be against public policy as "the evident purpose of the Public Land Act, especially the provisions thereof in relation to homesteads, is to conserve ownership of lands acquired as homesteads in the homesteader or his heirs."[50] "What cannot be bartered away is the homesteader's right to repurchase the homestead within five years from its conveyance, as this is what public policy by law seeks to preserve."[51] "This, in our opinion, is the only logical meaning to be given to the law, which must be liberally construed in order to carry out its purpose."[52]

Petitioner does not dispute that the 1988 contract was executed freely and willingly between him and his late brother, and the Nisperos spouses. "The freedom of contract is both a constitutional and statutory right,"[53] and "the contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order, or public policy."[54] The 1988 contract neither shortens the period provided under Section 119 nor does away with it. Instead, it gives the Nisperos spouses more time to reacquire the land that the State gratuitously gave them. The 1988 contract therefore is not contrary to law; instead it is merely in keeping with the purpose of the homestead law. Since the 1988 contract is valid, it should be given full force and effect. In Roxas v. De Zuzuarregui, Jr.,[55] we held:

> It is basic that a contract is the law between the parties. Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith. Unless the stipulations in a contract are contrary to law, morals, good customs, public order or public policy, the same are binding as between the parties.[56]

Petitioner, who freely signed the 1988 contract, cannot now be allowed to renege on his obligation under it, simply because he changed his mind. Article 1308 of the Civil Code provides:

> The contract must bind both contracting parties; its validity or compliance cannot be left to the will of one of them.

Petitioner is thus bound by the terms of the 1988 Contract, and must comply with it in good faith. Since the right to repurchase was exercised by the Nisperos spouses before the expiration of the time given to them by the Morla brothers, the lower courts correctly ruled in their favor.

WHEREFORE, the Petition is hereby DENIED and the March 9, 2005 Decision and December 29, 2005 Resolution of the Court of Appeals in CA-G.R. CV No. 53527, are AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

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[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 49-56; penned by Associate Justice Edgardo P. Cruz with Presiding Justice Romeo A. Brawner and Associate Justice Jose C. Mendoza (now a member of this Court), concurring.

[3] Id. at 8-9.

[4] CA rollo, pp. 8-9.

[5] Records, p. 1.

[6] Id. at 8.

[7] Id. at 33.

[8] Id. at 6.

[9] Id. at 1-5.

[10] Id. at 2.

[11] Id. at 8.

[12] Id. at 27-32.

[13] Id. at 28.

[14] Id. at 53-54.

[15] Id. at 56.

[16] Id. at 66-70.

[17] Id. at 74.

[18] CA rollo, p. 9.

[19] Records, p. 81.

[20] Id. at 82-84.

[21] Id. at 94.

[22] Id. at 86-90.

[23] Id. at 86-88.

[24] Id. at 100.

[25] Id. at 110.

[26] CA rollo, pp. 47-48.

[27] Rollo, pp. 54-56.

[28] Id. at 58-63.

[29] Id. at 66-66A.

[30] Id. at 66.

[31] Id. at 140.

[32] Id. at 137-138.

[33] Resolution dated October 3, 2011.

[34] Rollo, p. 17.

[35] Id. at 22-23.

[36] Records, pp. 27-32.

[37] Id. at 29.

[38] Id. at 53-54.

[39] Id. at 57-62.

[40] Pasco v. Pison-Arceo Agricultural and Development Corporation, G.R. No. 165501, March 28, 2006, 485 SCRA 514, 523.

[41] Roman Catholic Archbishop of Caceres v. Heirs of Manuel Abella, G.R. No. 143510, November 23, 2005, 476 SCRA 1, 8.

[42] 501 Phil. 621 (2005).

[43] Id. at 638.

[44] Commonwealth Act No. 141, Section 1.

[45] Rollo, p. 20.

[46] 346 Phil. 637 (1997).

[47] Id. at 649.

[48] 377 Phil. 382 (1999).

[49] Id. at 390-391.

[50] Ferrer v. Mangente, 151-A Phil. 427, 431 (1973).

[51] Santos v. Roman Catholic Church of Midsayap, 94 Phil. 405, 411 (1954).

[52] Rivera v. Curamen, 133 Phil. 454, 458 (1968).

[53] Rivera v. Solidbank Corporation, 521 Phil. 628, 651 (2006).

[54] NEW CIVIL CODE, Article 1306.

[55] 516 Phil. 605 (2006).

[56] Id. at 622-623.

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