

THELMA CASULLA VELASCO AND MYRNA CASULLA VDA. DE RETUERMA, PETITIONERS, VS. FELIPE R. BUENVIAJE, ANGELINA MILAN- BUENVIAJE AND THE COURT OF APPEALS SPECIAL EIGHTH DIVISION, RESP...

G.R. No. 182316. June 13, 2012

Ponente: SERENO, J.

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SERENO, J.:

Before this Court is a Petition for Review under Rules 45 of the Rules of Court, assailing the Decision dated 28 December 2007[1] and Resolution dated] 0 March 2008[2] issued by the Court of Appeals (CA).

In dispute is a parcel of land described as Lot 252-A (the Property) with an area of 217 sq. m., located in Albay, Bicol.[3] The Property is covered by Transfer Certificate of Title (TCT) No. 29617 registered in the name of respondents Felipe Buenviaje and Angelina Milan-Buenviaje (the Buenviajes).[4] The Property forms part of Lot 252 containing a total area of 792 sq.m.[5]

Petitioners Thelma Casulla Velasco and Myrna Casulla vda. de Retuerma (the Casullas) are daughters of now deceased Felipe Casulla (Felipe).[6] They allege that, by way of hereditary succession, their father became a co-owner of the undivided portion of Lot 252 to the extent of 199 sq. m.[7] Even prior to 1952, he had built on the Property a two-storey family home, which he passed on to petitioners. The Casullas remain in joint possession of the Property and the house up to the present.[8]

The Casullas also contend that during the lifetime of Felipe, he incurred several loans amounting to P1,800 from Joaquin Buenviaje (Joaquin), the father of respondents. As security for his debts, Joaquin purportedly made Felipe execute in May 1952 a Deed of Mortgage over the Property. However, the document prepared was a Deed of Sale, which Felipe was required to sign upon the assurance that it was to be considered only as a mortgage. The Casullas nevertheless remained in possession of the Property.[9]

Further, the Casullas claim that the Property, including the house built thereon, commands a price of not less than P6,000,000. Thus, they assert that the considerable disparity between the value of the Property and the amount of the loans incurred by their father indicates the intention to mortgage and not to sell.[10]

On the other hand, the Buenviajes assert that they are the registered owners of the Property, and that the possession thereof by the Casullas was only by the mere tolerance of the former.[11] Because the Casullas refused to turn over possession of the Property despite demand, the Buenviajes referred the matter to the barangay for conciliation proceedings, which failed to result in an amicable settlement.[12] Thus, in 1998, the Buenviajes filed against the Casullas and one Guillermo Navarro (Navarro) a Complaint for Quieting of Title, docketed as Civil Case No. 9528 and raffled to the Regional Trial Court, 5[th] Judicial Region, Legazpi City, Branch 10 (RTC Br. 10).[13]

During pretrial, the parties agreed to appoint; (a) Geodetic Engineer Alberto Lorenzana (Engr. Lorenzana) of

Daraga, Albay, and (b) the City Assessor of Legazpi City, Engineer Corazon C. Matriz (Engr. Matriz) to determine the area actually occupied and possessed by the Casullas, the improvements the latter introduced, and the probable value thereof.[14] Pursuant thereto, Engr. Lorenzana wrote the following Report:

1. Lot 252-A-1 which is a portion of lot 252-A (LRC) Psd- 691128 is occupied by Thelma Casulla Velasco and Myrna Casulla Vda. de Retuernna with an area of one hundred forty six (146) Square meters and lot 252-A-2 is occupied by Guillermo Navarro with an area of seventy one (71) square meters as shown in the sketch plan.
2. Lot 252-C-1 (LRC) Psd-187757 now covered by TCL No. 29618 in the name of Sps. Felipe R. Buenviaje and Angelina M. Buenviaje does not encroache (sic) the remaining portion of lot 252-C (LRC) Psd- 69112 as per title and as per actually occupied.[15]

Likewise, Engr. Matriz arrived at the following findings:

Hereunder is the Report of Inspection conducted by the undersigned per court order dated April 21, 1999 that there are two (2) residential buildings, a stall of second-hand clothing and a garage erected at Lot 252-A. One building was declared in the name of GUILLERMO NAVARRO under [Assessment of Real Property (ARP)] No. 0174, constructed of low-cost materials with nipa roofing, wooden walls, concrete flooring, etc., with a floor area of 70.76 square meters more or less, with the current appraised value of [P]70,000.00. Another residential building was declared in the name of FELIPE CASULLA and occupied by THELMA C. VELASCO under ARP No. 0175, also constructed of low-cost materials with nipa roofing, wooden walls, concrete flooring, etc., with a floor area of 58 square meters more or less, with a current appraised value of P58,000.00. The stall of second-hand clothing covering an area of 35.38 square meters more or less is an undeclared improvement on Lot 252-A, also owned by THELMA C. VELASCO. The adjoining garage which is also an undeclared improvement, of the same area, is owned by SATY'S EMPORIUM.

It is further informed that as per record of the City Assessor's Office, Lot 252-A is declared under the name of SPOUSES FELIPE R. BUENVIAJE and ANGELINA M. BUENVIAJE with TCT No. 29617, containing an area of 217 square meters under ARP No. 0165.[16](Emphasis supplied.)

On 27 January 2006, RTC Br. 10 issued a Decision: (a) declaring the Buenviajes as owners of the subject property entitled to its possession, and (b) ordering the Casullas and Navarro, or anyone acting for and on their behalf, to vacate the property and remove the improvements they had made thereon.[17]

The Casullas thereafter filed an appeal, which the CA dismissed in the assailed 28 December 2007 Decision. They later filed a Motion for Reconsideration, which the CA also, denied in the 10 March 2008 Resolution. Hence, they filed this Petition, which raises the following assignment of errors:

PUBLIC RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN AFFIRMING THE DECISION OF THE TRIAL COURT WHICH UPHELD THE COMPLAINT FOR QUIETING OF THE TITLE FILED BY PRIVATE RESPONDENTS

PUBLIC RESPONDENT COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN IGNORING THE EXISTENCE OF CIRCUMSTANCES EVIDENCING EQUITABLE MORTGAGE WHICH SUPPORTS THE VALIDITY OF PETITIONERS' CLAIM THAT THE TRANSACTION BETWEEN THE PARENTS OF THE PETITIONERS AND PRIVATE RESPONDENTS OVER THE PROPERTY IN QUESTION WAS SIMPLY A MORTGAGE AND NOT AN ABSOLUTE DEED OF SALE[18]

The sole issue to be resolved is whether the transaction between the predecessors of both the Casullas and the Buenviajes was an equitable mortgage, making the former the owners to the extent of 199 sq. m. of the Property.

At the outset, it must be noted that the Casullas never offered in evidence the Deed of Sale, which they allege was actually one of equitable mortgage. Thus, aside from their bare claim, this Court and the courts a quo have no

basis on which to evaluate petitioners' assertions as regards the terms of the Deed of Sale or the intention of the parties who executed it.

In any event, the relevant provisions of the Civil Code on equitable mortgage read:

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 oilier 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.

The existence of the circumstances enumerated under Article 1602 creates a presumption of equitable mortgage. In this case, the Casullas assert that three of the circumstances under Article 1602 are present, namely: (a) inadequacy of the price; (b) continued possession of the property; and (c) payment of taxes. This Court holds that these circumstances, which would have otherwise given rise to the presumption, have been appropriately ruled by the courts a quo to be not present.

A. Inadequacy of the price

The records are bereft of anything to support the contention of the Casullas that the Property was worth P6,000,000 at the time it was supposedly mortgaged. In fact, the only evidence presented in the lower court relevant to the value of the Property was a Real Property Field Appraisal & Assessment Sheet executed by the Municipal Assessor. This document reveals that, as of 1997, its adjusted market value was pegged only at P199,640. Although its fair market value may admittedly be higher, again, there is no evidence to establish it.

Assuming that the Property was indeed worth P6,000,000, in the absence of the Deed of Sale, the Casullas failed to adduce any evidence showing that it had been mortgaged or sold for only P1,800. Therefore, they were unable to prove their claim that there was inadequacy in the price.

B. Continued possession of the property

There is no dispute that the Casullas are still in possession of the Property. However, this fact does not give rise to the presumption of equitable mortgage precisely because the lower courts have already ruled that they have no right to the possession of the Property.

TCT No. 1026, the title presented by the Casullas purportedly to show that their predecessors owned the Property to the extent of 199 sq. m., fails to support their claim of possession or ownership thereof. This title covered the undivided Lot No. 252 and was registered in the name of the following individuals:

Spouses, [sic] Joaquin Buenviaje and Andrea Ribaya, 228 square meters more or less; Roman Bongon, married

to Olimpia Casulla, 294 square meters, more or less; Hilario Casulla, married to Cirila A. Casulla, 71 square meters[,] more or less; Felipe Casulla, married to Natalia Paje, 199 square meters[,] more or less x x x[20]

It is very clear on the face of TCT No. 1026 that it has already been cancelled. On the other hand, the title presented by the Buenviajes -TCT No. 29617 covering the Property — is the most recent one evidencing that (a) Lot No. 252 has already been subdivided; (b) the Property is one of these subdivisions; and (c) the Buenviajes are its registered owners. In this regard, this Court finds no reason to depart from the factual findings of the CA, which affirmed those of RTC Br. 10, to wit:

It is undisputed that the lot in question is Lot 2⁴-A wherein a portion thereof, or a total area of 146 sq. m., is occupied by the [Casullas]. This fact was supported by the respective reports of the Commissioner and Engineer tasked to conduct an ocular inspection on [the] subject premises, whose findings deserve respect as they are presumed to have been done in the regular performance of official duty.

It is also substantiated that Lot 252-A is covered by TCT No. 29617 and registered in the names of [the Buenviajes].[21]

Considering that factual findings of the trial court, when adopted and confirmed by the CA, are final and conclusive on this Court,[22] there is no reason to hold that the Casullas's continued possession of the Property gives rise to the presumption of equitable mortgage.

C. Payment of taxes

The Casullas claim that they paid the taxes on the Property. However, the Tax Receipts they submitted in evidence readily show that the payment of Real Property Taxes by their father pertained only to the improvements on the Property, and not to the lot itself.[23] Thus, their payment of the accruing real property taxes on the improvements fails to support their contention that the transaction involving the Property was one of equitable mortgage.

It is unmistakable from the foregoing discussion that the Casullas failed to prove the existence of an equitable mortgage. Therefore, there is no reason to reverse the ruling of the lower courts.

WHEREFORE, the instant Petition is DENIED. The Decision dated 28 December 2007 and Resolution dated 10 March 2008 in CA-G.R. CV No. 87280 issued by the Court of Appeals are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Reyes, JJ., concur.

[1] Felipe Buenviaje and Angelina Milan-Buenviaje v. Thelma Camilla Vekasco and Myrna Casulla vdu. de Retuerma, CA-G.R. CV No. 87280; rollo, pp. 17-26.

[2] Rollo, p. 31. Penned by Associate Justice Myrna Dimaranan Vidal and concurred in by Associate Justices Jose C. Reyes, Jr. and Lucenito N. Tagle.

[3] CA Decision, rollo, p. 18.

[4] TCT No. 29617, records, p. 86; CA Decision, rollo, p. 24.

[5] CA Decision, rollo, pp. 18-19.

[6] Petition, rollo, p. 9.

[7] Id.

[8] Id.

[9] Id. at 9-10.

[10] Id. at 10.

[11] Comment (To Petition for Review on Certiorari) dated 14 August 2008, rollo, p. 41; CA Decision, rollo, pp. 18-19.

[12] CA Decision, rollo, p. 19.

[13] Complaint dated 30 April 1998, records, pp. 1-4; CA Decision, rollo, pp. 17-18.

[14] RTC Br. 10 Order dated 21 April 1999, records, pp. 72-73.

[15] Report dated 17 July 2001, records, p. 109.

[16] Letter dated 15 June 1999 written by Engr. Matriz, records, p. 76. 11 CA rollo, pp. 74-82;

[17] CA Decision, rollo, pp. 17-18.

[18] Petition, rollo, p. 12.

[19] Records, p. 160.

[20] TCT No. 1026, rollo, p. 43.

[21] CA Decision, rollo, pp. 23-24.

[22] Republic v. Regional Trial Court, Branch 18, Roxas City, G.R. No. 172931, 18 June 2009, 589 SCRA 552.

[23] Official Real Property Tax Receipts dated 20 March 1993, records, pp. 243-244.

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