

**ARSENIO DE LA PAZ AND CLAUDIA MANIO, PETITIONERS, VS.  
MARIO F. GARCIA, ASSIGNEE OF THE INSOLVENT ENRIQUE  
GATBONTON AND THE COURT OF APPEALS, RESPONDENTS.**

*G. R. No. 18500. November 24, 1966*

Ponente: REGALA, J.

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**REGALA, J.:**

This is a petition to review the decision of the Court of Appeals. The facts are summarized in the following portion of the appealed decision:

"It appears that on July 21, 1952, insolvent Enrique Gatbonton and his wife Maria Manio executed a deed of absolute sale whereby they sold three parcels of land in question [situated in the barrios of Cebu, Mataas-na-Kahoy and Bangad, Cabanatuan City] in favor of Patria Belmonte Anonas, the deed having been duly recorded in the registry of deeds of Nueva Ecija and the corresponding titles issued in the latter's name. On the same date both parties entered into a so-called memorandum-agreement by virtue of which the insolvent and his wife were given until December 31, 1952, the right to repurchase parcels of land for P10,000, the memorandum agreement appearing in a private document. On October 16, 1952, before the period for repurchase had expired, Patria Belmonte Anonas sold by way of absolute sale for the sum of P9000 the three parcels of land in question in favor of appellants who are brothers-in-law of insolvent [insolvent's wife, Maria Manio, being a sister of petitioner Claudia Manio]. Said insolvent and his wife, on their part, executed on September 2, 1952, a deed of absolute sale for P3,500 of the two-story residential house in question [situated at 37 Sanciangco Street, Cabanatuan City in favor of appellants."

To this narration should be added the fact that on October 21, 1952, that is, five days after the supposed sale of the lands to petitioners, Enrique Gatbonton filed a petition for voluntary insolvency. Respondent Mario S. Garcia was subsequently appointed assignee in the insolvency case.

On December 10, 1952, respondent Garcia filed this case in the Court of Nueva Ecija to recover from petitioners the ownership and possession of the lands and the house. He alleged that the redemption of the lands was made by the insolvent through petitioners "to prevent the said three parcels of land from coming into the hands of the assignees x x x or prevent the same from being distributed ratably among the creditors of the insolvent, or defeat the object of, or hinder, delay or obstruct the operation of this insolvency proceedings, and Arsenio de la Paz and Claudia Manio [petitioners] knew at the time of the transfer of the said three parcels of land that Enrique Gatbonton was insolvent or in contemplation of insolvency and the transfer of the said parcels of land was not made in the ordinary and usual course of business of the said Enrique Gatbonton." Respondent Garcia averred that the transfer of the house to petitioners was made for the same purpose.

On the other hand, petitioners contended that the transfers of the parcels of land from the insolvent to Patria Belmonte Anonas and thence to them were made in good faith and for valuable consideration and were recorded in the registry of deeds and that, in fact, titles were issued to Anonas and to them.

Simplicio Lising likewise intervened but it is unnecessary to detail here his claim since it was dismissed by the

trial court whose decision became final when Lising failed to file a brief in the Court of Appeals.

After hearing, the lower court declared the transfers null and void.

Petitioners appealed to the Court of Appeals but they again lost. Hence this appeal. Petitioners' arguments are based on Civil Code provisions on rescissible contracts. Thus they contend -

(1) That under article 1381(3) a sale may be rescinded if it is in fraud of creditors but that since petitioners derived their title not from the insolvent but from Patria Belmonte Anonas, the sale to them can not be rescinded without first rescinding the sale to Anonas.

(2) That the sale to Anonas cannot be rescinded without making her a party to this action.

(3) That the sale to petitioners cannot be rescinded because it has not been shown that the creditors of the insolvent cannot recover in any other way, as required by article 1383.

(4) That, pursuant to article 1385, the appellate court should have ordered the return of the price which petitioners paid for the lands and the house, with interest, because rescission requires mutual restitution.

Petitioners, in our opinion, have missed the point. The decision of the Court of Appeals is based not on the Civil Code but on the Insolvency Law (Act No. 1956) which declares certain transfers to be fraudulent and regards them not merely rescissible but absolutely null and void. Respondent Garcia brought this suit on the theory that the purchase of the properties by petitioners on October 16, 1952 was in reality redemption by Enrique Gatbonton who, only five days later, was to file a petition for voluntary insolvency, and that this scheme was resorted to in an effort to place the properties beyond the reach of Gatbonton's creditors. This theory was upheld by the appellate court. This is clear from the following passage of its decision:

"[A]ppellants contend that the sale of the three parcels of land under controversy in favor of Patria Belmonte Anonas was made by the insolvent in good faith and for a valuable consideration several months before he was declared insolvent by the lower court. Appellee [respondent Garcia] maintains, however, that it appearing that on October 20, 1952, Enrique Gatbonton had petitioned for voluntary insolvency, the transaction was fraudulent considering the circumstances surrounding the same. We agree with appellee in this respect. x x x" The Court of Appeals likewise held the transfer of the house fraudulent for having been made within 30 days of the filing of a petition for insolvency.

It is clear, therefore, that the provisions of the Civil Code on rescissible contracts (which assume the validity of the contract) cannot be invoked since, as already stated, the Insolvency Law regards the contracts void. Consequently, it is idle to talk of restitution, exhaustion of the debtor's properties, sources of title, etc. on which petitioners elaborate arguments are based. Nor is the presence of Patria Belmonte Anonas indispensable in this proceedings. The rule is very well explained by Moran thus:

"In an action for rescission of sale because of non-payment of price, or for annulment of a sale of property, the vendee is an indispensable party. In action for recovery of property against a person who purchased it from another who in turn acquired it from others by the same means or by donation or otherwise, these predecessors of defendants are indispensable parties should the transfers, if not voided, be binding upon plaintiff. But, where the transfers are immaterial to plaintiff's title he having taken no part in any one of them, transferors are not indispensable or necessary parties, although they may be joined by defendant by a third party complaint to enforce the warranty for eviction." (1 Moran 148-149 [1963])

Here, respondent Garcia brought the action as assignee who took no part in the alleged transactions between petitioners and their transferors or predecessors. As such, he could bring this action even against petitioners only as the parties in possession of the properties.

This brings us to the heart of the matter. Section 70 of the Insolvency Law considers as fraudulent any transfer of properties made by the insolvent within 30 days of the filing by or against him of a petition for insolvency, unless the transfer is for valuable pecuniary consideration and is made in good faith. In holding the transfer of the lands and the house in question void for being fraudulent, the Court of Appeals said:

"In the first place, appellant Claudia Manio and Maria Manio, insolvent's wife, are sisters. In the second place, Patria Belmonte Anonas allegedly purchased the three parcels of land from the insolvent for P10,000 and yet she sold them to appellants for P9000 only at a time when the period of repurchase by the insolvent and his wife had not expired. In the third place, it was indeed a rare coincidence that Patria Belmonte Anonas should have sold the parcels of land originally belonging to the insolvent and his wife to the latter's brother-in-law and half sister for an amount less than what she had paid when she acquired them. In the fourth place, if the purpose of the sale made by the insolvent was perfectly legal, we see no reason why in the same date he and Patria Belmonte Anonas had to execute a private document known as memorandum agreement so as to give the former an option to repurchase the parcels of land. By so doing, we believe that the insolvent and appellants wanted to hide the real purpose of the transaction, which could have been no other than to prevent the insolvent's creditors from taking hold of the parcels of land in question. That this was the real purpose is strengthened by the fact that one Miguel Veneracion who had deposited palay in the insolvent's warehouse found himself without his palay as he did not see it anymore when he went there and instead saw insolvent's wife and her sister, appellant Claudia Manio, who informed him that they were looking for buyers for the parcels of land in question in order to settle with all claimants and depositors of the insolvent out of the proceeds of the sale after paying the credit of Patria Belmonte Anonas in the amount of P10,000. Later on Veneracion found out, however, that the parcels of lands were transferred to appellants.

"As to the sale of the two-story residential house, appellants claim that it could not have been in fraud of creditors since it was executed on September 2, 1952, beyond the 30-day period from the filing of the petition for insolvency. Such a claim merits no serious consideration it appearing that the deed of sale was recorded in the registry of deeds on October 15, 1952, that is, only six days before the petition for voluntary insolvency was filed by Enrique Gatbonton."

Petitioners dispute the finding of fraud and argue that the relationship which the petitioners bear to the insolvent, instead of justifying a finding of fraud, support the inference that petitioners probably decided to buy the lands in question from Patria Belmonte Anonas to forestall the possibility of their passing into the hands of other parties in the event Gatbonton was unable to repurchase his properties.

It is true that in one case (*Flores v. Faustino*, 55 Phil. 594 [1931]), this Court said that mere relationship is not "necessarily fraud." But relationship can be, when taken together with other circumstances.[1] Here the appellate court did not consider relationship standing alone. The time between the supposed purchase and the filing of the petition for insolvency; the price at which the properties were sold; the sisters' representation that they were looking for buyers of the properties at a time when the properties were supposed to be no longer the properties of the insolvent - it was in this context that relationship was viewed as indicating fraud.

Petitioners try to explain the difference between the price at which Patria Belmonte Anonas supposedly bought the lands (P10,000) and the price at which she sold them to petitioners (P9,000) by contending that as owner, Anonas could even give the lands free as donation. And, "for all we know, Gatbonton paid valuable consideration for that right to redeem, and his consideration could be the difference between P10,000 that Anonas paid him, and the price of P9,000 that she received from appellants when she resold the same lands to them."

Suffice it to say that there is absolutely no evidence that Anonas was motivated by generosity in making a sale at a financial sacrifice. Nor is there evidence that the difference between the price at which Anonas bought the lands and the price at which she sold them to petitioners represents the price paid for the right of redemption. This is

merely a conjecture which invites an equally plausible conjecture, namely, that the transaction between the insolvent and Anonas was in truth a loan for P9,000, the amount of P1,000 being interest in excess of that allowed by law. This might explain why the insolvent's right to redeem was embodied in a private document. This might likewise explain the conduct of the sisters Maria and Claudia Manio in offering the properties for sale when at that time the same properties were supposed to be properties of Anonas. Indeed, the Civil Code states in article 1603 that "In case of doubt, a contract purporting to be a sale with a right to repurchase shall be construed as an equitable mortgage."

And what of the transfer of the insolvent's house to petitioners? It is claimed that the sale was made on September 2, 1952 and that for purposes of determining whether the transfer was made within the 30 day period in section 70 of the Insolvency Law, that date and not the date of registration of the sale (October 14, 1952) should be considered. For this purpose, petitioners invoke *Manalansan v. Manalang*, G. R. No. L-13646, July 26, 1960 for authority that "there is no registry of buildings in this jurisdiction apart from the lands on which they stand, so that there is no legal compulsion to register, as notice to third persons, transactions over or dealings on buildings that do not belong to the owners of the lands on which they stand." There may indeed be no separate register for buildings, but this does not mean that transactions regarding buildings may not be recorded in the registry of deeds where the land, on which the buildings are erected, is registered. And there may indeed be no legal duty to register such transactions, but, if notwithstanding the absence of such a duty the vendee registers the sale to him of a building, as the petitioners in this case did, then he cannot escape the effects of the registration. (See Civ. Code arts. 708-709. Cf. *Associated Ins. & Surety Co. v. Iya*; *Iya v. Valino*, 56 O.G. 948 [1957]). The appellate court correctly considered the date of registration of the sale to petitioners in determining whether the sale is prohibited by the Insolvency Law.

WHEREFORE, the decision appealed from is affirmed, with costs against petitioners.

Concepcion, C.J., Reyes, J. B. L., Barrera, Dizon, Makalintal, Bengzon, J. P., Zaldivar Sanchez and Ruiz Castro, JJ., concur .

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[1] See e.g., *Oria v. McMicking*, 21 Phil. 243 (1912) ("badges of fraud;" sale to a son and nephew); *Alpuerto v. Perez Pastor*, 38 Phil. 785 (1918) (sale to a son-in-law); *Gaston v. Hernaez*, 58 Phil. 823 (1933) (transfer to a mother-in-law); *Regalado v. Luchsinger & Co.*, 5 Phil. 625 (1906) (sale to a son).

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