

CATALINA DE LA CRUZ, PETITIONER, VS. EMIGDIO BUENAVENTURA, RESPONDENT.*G.R. No. 46634. June 27, 1940*

Ponente: LAUREL, J.

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On May 16, 1917, Emigdio Buenaventura approached Catalina de la Cruz for a loan of P250. The later agreed to grant Emigdio's request on condition that interest at the rate of 15 per cent per annum would be paid. Under the same date and at the instance of Catalina de la Cruz, Emigdio signed a document, Exhibit A, purporting to be a pacto de retro sale by which he conveyed to Catalina, in consideration of the sum of P250, his one-half undivided interest in a certain parcel of land situated in the barrio of Tangos, municipality of Navotas, Province of Rizal. Though this document bore the date of May 16, 1917, the amount of P250 was not actually delivered to Emigdio Buenaventura until the next day, May 17, 1917. On May 16, 1918 Emigdio paid to Catalina P150 upon account of the principal (250) and P37 upon account of the yearly interest thereon. From 1919 to 1933 Emigdio failed to pay anything upon account of the principal, but he paid interest during that period at the rate of 15 a year. In 1934 Emigdio paid to Catalina the sum of F100 in full payment of the balance of his indebtedness, as well as the further sum of P15 for interest. Since the execution of the document Exhibit A, Emigdio has remained in possession of the land purported to have been conveyed to Catalina de la Cruz and has as well paid the land taxes thereon as collected the rentals therefrom. In the meantime, on July 8, 1932, Catalina de la Cruz signed an affidavit showing consolidation of ownership in herself of the interest in the land heretofore referred to which was allegedly sold to her by Emigdio Buenaventura under Exhibit A. This affidavit was recorded in the office of the register of deeds of Rizal on July 23, 1932. On January 2, 1935, Emigdio Buenaventura commenced an action in the Court of First Instance of Rizal against Catalina de la Cruz wherein it was prayed, under the second amended complaint, that the defendant be ordered to execute in favor of the plaintiff a document cancelling the purported pacto de retro sale of May 16, 1917 (Exhibit A); that the inscription on July 23, 1932 in the office of the register of deeds of Rizal of said Exhibit A and of the affidavit of consolidation of ownership signed by the defendant, be ordered cancelled; that the defendant be ordered to pay to the plaintiff the sum of P300 as attorney's fees, plus the costs of suit. The defendant Catalina de la Cruz, in her answer, set up the defenses that the action has prescribed, that Exhibit A is in fact a pacto de retro sale; that in view of plaintiff's failure to redeem the land sold by him under said Exhibit A, title had consolidated in the defendant on July 23, 1932; that the plaintiff has always recognized the defendant to be the owner of the land in question by paying rents to the latter. After corresponding trial, the Court of First Instance of Rizal rendered judgment in the following tenor:

In view of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendant, ordering the latter to execute the instrument for the cancellation of the supposed pacto de retro sale, Exhibit A; declaring cancelled the affidavit of merger, Exhibit B, and its inscription as well as the registration of said Exhibit A in the office of the register of deeds of Rizal, the expenses for such cancellation and for the execution of the instrument cancelling Exhibit A to be borne by the defendant; and sentencing the defendant to pay the plaintiff the sum of P27 plus the sum of P205, and the costs of this suit. No finding is made as to attorney's fees.

It is ordered that the record of this case and the decision as well be endorsed to the provincial fiscal of Rizal for appropriate action.

From this judgment the defendant appealed to the Court of Appeals which affirmed the same with the sole modification that the defendant was exempted from paying to the plaintiff the usurious interest collected by her, with costs against the defendant. Claiming that the Court of Appeals erred (1) in not holding that an action for the reformation of a written instrument which appears on its face to be a deed of sale with option to repurchase, in order to convert said instrument into a deed of simple mortgage, must be commenced within 10 years from the date of its execution, (2) in holding that the plaintiff's cause of action accrued only in 1934 and (3) in denying the defendant's motion for reconsideration, the defendant Catalina de la Cruz has presented the instant petition for certiorari for the purpose of securing a reversal of the decision of the Court of Appeals.

We are of the opinion that the petitioner's contentions are unfounded. In this connection, finality must be stamped on the finding of the Court of Appeals—which is by the way a reiteration of that made by the trial court—that the transaction evidenced by Exhibit A is one of mortgage, and not a pacto de retro sale, in view of the fact that, as heretofore stated, apart from the circumstance that the respondent Emigdio Buenaventura has all the time remained in possession of the land in question, collected all rentals therefrom and paid taxes thereon, the petitioner Catalina de la Cruz accepted from the respondent the following payments upon account of the transaction evidenced by Exhibit A to wit: On May 16, 1918, P150 upon account of the principal and P37 for interest in one year; yearly from 1919 to 1933, the sum of P15 for interest; in 1934, P100 in full payment of balance of principal and P15 for interest. The right of action on the part of the respondent to have Exhibit A cancelled therefore accrued only in 1934, after his indebtedness in the sum of P250 had been fully paid. Exhibit A being thus held a mortgage, the acceptance by the petitioner, on various dates ending in 1934, not only of interest but of the principal has served to toll the prescriptive period, and the action brought by the respondent became in effect one to redeem the mortgaged land. (*Cuyugan vs. Santos*, 39 Phil., 970, 975.) The fundamental mistake of the petitioner is that, contrary to the finding of the two lower courts, she supposes Exhibit A to be a pacto de retro sale and that the respondent failed to exercise his right of redemption thereunder.

The petition will accordingly be dismissed and the appealed decision affirmed, with costs against the petitioner.

So ordered.

Avanceña, C.J., Imperial, Diaz, Concepcion, and Moran, JJ., concur.

Petition dismissed.

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