

VICENTA PADILLA, PLAINTIFF AND APPELLEE, VS. SIMEON LINSANGAN, DEFENDANT AND APPELLANT.

G.R. No. 5729. March 16, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Nueva Ecija, the Hon. Julio Llorente presiding, ordering the defendant to permit plaintiff to recover her land on the payment of P1,009, to deliver to the plaintiff a certain document, and dismissing: the cross complaint of the defendant.

The document which is the basis of this controversy reads as follows:

"In this pueblo of Gapan, Nueva Ecija, this 2d day of June, 1896, I, Da. Vicenta Padilla, widow, native of said pueblo, with cedula of the 8th class, 5922 and 14, under the order issued by the administrator the 7th day of January of said year and listed here as 623, declare that the fifth part of my land, described in the deed hereto attached, which, according to the entry in the registry is numbered 1268, land No. 136, folio 186, vol. 7, book 1 of the registry of Gapan dated January 12, 1894, I have pledged to the two spouses D. Simeon Linsangan and Da. Facunda Ortiz Luis, of this pueblo, for the sum of two hundred pesos, which I have received in money; but we agree that I myself shall cultivate the said land and pay them out of each crop fifty cavanos of palay until I can redeem said land, and that I will deposit said palay in my camarin and will sell it whenever they require it. This is what we have agreed and I have signed this with witnesses.

(Signed) "VICENTA PADILLA.

(Signed) "ROSALIO YAMSUAN.

"JUAN YAMSUAN."

To this writing, and upon the same paper, appear these additions:

"Note. - I, the maker of the foregoing, Da. Vicenta Padilla, have received, in addition, fifty pesos under the same conditions above expressed.

"Gapan, 3d of June, 1896.

(Signed) "VICENTA PADILLA.

(Signed) "ROSALIO YAMSUAN.

"BENITO YAMSUAN.

"I, the same maker, Da. Vicenta Padilla, declare that I have received from the said spouses, D. Simeon Linsangan and Dona Facunda Ortiz Luis, the sum of five hundred pesos; I have delivered also to them all the lands described in my deeds under the condition that I pay two hundred' cavanos; and I hereby sign this with witnesses this 5th day of June, 1896.

(Signed) "VICENTA PADILLA.

(Signed) "ROSALIO YAMSUAN.

"BENITO YAMSUAN.

"I, the one who made the first contract, Da. Vicenta Padilla, state that by reason of my great necessities at this moment, I have again asked the spouses, Don Simeon Linsangan and Dona Facunda Ortiz Luis, to increase my debt by fifty-nine pesos, five reales and a half, which they have done, with which the total sum in which my lands stand pledged is eight hundred and nine pesos, five reales and a half, Under the same conditions as the first. I therefore sign this with my witnesses in the pueblo of Gapan this 29th day of September, 1897.

(Signed) "VICENTA PADILLA.

(Signed) "ROSALIO YAMSUAN.

"BENITO YAMSUAN."

The question raised and argued on this appeal is whether the agreement above set out constitutes a sale with pacto de retro, or simply an attempt to secure a debt by a delivery of lands.

In the case of *Olino vs. Medina* (13 Phil. Rep., 379), the court said

"From the facts alleged and proven at the trial of this cause it is gathered that there was entered into between Medina and Olino either a contract of sale of said land with the right of repurchase, or one of loan of P175 secured by the land in question.

"Inasmuch as we are in doubt as to which of the two contracts it was by reason of which Medina furnished the P175 with which Olino redeemed his land from Isidora Rendon, and Olino in turn consented to the transfer of the land to Medina, the party who furnished the money, we elect to consider that said contract was that of loan, because such a contract involves a smaller transmission of rights, and interests, and the debtor does not surrender all rights to his property but simply confers upon the creditor the right to collect what is owing from the value of the thing given as security, there existing between the parties a greater reciprocity of rights and obligations. (Art. 1289, Civil Code.)"

Following this case, we will not construe these instruments to be sales with the right to repurchase, with the stringent and onerous effects which follow, unless the terms of the document and the surrounding circumstances require it. Whenever, under the terms of the writing, any other construction can fairly and reasonably be made, such construction will be adopted. Sales with right to repurchase are not favored and the contract will be construed as a mere loan unless the court can see that the contract, if enforced according to its terms, is not an unconscionable one.

We are of the opinion that the instrument presented in the case at bar is not a sale with the right to repurchase but was simply an attempt to pledge real estate as security for the payment of a loan.

Arellano, C.J., Mapa, Carson, and Trent, JJ., concur.

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