

PEDRO VAZQUEZ, PLAINTIFF AND APPELLANT, VS. JOAQUIN VILLAGELGADO ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 6085. September 01, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of Occidental Negros, Hon. Albert E. McCabe presiding, dismissing the plaintiff's complaint upon the merits after trial with costs.

The action is one of ejectment. It appears that on the 16th day of August, 1904, one Esteban Vazquez y Decena, upon the one hand, and Pedro Yulo, upon the other, executed an instrument which, translated, reads as follows:

"DEFENDANT'S EXHIBIT 2.

"I, Esteban Vazquez y Decena, a native of Ymamayan, 60 years of age, married, a farmer by occupation, and a resident of the town of Hinigaran on the west coast of the Island of Negros, hereby make known that, in consideration of the sum of P250, received by me from Pedro Yulo y Regalado, a resident of Binalbagan, of legal age, with certificate of registration No. 710982, issued by the municipal treasurer of said town, and which said amount received by me as aforesaid was thus received in payment of a frame house belonging to me, as appears from the summary information heretofore instituted ; it is bounded on the north by a public street for 12 brazas; on the west by a public street and the lands of Lucio Tansua and Juan Vasquez, being 14 brazas deep on the street line and bounded by the crossing street; on the left the property measures 7 brazas, the measurements on plan being at right angles, and the house, which is of strong material, is covered with galvanized iron roofing.

"I further make known that the house above described, and located in the town of Hinigaran, I have this day sold with right of redemption within the period of 6 months from date and for the said sum of 250 pesos conant or Philippine currency to Mr. Pedro Yulo; that is to say, that I may repurchase the property on the last day of the period herein stipulated, but, after the lapse of said period, the transfer and sale of the said house for the aforesaid amount shall be final; but if I am able to redeem the property within the time herein stipulated, then the vendee shall make the necessary receipt and this instrument shall be accordingly cancelled.

"I further make known that for the said period of 6 months herein before stipulated I have leased the said house for the sum of 30 pesos conant, all taxes and repairs to be borne by me.

"I further make known that I hereby covenant and agree with Esteban Vazquez, who is the absolute owner of the house in question, that I will guarantee the sale, and further hold myself responsible to the said vendee, Mr. Yulo, his heirs and assigns, for the ownership and title to the said property, which I hereby promise to defend now and forever against any just claim which may be made against same. "Pedro Yulo, the vendee, was present and accepted, in their entirety, the terms of this instrument as hereinbefore set out by Mr. Vazquez.

"In witness whereof, we have signed these presents at Binalbagan this 16th day of August, 1904.

(Sgd.) "PEDRO YULO.

(Sgd.) "ESTEBAN VAZQUEZ."

On the execution of said instrument Esteban Vazquez delivered to Pedro Yulo his muniments of title.

On the 12th day of February, 1906, Pedro Yulo, upon the theory that the above instrument was a pacto de retro and that, as he contended, Esteban Vazquez y Decena not having paid the sum of P250 and interest at the time set forth in the obligation, he, Yulo, became the absolute owner thereof and had the right to dispose of the same as he saw fit, sold said premises by private document to Joaquin Villadelgado, one of the defendants in this case. At the time of such sale, and for years prior thereto, Esteban Vazquez y Decena had been in public, peaceful, and uninterrupted possession of said premises under claim of ownership and continued in such possession until the 24th day of April, 1907. That Esteban Vazquez y Decena was the owner in fee simple of the house in question at the time of the execution of the instrument set forth above is undisputed.

On the 5th day of January, 1907, said Esteban Vazquez y Decena, being, as above stated, in possession of said premises, and claiming to be the owner thereof, sold the same to Pedro Vazquez, the plaintiff in this case, for the sum of P4,300 and immediately thereafter delivered possession thereof to the purchaser, said Esteban Vazquez continuing to occupy a portion of said premises as tenant of the said Pedro Vazquez, paying him a monthly rental of P2.50.

On the 24th day of April, 1907, Joaquin Villadelgado, one of the defendants in this case, commenced an action against said Esteban Vazquez y Decena and another to recover, among other things, the possession of the house which, at that time, Esteban Vazquez y Decena was occupying in part as a tenant of the plaintiff in this case, Pedro Vazquez, which said house is the subject-matter of the present litigation. On the 7th day of February, 1908, a decision was rendered by Judge Jocson of the Court of First Instance of Occidental Negros awarding the possession of said house to Joaquin Villadelgado, and ordering possession delivered in accordance therewith. On the 23d of March, 1908, Pedro Vazquez, plaintiff in this action, through his attorney, served notice upon the sheriff of the province where the said house is located that he was the owner of the same, claiming to have purchased it from Esteban Vazquez y Decena on the 5th day of January, 1907, and in proof of such purchase he presented a deed of said house, duly executed and acknowledged by Esteban Vazquez y Decena.

On the 23d of May, 1908, Esteban Vazquez y Decena having refused to deliver possession of the house, Joaquin Villadelgado commenced an action of desahucio before the justice of the peace of the municipality in which said house was located. The plaintiff succeeded in that action and said Esteban Vazquez y Decena was subsequently dispossessed by virtue of the judgment secured in that case.

On the 30th day of April, 1908, this action was commenced by Pedro Vazquez against Joaquin Villadelgado and others to determine the title to said premises and to secure possession of the same.

In this action it is the claim of the defendant Villadelgado, as it is the claim of Pedro Yulo, his vendor, that the instrument of the 16th day of August, 1904, between Esteban Vazquez y Decena and Pedro Yulo is a pacto de retro, as defined by the Civil Code, that is to say, a sale with the right to repurchase; that the time within which the property could have been repurchased or redeemed by said Vazquez y Decena, by the payment of the sum of P250 and interest, expired on the 12th day of February, 1905; that Esteban Vazquez y Decena did not, during said period, repurchase the said property or pay the sum set forth in said instrument, with interest thereon, within the time prescribed by the terms of said document, and for that reason the title became absolute in Pedro Yulo on the expiration of the last day of said term; that the sale from Pedro Yulo to Joaquin Villadelgado, one of the defendants in this case, was an absolute sale legally perfect in every respect and binding upon Esteban Vazquez y Decena as well as upon Pedro Yulo and Joaquin Villadelgado; that by reason thereof the sale of said premises to Pedro Vazquez by Esteban Vazquez y Decena on the 5th day of January, 1907, was ineffective, the vendor

having, at the time, no interest to transfer.

It is the claim of the plaintiff in this action (1) that the instrument executed between Esteban Vazquez y Decena and Pedro Yulo is not a pacto de retro in the legal sense and carries none of the legal consequences which accompany such an instrument; (2) that, even though said instrument is a sale with the right of repurchase, nevertheless, and as a matter of fact, said Esteban Vazquez y Decena in the month of January, 1905, and prior to the termination of the period fixed by said instrument, paid to Pedro Yulo the sum of P370 in full settlement of the obligation created by said instrument, and by such payment said instrument, of whatever nature, was canceled and became ineffective and the interest which Pedro Yulo had in the house in question by virtue thereof ceased.

The plaintiff contends that his proofs show that the payment of the said sum of P370 was made by Esteban Vazquez y Decena through his son Antipas Vazquez; that during the month of January, 1905, and for some time prior thereto, said Antipas Vazquez and Pedro Yulo had an open and current account between them, representing business dealings of some magnitude; that in said month of January, 1905, Pedro Yulo, at the request of Antipas Vazquez, charged to the account of Antipas Vazquez the sum of P370 and credited that amount upon the indebtedness created by the instrument already referred to executed between Esteban Vazquez y Decena and Pedro Yulo, thereby paying the same in full; that said instrument was by Antipas Vazquez demanded of said Pedro Yulo at the time of such payment; that he failed to produce it, alleging as the reason for said failure that the instrument had been mislaid and could not be found; that several times thereafter the instrument was demanded by Esteban Vazquez y Decena and each time its delivery was withheld, Yulo presenting the same excuse as at first; that the action of Joaquin Villadelgado against Esteban Vazquez y Decena, above referred to, having been begun on the 24th day of April, 1907, Esteban Vazquez y Decena again, and on the 30th day of April, 1907, through his son Antipas, requested the immediate delivery of said instrument for his protection in the action referred to and demanded to know why such action had been commenced; that Pedro Yulo assured Antipas that his father need not be troubled over the action referred to, as it would amount to nothing, and, upon the request of Antipas, in order to quiet the fears of Esteban, delivered to him a paper duly signed by him for presentation as a defense in said action, stating again that he was unable to deliver the original instrument for the reason that it could not be found; he assured him, however, that the paper which he then delivered would be sufficient protection against the action of Villadelgado.

The plaintiff has presented several witnesses. Antipas Vazquez testified substantially, to the facts as above related. As a witness he asserted that, during the month of January, 1905, and for some time prior thereto, he had had a running, open and current account with Pedro Yulo; that at the same time he also had an account with his father, Esteban Vazquez y Decena; that during the month of January he made a settlement with his father which showed that there was due to his father from him the sum of P1,520; that his father requested that he liquidate the said sum by paying P370 to Pedro Yulo in satisfaction of the obligation contained in the so-called pacto de retro, and that he pay the balance to Pedro Vazquez, to whom he, Esteban Vazquez y Decena, was then owing a considerable sum of money; that he thereupon, and during the same month, called upon Pedro Yulo in relation to the payment of the sum due on said instrument and that, having agreed thereto, Pedro Yulo charged the said sum of P370 to his account in discharge of said obligation; that he demanded possession of the instrument in question at the time of said payment but it was withheld by Pedro Yulo on the ground that he was unable to find it; that thereafter Esteban Vazquez, Jr., a brother of the witness, was sent to obtain said instrument from Pedro Yulo, but his demand was as fruitless as had been that of the witness; that, after the commencement of the action against his father by Joaquin Villadelgado and on the 30th day of April, 1907, he again visited Pedro Yulo for the purpose of obtaining the instrument as a defense to said action; that he received the same excuse as before for its nondelivery; that he thereupon requested from Pedro Yulo some writing which would indicate the discharge of said obligation and which might be presented as a defense to said action in place of the lost instrument; that

thereupon Pedro Yulo wrote and signed a paper for the purposes indicated and delivered it to Antipas Vazquez on behalf of his father. This testimony of Antipas Vazquez is supported and fully corroborated by the testimony of Esteban Vazquez y Decena and Esteban Vazquez, Jr.

The witness Jose Robles testified that in the month of January, 1905, he was present at the settlement which took place between Esteban Vazquez y Decena and his son Antipas Vazquez; and that such settlement disclosed that Antipas Vazquez was owing to his father about P1,500; that at that time Antipas Vazquez agreed with his father that he would pay to Pedro Yulo the sum of P370 on behalf of his father for the discharge of the obligation already referred to, and that the remainder of the sum due from him to his father he would pay to Pedro Vazquez on the indebtedness of his father to the latter.

Pedro Vazquez corroborated the testimony presented to show the agreement between Esteban Vazquez y Decena and Antipas Vazquez by testifying that Antipas Vazquez, in pursuance of his agreement with his father, paid him a considerable sum of money, something like P800, upon the indebtedness due him from Esteban Vazquez y Decena.

Pedro Yulo was the only witness for the defense who testified concerning the execution of the instrument between himself and Esteban Vazquez y Decena and in relation to the alleged payment of the obligation created by said instrument. He denied that Esteban Vazquez, by himself or by his agent, ever attempted to satisfy the obligation created by such instrument, and asserted that the paper which he, at the request of Antipas Vazquez, signed and delivered on the 30th day of April, 1907, on behalf of Esteban Vazquez y Decena, was simply a vale or promissory note which, for want of P370 in cash, he gave to Antipas Vazquez as a loan. He denied that Antipas Vazquez ever demanded of him the instrument in question, and contradicted the assertion that Esteban Vazquez, Jr., made such demand. He testified that Antipas Vazquez came to him to request his intervention to induce Joaquin Villadelgado to permit the redemption of the house after the action had been begun by said Villadelgado against Esteban Vazquez y Decena for the possession of the same, and that together they went to see Joaquin Villadelgado to that end and that the latter refused to permit such redemption. Villadelgado does not corroborate this testimony. The defense presents no witness supporting the testimony of Pedro Yulo with respect to the payment, or the nonpayment, of the debt due him from Esteban Vazquez y Decena. In this respect he stands alone. The plaintiff, in corroboration of the testimony of Esteban Vazquez y Decena, Antipas Vazquez and Esteban Vazquez, jr., presents in evidence certain documents. One of them, Exhibit A, is a statement of the current account between Antipas Vazquez and Pedro Yulo, signed by both of them. On the third page of that account there appears this charge against Antipas Vazquez:

1907, April 30. Pdo. a E. Vazquez pr. s/c y o/..... P370.00

Translated and extended this entry reads:

1907, April 30. Pdo. a E. Vazquez for the account and order of Antipas Vazquez P370.00

The other document, Exhibit B, translated, reads as follows:

"Vale for the sum of three hundred and seventy pesos Philippine currency, in favor of Antipas Vazquez.
"Binalbagan, 30th of April, 1907. P370.00.

(Sgd.) "PEDRO YULO."

This instrument has written upon it the following:

"Indorsed in favor of Don Esteban Vazquez the amount of this vale, of Don Pedro Yulo.

"Hinigaran, 30th of April, 1907. P370.00.

(Sgd.) "ANTIPAS VAZQUEZ."

In relation to this documentary evidence it is defendant's claim that the so-called vale corroborates the testimony of Pedro Yulo when he asserts, as a witness for the defendant, that Antipas Vazquez sought to borrow P370 of the latter to pay a debt which he owed his father Esteban Vazquez y Decena, and that he, Yulo, not having the cash, executed and delivered to Antipas Vazquez his promissory note for that amount, to be negotiated by Antipas Vazquez to obtain that sum.

On the other hand, plaintiff argues that such is not necessarily the construction of that instrument. He asserts that it might, if not would, be regarded as a receipt executed by Pedro Yulo for the sum of P370 paid to him by Antipas Vazquez. In support of such argument he recurs to that entry of the account between Pedro Yulo and Antipas Vazquez above quoted which shows that the said sum of P370 instead of being paid to Antipas Vazquez was in reality charged to Antipas Vazquez and paid or credited to Esteban Vazquez y Decena, his father. In other words, it is contended that if defendant's construction of the so-called vale is maintained, then that document is in material contradiction of the entry made in the account, inasmuch as said vale, as construed by the defendant, asserts a payment made to Antipas Vazquez, while the entry made by Pedro Yulo in his account against Antipas Vazquez shows a charge against Antipas Vazquez for that amount and payment or credit of said sum to the father. It is conceded that the vale and the entry in the account refer to the same sum and to the same transaction. The learned trial court in the decision of the case accepted the construction for which the defendant contended. He says:

"It is the contention of the plaintiff that this vale, Exhibit B, is in reality a receipt from Pedro Yulo, showing that the repurchase price on this house had been paid. If this amount had been paid to Pedro Yulo in January, 1905, or Antipas Vazquez had assumed the indebtedness at that time, this court is unable to understand why it does not show in Exhibit A for the year 1905, or why he did not charge himself at that time with the amount. There is nothing on the face of this vale given April 30, 1907, which would indicate that it is a receipt given by Pedro Yulo for money paid him, nor is there anything over the signature of Pedro Yulo on this vale, Exhibit B, showing that it referred in any way to the house or to matters relating to Esteban Vazquez. Pedro Yulo testifying for the defendant says that there was an account current existing between him and Antipas Vazquez, and that on April 30, 1907, Antipas Vazquez came to him and said that he was indebted to his father P370, and wanted to borrow from him the amount. Yulo testifies that he told Antipas Vazquez that he would give him a vale for that amount which he could negotiate or cash, and then pay his father. Yulo says that he did this and that he executed this vale, Exhibit B, and gave it to Antipas Vazquez. This vale as appears according to the writing thereon was on this same day indorsed by Antipas Vazquez over to his father, Esteban. It must be remembered that this vale was given on the 30th of April, 1907, which was six days after Joaquin Villadelgado had commenced his suit against Esteban Vazquez for the recovery of this house.

"Now it appears to this court that had this money been paid to Pedro Yulo and this house repurchased prior to this time, and that they wanted a receipt from him showing that fact as a defense against the claim of Joaquin Villadelgado, they would have worded it different from the way this vale was worded, and that they would have secured from Yulo a statement in writing showing that the repurchase price of the house had been paid him, instead of having him give a vale, which has nothing upon the face of it connecting it with the house transaction.

"It is a very common practice in the Philippine Islands for business men, when they desire to make an advance to the parties carrying on business with them, and they have no money on hand, to give a vale in the form that this Exhibit B is written, which the party receiving can take and negotiate with others who are willing to advance the money upon it. This is frequently done where the party giving the vale is a man of good standing and some wealth, as is the case with Pedro Yulo.

"This vale, as it is written, is one that Esteban Vazquez or his father could probably have taken and negotiated.

Certainly there is nothing about it to indicate that Pedro Yulo merely gave it as a receipt for money paid him. Neither is there anything in Exhibit A of the plaintiff which would indicate that. On the other hand, Exhibit A shows that Antipas Vazquez had charged this on his account as an amount due from him to Pedro Yulo, having charged it in his debit account.

"The court is of the opinion that the statement given by Pedro Yulo regarding the transaction of the giving of this vale is the true version of the affair. Another thing should be remembered, that if this repurchase price of the house had really been paid in January, 1905, it would not have amounted to P370, and if it was paid in April, 1907, it would not be P370, but would be at least P410, providing the rent of P5 per month had been continued; and yet again is it true that if this Exhibit B was given by Pedro Yulo on April 30th, 1907, as a receipt showing that this property had been repurchased or redeemed by Esteban Vazquez, it would not affect the rights of Joaquin Villadelgado who had purchased the property from Pedro Yulo on February 12, 1906."

As is evident, this finding of the court is based almost entirely upon the wording of the so-called vale, Exhibit B, the court holding that there is nothing in that instrument indicating that it is a receipt for the sum of P370, or that it was intended as such. We are aware of the strength of the contention that Exhibit B takes the ordinary form of a vale, or I O U; as used in certain localities in the Philippine Islands. We have not overlooked, either, the fact that the entry in Exhibit A, the account between Antipas Vazquez and Pedro Yulo, is, in a sense, a corroborate on of the construction given by the court to Exhibit A, the charge in said account being, in a manner, consistent with the assertion that Exhibit B was a loan of credit instead of a receipt for money paid. It must not be forgotten, however, that, while the finding of the court referred to has some support in said documentary proof, there still remain some features of those documents inconsistent with that finding. In the first place, there is no substantial reason why the name of Esteban Vazquez y Decena should appear in the charge against Antipas Vazquez in Exhibit A. It is, as already stated, the contention of defendant that the loan was made to Antipas Vazquez and that he was charged with that amount. Esteban Vazquez y Decena had no part whatever in the transaction. Under such contention, it was the concern of nobody, least of all Yulo, what Antipas did with the money or with the vale which he was to negotiate for money. Speaking from the ordinary point of view, if the transaction did not concern Esteban Vazquez y Decena, his name would not have appeared in it. The ordinary and natural entry made on the transaction as presented and interpreted by Yulo would have been as follows:

April 30, 1907. To vale issued for negotiation..... P370.00

If a fuller statement of the transaction were deemed advisable, the entry might read:

April 30, 1907. To money loaned by vale of even date herewith P370.00

There was no call for the insertion of the name of Esteban Vazquez y Decena in any entry properly and correctly representing the transaction as interpreted by Yulo. Either of the entries above indicated would have given a clear and complete history of the transaction and the return of the vale to Yulo for payment after it had been negotiated by Antipas or his father would have been complete proof of the verity of such entry. The use of the name of Esteban Vazquez y Decena in the entry indicates, if it does not prove, that he was materially concerned in the transaction between Yulo and Antipas, so much concerned indeed that, according to Yulo's appreciation of the situation, the entry would not be complete or correct without mentioning his name.

Moreover, in determining the correctness of the finding which we are discussing, we must do so not only in the light of the instruments themselves, but also in plain view of all the circumstances preceding, surrounding and following their execution. There are certain facts which, while they do not bear directly on the construction to be given to the instruments in question, are, nevertheless, so intimately connected with it that they have, in our opinion, a strong influence. It should be noted that the value of the house which Pedro Yulo alleges he purchased for P250 was variously estimated from P2,000 to P14,000, P2,000 being the value set by Pedro Yulo himself, and

seven or eight thousand pesos being the value set by disinterested witnesses. We are inclined to believe that a fair value of the house, according to the evidence, was about ₱6,000. It is evident, therefore, that, according to Yulo's contention, Esteban Vazquez y Decena was likely to lose a house valued at ₱6,000, for want of the sum of ₱250, with interest and charges; that Esteban Vazquez y Decena, knowing that fact, nevertheless, permitted the expiration of the time stipulated in the so-called pacto de retro, not only without making any effort whatever to pay the sum therein stipulated but also without so much as a request to Pedro Yulo for an extension of the time specified. It is hard to believe that a person of ordinary intelligence and comprehension would thus remain quiet and inactive with the full knowledge that he was losing a valuable home for want of a sum amounting to about one-thirtieth of its value. It is difficult for us to believe that such a thing actually occurred. It is a necessary conclusion from all the facts and circumstances of the case that Esteban Vazquez y Decena either did not regard the instrument executed between him and Pedro Yulo as a pacto de retro or else he firmly believed that he had redeemed the house from the operation of that instrument. If he honestly believed, as his actions indicate, that he had paid the sum required of him to satisfy the obligation imposed upon the house, then it is certain that if Exhibit B had any connection whatever with the so-called pacto de retro, that instrument was not a vale but was in the nature of a receipt for the payment of the sum of ₱250 and accrued interest and charges and was, in effect, a cancellation of the instrument containing that obligation. Every act of Esteban Vazquez y Decena preceding the execution of Exhibit B indicates that he fully believed that the obligation subsisting against the house in question had been paid and discharged. He maintained possession of the house after the expiration of the time stipulated in the so-called pacto de retro and, after such expiration, paid absolutely no rent to Pedro Yulo. Although it appears undisputed in the record and is a conceded fact in this case that Pedro Yulo claimed to own the house in question for almost a year after he claims to have become the owner of it, nevertheless, Esteban Vazquez y Decena, during all that year, paid not a cent of rent, nor was he required or even requested to do so by Pedro Yulo or anyone in his behalf. Moreover, not only did he occupy the house without rent for its use and occupation, but he also paid the rent for the ground upon which the house stood, just as he had done from the time of its erection. At no time prior to the execution of Exhibit B by Pedro Yulo did Esteban Vazquez y Decena perform a single act which did not have as its necessary basis the belief that the obligation imposed by the so-called pacto de retro had been paid and discharged. Precisely the same thing may be said as to his acts and conduct at the time of and after the execution of Exhibit B, the so-called vale. This instrument was by Antipas Vazquez delivered to his father immediately after its receipt from Pedro Yulo. He took it into his possession and there it remained. Although it is claimed by Pedro Yulo that said vale was executed by him as a loan to Antipas Vazquez to pay a debt to his father, yet said instrument was kept in the possession of Esteban Vazquez y Decena without using it in any manner whatever, so far as appears of record, except as a safeguard against being dispossessed of the house in which he lived. Although so straitened financially that he could not pay ₱370 to save a ₱6,000 house, or pay a debt which he owed to Pedro Vazquez, without the intervention and aid of his son, or pay various other demands the payment of which, it is alleged in defendant's brief, he sought to escape, still it is asserted by the defense that he took and kept in his possession an instrument upon which he would have been able to raise the sum of ₱370 by mere negotiation, without obtaining the money which he so much needed. The question "Why did not Esteban Vazquez y Decena negotiate the vale, if he understood it to be a loan, instead of holding it in his possession?" is unanswered by the defense. That Esteban Vazquez y Decena should remain quiet and tranquil through the period of three years without any attempt whatever to redeem his property from loss is unbelievable. That he received the so-called vale to negotiate for his necessities and then kept it for years without doing so is, under all the circumstances of this case, almost equally unbelievable. Again, knowing that he had not redeemed the house within the time prescribed by the so-called pacto de retro and knowing, therefore, that it was forever lost to him, nevertheless, he lived quietly in said premises for one year and three months after said house had become the property of Pedro Yulo, paying rent to nobody, except the ground rent to Juana Guanzon, and eventually quietly

and tranquilly selling it free and clear from all liens and incumbrances to the plaintiff in this action for the sum of P4,300. When the two actions for the possession of the premises were brought against him by Joaquin Villadelgado, one on the 24th of April, 1907, in the Court of First Instance, and the other on the 23d of May, 1908, before the justice of the peace of Hinigaran, he permitted both actions to go by default upon the belief, evidently, that he had theretofore sold the property to the plaintiff in this case and that an action against him would accomplish no result, he having no interest in the premises. This conduct, probably unpremeditated and undesigned, indicates the belief that the property had been legally transferred free from incumbrance to Pedro Vazquez, a necessary precedent to which was the discharge of the obligation of the so-called pacto de retro.

Not only does the conduct of Esteban Vazquez y Decena and Antipas Vazquez show the interpretation which they placed upon Exhibit B, but also the conduct of Pedro Yulo and Joaquin Villadelgado demonstrates to our minds with fair conclusiveness that they also interpreted Exhibit B in the same manner. We call again to mind the fact that Pedro Yulo collected the rent of P2.50 from Esteban Vazquez y Decena for each month during the six months prescribed in the so-called pacto de retro. We recall the fact that after the expiration of said six months Pedro Yulo not only did not receive further rent from Esteban Vazquez y Decena but did not demand any. Although he claims to have been the absolute owner of the house from the 16th day of February, 1905, to the 12th of February, 1906, when he sold it to Joaquin Villadelgado, nevertheless, it is undisputed in this case that he did not receive any consideration whatever for the use of said premises by Esteban Vazquez y Decena, and that he did not demand anything for such use. Not only did he not collect the rent or demand it, but he made no overtures upon the subject of the rent of the house to Esteban Vazquez y Decena and communicated with him in no way as to the claims or rights under which he was occupying. Instead of the conduct which we would ordinarily expect of Pedro Yulo under these circumstances, we find him, without word or sign to Esteban Vazquez y Decena, quietly, if not secretly, selling said house to one of the defendants in this action, Joaquin Villadelgado, by document not publicly executed or registered in any public office.

In this connection the price at which Pedro YuJo sold the house to Joaquin Villadelgado must not be overlooked. As we have already observed, it was worth, according to the evidence, at least P6,000. Yet we find Pedro Yulo giving this testimony before the Court of First Instance on the trial of this action:

"Q. What was the price you received for the sale of the house to Mr. Villadelgado? - A. P300 plus the interest.

"Court (addressing witness). And you sold a house worth P2,000 for P300. Did you sell a house worth P2,000 belonging to you for P300?

"Witness. Yes, sir."

COURT CONTINUING EXAMINATION OF WITNESS.

"Q. And you are a business man? - A. Besides the house the other document was included too.

"Q. How much did you get for that document? - A. In the two documents P1,200.

"Q. Well, but that other document had no lien on the house, had it? - A. No sir, it was a different one.

"Q. So you actually sold the house for P300? - A. Yes sir.

"Q. Well, now, explain to me why is it you sold a house worth P2,000 for P300? - A. I sold this house for P300 because Mr. Villadelgado assumed to pay me the value of the other document which is more than this."

In explanation of some portions of this evidence it should be stated that Pedro Yulo himself testified that the value of the house was P2,000, and it is claimed by him that, when he sold the house for P300, Joaquin Villadelgado

guaranteed the payment of a certain other obligation which Yulo held against Esteban Vazquez y Decena. It should also be stated that, according to the evidence, Villadelgado has already collected from Esteban Vazquez y Decena considerably more than half of the amount of the obligation the payment of which he is claimed to have secured. It is evident, therefore, that the obligation under which Villadelgado placed himself to Pedro Yulo as a part of the purchase price of said house is, to say the most, a very small one and one which is, at the most, uncertain. The whole purchase price of the house, obligation and all, could not exceed six or seven hundred pesos, and in making this estimate we are, we believe, giving to the defense the benefit of every possible assumption favorable to it. We have, then, a house which Pedro Yulo himself in his testimony values at P2,000 and which is worth, as we have said, at least P6,000, sold for not more than one-tenth of its value. This is a fact which, as appears from the evidence quoted, so astonished the court as to lead him personally to direct a series of questions to Yulo apparently for the purpose of ascertaining whether or not he had made a slip in the use of language, once making such an assertion not being sufficient to convince the court that a declaration so incredible was intended. That under normal conditions Pedro Yulo, a shrewd and careful business man, should voluntarily sell a house valued at P6,000 for one-tenth of its value is unreasonable. It is so against the ordinary experience and conduct of man as to be rejected at a glance. It seems to us to be but a fair inference when we say that Pedro Yulo did not act in that way unless there was something abnormal and unusual lying behind the transaction. The question is, "What was it?" The evidence does not disclose it directly. We can only draw inference and conclusion from the facts and circumstances as they appear. The only conclusion at all logical or reasonable is that Pedro Yulo was aware, or, if not aware, at least afraid, that there was a defect in his title to the house in question and, as a result, knew that in transferring the property to Villadelgado he was transferring something of very doubtful value. The further conclusion is that Villadelgado was equally aware of that fact and accepted the house with that understanding. This appears to be the natural, almost unavoidable inference, particularly in view of the fact that when Villadelgado purchased the house Esteban Vazquez y Decena had been in possession almost a year under claim of ownership, without paying rent, and was at the time of such sale in open, visible, notorious and peaceable possession of the premises, under claim of ownership, paying rent to nobody and admitting a superior title in no one. Furthermore, although Joaquin Villadelgado purchased the house from Pedro Yulo on the 12th of February, 1906, he made no mention of that fact to Esteban Vasquez y Decena. He avoided bringing his claims to the notice of Esteban. In other words, Villadelgado permitted one to occupy a valuable house which he claimed to own for a year and two months, from February 12, 1906, to April 24, 1907, without a word as to such occupancy, without investigating the interest which the occupant claimed in the premises, and without seeking to obtain possession of the same by any process. When he did move he brought an action in court without so much as making a demand. Not only did Yulo and Villadelgado neglect to require rent of Esteban Vasquez y Decena but they also neglected to pay the rent for the ground upon which the said house stands, leaving it to be paid by Esteban Vazquez y Decena.

Such acts and conduct are unnatural and unusual. We believe that they outweigh very materially and with strong preponderance the seeming corroboration which Exhibits A and B give to the contention of Pedro Yulo. If the acts and conduct of persons are of value in the construction of their contracts, we have Esteban Vazquez y Decena and Antipas Vazquez, at a time when it could not have been premeditated for effect, acting as if they thoroughly believed that Exhibit B was a receipt for a payment made in discharge of the obligation incurred by the so-called pacto de retro. We have Pedro Yulo and Joaquin Villadelgado acting and conducting themselves as if they believed it also. Having in mind the contradictions which appear in the testimony of the witnesses for the parties to this action, we are of the opinion that such acts and conduct are decisive.

These considerations compel us to believe that the finding of the learned trial court in favor of the defendant on the subject of the payment of the obligation imposed by the so-called is not sustained by a fair preponderance of

the evidence. pacto de retro.

We attach no importance to the contention of defendant's counsel that the sale from Esteban Vazquez y Decena to Pedro Vazquez was fraudulent. No competent proof whatever was presented to sustain that contention. The only evidence offered to that end in the case refers to unauthorized acts of Esteban Vazquez, Jr., and not to those of Esteban Vazquez y Decena.

The judgment of the court below is reversed and judgment hereby given in favor of the plaintiff, awarding to him the title to and possession of the house in question. So ordered.

Torres, Mapa, and Johnson, JJ., concur.

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