

RURAL BANK OF PARAÑAQUE, INC., PETITIONER, VS. ISIDRA REMOLADO AND COURT OF APPEALS, RESPONDENTS.*G.R. No. 62051. March 18, 1985*

Ponente: AQUINO, J.

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This case is about the repurchase of mortgaged property after the period of redemption had expired. Isidra Remolado, 64, a widow, and resident of Makati, Rizal, owned a lot with an area of 308 square meters, with a bungalow thereon, which was leased to Beatriz Cabagnet (86-7, Record on Appeal).

The lot is located at 41 Molave Street, United Paranaque Subdivision, Barrio Ibayo, Parañaque, Rizal. In 1966 she mortgaged it to the Rural Bank of Parañaque, Inc. as security for a loan of P15,000. She paid the loan.

On April 17, 1971 she mortgaged it again to the bank. She eventually secured loans totalling P18,000 (Exh. A to D). The loans become overdue. The bank foreclosed the mortgage on July 21, 1972 and bought the property at the foreclosure sale for P22,192.70. The one-year period of redemption was to expire on August 21, 1973.

On August 8, 1973 the bank advised Remolado that she had until August 23 to redeem the property (Exh. U or 6; 53, Record on Appeal). On August 9, 1973 or 14 days before the expiration of the one-year redemption period, the bank gave her a statement showing that she should pay P25,491.96 for the redemption of the property on August 23 (Exh. F). No redemption was made on that date.

On September 3, 1973 the bank consolidated its ownership over the property (Exh. H). Remolado's title was cancelled. A new title, TCT No. 418737, was issued to the bank on September 5 (Exh. O).

On September 24, 1973, the bank gave Remolado up to ten o'clock in the morning of October 31, 1973, or 37 days, within which to repurchase (not redeem since the period of redemption had expired) the property (Exh. I-1; 32, Record on Appeal). The bank did not specify the price.

On October 26, 1973 Remolado and her daughter, Patrocinio Gomez, promised to pay the bank P33,000 on October 31 for the repurchase of the property (Exh. X or 9; 64, Record on Appeal).

Exhibits I-1 and X do not evidence any perfected repurchase agreement. Even if it is assumed that the bank's commitment to resell the property was accepted by Remolado, that option was not supported by a consideration distinct from the price (Art. 1479, Civil Code). Lacking such consideration, the option is void (*Southwestern Sugar & Molasses Co. vs. Atlantic Gulf & Pacific Company*, 97 Phil. 249).

Contrary to her promise, Remolado did not repurchase the property on October 31. Five days later, or on November 5, Remolado and her daughter delivered P33,000 cash to the bank's assistant manager as repurchase price. The amount was returned to them the next day, November 6, 1973 (Exh. V, W and 11). The assistant manager had no intention of receiving the money. It was just left with her by Remolado (Exh. 10; 42, Record on Appeal). At that time, the bank was no longer willing to allow the repurchase.

On that day, November 6, Remolado filed an action to compel the bank to reconvey the property to her for P25,491.96 plus interest and other charges and to pay P35,000 as damages. The repurchase price was not consigned. A notice of lis pendens was registered.

On November 15, the bank sold the property to Pilar Aysip for P50,000. A new title was issued to Aysip with an annotation of lis pendens (Exh. P and 12; 64-9, Record on Appeal).

The trial court ordered the bank to return the property to Remolado upon payment of the redemption price of P25,491.96 plus interest and other bank charges and to pay her P15,000 as damages. The Appellate Court affirmed the judgment. The bank appealed to this Court. It contends that Remolado had no more right of redemption and, therefore, no cause of action against the bank.

We hold that the trial court and the Appellate Court erred in ordering the reconveyance of the property. There was no binding agreement for its repurchase. Even on the assumption that the bank should be bound by its commitment to allow repurchase on or before October 31, 1973, still Remolado had no cause of action because she did not repurchase the property on that date.

Justice is done according to law. As a rule, equity follows the law. There may be a moral obligation, often regarded as an equitable consideration (meaning compassion), but if there is no enforceable legal duty, the action must fail although the disadvantaged party deserves commiseration or sympathy.

The choice between what is legally just and what is morally just, when these two options do not coincide, is explained by Justice Moreland in *Vales vs. Villa*, 35 Phil. 769, 788 where he said:

"Courts operate not because one person has been defeated or overcome by another, but because he has been defeated or overcome illegally. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by them — indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of law, the commission of what the law knows as an actionable wrong before the courts are authorized to lay hold of the situation and remedy it."

In the instant case, the bank acted within its legal rights when it refused to give Remolado any extension to repurchase after October 31, 1973. It had given her about two years to liquidate her obligation. She failed to do so.

WHEREFORE, the Appellate Court's judgment is reversed and set aside. The complaint and counterclaim are dismissed. The notice of lis pendens is cancelled. No costs.

SO ORDERED.

Concepcion, Jr., Abad Santos, Escolin, and Cuevas, JJ., concur.

Makasiar, (Chairman), J., no part.

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