

FLORENCIO BALATERO AND HEIRS OF JOSEFA BADELLES, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT AND JUAN VELOSO, RESPONDENTS.

G.R. No. 73889. September 30, 1987

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition to review on certiorari the decision of the then Intermediate Appellate Court in AC-G.R. No. CV-58576 which reversed the decision of the then Court of First Instance of Lanao del Norte in Cadastral Case No. IL-N-1 LRC Record No. N-146 adjudicating Lot Numbers 433-A and 433-B of the Iligan Cadastral 292 to petitioners Florencio Balatero and the heirs of Josefa Badelles.

The Director of Lands initiated the court proceedings to settle and adjudicate 1419 lots to rightful claimants inside the tract of land in Iligan City designated as the Iligan Cadastral 292.

The claimants for Lot No. 433 with an area of 216 square meters and Lot No. 817 with an area of 34 square meters were:

1. Petitioner Florencio Balatero for a portion of both lots, by purchase from Josefa I. de Badelles and Leona, Salvacion, Jose, Catalina and Dominga, all surnamed Badelles;
2. Josefa Iglupas Badelles for Lot No. 433 having inherited the same from her parents. Josefa died during pendency of the case and was substituted by her heirs, petitioners herein;
3. Private respondent Juan A. Veloso, for Lot No. 433, having purchased the same from Josefa Iglupas; and
4. Anacleto Iglupas for Lot No. 433, having inherited the same from his deceased parents Alejo Iglupas and Tomasa Ronda.

The facts which formed the basis for the trial court's decision are summarized as follows:

"The court finds that Lot No. 817 which contains an area of 34 square meters was provided by the cadastral surveyors for the widening of a national street and the corner thereof with San Miguel St. With the filing of their cadastral answers, claimants admit that the land in question is still part and parcel of the public domain. The State as sovereign power and as absolute and final owner of all lands of the public domain has the right to segregate from an area which it allows to be claimed for private ownership such portion or portions thereof as it may deem necessary to retain for common use and for the public good. Lot No. 817 cannot, therefore, be claimed in private ownership by the claimants herein or any other person for that matter. The State had reserved the same for public use." (p. 33, Rollo)

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"x x x That the property in question was originally owned by the parents of Josefa Iglupas (mother-in-law of claimant Florencio Balatero) and her brother Alejo (father of claimant Anacleto Iglupas); that after the death of their parents, the lot was given to Alejo Iglupas and his wife Tomasa Ronda; that Alejo Iglupas died in 1916 and on May 10, 1968, his widow Tomasa Ronda, and their son Sovero sold the property to Josefa Iglupas and her husband Juan Badelles for a consideration of P111.00, which sale is embodied in a public document denominated 'Escritura de Compra Venta' (Exh. "E"); that in that same year of 1918, Josefa Iglupas together with her husband and children occupied the lot and the old house thereon; that in 1925, Josefa Badelles built a new and bigger house on the lot; that Juan Badelles died in that house and lot in 1927 and his widow Josefa Badelles and her children continued living thereon until the children became of age and got married; that Josefa I. Badelles herself died in that property in 1967; that on June 9, 1930, Josefa Iglupas in order to secure a loan of P68.00 mortgaged the property to claimant Juan Veloso in a public document denominated as 'Pacto de Retro Sale' (Exh. "B"); that this loan was paid sometime in 1947, first in an amount of P100.00 and subsequently an additional amount of P300.00; that on April 30, 1954, Josefa Iglupas and her children Catalina, Leona, Salvacion and Leoncia sold a portion of the lot to Florencio Balatero as shown in a document denominated 'Deed of Sale Unregistered Land' (Exh. "II"); that the lot was later resurveyed and subdivided and in a plan (Exh. "I") duly approved by the Director of Lands, Lot 433 was divided into Lot 433-A (Exh. "I-A") with an area of 98 square meters as pertaining to Florencio Balatero and Lot 433-B (Exh. "I-B") with an area of 118 square meters as pertaining to the Heirs of Josefa Badelles; that Josefa Iglupas Vda. de Badelles had occupied the property from the year 1918 and up to the time of her death in 1967 when her 'Deed of Sale of Unregistered Land' (Exh. "II"); (sic) that heirs succeeded her in the possession thereof; that the property has always been declared in the name of Josefa Iglupas Badelles (Exhs. "IV-Badelles") and taxes thereon paid under her name (Exhs. "VI-Badelles" and "VI-A-Badelles" to "VI-J-Badelles"); that the portion, Lot 433-A, acquired by Florencio Balatero was also later declared in his own name (Ex. "III") and the taxes thereon also paid by him (Exhs. "IV" and "IV-A" to "IV-U").

"After consideration of the evidence of the claimants, the court finds and holds that it is claimant Florencio Balatero who has a registerable title over Lot No. 433-A and the Heirs of Josefa Iglupas Vda. de Badelles over that of Lot No. 433-B. There is no conflict as between the Heirs of Josefa I. Badelles and Florencio Balatero, hence it is only incumbent upon the court to treat of the claims of Anacleto Iglupas and Juan Veloso.

"Anacleto Iglupas claims that what was sold to Josefa Iglupas in the document 'Escritura de Compra Venta' in 1918 is only a house and does not include the lot. The Spanish phrase in the document which is in point reads: 'una casa con su solar de tabla con techo de nipa dentro de la poblacion del Municipio de Iligan'. Iglupas would like to have the word 'solar' interpreted as meaning 'floor'. The english word 'floor' is 'suelo' in Spanish. So what was sold is 'a house including the lot made of wood and with nipa roofing'. This interpretation is buttressed by the fact that the boundaries of the property is (sic) even described in the document. While it is true that Anacleto Iglupas did not sign the document, he testified in Court that Josefa Iglupas began claiming the land as her own wayback in 1925 and he did nothing about it. If Iglupas had ever any right to the property in 1918 to 1925, he lost it by prescription:

""The owners or proprietors of real property, provided with the most legitimate and perfect title, may be deprived and dispossessed thereof by usurpers who, by the lapse of time specified by law, acquire the same by prescription to their benefit and to the prejudice of the legitimate owners.' (Arts 1106 and 1137, Civil Code, Cruz v. De Leon, 21 Phil. 199).

"From 1925 to the present is a period of more than 40 years.

"With respect to claimant Juan Veloso, he was never in possession of the property. He never for once asserted his right to possess the same. This only jibes with the claim of the Heirs of Josefa Iglupas that the 'Pacto de Retro Sale' on which Veloso bases his claim of ownership was only a mortgage. The consideration of the pacto de retro sale in 1930 for the amount of P68.00 is inconsistent with logic if the fact that Josefa Iglupas bought

the property from Tomasa Ronda and Severo Iglupas for a consideration of P111.00 in 1918 is taken into account. In fine, Veloso had never any actual possession or control over the property or any portion thereof which could ripen into a registerable title.

"On the other hand, the Heirs of Josefa Iglupas and Florencio Balatero, the latter through the late Josefa Iglupas have always been in possession of the property under claim of ownership since 1918." (pp. 38-41)

The dispositive portion of the decision of trial court reads:

"WHEREFORE, judgment is hereby rendered adjudicating Lot No. 433-A containing an area of 98 square meters to claimant Florencio Balatero married to Leoncia B. Balatero and Lot No. 433-B containing an area of 118 square meters to the Heirs of Josefa Iglupas Vda. de Badelles, namely: Leona B. Vda. de Moncote, Salvacion B. Dacup, Leoncia B. Balatero, Catalina B. de Gracia, Jose I. Badelles and Dominga Jarabe.

"Lot No. 817 containing an area of 34 square meters is hereby declared as property of the State, the same having been provided for the widening of a national road.

"The Commissioner of Land Registration is hereby directed, after this decision shall have become final, of which he shall be advised by a specific order of this court in Judicial Form No. 115, to issue the corresponding decrees and titles as above provided. (p. 41, Rollo)

Claimant Juan Veloso appealed the decision to the then Intermediate Appellate Court. As stated earlier the lower court's decision was reversed and set aside. The dispositive portion of the appellate decision reads:

"WHEREFORE, decision appealed from is hereby REVERSED and SET ASIDE. Judgment is hereby rendered:

"1. Adjudicating the whole of Cadastral Lot No. 433 (Lot Nos. 433-A and 433-B) to claimant Juan Veloso, Filipino, of legal age, married to Pilar Dancel Veloso with residence at Iligan City.

"2. Declaring Lot No. 817 as property of the state, the same having been provided for the widening of the national road.

"3. Directing the National Land Titles and Deeds of Registration Administration to issue the corresponding decrees and titles as above provided, after the decision has become final.

"Costs against the appellees." (p. 51, Rollo).

Petitioners Florencio Balatero and the Heirs of Josefa Badelles filed a motion for reconsideration on the decision but the motion was denied by the appellate court.

Hence, this petition over the ownership of Lot No. 433.

The petitioners now contend:

"(1) That the Respondent Court erred in holding that the court a quo committed an error in declaring the Pacto de Retro Sale, Exh. B as a mere mortgage;

"(2) That the Respondent Court erred in holding that the two factors inadequacy of price and the vendor remains in possession as a lessee, does not give rise to the presumption that the contract is one of equitable mortgage, inasmuch as Art. 1602 of the New Civil Code of the Philippines, was not found in the Old Civil Code, hence, since the contract was executed in 1930 – 'no such presumption existed as yet';

"(3) That Respondent Court erred in disregarding and not giving weight to the fact that the Petitioners occupied and possessed the subject property openly, adversely, continuously, peacefully and uninterruptedly from 1934, the alleged date of the consolidation of title, to Private Respondent Veloso, up to the present, is covered by Art.

41 of the Code of Civil Procedure and effected the acquisition of the property by prescription; and that Private Respondent's assertion of better title is barred;

"(4) That Respondent Court erred in holding that Petitioners Heirs of Josefa Iglupas had no more right or interest in the subject property when they sold Lot 433-A to Petitioner Florencio Balatero and that the sale to the latter was null and void;

"(5) That Respondent Court erred in disregarding the fact that Petitioner Florencio Balatero is an innocent purchaser in good faith for value and the Respondent Court had no authority to order reconveyance of property already in the name of another;

"(6) That Respondent Court has allowed Private Respondent Veloso to take inconsistent positions contrary to the elementary principles of right dealing and good faith, and cannot 'adopt a posture of double-dealing without running afoul of the doctrine of estoppel'; for it has allowed Private Respondent Veloso who has slept on his rights to prejudice the rights of third parties who have placed reliance on his inaction." (pp. 9-10, Rollo)

The following facts are not disputed: that the subject parcel of land (Lot 433 Iligan Cadastre) was originally owned by the parents of Josefa Iglupas; that after the death of Josefa's parents, Lot 433 was given to Alejo Iglupas who is married to Tomasa Ronda; that after the death of Alejo, Tomasa Ronda sold the said lot to Josefa Iglupas for P111.00 as evidenced by an 'Escritura de Compra Venta' (Exh. "E").

In a June 23, 1930 document denominated as "Pacto de Retro Sale" (Exh. "B") this Lot 433 was sold by Josefa Iglupas to private respondent Juan Veloso for the amount of P68.00. Whether or not this contract was really what it purports to be or was an equitable mortgage is the main issue in the instant petition.

Article 1602 of the present Civil Code states:

"The contract shall be presumed to be an equitable mortgage, in any of the following cases:

"(1) When the price of a sale with right to repurchase is unusually inadequate;

"(2) When the vendor remains in possession as lessee or otherwise;

"(3) When upon or after the expiration of the right to repurchase another instrument extending the period of redemption or granting a new period is executed;

"(4) When the purchaser retains for himself a part of the purchase price;

"(5) When the vendor binds himself to pay the taxes on the thing sold;

"(6) In any other case where it may be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of a debt or the performance of any other obligation.

"In any of the foregoing cases, any money, fruits, or other benefit to be received by the vendee as rent or otherwise shall be considered as interest which shall be subject to the usury laws."

The appellate court, however, declined to apply Article 1602 on the ground that it is a new provision of the New Civil Code not found in the Old Civil Code. The appellate court opined that since the contract was executed in 1930, there was no presumption of an equitable mortgage existing at this time.

This is not well-taken.

We have ruled that Article 1602 applies even to cases arising prior to the effectivity of the New Civil Code. Thus, in the case of Santos v. Duata (14 SCRA 1041) we stated:

"Article 1602 is a new provision in Civil Code designed primarily to curtail the evils brought about by

contracts of sale with right of repurchase, such as the circumvention of the usury law and pactum commissorium. It particularly envisions contracts of sale with right of repurchase where the real intention of the parties is that the (pretended purchase price is money loaned, and in order to secure the payment of the loan a contract purporting to be a sale with pacto de retro is drawn up (See report of the Code Commission, pp. 61-63).

Being remedial in nature, Article 1602 may be applied retroactively to cases arising prior to the effectivity of the New Civil Code. (*Casabar v. Sino Cruz*, L-6882, Dec. 29, 1954). Hence, it may be applied in this case to determine the nature of Exhibit 3." (at p. 1045; emphasis supplied).

The pertinent portions of the contract denominated as Pacto de Retro Sale stated:

"x x x That for and in consideration of the sum of P68.00, the receipt whereof is by these presents acknowledged, the party of the First Part sells, cedes and transfers the property above described to the party of the second part (now Veloso), his heirs and assigns, subject to the conditions hereinbelow specified.

"That the party of the first part (now Iglupas) by these presents reserves for herself, her heirs and assigns, the right to repurchase said property during the period of four (4) months from the execution of this instrument by paying back and returning to said party of the second part the purchase price herein stated together with all the expenses incident to the execution of this instrument; and that on failure of said party of the first part to exercise the right to repurchase said property according to the terms herein stipulated, title thereto shall pass to and resume vested, absolutely and with no reservation, in the party of the second part, his heirs and assigns. In such case, the party of the first part does by these presents covenant with the said party of the second part that before the execution of this instrument she was lawfully seized in fee of said premises; that they were free from all liens and encumbrances, that she had a perfect right to convey the same, and that she will warrant and forever defend the same unto the said party of the second part, his heirs and assigns, against the lawful claims of all persons whomsoever.

"IN TESTIMONY WHEREOF, ----x x."

(Exh. "B") (pp. 86-87, Rollo)

The well-settled principle in the interpretation of a contract is that if the terms thereof are clear and leave no doubt as to the intention of the contracting parties the literal meaning of the stipulation shall control but when the words appear to be contrary to the evident intention of the parties, the latter shall prevail over the former (Article 1281 of the Old Civil Code, now Article 1370, New Civil Code; *Labasan v. Lacuesta*, 86 SCRA 16).

On its face, the contract would show that the disputed parcel of land was transferred to private respondent Juan Veloso by way of sale with pacto de retro. However, there are circumstances present in the instant case which clearly indicate that the contract should be treated as an equitable mortgage.

First, the 216 square meters parcel of land remained undisturbed in the possession of the vendor Josefa Iglupas even after the execution of the contract. Had Josefa Iglupas really executed a contract of sale in favor of Juan Veloso, this small parcel of land should have been delivered to the latter and he would have taken immediate possession after the execution of the contract of sale. The assertion of the private respondent to the effect that Josefa Iglupas became a lessee after the execution of the contract and his claim that the P100.00 received from Josefa Iglupas and the P300.00 from Leoncia Balatero (receipt of which amounts he had earlier denied) were rentals create a presumption that the contract was intended to be an equitable mortgage under paragraph 2, Article 1602 of the New Civil Code (see *Capulong v. Court of Appeals*, 130 SCRA 245). Moreover, Josefa paid the taxes due on the property, mortgaged the lot to the Philippine National Bank, and exercised all acts of ownership during the period when it was supposed to already have been sold.

On this score alone, the appellate court's findings that the contract was really a pacto de retro sale constitutes reversible error. As we ruled in *Santos v. Duata*, supra:

"Ciriaca Santos, however, maintains that mere possession of the land and payment of land taxes due thereon by Duata would not warrant presumption that Exhibit 3 is an equitable mortgage. Accordingly, she contends that there must be a 'concurrence of an overwhelming number of circumstances' before the presumption would arise. To this proposition we do not agree. Article 1602, when it expressly states 'in any of the following cases,' contemplates the existence of any of the circumstances enumerated therein." (at p. 1045)

Second, the price or consideration in 1930 of P68.00 is unusually inadequate. This conclusion is supported by the fact that the same parcel of land was bought by Josefa Iglupas in 1918 for the price of P111.00. If the contract was indeed one of sale, why should the vendor, Josefa Iglupas sell the parcel of land for a price almost half of what she paid for it twelve years earlier. It is common knowledge that the value of real property appreciates through the years and not otherwise. This fact also shows that the contract was an equitable mortgage rather than a contract of sale (See *Labasan v. Lacuesta*, supra; and *Serrano v. Court of Appeals*, 139 SCRA 179).

The fact that four (4) years after the execution of the contract, more specifically on October 6, 1934, private respondent Juan Veloso executed an affidavit (Exh. "D") to consolidate his right of ownership over the subject parcel of land is of no consequence. The "constructive possession" over the parcel of land mentioned by the appellate court did not ripen into ownership. The rule is that only the possession acquired and enjoyed in the concept of owner can serve as a title for acquiring dominion. (Article 447, old Civil Code, Article 540, new Civil Code) As can be gleaned from the facts earlier stated, Juan Veloso never owned the subject parcel of land because the contract over the same between Josefa Iglupas and Juan Veloso was actually an equitable mortgage and not a contract of sale.

The appellate court's observations that the lower court's findings of fact conclusively show that the contract was actually a contract of sale are inaccurate and based on misreading of the provisions.

An examination of the lower court's decision shows that the supposed findings of facts cited by the respondent court are actually a summary of the evidence presented by the private respondent to substantiate his claim that the contract between him and Josefa Iglupas was indeed a contract of sale. This claim was, however, controverted by the petitioners who presented their own evidence to prove that the subject contract was an equitable mortgage. The petitioners' evidence was likewise summarized in the lower court's decision. The lower court, after summarizing the conflicting evidence adduced by both parties, came out with its own findings of facts, the end result of which was its ruling that the subject contract between the protagonists was actually an equitable mortgage. We find no reason to set aside these findings.

WHEREFORE, the instant petition is GRANTED. The questioned decision of the then Intermediate Appellate Court is REVERSED and SET ASIDE. The decision of the then Court of First Instance of Lanao del Norte is REINSTATED.

SO ORDERED.

Fernan, (Chairman), Feliciano, and Cortes, JJ., concur.

Bidin, J., no part.

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