

**SPOUSES ROGELIO BUCE AND ANITA BUCE, PETITIONERS, VS. HON. COURT OF APPEALS AND RAMON DELOS REYES, IN HIS OWN BEHALF AND ON BEHALF OF RHODORA DELOS REYES BERISH, RESPONDENTS.**

*G.R. No. 75575. January 25, 1988*

Ponente: SARMIENTO, J.

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**SARMIENTO, J.:**

The question posed in this petition for review is simple: Was the contract entered into between the petitioners and the private respondent one of sale or real estate mortgage?

The undisputed facts in this case, as found by the trial court, are as follows:

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The plaintiffs were the registered owners of three parcels of land covered by TCT No. 495974 situated at Cainta, Taytay, Rizal, and TCT Nos. 128979 and 128980, both situated at Pandacan, Manila, which they mortgaged with Monte de Piedad & Savings Bank to secure a loan of P178,953.37. When the loan matured, plaintiffs could not pay, so, the mortgage was foreclosed by the Monte de Piedad & Savings Bank. In July, 1979, plaintiffs sold to the defendants-spouses the aforementioned properties, together with all the improvements therein for a consideration of P179,000.00, and the transaction is covered by a Deed of Sale marked as Exhibit “A” for the plaintiff, and Exhibit “4” for the defendant. The consideration of the deed of sale (P179,000.00) was used by plaintiffs to repurchase the foreclosed properties from the Monte de Piedad & Savings Bank, as shown by Exhibits “1” and “1-A”. After the foreclosed properties were repurchased by the plaintiffs, they were simultaneously sold and delivered to the defendants-spouses as previously stated, by virtue of a deed of sale, Exhibit “A”.

Plaintiffs filed this case for reformation of the deed of sale, Exhibit “A”, with damages. They alleged that although Exhibit “A” is an absolute deed of sale, it does not reflect or express the true intention between the parties by reason of fraud and/or inequitable conduct on the part of the defendants, citing Article 1369 of the Civil Code. That the amount of P179,000.00, as consideration of the alleged deed of sale, was only a loan extended by defendants to plaintiffs, and that the properties described therein were mortgaged to secure the loan. That the verbal understanding was for plaintiffs to pay a monthly interest of P4,000.00, and that, defendants actually paid the amount of P20,000.00 as interest; Exhibit “B-1”; where they paid interest in the amount of P40,000.00; Exhibit “B-2” — where they paid interest in the amount of P30,000.00, and Exhibits “C”, “C-1”, “C-2” and “C-3”, the computations showing that plaintiffs have paid substantial amounts as interest. Plaintiff(s) further presented Exhibit “D” — pictures of a house constructed in one of the lots in Manila, showing that it is an expensive residential house, and Exhibits “E”, “E-1”, and “E-2”, which are tax receipts showing that they were paying the real estate taxes of the properties involved in this case.[1]

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After receiving and weighing the evidence of both parties, the trial court rendered judgment dismissing the

complaint with costs against the plaintiffs.[2]

The plaintiffs subsequently appealed to then Intermediate Appellate Court, now Court of Appeals, which set aside the trial court's decision, and entered another one:

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1. Declaring the subject document, denominated as Deed of Sale (Exhibit a), as one of real estate mortgage.
2. Ordering the defendants-appellees Rogelio Buce and Anita Buce to execute a formal Deed of Real Estate Mortgage covering the subject properties in reformation of the document dated September 30, 1979, provided that if the said spouses fail to do so within thirty (30) days from notice of this judgment, then the Clerk of the lower court is hereby authorized to execute the same for and in behalf of the said spouses, the defendants-appellees herein.
3. Directing the Register of Deeds for Manila to cancel and revoke Transfer Certificates of Title Nos. 135302 and 135303 issued in the name of defendants-appellees Rogelio Buce and his wife Anita Buce and to reinstate Transfer Certificates of Titles Nos. 135028 and 135029.[3]

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From the foregoing judgment, the defendants-spouses, now petitioners, filed the instant petition of appeal by certiorari.

We can not find any reversible error in the findings and conclusions of the respondent court sufficient to warrant the setting aside of its questioned decision. As correctly found by the respondent court, the consideration of the supposed sale in the amount of P179,000.00 is inadequate. Private respondent Ramon de los Reyes testified that the market value of the property located along Narciso St., Pandacan, Manila, consisting of a house and lot, is P450,000; that another house and lot situated in Talundon, Pandacan, Manila is valued at P50,000; while the vacant residential lot in Brookside Subdivision, Cainta, Rizal is worth P100,000. Granting that the respondent is not an expert at evaluating the market values of properties, the petitioners themselves stated in their tax declarations that the two Pandacan properties have an aggregate market value of P236,220.00. When we add to this amount the value of the third property located in Brookside Subdivision, the inadequacy of the said consideration of P179,000 becomes even more apparent. It will be noted that one of the two properties located in Pandacan consists of a lot on which stands an expensive residential house — this alone would already command a hefty sum. Furthermore, we cannot accept as purely coincidental the glaring fact that while the stated consideration for the supposed sale was P179,000, the private respondent's indebtedness to the bank amounted to P178,953.37, or a difference of only P46.63. Thus, the most logical conclusion that may be derived from the foregoing is that the P179,000 pesos was, in truth, a loan by the petitioners to the private respondent to enable the latter to redeem his property which was foreclosed by the bank. Besides, had it been the private respondent's real intention to sell rather than to mortgage, we believe that he could have easily found buyers for the properties who would be willing and able to pay a price considerably higher than P179,000.00.

Furthermore, it has been satisfactorily proven that from the time of execution of the contract in issue on September 10, 1979, the realty taxes, for the years 1980 and 1981, on the three properties objects of the "sale", were still paid by the private respondent — apparent vendor (plaintiff-appellant below). And in the words of the respondent court:

xxx While it may be true that the defendants-appellees paid the real taxes on the subject properties in 1982, the fact remains that such payment was made after the filing of the complaint on September 9, 1981 and only after the plaintiff-appellant had already paid the taxes for the first two years immediately preceding (sic) the execution of

the document in question. Clearly, the payment of the taxes in 1982 by the defendants-appellees was a belated attempt on their part to reinforce their claim that the document was a deed of sale.[4]

The conclusion of the respondent court to the effect that the private respondent had been paying interest to the petitioners on the P179,000.00 loan has not been assailed in the instant petition.

Petitioners, however, took exception to the conclusion of the respondent court that the private respondent remained in possession of the subject properties. The petitioners claimed that the present occupancy by the private respondent of the house along Narciso St., Pandacan is merely the consequence of a previous verbal agreement between them and the respondent's mother, allowing the latter to remain therein for two years, and the respondent now refuses to vacate the premises despite the expiration of the said grace period. It is repeatedly stressed by the petitioners in their pleadings that the private respondent deliberately refrained from presenting his mother as witness in order to conceal from the trial court the existence of such an agreement. Suffice it to state that were the petitioners really determined to reveal this alleged verbal agreement, they could have simply asked the court to subpoena the private respondent's mother to appear as a witness, but they did not.

There is no real inconsistency between the ruling in the cases cited by the private respondent and our present pronouncements because in the former, we simply said that the mere disproportion of the price to the value of the land, in the absence of other circumstances incompatible with the contract of purchase and sale, can not alone justify the conclusion that the transaction was a pure and simple loan. Now, we are saying that in the instant case there exist other circumstances, which, when considered jointly with our finding that the price of the "sale" was unusually inadequate, would constitute clear and convincing proof that the agreement in question was, in truth, one of mortgage and not a sale.

In fine, Article 1602,[5] in relation to Article 1604[6] of the Civil Code of the Philippines finds strong application in the case at hand in the light of the following attendant circumstances: 1) the price of the "sale" was unusually inadequate; 2) the apparent vendor remained in possession of the properties "sold;" 3) the vendor continued to pay the taxes on the things "sold;" and 4) the vendor paid interest on the supposed consideration of the "sale." From these circumstances it may be fairly inferred that the real intention of the parties was to secure payment of the P179,000 loan extended by the petitioners to the respondent.

In sum, we are fully convinced that although the deed in question purports to be one of sale, the real intention of the parties was to execute a mortgage to guaranty the payment of a loan. Thus, pursuant to Article 1605[7] of the Civil Code, the private respondent, as the apparent vendor, may ask for the reformation of the instrument.

WHEREFORE, in view of the foregoing, the petition for review is hereby DENIED, for lack of merit, and the decision of the respondent Intermediate Appellate Court (now Court of Appeals) is hereby AFFIRMED. With costs against the petitioners.

### **SO ORDERED.**

Yap (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

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[1] Decision, 2-4; Rollo, 23-25.

[2] Rendered by Judge Alfredo C. Florendo, Regional Trial Court, Branch XXXVI-Manila.

[3] Decisron, 5-6; Rollo. 37-38; Intermediate Appellate Court, Second Civil Cases Division; Justice C. Pascual, ponente with the concurrence of Justices Campos Jr., Camilon and Jurado.

[4] Id., 3; Rollo, 35.

[5] Art. 1602. 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 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.

[6] Art. 1604. The provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale.

[7] Art. 1605. In the cases referred to in Articles 1602 and 1604, the apparent vendor may ask for the reformation of the instrument

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