

INOCENTE LEONARDO, LORENZO LEONARDO, VISITACION LEONARDO, ASUNCION AND MARGARITA LEONARDO BERNAL, PETITIONERS, VS. COURT OF APPEALS AND TROYANO V. LEONARDO, RESPONDENTS.

G.R. No. 82457. March 22, 1993

Ponente: NOCON, J.

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NOCON, J.:

This is a petition for review on certiorari to annul and set aside the decision dated January 26, 1988 of the Court of Appeals[1] affirming the decision of the trial court[2] in ordering the Register of Deeds of Cebu City to register the Deed of Sale with Assumption of Real Estate Mortgage Plus a Right of Repurchase and to issue the corresponding Transfer Certificate of Title in the name of private respondent Troyano V. Leonardo and his wife.

It appears on record that petitioner Inocente Leonardo, married to Cristina Velez, was the registered owner of a parcel of land designated as Lot No. 1414-B of the subdivision plan Psd-40447 situated in Cebu City with an area of 1,700 square meters, more or less, and covered by Transfer Certificate of Title No. 12958.

On August 28, 1969, petitioner Inocente Leonardo and his wife mortgaged subject property including its poultry building with the Development Bank of the Philippines (DBP for brevity) to secure a loan in the amount of P60,000.00.

Sometime in January, 1973, petitioner Inocente Leonardo and his wife received a notice from DBP dated January 19, 1973 informing them of their outstanding loan in the amount of P57,742.75 as of January 31, 1973 and that they have until January 31, 1973 to pay said amount or the subject property will be foreclosed.[3]

On January 31, 1973, petitioner Inocente Leonardo with the consent of his wife executed in favor of their youngest son, private respondent Troyano V. Leonardo, a Deed of Sale with Assumption of a Real Estate Mortgage Plus a Right to Repurchase with the following pertinent stipulations, to wit:

"That for and in consideration of the assumption by the Vendee of the foregoing obligation in favor of the Development Bank of the Philippines, the Vendor hereby SELLS, TRANSFERS and CONVEYS unto the said Vendee, his heirs, successors or assigns, the above-described parcel of land & improvements subject to the existing mortgage in favor of the Development Bank of the Philippines.

"That the Vendor reserves the right to repurchase from the Vendee, the western ONE-HALF (1/2) portion of the above-described parcel of land within a period of SEVEN (7) YEARS from and after the execution of this instrument by paying to the Vendee an amount equivalent to THIRTY-THREE THOUSAND FOUR HUNDRED SEVENTY-FIVE & 80/100 PESOS (P33, 475.80), plus interest at the rate of 12% per annum and one half of whatever expenses, including land taxes, the Vendee shall incur in connection with the sale of the foregoing lot and which he may thereafter incur."[4]

Said document was registered with the Office of the Register of Deeds of Cebu City on May 21, 1976.[5]

Considering that the subject property was already mortgaged, private respondent executed with petitioner spouses a Supplemental Deed of Sale which was also registered with the Register of Deeds.[6]

On February 5, 1980, private respondent filed a Petition for Consolidation of Ownership with the then Court of First Instance of Cebu, Branch 1 in Civil Case No. R-18921 against petitioner spouses Inocente and Cristina Leonardo for the latter's failure to exercise their right to repurchase the subject property within the period agreed upon which expired on January 31, 1980.

Thereafter, private respondent received a letter dated January 29, 1980 from his father, petitioner Inocente Leonardo, but mailed only by the latter on February 12, 1980 as evidenced by the date stamped on the envelope of said registered letter with Registry Receipt No. 2/42 of the Cebu City's Postal Office,[7] together with an enclosed China Banking Corporation check in the amount of P74,000.00,[8] to wit:

"Dear Son:

"With reference to the notarial Deed of Sale, with Assumption of Real Estate Mortgage Plus a Right of Repurchase, relative to one-half (1/2) portion of Lot No. 1414-B, I beg to inform you that I will exercise my right to repurchase from you the said one-half (1/2) portion of said Lot No. 1414-B, as granted to me in said notarial document.

"Your wife has given me a detailed statement of the amount that I will repurchase from you said 1/2 portion of Lot No. 1414-B with 12% interest per annum, a xerox copy of said detailed statement is herewith enclosed, as Annex "A" hereof.

"According to said detailed statement, Annex "A", my total repurchase account with you amounts to P74,004.28, as of January 31, 1980.

"I am now tendering my repurchase payment to you in the sum of P74,000.00 as per enclosed China Banking Corporation Check No. RMS-15618-A belonging to Mrs. Lourdes Leyson payable to me but which I have endorsed the same for payment to you. The difference of P4.28 will be paid to you at any time.

"Please, therefore, the next move is for you to execute in my favor the Deed of Repurchase from you of the 1/2 portion of said Lot No. 1414-B, within the earliest time possible."[9]

On February 16, 1980, the counsel of private respondent sent a letter rejecting petitioner's offer and returned the latter's check on the ground that the period to repurchase subject property had already expired.[10]

Thereafter or on March 4, 1980, petitioner spouses alleged in their Answer that the consolidation in favor of the private respondent could not be legally effected because they have already tendered the purchase price and that the Deed of Sale with Assumption Plus the Right to Repurchase did not express the true intention of the parties inasmuch as the entire Lot No. 1414-B and not merely one-half (1/2) portion thereof shall be the subject of the repurchased agreement.

On July 12, 1980, petitioner Cristina Leonardo died and was substituted by her children, Lorenzo Leonardo, Visitacion Leonardo Asuncion and Margarita Leonardo Bernal constraining petitioners to file a Motion for Leave to Amend Petition on September 15, 1980 which was granted by the trial court.

On December 8, 1980, petitioners in their Amended Answer with Counterclaims alleged that private respondent cannot validly consolidate the ownership of the subject property because the contract executed between them was one of mortgage and not a pacto de retro sale.

After trial on the merits, the trial court rendered a decision, the pertinent portion of which reads:

"Upon evidence on record this Court is fully convinced that the contract, Exh. "A", is a Deed of Sale with

Assumption of Real Estate Mortgage, with a Right to Repurchase based on the evidence on record. The period within which vendor-a-retro should have repurchased the land in question had already expired without said vendor-a-retro having redeemed the property as evidenced by Exhs. "E" to "E-4" inclusive.

"x x x.

"IN VIEW OF THE FOREGOING, judgment is hereby rendered granting the herein amended petition, and the Register of Deeds for the City of Cebu is hereby ordered and directed to record and register the "Deed of Sale With Assumption of Real Estate Mortgage, Plus a Right of Repurchase" in said Office and to issue the corresponding Transfer Certificate of Title in the name of Petitioner Troyano V. Leonardo and his wife, Florencia U. Leonardo."[11]

From said decision, petitioners filed their Notice of Appeal and their Record on Appeal to respondent appellate court.

On November 22, 1982, private respondent filed a Motion for Execution of Judgment with the trial court and the latter on December 9, 1982, granted said motion upon the filing of a bond in the amount of P10,000.00.

On February 18, 1983, petitioners' Motion for Reconsideration and/or to Stay Execution was denied and an appeal from the Order granting said Motion for Execution was filed with the respondent appellate court on March 14, 1983.

In the course of the appeal, petitioner Lorenzo Leonardo died on October 12, 1984.[12]

On January 26, 1988, the respondent appellate court rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, finding no reversible error, the judgment appealed from is hereby AFFIRMED. No costs."[13]

On February 18, 1988, petitioners filed their Motion for Reconsideration which was denied on March 2, 1988.

Hence, this petition.

Petitioners now submit the following issues for the consideration and resolution of this Court, to wit:

1. WHETHER OR NOT THE AGREEMENT ENTERED INTO BETWEEN THE FATHER, PETITIONER INOCENTE LEONARDO, AND THE SON, RESPONDENT TROYANO V. LEONARDO, WAS ONE OF SALE OR MORTGAGE?
2. WHETHER OR NOT THE ORDER OF EXECUTION ISSUED BY THE TRIAL COURT AND AFFIRMED BY THE HONORABLE COURT OF APPEALS WAS VALIDLY ISSUED?[14]

During the pendency of this case or on November 15, 1990, petitioner Inocente Leonardo also died.[15]

The petition is without merit.

The issues raised in this case principally involve questions of fact and the settled rule is that findings of facts of the Court of Appeals are conclusive upon this Court. As held in *Ronquillo vs. Court of Appeals*:

"Elementary is the rule that the jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals in a petition for certiorari under Rule 45 of the Rules of Court is limited to the review of errors of law, and that said appellate court's finding of fact is conclusive upon this Court. However, there are certain exceptions, such as (1) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly absurd, mistaken or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the judgment is premised on a misapprehension of

facts; (5) when the findings of fact are conflicting; and (6) when the Court of Appeals in making its finding went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee." [16]

Petitioners failed to show that they fall under any of the aforementioned exceptions. The appellate court, in affirming the findings of the trial court that the contract executed between private respondent and his father is a pacto de retro sale and not an equitable mortgage, stated as follows:

"From a reading of the document there was no cash outlay given to the vendors (herein petitioners). The sale was solely for and in consideration of the assumption by the vendee (herein private respondent) of the obligation of the vendor in favor of the bank in the sum of P57,742.75.

"So far as one half of the property is concerned, the same was absolutely sold by the vendor to the vendee without the former getting any cash in return thereof except the assumption of respondents' (herein petitioners') obligation with the Development Bank of the Philippines. However, with respect to the other half, respondents (herein petitioners) were granted a right to repurchase the same for a period of seven years for the amount of P33,475.00 plus interest at the rate of 12% per annum and one-half of whatever expenses, including land taxes, the vendee shall incur in connection with the sale of the foregoing lot and which he may thereafter incur.

"There was no actual loan extended or delivered to respondents. Instead, their loan with the DBP was assumed by petitioner, and in consideration of their selling one-half of the property to petitioner, the latter granted the former a right to repurchase the property in the amount aforesaid which corresponds to one-half of the amount stated in the notice of foreclosure (Exh. D) together with the corresponding interest thereon, and it is apparently for this reason that interests were likewise added to the principal amount as repurchase price.

"What is, therefore, apparent from the document of sale with right to repurchase is that in consideration of petitioner's assumption of respondent's obligation with the DBP, respondents ceded one-half of the property to petitioner while the latter granted respondents a period of seven (7) years to repurchase the other half for the same amounts paid by him to the DBP, including the interests thereon.

"Given these considerations which are apparent from the terms of the agreement and the cardinal rule of interpretation that where the terms of the contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulation shall control (Article 1370, New Civil Code). We hold that the Deed of Sale with Assumption of Mortgage Plus a Right to Repurchase (Exh. A) is what it purports to be a sale with right to repurchase one-half of the property and not a mortgage, real or equitable, as belatedly claimed by respondents.

"It is fundamental that contracts are to be interpreted according to their literal meaning when the terms and conditions are clear and leave no doubt as to the intention of the contracting parties (Gonzales vs. Court of Appeals, 124 SCRA 630 [1983]). Thus, if the terms of the pacto de retro sale are clear and the contract is not assailed as false nor its authenticity challenged, the literal sense of its terms shall be given effect (Ordoñez vs. Villaroman, 78 Phil. 116).

"The claim by respondents in their Amended Answer to the Amended Petition that the transaction is an equitable mortgage is a mere afterthought." [17]

It is clear from the terms of the contract that the agreement entered into between the parties is one of a sale with assumption of real estate mortgage with right to repurchase. Said contract provides that the vendor (herein petitioners) has the power to redeem the subject property within seven (7) years from the execution of the document on January 31, 1973, or on January 31, 1980. Thus, when private respondent received the letter of his father, Inocente, on February 12, 1980 signifying his intention to exercise his right to repurchase one-half (1/2) portion of the property in question, the period to repurchase, per their contract, had already expired.

Article 1606 paragraph (3) of the New Civil Code, allowing the vendor thirty (30) days from the time final judgment is rendered within which to repurchase property sold under a contract of sale with a right to repurchase has no application in the instant case. Such article has applicability in a civil action in which the true nature of the contract between the parties was the main issue, that is where the buyer retro honestly believed that the contract he had entered into was an equitable mortgage not a pacto de retro transaction, and because of such belief, he had not redeemed the property within the proper period, which is not present in the case at bar.

The record is clear that petitioner Inocente Leonardo understood the nature of the contract he entered into when he categorically admitted in his letter to private respondent that he is exercising his right to repurchase the subject property and tendering for that purpose the sum of P74,000.00 as his repurchase payment for said property. Moreover, petitioners denied the true nature of their agreement only after private respondent filed his petition for consolidation of ownership with the trial court, by alleging in their Answer that the contract is one of equitable mortgage.

With respect to petitioners' contention that the trial court erred in ordering the execution of the decision despite the pendency of the appeal, this matter was correctly resolved by the respondent appellate court, in this wise:

"Finally, the power to grant or deny a motion for execution is discretionary with the court, unless it is prevented by a preliminary injunction issued by a higher court. Accordingly, the appellate court will not interfere to modify, control or inquire into the exercise of this discretion, unless it be shown that there has been an abuse thereof, or that, since the issuance of the order, conditions have so far changed as to necessitate the intervention of the appellate court to protect the interests of the parties against contingencies which were not, or could not have been contemplated by the trial judge at the time of the issuance of the order." [18]

WHEREFORE, finding no reversible error in the assailed decision, this petition for certiorari is hereby DISMISSED for lack of merit. Costs against petitioners.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Campos, Jr., JJ., concur.

[1] Penned by Justice Oscar M. Herrera with the concurrence of Justice Bienvenido C. Ejercito and Justice Justo P. Torres, Jr..

[2] Penned by Judge Juan Y. Reyes.

[3] Exhibit "D."

[4] Exhibit "A."

[5] Exhibit "A-1."

[6] Exhibits "B", "B-1" up to "B-4."

[7] Exhibit "E-5."

[8] Exhibit "E-4."

[9] Exhibit "E-3."

[10] Exhibit "F."

[11] Original Records, p. 177.

[12] Annex "B" of petitioners' Manifestation.

[13] Rollo, p. 57.

[14] Id., at p. 101.

[15] Annex "A" of petitioners' Manifestation.

[16] Ronquillo vs. Court of Appeals, 195 SCRA 433, 441 (1991).

[17] Rollo, pp. 48-50.

[18] Rollo, p. 57.

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