

JESUS MORALES, PETITIONER, VS. COURT OF APPEALS AND LAZARO CALDERON, RESPONDENTS.*G.R. No. 91003. May 23, 1991*

Ponente: DAVIDE, JR., J.

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This is an appeal by certiorari under Rule 45 of the Revised Rules of Court for the review of the Decision of 27 March 1989 and the Resolution of 7 November 1989 of the Court of Appeals in C.A.-G.R. CV No. 12087 which, respectively, affirmed in toto the decision of the Regional Trial Court of Makati, Branch 136, in Civil Case No. 5459 and denied petitioner's motion to reconsider said 27 March 1989 decision.

The following facts are not disputed:

On 19 October 1983, Lazaro Calderon filed with the Regional Trial Court of Makati, Metro Manila, a complaint against Angelita Asuncion and one John Doe for the recovery of personal property. He alleges therein that he is the owner of a rebuilt jeepney with Motor No. C221-316228, Serial No. CMCI-86296, Plate No. NVS-832, which he caused to be rebuilt by "3" Aces Motorworks at Malibay, Pasay City at a total cost of P40,000.00, including labor; it was thereafter registered with the Land Transportation Commission in the name of defendant Angelita Asuncion pursuant to an agreement with her to the effect that the vehicle be registered in her name for the purpose only of having it operated as a public utility vehicle since she is a franchise holder; defendant Asuncion acknowledged the ownership of plaintiff by signing an Acknowledgement (Annex "A" of the Complaint), and although it was registered in her name, plaintiff was in possession thereof; sometime in April of 1983 Asuncion requested from plaintiff that she be allowed to use the vehicle for one day; plaintiff readily acceded to the request; however, said defendant failed and refused to return the vehicle; in August of 1983, due to plaintiff's incessant request, Asuncion revealed that she entrusted the physical custody of the vehicle to Jesus Morales who owns a compound at 93 Quirino Ave., Caloocan City; when asked by plaintiff and his mother how he came to be in possession of the vehicle, Mr. Morales merely said that it was a matter between him and Asuncion; and up to the filing of the complaint the defendant failed and refused to return the vehicle to plaintiff. Plaintiff further alleges that by reason of the failure and refusal of defendant to return the vehicle, he was deprived of a net income of not less than P3,000.00 a month for the operation of the vehicle and a daily income of at least P40.00 as driver thereof since he personally operated the vehicle; he had been deprived of the income since April 1983; in filing the complaint he was constrained to hire the services of counsel to whom he bound himself to pay attorney's fees of P5,000.00 in the first instance and P10,000.00 should the case reach the appellate court.[1]

Upon the filing of a replevin bond executed by the Sanpiro Insurance Corp., a writ of replevin was issued by the trial court; the vehicle was found in the possession of and was seized by Deputy Sheriff Rodolfo Tarmida, pursuant to the writ, from one Bernabe Caguioa on 20 December 1983, who filed on the following day a so-called notice of Third-Party claim with the Deputy Sheriff.

Petitioner filed with the trial court an Answer In Intervention with Counterclaim and Crossclaim, dated 28

February 1984, wherein he alleges that he is the owner of the vehicle in question having purchased it from defendant Asuncion on 15 February 1983 (the purchase price was allegedly P17,000.00); before he purchased it he took the necessary precaution to examine the title and/or right over the vehicle of Asuncion, the registered owner; he is, therefore, a buyer in good faith. He further claims that plaintiff is not the true owner of the vehicle because he even admitted in his complaint that he agreed to register the vehicle in the name of defendant with the LTC, an act which placed plaintiff in estoppel to further claim ownership of said vehicle; Asuncion always asserted her absolute right to the vehicle and she never mentioned the name of plaintiff; if ever a deed of acknowledgement, dated 2 September 1982, was signed by Asuncion acknowledging that plaintiff is the owner of the vehicle, he is not privy to it and the same is designed to defraud, deceive and fool him so as to deprive him of the ownership and possession of the vehicle for which he already spent P70,000.00; the possibility of conspiracy or connivance between plaintiff and defendant Asuncion is very apparent and patent and the filing of the malicious complaint is an unholy scheme between the plaintiff and defendant; by reason of the filing of the complaint he suffered actual damages in the sum of P70,000.00, and he was compelled to hire the services of counsel to whom he bound himself to pay P20,000.00 as attorney's fees plus P400.00 per appearance. He prays for judgment dismissing the complaint and ordering plaintiff and defendant, solidarily, to pay him P70,000.00 as actual damages, P20,000.00 as exemplary damages, and P20,000.00 as attorney's fees plus P400.00 for every appearance of his counsel.[2]

Defendant Asuncion did not file any Answer; so she was declared in default.

On 8 May 1984 the spouses Bernabe and Cornelia Caguioa filed a so-called Third-Party Claim wherein they claim that they bought the vehicle in question on 19 October 1983 from Jesus Morales for P70,000.00, subject to the following conditions, among others:

- "a) P20,000.00 shall be paid as down-payment, the balance of P50,000.00, which shall earn interest at 2% per month until fully paid, shall be paid on installment at the rate of P500.00 per week commencing 19 November 1983;
- b) The possession and use of the vehicle shall be delivered to vendee upon execution of the deed of sale; however, ownership thereof shall remain with the vendor until the full purchase price plus interest and all charges shall have been paid;
- c) In the event Vendee fails to pay three consecutive daily installments, all prior payments made by vendee shall be forfeited in favor of vendor as liquidated damages."

they introduced improvements on the vehicle worth P30,000.00 and they spent P4,000.00 as cooperative fees and expenses to make the vehicle run as a passenger jeepney and P3,600.00 for insurance premiums; by reason of the unlawful seizure of the vehicle they suffered actual damages in the amounts of P3,120.00 a month representing the jeepney's monthly income, and P1,300.00 a month as Bernabe's monthly income as driver thereof at the rate of P50.00 per day for 26 days a month; they were not able to pay the weekly amortization of P500.00 beginning 19 November 1983; and they were not aware of any flaw or defect in the certificate of registration of the vehicle in the name of Morales, hence they were buyers in good faith. They ask for an award for moral damages due to the sleepless nights and embarrassments they suffered by reason of the seizure of the vehicle, exemplary damages, and attorney's fees in the sum of P15,000.00.[3]

The Caguioas abandoned, however, their Third-Party Claim, and, upon motion of their counsel, the Court dismissed it.[4]

After trial, the Regional Trial Court, upon the following findings and conclusion:

"Since the subject vehicle unquestionably belonged to plaintiff when defendant unauthorizedly executed the

deed of sale Exhibit 4 in favor of intervenor, the transaction is void insofar as plaintiff is concerned -- unless he is barred by estoppel from questioning its binding effect on him.

The first issue, then, is whether facts or circumstances obtain which operate to estop plaintiff from questioning the transaction's validity and efficacy against him. The Court holds the affirmative view. Plaintiff and defendant, in causing, pursuant to their agreement contained in the notarial acknowledgment Exhibit G, the registration of the subject vehicle in the latter's name as owner, represented to the whole world that defendant owned the vehicle, with the concomittant right to perform acts of strict dominion with respect to it, such as selling or mortgaging it. Intervenor, for his part, avows in his testimony that before he bought the vehicle from defendant, he checked the records thereof in the Land Transportation Commission. No evidence exists to show that he knew that the vehicle did not belong to defendant but to plaintiff. The situation thus falls within the purview of the below-quoted provisions of the Civil Code:

Art. 1431. Through estoppel an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon.

Plaintiff contends that intervenor "cannot be considered as buyer in good faith for value", inviting the Court "to take judicial notice that P17,000.00 could not be the value of the jeepney that has just been rebuilt for P41,000.00". However, the rule where the price of the sale is grossly inadequate is as stated in the following Codal precept:

Art. 1470. Gross inadequacy of price does not affect a contract of sale, except as it may indicate a defect in the consent, or that the parties really intended a donation or some other act or contract.

The above provision of the Code leads us to the next issue: whether the purported deed of sale executed by defendant in favor of intervenor (Exh. 4) is in reality a mortgage.

The admission was made by defendant that the vehicle was mortgaged by her to intervenor. This, however, is an extrajudicial declaration, not a testimony given in court in this case and, hence, is not admissible against intervenor. But the Code accords significance to the gross inadequacy of the price of the purported sale to such extent as to create therefrom the presumption that the transaction is an equitable mortgage. (Arts. 1602 (2) in relation to Article 1604). This presumption is reinforced by these undisputed facts: defendant is indebted to intervenor; and the latter allowed seven months to elapse -- presumably the period given defendant to pay off her debt -- before he finally registered the vehicle in his name. Consequently, the Court holds that the purported sale must be treated as an equitable mortgage, which constituted a security for defendant's obligation of P17,000.00 stated as the price of the purported deed of sale.

The obligation secured must be held to have been extinguished though: the income earned by the jeepney while in the possession of intervenor from February 13, 1983, the date of the deed of sale Exhibit 4, up to December 20, 1983, when plaintiff got back the jeepney through replevin was P3,000.00 a month, based on the uncontradicted testimony of plaintiff that the operation of the jeepney earns that much; this gives a total of around P31,500.00; out of this, an amount equal to the obligation of P17,000.00 shall be applied to the payment thereof, pursuant to Article 2102 in relation to Article 2141 of the Code. There results an excess of P14,500.00, to which plaintiff, as owner of the jeepney, is entitled to.

Plaintiff is entitled to recover from defendant the same amount of P31,500.00 as unrealized income, minus the above-mentioned P14,500.00 which intervenor is required to pay to plaintiff. Defendant must also answer for the unrealized income of plaintiff as driver of the vehicle, which he showed, through his testimony as P1,000.00 a month. Moreover, it is but just and fair, under the circumstances, that defendant be sentenced to pay plaintiff attorney's fees in the amount of P5,000.00.

On the issue of whether intervenor did spend P53,000.00 for repairs and improvement done on the vehicle, the

Court is unable to sustain his claim, absent a single receipt to substantiate it. Withal, the Court finds intervenor's claim improbable, considering the undisputed fact that the jeepney was newly rebuilt in January, 1982, or barely a year before he got possession of it."

decreed as follows:

"WHEREFORE, judgment is hereby rendered:

1) Declaring that --

-- the ownership and possession of the subject motor vehicle pertain to plaintiff;

-- the purported deed of sale Exhibit 4 is an equitable mortgage securing an obligation of defendant to intervenor in the amount of P17,000.00 which is, however, to be deemed extinguished by the application of payment out of the income of the vehicle while operated by intervenor;

2) Ordering intervenor to pay to plaintiff the amount of P14,500.00, representing the balance of the income of the vehicle after deducting the payment for defendant's obligation; and

3) Ordering defendant to pay plaintiff the following amounts --

-- P17,000.00 representing, together with the aforesaid amount of P14,500.00 which intervenor is required to pay plaintiff, unrealized income of the vehicle during the period that he was deprived of it;

-- P10,500.00 representing unrealized income as driver of the jeep during the same period; and

-- P5,000.00 for attorney's fees, with costs.

SO ORDERED."[5]

Not satisfied with the decision, petitioner appealed therefrom to the Court of Appeals. The appeal was docketed as C.A.-G.R. CV No. 12087.

In the Brief[6] he submitted in said case petitioner assigned the following errors:

"I

THE COURT A QUO ERRED IN FINDING THAT THE OWNERSHIP AND POSSESSION OF THE SUBJECT VEHICLE PERTAINS TO THE PLAINTIFF.

II

THE COURT A QUO ERRED THAT THE PURPORTED DEED OF SALE IS AN EQUITABLE MORTGAGE SECURING AN OBLIGATION OF DEFENDANT TO INTERVENOR IN THE AMOUNT OF P17,000.00 WHICH IS, HOWEVER, TO BE DEEMED EXTINGUISHED BY THE APPLICATION OF PAYMENT OUT OF THE INCOME OF THE VEHICLE WHILE OPERATED BY INTERVENOR.

III

THE COURT A QUO ERRED IN ORDERING THE INTERVENOR TO PAY TO PLAINTIFF THE AMOUNT OF P14,500.00, REPRESENTING THE BALANCE OF THE INCOME OF THE VEHICLE AFTER DEDUCTING THE PAYMENT FOR DEFENDANT'S OBLIGATION.

IV

THE COURT A QUO ERRED IN NOT GIVING ATTORNEY'S FEES AND DAMAGES TO THE INTERVENOR-APPELLANT TO BE PAID BY PLAINTIFF-APPELLEE.

The Court of Appeals found the assigned errors to be without merit, and in its decision of 27 March 1989,[7] it affirmed in toto the decision of the Regional Trial Court. His motion to reconsider the same having been denied in the resolution of the Court of Appeals of 7 November 1989,[8] petitioner instituted this present petition wherein, as admitted by him, he assigns "same errors raised in C. A., but differently stated:

1. Both the C. A. and the RTC, after correctly finding and concluding that the plaintiff Lazaro Calderon (respondent herein) is estopped from assailing the validity of the sale of the motor vehicle in question to intervenor Jesus Morales (petitioner), erred in executing in the same breath a turn-about by "declaring that the ownership and possession of the subject motor vehicle pertains to the plaintiffs' (respondent herein) as against the intervenor Jesus Morales (petitioner).
2. Both the C. A. and the RTC erred in declaring respondent Lazaro Calderon as the owner and rightful possessor of the subject motor vehicle although there is no evidence on record to support the finding, thereby committing a grave abuse of discussion (sic) amounting to lack of jurisdiction.
3. The C. A. and the RTC erred in ordering intervenor Jesus Morales to pay damages to the respondent Lazaro Calderon to compensate the alleged loss of earning of the latter.
4. The C. A. and the RTC erred in declaring that the deed of sale of the motor vehicle in question executed by defendant Angelita Asuncion in favor of the petitioner Jesus Morales is an equitable mortgage.
5. The C. A. and the RTC erred in applying Articles 2102 and 2141 of the Civil Code.
6. The RTC and the C. A. erred in not making the respondent Lazaro Calderon and Sanpiro Insurance Corporation jointly and severally liable for the wrongful issuance of the writ of replevin.
7. The C. A. and the RTC erred in not awarding in favor of the petitioner Jesus Morales attorney's fees and other damages."[9]

We find no compelling reason to reverse the subject decision of the Court of Appeals.

The issues raised principally involve questions of fact. The rule is well stated that findings of facts of the Court of Appeals are conclusive upon this Court. In *Paciano Remalante vs. Cornelia Tibe and Court of Appeals*, 158 SCRA 138, 144-146, We said:

"The rule in this jurisdiction is that only questions of law may be raised in a petition for certiorari under Rule 45 of the Revised Rules of Court. 'The Jurisdiction of the Supreme Court in cases brought to it from the Court of Appeals is limited to reviewing and revising the errors of law imputed to it, its findings of fact being conclusive' (*Chan v. Court of Appeals*, G. R. No. L-27488, June 30, 1970, 33 SCRA 737, reiterating a long line of decisions). This Court has emphatically declared that 'it is not the function of the Supreme Court to analyze or weigh such evidence all over again, its jurisdiction being limited to reviewing errors of law that might have been committed by the lower court' (*Tiongco v. De la Merced*, G. R. No. L-24426, July 25, 1974, 58 SCRA 89; *Corona v. Court of Appeals*, G. R. No. 62482, April 28, 1983, 121 SCRA 865; *Baniqued v. Court of Appeals*, G. R. No. L-47531, February 20, 1984, 127 SCRA 596). 'Barring, therefore, a showing that the findings complained of are totally devoid of support in the record, or that they are so glaringly erroneous as to constitute serious abuse of discretion, such findings must stand, for this Court is not expected or required to examine or contrast the oral and documentary evidence submitted by the parties' (*Santa Ana, Jr. v. Hernandez*, G. R. No. L-16394, December 17, 1966, 18 SCRA 973).

In several decisions of recent vintage (*Rizal Cement Co., Inc. v. Villareal*, G. R. No. L-30272, February 28, 1985, 135 SCRA 15; *Ramos v. Court of Appeals*, G. R. No. L-25463, April 4, 1975, 63 SCRA 331; *Garcia v. Court of Appeals*, G. R. No. L-26490, June 30, 1970, 33 SCRA 623; *Ramos v. Pepsi-Cola Bottling Co.*, G. R. No. L-22533, February 9, 1967, 19 SCRA 289), the Court summarized and enumerated the exceptional circumstances that would compel the Supreme Court to review findings of fact of the Court of Appeals, to wit:

(1)

when the conclusion is a finding grounded entirely on speculation, surmises or conjectures (Joaquin v. Navarro, 93 Phil. 257 (1953));

(2)

when the inference made is manifestly absurd, mistaken or impossible (Luna v. Linatoc, 74 Phil. 15 (1942));

(3)

when there is grave abuse of discretion in the appreciation of facts (Buyco v. People, 95 Phil. 253 (1954));

(4)

when the judgment is premised on a misapprehension of facts (De la Cruz v. Sosing, 94 Phil. 26 (1953); Castillo v. Court of Appeals, G. R. No. L-48290, September 29, 1983, 124 SCRA 808);

(5)

when the findings of fact are conflicting (Casica v. Villaseca, 101 Phil. 1205 (1957)); and

(6)

when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (Evangelista v. Alto Surety & Ins. Co., Inc., 103 Phil. 401 (1958)).[***]

However, in Garcia, supra, the Court considered exception Nos. 7, 8 and 9 as circumstances that, taken together, compelled it to go into the record of the case in order to find out whether or not it fell within any of the six established exceptions.

On the other hand, exception No. 10 may be considered as an illustration of the fourth exception - that the judgment is based on a misapprehension of facts."

Petitioner miserably failed to show that this case falls under any of the foregoing exceptions.

The first assigned error is based on a wrong premise and is the result of a deliberate misreading or misapprehension of what the courts below stated. It assumes that the "sale" in favor of petitioner was in fact a "sale". Both courts, however, ruled that it was merely an equitable mortgage, which also binds the plaintiff. Therefore, it did not transfer ownership of the vehicle to petitioner.

The disquisition of the Court of Appeals on this point is so clear and unequivocal as to leave no room for a possible misapprehension:

"... As between plaintiff and Asuncion, plaintiff remains the owner. He is only estopped from repudiating transactions that were entered into by Asuncion in relation to the property (Article 1431, N.C.C.). If Asuncion actually sold the property to the appellant then plaintiff is estopped from questioning the validity of the sale.

But if as found by the court a quo, the real transaction between defendant Asuncion and appellant is a mere equitable mortgage, then plaintiff as real owner may validly exercise whatever rights Asuncion may have as ostensible owner and redeem the property if in fact it was merely a mortgage before it is foreclosed in accordance with law. Intervenor cannot acquire more than what Asuncion as ostensible owner of the vehicle actually gave him." [10]

The lament then of petitioner that he is deprived of ownership and possession although he is an innocent purchaser for value, and therefore punished, while plaintiff and defendant Asuncion are "handsomely rewarded" is baseless.

In the first place, both courts made no express finding that petitioner was a purchaser for value in good faith. Having found and concluded that the so-called deed of sale in favor of petitioner was merely an equitable mortgage, it was no longer necessary to belabor the point. This conclusion also renders unnecessary petitioner's peregrinations into the law and jurisprudence on estoppel.

In the second place, if indeed the deed of sale reflected the true and real intention of the parties, We find it rather surprising why petitioner did not present Asuncion as a witness. Instead, in his brief in C.A.-G.R. CV No. 12087, it was the plaintiff whom he faulted for not presenting Asuncion to testify on the so-called Acknowledgement she signed. [11] We find it also surprising why, although the so-called deed of sale was executed on 15 February 1983 yet, it was registered only in September 1983. A new certificate of registration, C.R. No. 0911304, was issued to petitioner only on 9 September 1983. [12]

Finally, it is apparent that as early as August of 1983 intervenor already knew that plaintiff claimed ownership of the vehicle. Plaintiff specifically alleged in his complaint that:

"9. Sometime in August 1983, due to plaintiff's incessant request, defendant revealed that she had entrusted the physical custody of the vehicle to one Mr. Jesus Morales who owns the compound at 93 Quirino Avenue, Caloocan City, Metro Manila;

10. That when pressed why she could not return the vehicle and why Mr. Morales came in possession and custody of the same, defendant was evasive and non-committal but simply fails and refuses to return the same to its rightful owner the plaintiff herein;

11. That plaintiff and his mother inquired from Mr. Morales how he came in possession of the vehicle in question, but Mr. Morales said that it was a matter between him and Angelita Asuncion, the defendant." [13]

Yet, despite the specific allegation as against him, petitioner, in his Answer in Intervention with Counterclaim and Crossclaim, answered the aforesaid paragraph 11, and other paragraphs, merely by saying that "he has no knowledge or information sufficient to form a belief as to its truth." While it may be true that under the Rules one could avail of this statement as a means of a specific denial, nevertheless, if an allegation directly and specifically charges a party to have done, performed or committed a particular act but the latter had not in fact done, performed or committed it, a categorical and express denial must be made. In such a case, the occurrence or non-occurrence of the facts alleged may be said to be within the party's knowledge. In short, the petitioner herein could have simply expressly and in no uncertain terms denied the allegation if it were untrue. It has been held that when the matters of which a defendant alleges of having no knowledge or information sufficient to form a belief, are plainly and necessarily within his knowledge, his alleged ignorance or lack of information will not be considered as specific denial. [14] His denial lacks the element of sincerity and good faith, hence insufficient. [15] Worse, on the very day that the complaint was filed by plaintiff Lazaro Calderon in the Regional Trial Court, i.e., 19 October 1983, he "sold" the vehicle to Third-Party claimant Bernabe Caguioa under a so-called conditional sale for P70,000.00, of which P20,000.00 was paid as downpayment and the balance of P50,000.00, which shall

earn interest at 2% per month, was to be paid in installments at the rate of P500.00 weekly, beginning 19 November 1983. Possession and use of vehicle were transferred to vendee upon the execution of the sale; however, ownership was to remain with petitioner until full payment of the purchase price.[16] The vehicle was in fact seized from Caguioa on 20 December 1983. Surprisingly, despite the fact that he had already allegedly paid the downpayment of P20,000.00, and had interposed in his Third-Party Claim claims against plaintiff, the deputy sheriff and the insurance firm (Sanpiro Insurance Corp.) for the refund of P20,000.00 which he allegedly paid to herein petitioner, P30,000.00 for alleged major improvements he introduced on the vehicle, and P7,600.00 which he paid to the Cooperative Fees and for insurance premiums, and for payment of P4,420.00 a month as expected income, as well as for moral and exemplary damages, costs, and attorney's fees of P15,000.00, Caguioa, as stated earlier, abandoned the Third-Party Claim; it was dismissed on 16 September 1985, upon motion of his lawyer. We are unable to understand why, if indeed Caguioa also acted in good faith in entering into the contract of conditional sale over the vehicle, he would not pursue his Third-Party Claim, and why he did not even bother to file any claim against his vendor, herein petitioner. Moreover, petitioner deliberately failed to disclose in his Answer in Intervention With Counterclaim and Crossclaim that the vehicle was the subject of a conditional sale in favor of Caguioa and that he (petitioner) was not in possession of the vehicle. On the contrary, he stoutly maintained that the filing of the complaint "is an unholy scheme designed to deprived (sic) defendant-intervenor of his ownership and possession of the said jeep, done in concert and conspiracy, designed to deprive possession and ownership of defendant-intervenor of said motor vehicle." [17]

Finally, although he captioned his Answer in Intervention as one with Counterclaim and Crossclaim, petitioner did not make any specific allegations against defendant Asuncion; he only expressed suspicion of possible connivance and conspiracy between plaintiff and Asuncion.

The foregoing negate petitioner's pretensions of good faith.

Under the second assigned error petitioner maintains that there is no evidence on record to support the finding of the courts below that plaintiff Lazaro Calderon is the owner of the vehicle in question. He stressed two vital points, namely, (1) all the receipts of payment for the rebuilding of the vehicle marked in evidence show that all payments were made by plaintiff's father, Guillermo Calderon, and (2) on 6 September 1982 plaintiff sold the vehicle to defendant Asuncion per a Deed of Sale of Motor Vehicle duly acknowledged before a notary public (Exh. "2"-Morales, Annex "P" of Petition; Rollo, 93). The courts below took into account these pieces of evidence together with the other exhibits offered by plaintiff and his testimony as well as the testimony of his witness, Mr. Pimentel, owner of the motor shop contracted to rebuild the vehicle. Petitioner even supplied the best evidence of plaintiff's ownership, the so-called Deed of Sale executed by Lazaro in favor of Asuncion.[18]

However, as against plaintiff, Exh. "2"-Morales would not improve the position of petitioner. It was evidently executed in connection with the agreement to have the vehicle registered in the name of the franchisee, defendant Asuncion.

The third, fourth, fifth and seventh assigned errors are as equally baseless as the first and second assigned errors. Respondent Court of Appeals correctly held:

"In his second assignment of error, appellant has not dealt in the vital issue of gross inadequacy of the price which led the court a quo to the conclusion that his transaction with defendant Asuncion is a mere equitable mortgage. He has confined himself to insisting that the transaction is one of sale and that he is a buyer in good faith.

Plaintiff's claim that the jeep was rebuilt on January 1982 at a total cost of P41,000.00 is corroborated by the testimony of Cresencio Pimentel, owner of the motor shop who rebuilt the jeepney and finds added support in

the receipts, Exhibit A to E, indicating payment of some P39,000.00 for the assembly of a passenger type jeepney. The real value of the jeep may be gleaned from the sale thereof purportedly executed by appellant to Caguioa in the sum of P70,000.00 from which the court a quo drew the conclusion that the price of P17,000.00 in the purported sale between defendant and appellant is grossly inadequate thereby giving rise to the presumption that the contract between them is an equitable mortgage (Article 1602, N.C.C.). This belief of the court a quo is reinforced by its observations that Intervenor is indebted to defendant and allowed seven months to elapse - presumably the period given defendant to pay off his debt - before he finally registered the vehicle in his name (p. 3, Decision).

Except for the statement that "defendant is indebted to the intervenor" is an undisputed fact, as there is no adequate evidence to support such statement, which we do not however find to be decisive, We find no error in the trial court's finding that the price is grossly inadequate.

The rule is now well-settled that a contract appearing on its face to be a definite sale like the contract in question, may be interpreted as an equitable mortgage if any of the circumstances mentioned in Article 1602 of the Civil Code such as gross or inadequacy of the price is present (Article 1604, N.C.C.).

The transaction having been correctly found by the court a quo as an equitable mortgage and appellant not having questioned in this appeal, the finding that the income earned by the jeepney while in the possession of Intervenor from February 13, 1983 to the date of the deed of sale, Exhibit 4, up to December 20, 1983 when plaintiff got back the vehicle or a total amount of P31,500.00, no error was committed by the court a quo in ordering Intervenor to pay plaintiff P14,500.00 representing the balance of the income of the vehicle after deducting the payment of defendant's obligation.

Parenthetically, the record discloses that in selling the vehicle to Bernabe Caguioa, appellant was paid P20,000.00 as down payment which is P3,000.00 more than his initial investment. In addition, he was paid P500.00 weekly from November 19, 1983 to December 19, 1983 or for four (4) weeks or a total of P2,000.00 plus P1,000.00 representing interest (p[.] 8 [.] Appellee's Brief).

No error was likewise committed in ordering defendant to pay plaintiff the sum of P17,000.00 which was deducted from the income of the vehicle that would have accrued to plaintiff but was applied instead to the satisfaction of defendant's mortgage obligation to the Intervenor. Plaintiff having in effect paid defendant's obligation the latter should in turn reimburse the plaintiff for such payment.

Having found the first three assignment of errors to be unmeritorious, the fourth assignment of error which is merely dependent on the success of the preceding errors must necessarily fail.

It may, however, be pointed out that in the opening statement under the fourth assignment of error, appellant claims to have spent P53,000.00 in improving the jeep, consisting of replacement of injection pump, repairs of transmission, engine overhaul, changing the four tires to new ones, battery, decoration painting of the vehicle. These are substantially the same items which Caguioa claims to have introduced in the same vehicle. The pretense of appellant was totally disbelieved by the court a quo absent a single receipt to substantiate it. "Withal, the court finds intervenor's claim improbable, considering the undisputed fact that the jeepney was newly rebuilt in January 1982, or barely a year before he got possession of it[.]" (page 4[.] Decision).

No effort was made by appellant to dispute the foregoing findings of the court a quo which has in its favor the presumption of correctness. As aptly put in *Corliss v Manila Railroad Company* "In the more traditional terminology, the lower court's judgment has in its favor the presumption of correctness. It is entitled to great respect. After all, the lower court had the opportunity of weighing carefully what was testified to and apparently did not neglect it. There is no affront to justice then if its finding be accorded acceptance, subject of course to the contingency of ultimate reversal if error or errors, substantial in character, be shown in the conclusion thus arrived at. It is a fair statement of the governing principle to say that the appellate function is exhausted when there is found to be a rational basis for the result reached by the trial court." (27 SCRA 674,

Supra).

The sixth assigned error does not merit the slightest consideration. The vehicle in question was seized pursuant to the writ of replevin from Bernabe Caguioa supported by the replevin bond executed by Sanpiro Insurance Corp. Caguioa was in possession of the vehicle by virtue of the so-called conditional sale in his favor executed by petitioner. The latter, therefore, had no cause of action against plaintiff and Sanpiro. As a matter of fact, petitioner did not file any claim against Sanpiro. It was Caguioa who did in his Third-Party Claim.

IN THE LIGHT OF THE FOREGOING, the instant petition is hereby DISMISSED for lack of merit, with costs against petitioner.

SO ORDERED.

Fernan, C.J., Gutierrez, Jr., Feliciano, and Bidin, JJ., concur.

[1] Complaint, Annex "D" of Petition; Rollo, 47-50.

[2] Annex "F" of Petition; Rollo, 57-61.

[3] Annex "E" of Petition; Rollo, 51-56.

[4] Petition, 4; Rollo, 4; Annex "C" of Petition; Rollo, 43.

[5] Annex "C" of Petition; Rollo, 43-46.

[6] Annex "G" of Petition; Rollo, 62.

[7] Annex "A" of Petition; Id., 33-39.

[8] Annex "B" of Petition; Id., 40-42.

[9] Petition, 6-7; Rollo, 7-8.

[***] In *Sacay v. Sandiganbayan* (G. R. Nos. 66497-98, July 10, 1986, 142 SCRA 593), the Court enumerated four more exceptions: ... (7) the findings of the Court of Appeals are contrary to those of the trial court; (8) said findings of fact are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Garcia v. Court of Appeals*, G. R. No. L-26490, June 30, 1970, 33 SCRA 622); (10) the finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, G. R. No. L-21727, May 29, 1970, 33 SCRA 242).

[10] Decision of Court of Appeals, Annex "A" of Petition, 4-5; Rollo, 36-37.

[11] P. 9, Brief for Intervenor, Annex "G" of Petition.

[12] Exh. "3"-Morales, Annex "U" of Petition; Rollo, 98.

[13] Paragraphs 9 to 11 of Complaint, Annex "D" of Petition; Rollo, 47-50.

[14] *I Moran*, Comments On The Rules of Court, 1979 ed., p. 334, citing *Ice Plant Equipment Co. vs. Martocello*, D.C.P. PA., 1941, 43 F. Supp. 281.

[15] *Gutierrez, et al. vs. Court of Appeals, et al.*, 74 SCRA 127; *Warner Barnes & Co. vs. Reyes*, 103 Phil. 662.

[16] Third-Party Claim, Annex "E" of Petition; Rollo, 51-55.

[17] Paragraph 8 of Answer in Intervention; Rollo, 59, underscoring supplied for emphasis.

[18] Exh. "2"-Morales.

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