

FERNANDO T. MATE, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND INOCENCIO TAN, RESPONDENTS.

G.R. Nos. 120724-25. May 21, 1998

Ponente: MARTINEZ, J.

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MARTINEZ, J.:

In this petition for review, petitioner assails the Decision[1] of the Court of Appeals dated August 29, 1994 in CA-G.R. CV No. 28225-26, which affirmed with modification the decision of the trial court, the dispositive portion of which reads, to wit:

“WHEREFORE, this Court finds the Deed of Sale with Right of Repurchase executed October 6, 1986 valid and binding between plaintiff and defendant (as vendor and vendee-a-retro respectively); that as the period to redeem has expired, ownership thereof was consolidated by operation of law, and the Register of Deeds is hereby ordered to REGISTER this decision consolidating the defendant’s ownership over the properties covered by Transfer Certificate of Title No. T-90-71, covering Lot 8; Original Certificate of Title No. N-311 covering Lot 5370, all of the Tacloban Cadastre, and issuing to defendant Inocencio Tan his titles after cancellation of the titles presently registered in plaintiff Fernando T. Mate’s name and that of his wife.

“The plaintiff Fernando Mate is further ordered to pay defendant the sum of ONE HUNDRED FORTY THOUSAND (P140,000.00) PESOS, for and as attorney’s fees.

“With costs against the plaintiff Fernando Mate.

“SO ORDERED.”[2]

The facts of this case, as summarized in the petition, are reproduced hereunder:

“On October 6, 1986 Josefina R. Rey (hereafter referred to as “Josie” for short) and private respondent went to the residence of petitioner at Tacloban City. Josie who is a cousin of petitioner’s wife solicited his help to stave off her and her family’s prosecution by private respondent for violation of B.P. 22 on account of the rubber checks that she, her mother, sister and brother issued to private respondent amounting to P4,432,067.00. She requested petitioner to cede to private respondent his three (3) lots in Tacloban City in order to placate him. On hearing Josie’s proposal, he immediately rejected it as he owed private respondent nothing and he was under no obligation to convey to him his properties. Furthermore, his lots were not for sale. Josie explained to him that he was in no danger of losing his properties as he will merely execute a simulated document transferring them to private respondent but they will be redeemed by her with her own funds. After a long discussion, he agreed to execute a fictitious deed of sale with right to repurchase covering his three (3) lots mentioned above subject to the following conditions:

- The amount to be stated in the document is P1,400,000.00 with interest thereon at 5% a month;
- The properties will be repurchased within six (6) months or on or before April 4, 1987;

- Although it would appear in the document that petitioner is the vendor, it is Josie who will provide the money for the redemption of the properties with her own funds;

- Titles to the properties will be delivered to private respondent but the sale will not be registered in the Register of Deeds and annotated on the titles.

“To assure petitioner that Josie will redeem the aforesaid properties, she issued to him two (2) BPI checks both postdated December 15, 1986. One check was for P1,400,000.00 supposedly for the selling price and the other was for P420,000.00 corresponding to the interests for 6 months. Immediately thereafter petitioner prepared the Deed of Sale with Right to Repurchase (Exh. A) and after it has been signed and notarized, it was given to private respondent together with the titles of the properties and the latter did not register the transaction in the Register of Deeds as agreed upon.

“On January 14, 1987, petitioner deposited the check for P1,400,000.00 (Exh. B) in his account at the United Coconut Planters Bank and the other check for P420,000.00 (Exh. D) in his account at METROBANK preparatory to the redemption of his properties. However, both of them were dishonored by the drawee bank for having been drawn against a closed account. Realizing that he was swindled, he sent Josie a telegram about her checks and when she failed to respond, he went to Manila to look for her but she could not be found. So he returned to Tacloban City and filed Criminal Cases Nos. 8310 and 8312 against her for violation of B.P. 22 but the cases were later archived as the accused (Josie) could not be found as she went into hiding. To protect his interest, he filed Civil Case No. 7396 of the Regional Trial Court of Leyte, Branch VII, entitled ‘Fernando T. Mate vs. Josefina R. Rey and Inocencio Tan’ for Annulment of Contract with Damages. Defendant Josefina R. Rey (Josie) was declared in default and the case proceeded against private respondent. But during the trial the RTC court asked private respondent to file an action for consolidation of ownership of the properties subject of the sale and pursuant thereto he filed Civil Case No. 7587 that was consolidated with the case he filed earlier which were later decided jointly by the trial court in favor of private respondent and was subsequently appealed to respondent Court that affirmed it with modification. Thereupon, petitioner filed a motion to reconsider the decision but it was denied. Hence, the instant petition for review.”[3]

In this petition for review, the petitioner presents as the sole issue the validity of the Deed of Sale with Right to Repurchase. He contends that it is null and void for lack of consideration because allegedly no money changed hands when he signed it and the checks that were issued for redemption of the properties involved in the sale have been dishonored by the drawee bank for having been drawn against a closed account.[4]

The contention is without merit.

There was a consideration. The respondent court aptly observed that -

“In preparing and executing the deed of sale with right of repurchase and in delivering to Tan the land titles, appellant actually accommodated Josefina so she would not be charged criminally by Tan. To ensure that he could repurchase his lots, appellant got a check of P1,400,000.00 from her. Also, by allowing his titles to be in possession of Tan for a period of six months, appellant secured from her another check for P420,000.00. With this arrangement, appellant was convinced he had a good bargain. Unfortunately his expectation crumbled. For this tragic incident, not only Josefina, but also Tan, according to appellant must be answerable.

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“It is plain that consideration existed at the time of the execution of the deed of sale with right of repurchase. It is not only appellant’s kindness to Josefina, being his cousin, but also his receipt of P420,000.00 from her which impelled him to execute such contract.”[5]

Furthermore, while petitioner did not receive the P1.4 Million purchase price from respondent Tan, he had in his possession a postdated check of Josie Rey in an equivalent amount precisely to repurchase the two lots on or before the sixth month.

As admitted by petitioner, by virtue of the sale with pacto de retro, Josie Rey gave him, as vendor-a-retro, a postdated check in the amount of P1.4 Million, which represented the repurchase price of the two (2) lots. Aside from the P1.4 Million check, Josie gave another postdated check to petitioner in the amount of P420,000.00, ostensibly as interest for six (6) months but which apparently was his fee for having executed the pacto de retro document. Josie thus assumed the responsibility of paying the repurchase price on behalf of petitioner to private respondent.

Unfortunately, the two checks issued by Josie Rey were worthless. Both were dishonored upon presentment by petitioner with the drawee banks. However, there is absolutely no basis for petitioner to file a complaint against private respondent Tan and Josie Rey to annul the pacto de retro sale on the ground of lack of consideration, invoking his failure to encash the two checks. Petitioner’s cause of action was to file criminal actions against Josie Rey under B.P. 22, which he did. The filing of the criminal cases was a tacit admission by petitioner that there was a consideration of the pacto de retro sale.

Petitioner further claims that the pacto de retro sale was subject to the condition that in the event the checks given by Josie Reyes to him for the repurchase of the property were dishonored, then the document shall be declared null and void for lack of consideration.

We are not persuaded.

Private respondent Tan was already poised to file criminal cases against Josie Rey and her family. It would not be logical for respondent Tan to agree to the conditions allegedly imposed by petitioner. Petitioner knew that he was bound by the deed of sale with right to repurchase, as evidenced by his filing criminal cases against Josie Rey when the two checks bounced.

The respondent court further made the candid but true observation that:

“If there is anybody to blame for his predicament, it is appellant himself. He is a lawyer. He was the one who prepared the contract. He knew what he was entering into. Surely, he must have been aware of the risk involved. When Josefina’s checks bounced, he should have repurchased his lots with his own money. Instead, he sued not only Josefina but also Tan for annulment of contract on the ground of lack of consideration and false pretenses on their part.”

Petitioner then postulates that “it is not only illegal but immoral to require him to repurchase his own properties with his own money when he did not derive any benefit from the transaction.” Thus, he invokes the case of *Singson vs. Isabela Sawmill*, 88 SCRA 633, 643, where the Court said that “where one or two innocent persons must suffer, that person who gave occasion for the damages to be caused must bear consequences.” Petitioner’s reliance on this doctrine is misplaced. He is not an innocent person. As a matter of fact, he gave occasion for the damage caused by virtue of the deed of sale with right to repurchase which he prepared and signed. Thus, there is the equitable maxim that between two innocent parties, the one who made it possible for the wrong to be done should be the one to bear the resulting loss.[6]

Petitioner further insinuates that private respondent deceived him into signing the deed of sale with right to repurchase. This is not borne out by the evidence nor by petitioner's own statement of facts which we heretofore reproduced. As aptly observed by the respondent court "We are at a loss why herein appellant ascribes false pretenses to Tan who merely signed the contract." [7] Contrary to petitioner's pretension, respondent Tan did not employ any devious scheme to make the former sign the deed of sale. It is to be noted that Tan waived his right to collect from Josefina Rey by virtue of the pacto de retro sale. In turn, Josefina gave petitioner a postdated check in the amount of P1.4 Million to ensure that the latter would not lose his two lots. Petitioner, a lawyer, should have known that the transaction was fraught with risks since Josefina Rey and family had a checkered history of issuing worthless checks. But had petitioner not agreed to the arrangement, respondent Tan would not have agreed to waive prosecution of Josefina Rey.

Apparently, it was petitioner's greed for a huge profit that impelled him to accede to the scheme of Josefina Rey even if he knew it was a dangerous undertaking. When he drafted the pacto de retro document, he threw caution to the winds forgetting that prudence might have been the better course of action. We can only sympathize with petitioner's predicament. However, a contract is a contract. Once agreed upon, and provided all the essential elements are present, it is valid and binding between the parties.

Petitioner has no one to blame but himself for his misfortune.

WHEREFORE, the Decision of the Court of Appeals dated August 29, 1994 is hereby AFFIRMED. The petition for review is hereby DENIED DUE COURSE for lack of merit.

SO ORDERED.

Regalado (Chairman), Melo, Puno, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Angelina S. Gutierrez (Twelfth Division) and concurred in by Associate Justices Jaime M. Lantin and Conchita Carpio Morales; pp. 26-31, Rollo.

[2] RTC Decision, pp. 17-18, Records.

[3] pp. 57-60, Rollo.

[4] Petitioner's Memorandum; p. 60, Rollo.

[5] p. 30, Rollo.

[6] *Bacaltos Coal Mines vs. Court of Appeals*, 245 SCRA 460.

[7] p. 30, Rollo.

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