



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

**MAXIMA P. SACLOLO AND
TERESITA P. OGATIA,**

Petitioners,

G.R. No. 229243

Present:

- versus -

CARPIO, J., *Chairperson*,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, JJ.

**ROMEO MARQUITO, MONICO
MARQUITO, CLEMENTE
MARQUITO, ESTER M. LOYOLA,
MARINA M. PRINCILLO, LOURDES
MARQUITO and LORNA
MARQUITO,**

Respondents.

Promulgated:

26 JUN 2019 

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DECISION

CAGUIOA, J.:

This is a petition for review on *certiorari* (Petition) under Rule 45 of the Rules of Court assailing the Decision¹ of the Court of Appeals (CA) dated July 10, 2015 and the Resolution² dated November 14, 2016 in CA-G.R. CEB-CV. No. 01796. The CA Decision denied the appeal and affirmed the Decision³ dated July 26, 2006 of Branch 3, Regional Trial Court, Guiuan, Eastern Samar (RTC), in Civil Case No. 1159, denying the Complaint on the ground that the right to repurchase/redeem the subject property had already expired.

¹ *Rollo*, pp. 33-42. Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Pamela Ann Abella Maxino and Jhosep Y. Lopez concurring.
² *Id.* at 44-46. Penned by Associate Justice Germano Francisco D. Legaspi, with Associate Justices Edgardo L. Delos Santos and Pamela Ann Abella Maxino concurring.
³ *Id.* at 69-80. Penned by Presiding Judge Rolando M. Laode-o.

The Facts and Antecedent Proceedings

The dispute involved a co-owned parcel of coconut land, which Maxima P. Saclolo (petitioner Saclolo) and Teresita P. Ogatia (petitioner Ogatia) (together, petitioners) inherited from their father.⁴

Petitioners claimed that on December 27, 1987, they each obtained a loan of ₱3,500.00 from Felipe Marquito, the father of Romeo Marquito, Monico Marquito, Clemente Marquito, Ester M. Loyola, Marina M. Princillo, Lourdes Marquito and Lorna Marquito⁵ (respondents). Petitioners used their land as collateral for the loan obligation.⁶ On said date, respondents' father began occupying the land.⁷ In March 2003, petitioner Ogatia borrowed an additional ₱6,000.00, and again used her aliquot share of the land as collateral for the loan.⁸ In June 2004, petitioner Saclolo also borrowed an additional amount of ₱10,000.00 from respondents, using her aliquot share of the land as collateral.⁹

Sometime in October 2004, petitioners verbally informed respondents of their intention to "redeem" the property.¹⁰ On November 18, 2004, a written offer to redeem the property was made.¹¹ Respondents, however, refused.¹² Thus, petitioners were constrained to file a Complaint for redemption of mortgaged properties, specific performance with damages before the RTC.¹³ During the proceedings, they manifested their willingness to deposit the amounts due on their loan obligation for the purpose of redemption.¹⁴

Respondents, on the other hand, alleged that in 1984, petitioners sold the subject property for ₱1,000.00 under a *Memorandum of Deed of Sale with Right of Repurchase*.¹⁵ Since then, they have been in actual possession of the property in the concept of owner and even introduced improvements thereon worth ₱120,000.00.¹⁶ They admitted that since 1984, petitioners, on numerous occasions, borrowed money from them but explained that they extended said loans on the understanding that petitioners would execute a deed of absolute sale in their favor.¹⁷

After trial, the RTC found that the true transaction between the parties was one of equitable mortgage.¹⁸ However, it held that the period for the redemption of the property had lapsed as it was filed beyond the four-year

⁴ Id. at 34.

⁵ Id.

⁶ Id.

⁷ Id. at 35.

⁸ Id. at 34.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id. at 35.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 40 and 79.



period under Article 1606¹⁹ of the Civil Code.²⁰ Thus, it dismissed the complaint.²¹

Petitioners filed a Motion for Reconsideration.²² On the other hand, respondents failed or refused to challenge the finding that the real transaction between the parties was an equitable mortgage.²³ Thus, this issue attained finality.²⁴

When the RTC denied their motion,²⁵ petitioners appealed to the CA alleging that the RTC erred in ruling that their right to redeem the property had already prescribed.²⁶ They argued that since the transaction was found to be an equitable mortgage, the property should be subjected to a foreclosure sale and the period to redeem the property under Article 1606 does not apply.²⁷

The Ruling of the CA

The CA denied the appeal and affirmed the Decision of the RTC.²⁸ The CA held that “inasmuch as [respondents] did not interpose their own appeal, the trial court’s finding that the transaction between the parties is an equitable mortgage can no longer be disturbed x x x in line with the rule that only assigned errors will be decided during appeal.”²⁹ Nevertheless, the CA agreed that the real transaction between the parties was one of equitable mortgage.³⁰

Further, the CA agreed that petitioners’ action had prescribed, but found the RTC’s application of the four-year period under Article 1606 incorrect. The CA explained that under Article 1142³¹ and 1144,³² petitioners had 10 years from the execution of the *Memorandum of Deed of Sale with Right to Repurchase* on July 26, 1984 “to redeem the property.”³³ As petitioners only formally offered to redeem the property on November 18, 2004, the action had prescribed.³⁴

¹⁹ Art. 1606. The right referred to in article 1601, in the absence of an express agreement, shall last four years from the date of the contract.

Should there be an agreement, the period cannot exceed ten years.

However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase.

²⁰ *Rollo*, p. 80.

²¹ *Id.*

²² *Id.* at 36.

²³ *Id.* at 41.

²⁴ *Id.*

²⁵ *Id.* at 36.

²⁶ *Id.* at 37.

²⁷ *Id.*

²⁸ *Id.* at 42.

²⁹ *Id.* at 41.

³⁰ *Id.* at 40.

³¹ Art. 1142. A mortgage action prescribes after ten years.

³² Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

³³ *Rollo*, p. 41.

³⁴ *Id.*

On reconsideration, however, the CA reversed its ruling on the proper prescriptive period and agreed “with the trial court that [petitioners could] no longer repurchase or redeem the property pursuant to Article 1606 of the Civil Code.”³⁵

Hence, this Petition.

Issue

Whether the action has prescribed.

The Court’s Ruling

The Petition has merit.

In *Spouses Salonga v. Spouses Concepcion*,³⁶ the Court explained the nature of an equitable mortgage, viz.:

Article 1602 of the New Civil Code of the Philippines provides that a 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 case, 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 provision shall apply to a contract purporting to be an absolute sale. In case of doubt, a contract purporting to be a sale with right to repurchase shall be considered as an equitable mortgage. In a contract of mortgage, the mortgagor merely subjects the property to a lien, but the ownership and possession thereof are retained by him.

³⁵ Id. at 45.

³⁶ 507 Phil. 287 (2005).



For the presumption in Article 1602 of the New Civil Code to arise, two requirements must concur: (a) that the parties entered into a contract denominated as a contract of sale; and (b) that their intention was to secure an existing debt by way of a mortgage. The existence of any of the circumstances defined in Article 1602 of the New Civil Code, not the concurrence nor an overwhelming number of such circumstances[,] is sufficient for a contract of sale to be presumed an equitable mortgage.

If the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control. However, if the records appear to be contrary to the evident intention of the contracting parties, the latter shall prevail.

The nomenclature given by the parties to the contract is not conclusive of the nature and legal effects thereof. Even if a document appears on its face to be a sale, the owner of the property may prove that the contract is really a loan with mortgage, and that the document does not express the true intent of the parties.

There is no conclusive test to determine whether a deed absolute on its face is really a simple loan accommodation secured by a mortgage. The decisive factor in evaluating such deed is the intention of the parties as shown by all the surrounding circumstances, such as the relative situation of the parties at that time, the attitude, acts, conduct, and declarations of the parties before, during and after the execution of said deed, and generally all pertinent facts having a tendency to determine the real nature of their design and understanding. As such, documentary and parol evidence may be adduced by the parties. When in doubt, courts are generally inclined to construe a transaction purporting to be a sale as an equitable mortgage, which involves a lesser transmission of rights and interests over the property in controversy.³⁷

In the instant case, the RTC and CA both held that the subject *Memorandum of Deed of Sale with Right of Repurchase*, while purporting to be a sale with right to repurchase, was, in fact, an equitable mortgage.³⁸ Factual findings of the lower court, more so when supported by the evidence, as in this case, command not only respect but even finality and are binding on the Court.³⁹ Further, the findings of the RTC and the CA on the nature of the transaction have attained finality considering that the respondents never challenged the same.⁴⁰

Thus, the only issue for resolution before the Court is whether petitioners' action to "redeem" the subject property has prescribed. Both the RTC and the CA held that while the true transaction was one of equitable mortgage under Articles 1602 and 1603 of the Civil Code, petitioners could no longer "repurchase" or "redeem" the subject property as the period for redemption under Article 1606 of the Civil Code has lapsed.⁴¹ **This is erroneous.**

³⁷ Id. at 302-304. Citations omitted. Emphasis supplied.

³⁸ *Rollo*, pp. 39-40.

³⁹ *Spouses Lumayag v. Heirs of Nemeño*, 553 Phil. 293, 303 (2007).

⁴⁰ *Rollo*, p. 41.

⁴¹ Id. at 45 and 80.

An equitable mortgage, like any other mortgage, is a mere accessory contract “constituted to secure the fulfillment of a principal obligation,”⁴² *i.e.*, the full payment of the loan.

Since the true transaction between the parties was an equitable mortgage and not a sale with right of repurchase, there is no “redemption” or “repurchase” to speak of and the periods provided under Article 1606 do not apply. Instead, the prescriptive period under Article 1144⁴³ of the Civil Code is applicable. In other words, the parties had 10 years from the time the cause of action accrued to file the appropriate action.

A review of the records unequivocally shows that the parties faithfully abided by their true agreement for 19 years counted from the execution of the *Memorandum of Deed of Sale with Right of Repurchase*.

Although the *Memorandum of Deed of Sale with Right of Repurchase* was executed in 1984 and the period to redeem the same supposedly lapsed in 1994 if such contract were a true sale with right to repurchase, both the RTC and CA found that subsequent loans were extended to either or both of the petitioners in 1987, 2003, and 2004, “using the same land as security for the loan.”⁴⁴ These facts were alleged in petitioners’ Complaint⁴⁵ and were not specifically denied in respondents’ Answer.⁴⁶

The release of additional loans on the basis of the same security, coupled with the fact that respondents never filed an action to consolidate ownership over the subject property under Article 1607,⁴⁷ evidently shows that for 19 years, respondents expressly recognized: 1) that petitioners continued to own the subject property and 2) that the loan and equitable mortgage subsisted.

Thus, petitioners’ cause of action to recover the subject property can be said to have accrued only in 2004, that is, when respondents rejected petitioners’ offers to pay and extinguish the loan and to recover the mortgaged property as it was only at this time that respondents manifested their intention

⁴² CIVIL CODE, Art. 2085. The following requisites are essential to the contracts of pledge and mortgage:

- (1) That they be constituted to secure the fulfillment of a principal obligation;
- (2) That the pledgor or mortgagor be the absolute owner of the thing pledged or mortgaged;
- (3) That the persons constituting the pledge or mortgage have the free disposal of their property, and in the absence thereof, that they be legally authorized for the purpose.

Third persons who are not parties to the principal obligation may secure the latter by pledging or mortgaging their own property.

⁴³ Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law;
- (3) Upon a judgment.

⁴⁴ *Rollo*, pp. 34 and 39.

⁴⁵ *Id.* at 81-84.

⁴⁶ *Id.* at 85-87.

⁴⁷ CIVIL CODE, Art. 1607. In case of real property, the consolidation of ownership in the vendee by virtue of the failure of the vendor to comply with the provisions of article 1616 shall not be recorded in the Registry of Property without a judicial order, after the vendor has been duly heard.

not to comply with the true agreement of the parties. Undoubtedly, **the filing of the complaint in 2005 was made well-within the 10-year prescriptive period.** Such treatment is more in keeping with the principle that:

The provisions of the Civil Code governing equitable mortgages disguised as sale contracts, like the one herein, are primarily designed to curtail the evils brought about by contracts of sale with right to repurchase, particularly the circumvention of the usury law and *pactum commissorium*. Courts have taken judicial notice of the well-known fact that contracts of sale with right to repurchase have been frequently resorted to in order to conceal the true nature of a contract, *that is*, a loan secured by a mortgage. It is a reality that grave financial distress renders persons hard-pressed to meet even their basic needs or to respond to an emergency, leaving no choice to them but to sign deeds of absolute sale of property or deeds of sale with *pacto de retro* if only to obtain the much-needed loan from unscrupulous money lenders.⁴⁸

Respondents, for their part, are not without remedy. They are entitled to collect the outstanding amount of petitioners' loan, plus interest, and to foreclose on the subject property should the latter fail to pay the same.⁴⁹ To allow respondents to appropriate the subject lot without prior foreclosure would produce the same effect as a *pactum comissorium*.⁵⁰ Upon full satisfaction of the debt, the mortgage, being a security contract, shall be extinguished⁵¹ and the property should be returned to herein petitioners. As the records are bereft of any basis for the determination of the outstanding amount of the loan, the Court is left with no choice but to remand the instant case to the RTC for a determination of the outstanding amount of the loan and the imposition of the applicable interest, and for a declaration of whether or not respondents are entitled to foreclose on the equitable mortgage.

WHEREFORE, the Petition is **GRANTED**. The Decision dated July 10, 2015 and the Resolution dated November 14, 2016 in CA-G.R. CEB-CV. No. 01796 are **REVERSED**. The instant case is **REMANDED** to Branch 3, Regional Trial Court, Guiuan, Eastern Samar to determine the outstanding amount of the loan and the applicable interest, to fix a reasonable period for the payment of the same, and to order the return of the subject property only upon full satisfaction thereof.

SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

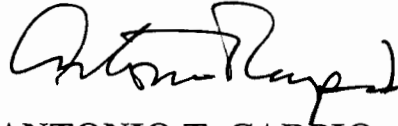
⁴⁸ See *Heirs of Reyes, Jr. v. Reyes*, 641 Phil. 69, 86-87 (2010).

⁴⁹ *Montevirgen v. CA*, 198 Phil. 338, 346-347 (1982).

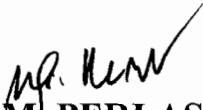
⁵⁰ *Id* at 346.

⁵¹ CESAR L. VILLANUEVA, *LAW ON SALES* 547 (2009 ed).

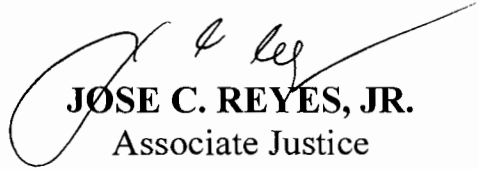
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

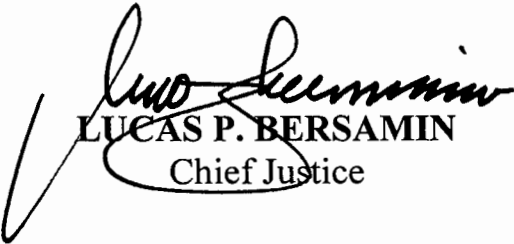


ANTONIO T. CARPIO
Associate Justice
Chairperson



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

