

## FIRST DIVISION

[ G.R. NO. 145871, January 31, 2006 ]

**LEONIDES C. DIÑO, PETITIONER, VS. LINA JARDINES,  
RESPONDENT.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

This resolves the petition for review on *certiorari* seeking to set aside the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated June 9, 2000 dismissing the appeal in CA-G.R. CV No. 56118 and the Resolution dated October 25, 2000 denying the motion for reconsideration.

The antecedent facts are as follows.

On December 14, 1992, Leonides C. Diño (petitioner) filed a Petition for Consolidation of Ownership with the Regional Trial Court of Baguio City, Branch 7 (RTC). She alleged that: on January 31, 1987, Lina Jardines (respondent) executed in her favor a Deed of Sale with *Pacto de Retro* over a parcel of land with improvements thereon covered by Tax Declaration No. 44250, the consideration for which amounted to P165,000.00; it was stipulated in the deed that the period for redemption would expire in six months or on July 29, 1987; such period expired but neither respondent nor any of her legal representatives were able to redeem or repurchase the subject property; as a consequence, absolute ownership over the property has been consolidated in favor of petitioner.<sup>[2]</sup>

Respondent countered in her Answer that: the Deed of Sale with *Pacto de Retro* did not embody the real intention of the parties; the transaction actually entered into by the parties was one of simple loan and the Deed of Sale with *Pacto de Retro* was executed just as a security for the loan; the amount borrowed by respondent during the first week of January 1987 was only P50,000.00 with monthly interest of 9% to be paid within a period of six months, but since said amount was insufficient to buy construction materials for the house she was then building, she again borrowed an additional amount of P30,000.00; it was never the intention of respondent to sell her property to petitioner; the value of respondent's residential house alone is over a million pesos and if the value of the lot is added, it would be around one and a half million pesos; it is unthinkable that respondent would sell her property worth one and a half million pesos for only P165,000.00; respondent has even paid a total of P55,000.00 out of the amount borrowed and she is willing to settle the unpaid amount, but petitioner insisted on appropriating the property of respondent which she put up as collateral for the loan; respondent has been the one paying for the realty taxes on the subject property; and due to the malicious suit filed by petitioner, respondent suffered moral damages.

On September 14, 1993, petitioner filed an Amended Complaint adding allegations

that she suffered actual and moral damages. Thus, she prayed that she be declared the absolute owner of the property and/or that respondent be ordered to pay her P165,000.00 plus the agreed monthly interest of 10%; moral and exemplary damages, attorney's fees and expenses of litigation.

Respondent then filed her Answer to the Amended Complaint reiterating the allegations in her Answer but increasing the alleged valuation of the subject property to more than two million pesos.

After trial, the RTC rendered its Decision dated November 20, 1996, the dispositive portion of which reads as follows:

WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

a) Declaring the contract (Exh. A) entered into by the contending parties as one of deed of sale with right to repurchase or pacto de retro sale;

b) Declaring the plaintiff Diño to have acquired whatever rights Jardines has over the parcel of land involved it being that Jardines has no torrens title yet over said land;

c) Declaring the plaintiff Diño the owner of the residential house and other improvements standing on the parcel of land in question;

d) Ordering the consolidation of ownership of Diño over the residential house and other improvements, and over the rights, she (Diño) acquired over the parcel of land in question; and ordering the corresponding government official (The City Assessor) of Baguio City to undertake the consolidation by putting in the name of plaintiff Diño the ownership and/or rights which she acquired from the defendant Jardines in the corresponding document (Tax Declarations) on file in his/her office; after the plaintiff has complied with all the requirements and has paid the fees necessary or incident to the issuance of a new tax declaration as required by law;

e) Ordering the cancellation of Tax Declaration 44250;

f) Ordering defendant Jardines to pay actual and/or compensatory damages to the plaintiff as follows:

1) P3,000.00 representing expenses in going to and from Jardines' place to collect the redemption money;

2) P1,000.00 times the number of times Diño came to Baguio to attend the hearing of the case as evidenced by the signatures of Diño appearing on the minutes of the proceedings found in the Rollo of the case;

3) P10,000.00 attorney's fee.

Costs against defendant Jardines.

SO ORDERED.<sup>[3]</sup>

Respondent then appealed to the CA which reversed the RTC judgment. The CA held that the true nature of the contract between herein parties is one of equitable mortgage, as shown by the fact that (a) respondent is still in actual physical possession of the property; (b) respondent is the one paying the real property taxes on the property; and (c) the amount of the supposed sale price, P165,000.00, earns monthly interest. The dispositive portion of the CA Decision promulgated on June 9, 2000 reads:

WHEREFORE, foregoing premises considered, we find that the Regional Trial Court, First Judicial Region, Branch 07, Baguio City, committed reversible errors in rendering its decision dated 20 November 1996 in **Civil Case No. 2669-R**, entitled Leonides G. Diño, etc. vs. Lina Jardines'. The appeal at bar is hereby **GRANTED** and the assailed decision is hereby **REVERSED and SET ASIDE**. Let a new judgment be **entered** as follows:

1. Declaring that the true nature of the contract entered into by the contending parties as one of equitable mortgage and not a pacto de retro sale;
2. Ordering the defendant-appellant to pay plaintiff-appellee legal interest on the amount of P165,000.00 from July 29, 1987, the time the said interest fell due, until fully paid;
3. No pronouncement as to cost.

SO ORDERED.<sup>[4]</sup>

Petitioner moved for reconsideration of said decision, but the same was denied per Resolution dated October 25, 2000.

Hence, herein petition for review on *certiorari* alleging that:

1. THE LOWER COURT COMMITTED AN ERROR IN DECLARING THAT THE TRUE NATURE OF THE CONTRACT ENTERED INTO BY THE PARTIES AS ONE EQUITABLE MORTGAGE AND NOT A PACTO DE RETRO SALE;
2. THE LOWER COURT COMMITTED AN ERROR IN ORDERING THE RESPONDENT TO PAY PETITIONER LEGAL INTEREST DESPITE THE CONFLICTING ADMISSIONS OF THE PARTIES THAT THE AGREED INTERESTS WAS EITHER 9% OR 10%;
3. THE FINDINGS OF FACTS OF THE LOWER COURT ARE CONTRARY TO EVIDENCE AND THE ADMISSIONS OF THE PARTIES;
4. THE LOWER COURT COMMITTED AN ERROR IN GOING BEYOND THE ISSUES OF THE CASE BY DELETING THE AWARD FOR DAMAGES DESPITE THE FACT THAT THE SAME WAS NOT RAISED AS AN ISSUE IN THE APPEAL; <sup>[5]</sup>

The petition lacks merit.

The Court finds the allegations of petitioner that the findings of fact of the CA are contrary to evidence and admissions of the parties and that it erred in declaring the contract between the parties as an equitable mortgage to be absolutely unfounded.

A close examination of the records of this case reveals that the findings of fact of the CA are all based on documentary evidence and on admissions and stipulation of facts made by the parties. The CA's finding that there was no gross inadequacy of the price of respondent's residential house as stated in the contract, was based on respondent's own evidence, Tax Declaration No. 44250, which stated that the actual market value of subject residential house in 1986 was only P93,080.00. The fact that respondent has remained in actual physical possession of the property in question, and that respondent has been the one paying the real property taxes on the subject property was established by the admission made by petitioner during the pre-trial conference and embodied in the Pre-Trial Order<sup>[6]</sup> dated May 25, 1994. The finding that the purchase price in the amount of P165,000.00 earns monthly interest was based on petitioner's own testimony and admission in her appellee's brief that the amount of P165,000.00, if not paid on July 29, 1987, shall bear an interest of 10% per month.

The Court sees no reversible error with the foregoing findings of fact made by the CA. The CA correctly ruled that the true nature of the contract entered into by herein parties was one of equitable mortgage.

Article 1602 of the Civil Code enumerates the instances when a purported *pacto de retro* sale may be considered an equitable mortgage, to wit:

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 the 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