

SECOND DIVISION

[G.R. NO. 141993, March 17, 2006]

NARCISA AVILA, ASSISTED BY HER HUSBAND BERNARDO AVILA, SPOUSES JANUARIO N. ADLAWAN AND NANETTE A. ADLAWAN, NATIVIDAD MACAPAZ, ASSISTED CHAIRPERSON, BY HER HUSBAND EMILIO MACAPAZ, FRANCISCA N. ADLAWAN CORONA, AND LEON NEMEÑO, AZCUNA, AND PETITIONERS, VS. SPOUSES BENJAMIN BARABAT AND JOVITA BARABAT, RESPONDENTS

DECISION

CORONA, J.:

This petition for review on certiorari under Rule 45 of the Rules of Court assails the July 30, 1999 decision^[1] and January 19, 2000 resolution of the Court of Appeals in CA-G.R. CV No. 50899.

The subject of this controversy is a portion of a 433-square meter parcel of land located in Poblacion, Toledo City, Cebu. The entire property is designated as cadastral lot no. 348 registered in the name of Anunciacion Bahena vda. de Nemeño. Upon her death, ownership of the lot was transferred by operation of law to her five children, petitioners Narcisa Avila, Natividad Macapaz, Francisca Adlawan, Leon Nemeño and Jose Bahena. These heirs built their respective houses on the lot.

In 1964, respondent Benjamin Barabat leased a portion of the house owned by Avila. His co-respondent, Jovita Barabat, moved in with him in 1969 when they got married.

Avila subsequently relocated to Cagayan de Oro City. She came back to Toledo City in July 1979 to sell her house and share in the lot to her siblings but no one showed interest in it. She then offered it to respondents who agreed to buy it. Their agreement was evidenced by a private document dated July 17, 1979 which read:

ALANG SA KASAYURAN SA TANAN:

Nga ako, NARCISA AVILA, nagpuyo sa siyudad sa Cagayan de Oro, 52 años ang panu-igon, minyo ug may mga anak magatimaan ning maong kasulatan nga akong guibaligya sa kantidad nga walo ka libo ka pesos (P8,000.00) ang bahin nga balay ug yuta nga sinunod ko sa akong mga ginikanan ngadto sa magtiayon nga Benjamin ug Jovita Barabat, mga lumulupyo sa siyudad sa Toledo.

Nga ang maong lote ug balay ana-a mahimutang sa Poblacion, Toledo City kansang mga utlanan mao kining musunod:

Atubangan ----- N. Rafols Street

Dapit sa Tuo ----- yuta ug mga panimalay sa
Magsuong Natividad

Macapaz, Francisca Adlawan, Jose

Bahena ug

Leoning Nemeno

Dapit sa wala ----- kanal sa tubig

Dapit sa luyo ----- lote nga kumon sa magsuong
Nemeno

Tiniman-an: ____

(Sgd.)____

Narcisa

Avila^[2]

Respondents stopped paying rentals to Avila and took possession of the property as owners. They also assumed the payment of realty taxes on it.

Sometime in early 1982, respondents were confronted by petitioner Januario Adlawan who informed them that they had until March 1982 only to stay in Avila's place because he was buying the property. Respondents replied that the property had already been sold to them by Avila. They showed Adlawan the July 17, 1979 document executed by Avila.

On January 6, 1983, respondents received a letter from Atty. Joselito Alo informing them that Avila had sold her house and share in lot no. 348 to his clients, the spouses Januario and Nanette Adlawan. Considering the sale to the spouses Adlawan as prejudicial to their title and peaceful possession of the property, they demanded that Avila execute a public document evidencing the sale of the property to them but Avila refused.

Respondents filed a complaint for quieting of title with the Regional Trial Court (RTC) of Toledo City, Branch 29.^[3] Docketed as Civil Case No. T-53, the complaint was subsequently amended to include annulment of the deed of sale to the spouses Adlawan, specific performance, partition and damages as additional causes of action. Respondents anchored their claim over the property to the July 17, 1979 private document which they presented as Exhibit "A."

Avila denied having offered to sell her property to respondents. She claimed that respondents gave her an P8,000 loan conditioned on her signing a document constituting her house and share in lot no. 348 as security for its payment. She alleged that she innocently affixed her signature on Exhibit "A" which was prepared by respondents and which they now claim as a private deed of sale transferring ownership to them.

The trial court rendered its May 9, 1995 decision in favor of respondents. It declared Exhibit "A" as a valid and lawful deed of sale. It nullified the subsequent deed of sale between Avila and the spouses Adlawan. Avila was ordered to execute a formal and notarized deed of sale in favor of respondents. It also held petitioners liable for moral damages and attorney's fees.

Aggrieved, petitioners filed an appeal with the Court of Appeals. In its July 30, 1999 decision, the appellate court affirmed the decision of the RTC *in toto*. Petitioners sought a reconsideration but it was denied. Hence, this petition.

Petitioners claim that the appellate court erred in ruling that the transaction between respondents and Avila was an absolute sale, not an equitable mortgage. They assert that the facts of the case fell within the ambit of Article 1602 in relation to Article 1604 of the Civil Code on equitable mortgage because they religiously paid the realty tax on the property and there was gross inadequacy of consideration. In this connection, Articles 1602 and 1604 provide:

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 of 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 received by the vendee as rent or otherwise shall be considered as interest which shall be subject to the usury laws.

x x x x x x x x x

Art. 1604. The provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale.

They also claim that the court erred in denying them the right to redeem the property and in ruling that there was implied partition by the acts of the parties.

We rule in favor of respondents.

For Articles 1602 and 1604 to apply, two requisites must concur: (1) the parties entered into a contract denominated as a contract of sale and (2) their intention was to secure an existing debt by way of mortgage.^[4] Here, both the trial and appellate courts found that Exhibit "A" evidenced a contract of sale. They also agreed that the circumstances of the case show that Avila intended her agreement with respondents