

THIRD DIVISION

[G. R. No. 125755, February 24, 2003]

PEDRO MOLINA, PETITIONER-APPELLANT, VS. HON. COURT OF APPEALS AND SPOUSES MARGARITO M. FLORES AND NERISA HERRERA, RESPONDENTS-APPELLEES.

D E C I S I O N

CARPIO MORALES, J.:

His motion for reconsideration having been denied, petitioner brought the present petition for review on certiorari to set aside the decision of April 30, 1996 of the Court of Appeals^[1] in CA-G.R. CV No. 46107 which reversed the April 4, 1994 decision of the Regional Trial Court of Cavite, Branch 15^[2] in Civil Case No. NC-325 in favor of petitioner.

Petitioner Pedro Molina and his siblings Felisa, Felix and Tomas Molina were co-owners of a parcel of land in Naic, Cavite registered in their names under TCT No. T-44010 of the Registry of Deeds of Cavite.^[3]

On April 23, 1984, petitioner, by Deed of Absolute Sale,^[4] conveyed to his sister Felisa his share in the co-owned property. The sale was not, however, registered.

The siblings subsequently entered into an agreement wherein they partitioned the property as follows:

Lot No. 98-A-1 with an area of 92 square m. for FELIX MOLINA;

Lot No. 98-A-2 with an area of 92 square m. for PEDRO MOLINA;

Lot No. 98-A-3 with an area of 92 square m. for FELISA MOLINA;

Lot No. 98-A-4 with an area of 92 square m. for TOMAS MOLINA;

Lot No. 98-A-5 with an area of 43 square m. as the RIGHT OF WAY;^[5]

More than four years after petitioner executed the Deed of Sale conveying his share of the property to his sister Felisa or on June 13, 1988, upon the request of Felisa, he executed another Deed of Absolute Sale^[6] in lieu of the first covering the same share in favor of Felisa's son private respondent Margarito Flores and his wife private respondent Nerisa Herrera. The pertinent provisions of the second Deed are reproduced hereunder:

x x x

That the Vendor is the absolute owner in fee simple of a ¼ portion of a

parcel of land, situated in the Poblacion, Naic, Cavite, Philippines, known as and more specifically described as follows:

X X X

That for and in consideration of the sum of EIGHT THOUSAND PESOS ONLY (P8,000.00) Philippine Currency, receipt of which in full is hereby acknowledged by the Vendor from the Vendee, the Vendor hereby sells, transfers and conveys and by these presents have (sic) sold, transferred and conveyed unto the above named Vendee, her (sic) heirs and assigns the (1/4) square meters (sic) portion of the above described parcel of land, free from all kinds of liens and encumbrances whatsoever. (Underscoring supplied).

X X X

TCT No. T-170585^[7] in the name of respondent spouses covering petitioner's share in the co-owned property was accordingly issued.

On September 5, 1990, petitioner filed an action for reformation of instrument and/or annulment of document and title with reconveyance and damages before the Regional Trial Court of Cavite, alleging that the Deed of Absolute Sale in favor of respondent spouses does not express the true will and intention of the parties.

Respondent spouses maintained that their acquisition of petitioner's share was valid, legal and binding.^[8]

After trial, finding for petitioner, the trial court ordered the annulment of the Deed of Absolute Sale, disposing as follows:

Wherefore, this Court finds merit in plaintiff's complaint and hereby orders:

1. The annulment of the contract, Absolute Deed of Sale dated June 13, 1988 among and between the plaintiff and the defendants which is null and void;
2. The cancellation of TCT No. 170585 of the Register of Deeds of Cavite Province at Trece Martires City; and
3. The defendants to pay plaintiff reasonable attorney's fees of P5,000.00.

Plus costs of suit.

SO ORDERED.^[9]

Upon recourse to the Court of Appeals, the trial court's decision was reversed and the complaint of petitioner was dismissed, hence the present petition anchored on the following assigned errors:

- I. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT HOLDING THAT THE DEED OF SALE DO (sic) NOT EXPRESS

THE TRUE INTENT AND AGREEMENT OF THE PARTIES;

- II. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THE TRANSACTION TO BE AN EQUITABLE MORTGAGE AND NOT A DEED OF SALE AND THEREFORE TRANSCENDS THE CORRECT APPLICATION OF ART. 1602 OF THE CIVIL CODE;
- III. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT HOLDING THAT THE ALLEGED SALE WAS NOT A CONSUMATED (sic) CONTRACT OF SALE;
- IV. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT THE PETITIONER WAS DEFRAUDED BY FELISA MOLINA IN SIGNING THE SIMULATED AND FICTITIOUS DEED OF SALE.^[10]

Petitioner contends that he signed the Deed of Absolute Sale through the misrepresentations of his sister Felisa who made him believe that what he was signing was only a receipt evidencing his indebtedness to her^[11] which, by his own admission, he had incurred on several occasions; that Felisa took advantage of his lack of sufficient education and knowledge of English to defraud him into selling his property; and that parol evidence should be admitted to prove the real nature of the transaction which he claims was one of an equitable mortgage.

Petitioner calls attention to the consideration given for his property, P8,000.00, which he claims is inadequate, and to his regular receipt of rentals being paid by the lessee of the premises, one Erlinda de Guzman which circumstances are allegedly badges of equitable mortgage. Thus he cites Articles 1602 and 1604 of the Civil Code which 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 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 received by the vendee as rent or otherwise shall be considered as interest which shall be subject to usury laws (Emphasis supplied).

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

In issue then is whether the parties intended the Deed of Absolute Sale in favor of respondent to be an equitable mortgage.

An equitable mortgage is defined as one which, although lacking in some formality, or form or words, or other requisites demanded by a statute, nevertheless reveals the **intention** of the parties to charge real property as security for a debt, and contains nothing impossible or contrary to law.^[12]

The intention of the parties to an agreement is shown not necessarily by the terminology used therein but by all the surrounding circumstances, such as the relative situation of the parties at the time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the deed, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding.^[13]

For the presumption of an equitable mortgage to arise under Art. 1602, two (2) requisites 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.^[14]

In the case at bar, the second requisite is conspicuously absent. Consider the following testimony of petitioner himself:

Q: In connection with that issue, do you remember how much you owed your sister?

A: Yes, your Honor.

Q: How much?

A: Ten thousand (P10,000.00) pesos, your Honor.

Q: Do you have any copy of that agreement of your loan?

A: None, sir.

Q: How did you receive that amount of money?

A: Little by little, sir. Month by month (buwan buwan), sir.

Q: And how long did you receive that amount of ten thousand (P10,000.00) pesos?

A: Ten months. Every month, I was allowed to received (sic) P1,000.00.