

SECOND DIVISION

[G.R. No. 150913, February 20, 2003]

SPOUSES TEOFILO AND SIMEONA RAYOS, AND GEORGE RAYOS, PETITIONERS, VS. DONATO REYES, SATURNINO REYES, TOMASA R. BUSTAMANTE AND TORIBIA R. CAMELO, RESPONDENTS.

D E C I S I O N

BELLOSILLO, J.:

AT STAKE IN THIS PETITION FOR REVIEW is the ownership of three (3) parcels of unregistered land with an area of approximately 130,947 square meters situated in Brgy. Sapa, Burgos, Pangasinan, the identities of which are not disputed.

The three (3) parcels were formerly owned by the spouses Francisco and Asuncion Tazal who on 1 September 1957 sold them for P724.00 to respondents' predecessor-in-interest, one Mamerto Reyes, with right to repurchase within two (2) years from date thereof by paying to the vendee the purchase price and all expenses incident to their reconveyance. After the sale the vendee *a retro* took physical possession of the properties and paid the taxes thereon.^[1]

The otherwise inconsequential sale became controversial when two (2) of the three (3) parcels were again sold on 24 December 1958 by Francisco Tazal for P420.00 in favor of petitioners' predecessor-in-interest Blas Rayos without first availing of his right to repurchase the properties.

In the meantime, on 1 September 1959 the conventional right of redemption in favor of spouses Francisco and Asuncion Tazal expired without the right being exercised by either the Tazal spouses or the vendee Blas Rayos.

After the expiration of the redemption period, Francisco Tazal attempted to repurchase the properties from Mamerto Reyes by asserting that the 1 September 1957 deed of sale with right of repurchase was actually an equitable mortgage and offering the amount of P724.00 to pay for the alleged debt.^[2] But Mamerto Reyes refused the tender of payment and vigorously claimed that their agreement was not an equitable mortgage.^[3]

On 9 May 1960 Francisco Tazal filed a complaint with the Court of First Instance of Pangasinan against Mamerto Reyes, docketed as Civil Case No. A-245, for the declaration of the 1 September 1957 transaction as a contract of equitable mortgage. He also prayed for an order requiring defendant Mamerto Reyes to accept the amount of P724.00 which he had deposited on 31 May 1960 with the trial court as full payment for his debt, and canceling the supposed mortgage on the three (3) parcels of land with the execution of the corresponding documents of reconveyance in his favor.^[4] Defendant denied plaintiff's allegations and maintained that their contract was a sale with right of repurchase that had long expired.

On 22 June 1961 Francisco Tazal again sold the third parcel of land previously purchased by Mamerto Reyes to petitioner-spouses Teofilo and Simeona Rayos for P400.00. On 1 July 1961 petitioner-spouses bought from Blas Rayos for P400.00 the two (2) lots that Tazal had sold at the first instance to Mamerto Reyes and thereafter to Blas Rayos. Curiously, these contracts of sale in favor of petitioner-spouses were perfected while Civil Case No. A-245 was pending before the trial court.

On 26 September 1962 the parties in Civil Case No. A-245 submitted a stipulation of facts upon which the Court of First Instance would decide the case. They admitted the genuineness and due execution of the 1 September 1957 deed of sale with right of repurchase although they were in disagreement as to its true character. They also acknowledged the consignation of P724.00 in the Court of First Instance on 31 May 1960 and the payment of taxes by Mamerto Reyes on the three (3) parcels of land from 1958 to 1962.^[5]

On 5 January 1963 the trial court in Civil Case No. A-245 rejected the contention of Francisco Tazal that the deed of sale executed on 1 September 1957 was an equitable mortgage but held that Tazal could nonetheless redeem the three (3) parcels of land within thirty (30) days from finality of judgment by paying to Mamerto Reyes the purchase price of P724.00 and all expenses to execute the reconveyance, i.e., the expenses of the contract and the necessary and useful expenses made on the properties as required by Art. 1616 of the Civil Code. The dispositive portion of the trial court's decision reads -

WHEREFORE, the Court, hereby renders judgment declaring the contract x x x entered into by the plaintiffs and the defendant and captioned 'Deed of Sale with Right to Repurchase' as a true sale with right to repurchase x x x and not an equitable mortgage x x x and declaring the plaintiffs entitled to repurchase the property in question within thirty (30) days from finality of this decision, without pronouncement as to cost.^[6]

Mamerto Reyes appealed the Decision to the Court of Appeals,^[7] which in turn elevated the appeal to this Court^[8] since only questions of law were involved.^[9] When Mamerto Reyes died in 1986, petitioner-spouses Teofilo and Simeona Rayos wrested physical possession of the disputed properties from Reyes's heirs.

On 16 May 1990 this Court considered the case closed and terminated for failure of the parties therein to manifest their interest to further prosecute the case. On 20 June 1990 the judgment in Civil Case No. A-245 became final and executory.

Subsequent to the finality of judgment in Civil Case No. A-245 petitioner-spouses did nothing to repurchase the three (3) parcels of land within the thirty (30) - day grace period from finality of judgment since, according to them, they believed that the consignation of P724.00 in the civil case had perfected the repurchase of the disputed properties.

On 6 July 1992 respondents as heirs of Mamerto Reyes executed an affidavit adjudicating to themselves the ownership of the parcels of land and declared the properties in their names for assessment and collection of real estate taxes. On 19 January 1993 respondents registered the 1 September 1957 deed of sale with right

of repurchase with the register of deeds.

On 8 July 1993 respondents filed a complaint for damages and recovery of ownership and possession of the three (3) parcels of land in dispute against herein petitioner-spouses Teofilo and Simeona Rayos and petitioner George Rayos as administrator thereof before the Regional Trial Court of Alaminos, Pangasinan.^[10] It was respondents' theory that neither petitioners nor their predecessors-in-interest Francisco Tazal and Blas Rayos repurchased the properties before buying them in 1958 and 1961 or when the judgment in Civil Case No. A-245 became final and executory in 1990, hence the sale of the three (3) parcels of land to petitioner-spouses did not transfer ownership thereof to them.

Petitioners argued on the other hand that the consignment of P724.00 in Civil Case No. A-245 had the full effect of redeeming the properties from respondents and their predecessor-in-interest, and that respondents were guilty of estoppel and laches since Mamerto Reyes as their predecessor-in-interest did not oppose the sale to Blas Rayos and to petitioner-spouses Teofilo and Simeona Rayos. The parties then filed their respective memoranda after which the case was submitted for decision.

On 15 November 1996 the trial court promulgated its *Decision* in Civil Case No. A-2032 finding merit in respondents' claim for damages as well as ownership and possession of the disputed parcels of land from petitioners.^[11] The court declared void the separate deeds of absolute sale thereof executed by Francisco Tazal in favor of Blas Rayos and to spouses Teofilo and Simeona Rayos and by Blas Rayos to the same spouses, and ordered herein petitioners and Francisco Tazal to vacate and reconvey the lands to respondents as heirs of Mamerto Reyes and to pay actual damages for litigation expenses in the sum of P20,000.00, attorney's fees of P10,000.00, and exemplary damages of P50,000.00 plus costs. The court *a quo* rationalized that petitioners did not present evidence to prove that they and their predecessor-in-interest were able to repurchase the property within the period of redemption set forth by the Court of First Instance in Civil Case No. A-245.^[12] Petitioners appealed the *Decision* to the Court of Appeals.^[13]

On 31 May 2001 the appellate court promulgated its *Decision* affirming *in toto* the judgment appealed from.^[14] The Court of Appeals held that the deposit of P724.00 on 31 May 1960 in Civil Case No. A-245 was done belatedly, i.e., after the two (2) year - period from 1 September 1957, the date of the sale as stated in the deed of sale between the spouses Francisco and Asuncion Tazal and Mamerto Reyes, and did not cover the entire redemption price, i.e., the selling price of P724.00 plus the expenses of executing the contract and the necessary and useful expenses made on the properties. The appellate court further ruled that estoppel and laches did not bar the cause of action of respondents as plaintiffs in Civil Case No. A-2032 since Mamerto Reyes as their predecessor-in-interest actively resisted the claim of Francisco Tazal in Civil Case No. A-245 to treat the 1 September 1957 sale as an equitable mortgage and to authorize the redemption of the parcels of land in dispute beyond the two (2)-year period stipulated in the sale with right to repurchase. Hence, the instant petition for review.

Petitioners argue that the consignment of P724.00 in Civil Case No. A-245 provides the best evidence of the repurchase of the three (3) parcels of land; that the consignment was admitted by Mamerto Reyes himself in the stipulation of facts and

approved implicitly by the Court of First Instance when it held the 1 September 1957 transaction as a contract of sale with right of repurchase; that respondents failed to prove the existence of other expenses, i.e., the expenses of the contract and the necessary and useful expenses made on the properties, required by Art. 1616 of the *Civil Code* to be paid in addition to the purchase price of P724.00 so that petitioners may validly exercise the right to repurchase the real estate; that Mamerto Reyes as respondents' predecessor-in-interest was guilty of estoppel and laches for not seeking the annulment of the contracts of sale in favor of Blas Rayos and petitioner-spouses Teofilo and Simeona Rayos; that petitioner-spouses are buyers in good faith and for value of the three (3) parcels of land; and finally, that there is no legal basis for awarding damages since Civil Case No. A-2032 was decided solely on the basis of the parties' memoranda and not upon any evidence offered.

It appears that petitioners hinge their arguments upon the validity of the consignation of P724.00 and accept the proposition that if the consignation is declared void the subsequent sales to Blas Rayos and petitioner-spouses would be ineffective to transfer ownership of the disputed parcels and concomitantly would vest respondents with the ownership and possession thereof.

On the other hand, respondents maintain that the absence of an express or at least discernible court approval of the consignation of P724.00 in Civil Case No. A-245 prevented the repurchase of the parcels of land in question; that the deposit of only P724.00 did not cover all the expenses required by Art. 1616 of the *Civil Code* for a valid repurchase of the properties; that Mamerto Reyes as their predecessor-in-interest was not guilty of estoppel and laches in not filing a complaint to annul the contracts of sale in favor of Blas Rayos and petitioner-spouses Teofilo and Simeona Rayos since during that time Civil Case No. A-245 was pending before the courts; that petitioner-spouses are not buyers in good faith and for value since they knew that the parcels of land had been previously sold to Mamerto Reyes and that, in any event, the rule protecting buyers in good faith and for value applies only to transactions involving registered lands and not to unregistered lands as in the instant case; and finally, that the award of damages is amply supported by their pleadings in the trial court.

We deny the instant petition for review and affirm the decision of the court *a quo*, except for the sole modification to delete and set aside the award of damages. There is no evidence to prove that petitioners paid at any time the repurchase price for the three (3) parcels of land in dispute except for the deposit of P724.00 in the Court of First Instance which however fell short of all the acts necessary for a valid consignation and discharge of their obligation to respondents.

In order that consignation may be effective the debtor must show that (a) there was a debt due; (b) the consignation of the obligation had been made because the creditor to whom a valid tender of payment was made refused to accept it; (c) previous notice of the consignation had been given to the person interested in the performance of the obligation; (d) the amount due was placed at the disposal of the court; and, (e) after the consignation had been made the person interested was notified thereof.^[15]

In the instant case, petitioners failed, *first*, to offer a *valid* and *unconditional* tender of payment; *second*, to notify respondents of the intention to deposit the amount

with the court; and *third*, to show the acceptance by the creditor of the amount deposited as full settlement of the obligation, or in the alternative, a declaration by the court of the validity of the consignation. The failure of petitioners to comply with any of these requirements rendered the consignation ineffective.^[16]

Consignation and tender of payment must not be encumbered by conditions if they are to produce the intended result of fulfilling the obligation.^[17] In the instant case, the tender of payment of P724.00 was conditional and void as it was predicated upon the argument of Francisco Tazal that he was paying a debt which he could do at any time allegedly because the 1 September 1957 transaction was a contract of equitable mortgage and not a deed of sale with right to repurchase. The ostensible purposes of offering the amount in connection with a purported outstanding debt were to evade the stipulated redemption period in the deed of sale which had already expired when the tender of payment was made and Civil Case No. A-245 was instituted, and as a corollary, to avail of the thirty (30)-day grace period under Art. 1606 of the *Civil Code* within which to exercise the right to repurchase.^[18] Mamerto Reyes was therefore within his right to refuse the tender of payment offered by petitioners because it was conditional upon his waiver of the two (2)-year redemption period stipulated in the deed of sale with right to repurchase.

Moreover, petitioners failed to prove in Civil Cases Nos. A-245 and A-2032 that any form of notice regarding their intention to deposit the amount of P724.00 with the Court of First Instance had been served upon respondents. This requirement is not fulfilled by the notice which could have ensued from the filing of the complaint in Civil Case No. A-245 or the stipulation made between Francisco Tazal and Mamerto Reyes regarding the consignation of P724.00. The latter constitutes the second notice required by law as it already concerns the actual deposit or consignation of the amount and is different from the first notice that makes known the debtor's intention to deposit the amount, a requirement missing in the instant case.^[19] Without any announcement of the intention to resort to consignation first being made to the persons interested in the fulfillment of the obligation, the consignation as a means of payment is void.^[20]

It is also futile to argue that the deposit of P724.00 with the Court of First Instance could have perfected the redemption of the three (3) parcels of land because it was not approved by the trial court, much less accepted by Mamerto Reyes or his heirs, herein respondents. The dispositive portion of the Decision in Civil Case No. A-245, which reads "x x x x the Court, hereby renders judgment declaring the contract x x x entered into by the plaintiffs and the defendant and captioned 'Deed of Sale with Right to Repurchase' as a true sale with right to repurchase x x x and not an equitable mortgage x x x and declaring the plaintiffs entitled to repurchase the property in question within thirty (30) days from finality of this decision x x x x" plainly rejected the complaint for lack of merit and necessarily also the consignation done pursuant thereto. This conclusion is buttressed by the directive of the trial court in the body of the *Decision* that Francisco Tazal "may still exercise the right to repurchase the property in question by returning to the [Mamerto Reyes] the purchase price of P724.00 plus all expenses incident to the reconveyance within the period of thirty (30)-days from the time this decision becomes final x x x x"^[21] The obvious reference of this statement was the stipulation made by the parties therein that "the defendant [Mamerto Reyes] has been paying the taxes on said properties