

## FIRST DIVISION

[ G.R. No. 138251, January 29, 2002 ]

**MAGDALENA BLANCIA, PETITIONER, VS. LOLITA TAN VDA. DE CALAUOR, RESPONDENT.**

### DECISION

**PARDO, J.:**

#### The Case

Appeal *via* certiorari from the decision<sup>[1]</sup> of the Court of Appeals reversing that of the Regional Trial Court, Antique, Branch 13, ruling that the deed of sale with right of repurchase executed by respondent Lolita Tan Vda. de Calauor in favor of petitioner Magdalena Blancia of a parcel of land with an area of 2,216 sq. m., located at Culasi, Antique was an equitable mortgage.

#### The Facts

The facts, as found by the Court of Appeals, are as follows:

"Sometime in 1976, defendant-appellant Lolita Tan Vda. De Calauor was the owner of a parcel of land located in the municipality of Culasi, Antique, containing an area of two thousand six hundred fourteen (2614) square meters, more or less. On July 30, 1976, appellant executed in favor of plaintiffs-appellees spouses Gilbert and Magdalena Blancia a document marked as Exhibit A, quoted as follows:

#### "DEED OF SALE WITH RIGHT OF REPURCHASE

KNOW ALL MEN BY THESE PRESENTS: -

I, Lolita Tan Vda. De Calauor, of legal age, Filipino, widow and residing at Centro Syr, Culasi, Antique, Philippines, for and in consideration of the sum of Two Thousand Two Hundred Sixteen Pesos (P2,216.00) Philippine Currency in hand paid by Gilbert Blancia, of legal age, Filipino, married to Magdalena Alojipan, and residing at Poblacion, Culasi, Antique, the receipt of which sum is hereby acknowledged to my complete satisfaction, has sold, transferred, cede and conveyed by way of sale with right of repurchase unto the said Gilbert Blancia, his heirs, successors and assigns, a parcel of land and described as follows:

The undivided portion of Lot No. 550 of the Culasi, Cad., with improvements thereon, lying in the western side of the whole lot, located at Poblacion, Culasi, Antique. Bounded: N. -by Lot No. 549; E. by the remaining portion (now sold to Gilbert Blancia); S. by Lots Nos. 12 and 551 and W. by Lot No. 549;

with an area of two thousand six hundred fourteen (2,614) sq. m. more or less.

Of which portion, I Lolita Calauor, am the true and absolute owner; thereof.

That I reserved for myself, my heirs, successors and assigns to repurchase the foregoing parcel of land after the period of one year to be counted from the date of this instrument, by returning and paying back unto the said Gilbert Blancia, his heirs, successors and assigns, the sum of P2,216.00.

That the property herein mentioned is free from all liens, charges or encumbrances of any and all kind or nature; that I have actual possession of the said property, and I have the perfect right to convey the same unto third persons, and I further undertake to defend the rights of the vendee against all lawful claims of all adverse claimants whomsoever.

"IN WITNESS WHEREOF, I have hereunto set my hand at San Jose, Antique, this 30<sup>th</sup> day of July, 1976.

(Sgd) Lolita Tan  
Vda. de Calauor  
(t) LOLITA TAN  
VDA. DE CALAUOR  
(vendor-a-retro)"

(pp. 2-3, Decision; pp. 43-44, Rollo)

"On March 2, 1989, Blancia filed with the Regional Trial Court of San Jose, Antique, a complaint against Lolita Tan Vda. de Calauor, seeking the recovery, ownership and possession of the parcel of land subject of the above-quoted document.

"In the complaint, plaintiffs alleged that they were the owner of the land subject to the right of repurchase by defendant; that on February 2, 1989, while plaintiffs were in possession of land, defendant entered the same, cleared the growing plants, destroyed the barbed wires and plowed the land against the plaintiffs' will; that the defendant had not duly exercised her right to repurchase the land and by virtue of the expiration of the period of redemption, the right therefore, has been deemed lost.

"In her answer, defendant posits that she is the owner of the disputed land having bought the same thru public auction from the Rural Bank of Ibajay. She narrates that on June 5, 1976, when she was badly in need of money for the college education of her children, she borrowed the amount of P2,216.00 payable on or before the end of June, 1976. For this purpose, a promissory note (annex "2") was executed in favor of the plaintiffs. It was further more agreed that pending payment of the debt, spouses Blancia shall enjoy, and harvest the produce of palay and benefit