



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**HEIRS OR REYNALDO DELA
ROSA, Namely: TEOFISTA
DELA ROSA, JOSEPHINE
SANTIAGO AND JOSEPH DELA
ROSA,**

Petitioners,

G.R. No. 179205

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

- versus -

**MARIO A. BATONGBACAL,
IRENEO BATONGBACAL,
JOCELYN BATONGBACAL,
NESTOR BATONGBACAL AND
LOURDES BATONGBACAL,**
Respondents.

Promulgated:

JUL 30 2014

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DECISION

PEREZ, J.:

This is a Petition for Review on *Certiorari*¹ pursuant to Rule 45 of the Revised Rules of Court, assailing the 7 December 2006 Decision² and 8 August 2007 Resolution³ of the Fourth Division of the Court of Appeals in

¹ *Rollo*, pp. 9-34.

² Penned by Associate Justice Lucenito N. Tagle with Associate Justices Roberto A. Barrios and Mario L. Guariña III, concurring. *Rollo*, pp. 36-46.

³ Penned by Associate Justice Lucenito N. Tagle with by Associate Justices Roberto A. Barrios and Romeo F. Barza, concurring. *Id.* at 48-50.

CA-G.R. CV No. 64172. In its assailed Resolution, the appellate court modified its earlier ruling and proceeded to direct petitioners to execute the requisite Deed of Sale over the subject property.

The Facts

The subject property consists of a 3,750 square meter-portion of the 15,001 square meters parcel of land situated in *Barrio* Saog, Marilao, Bulacan denominated as Lot No. 1, and registered under Transfer Certificate of Title (TCT) No. T-107449⁴ under the names of Reynaldo Dela Rosa (Reynaldo), Eduardo Dela Rosa (Eduardo), Araceli Dela Rosa (Araceli) and Zenaida Dela Rosa (Zenaida).

Sometime in 1984, Reynaldo offered to sell the subject property to Guillermo Batongbacal (Guillermo) and Mario Batongbacal (Mario) for ₱50.00 per square meter or for a total of ₱187,500.00. Pursuant to the agreement, Reynaldo received an advance payment of ₱31,500.00 leaving a balance of ₱156,000.00. As shown in the document denominated as *Resibo* and signed by Reynaldo on 18 February 1987, the parties agreed that the amount of ₱20,000.00 as part of the advance payment shall be paid upon the delivery of the Special Power-of-Attorney (SPA), which would authorize Reynaldo to alienate the subject property on behalf of his co-owners and siblings namely, Eduardo, Araceli and Zenaida. The balance thereon shall be paid in ₱10,000.00 monthly installments until the purchase price is fully settled, to wit:

RESIBO

Tinaggap ko ngayong araw na ito kay Engr. Guillermo A. Batongbacal, ng Poblacion II, Marilao, Bulacan, ang halagang sampung libong piso (₱10,000.00) salaping Pilipino, bilang bahaging bayad sa bahagi ng lupang may sukat na 3,750 sq.m. na aking kabahagi sa isang (1) lagay na lupang nasasaog, Marilao, Bulacan, sinasaklaw ng T.C.T. No. T-107449, ng Bulacan, na ipinagkasundo kong ipagbili sa naulit na Engr. Guillermo A. Batongbacal sa halagang Limampung Piso (₱50.00) salaping Pilipino, bawat isang (1) metrong parisukat. Ang paunang bayad na aking tinanggap ukol sa lupang nabanggit sa itaas ay ₱21,500.00, nuong Abril 14-18, 1984. Ang halagang dapat pa niyang bayaran sa akin ay ₱156,000.00, na ang halagang dalawampung libong piso (₱20,000.00) ay babayaran niya sa akin sa araw na nag power-of-attorney nina Zenaida dela Rosa, at Enrique Magsaloc ay aking nabigay sa nasabing Engr. Guillermo A. Batongbacal; na ang nalalabing bahaging bayad ay kanyang babayaran sa akin ng Sampung libong piso

⁴

Folder of Exhibits, pp. 52-53.

(₱10,000.00) *salaping Pilipino, bawat buwan hanggang sa matapusan ang pagbabayad ng kabuuang halaga na Isang Daang at Walumpu't Pitong libo Limang Daang Piso (P187,500.00). Ang bahaging aking ipinagbibili ay ang Lote No. 1, may sukat na 3,750 sq.m. na makikita sa nakalakip na sketch plan na aking ding nilagdaan sa ikaliliwanag ng kasulutang ito.*⁵

Subsequent to the execution of the said agreement, Mario and Guillermo, on their own instance, initiated a survey to segregate the area of 3,750 square meters from the whole area covered by TCT No. T-107449, delineating the boundaries of the subdivided parts. As a result, they came up with a subdivision plan specifically designating the subject property signed by a Geodetic Engineer.⁶ Mario and Guillermo thereafter made several demands from Reynaldo to deliver the SPA as agreed upon, but such demands all went unheeded.

Consequently, Guillermo and Mario initiated an action for Specific Performance or Rescission and Damages before the Regional Trial Court (RTC) of Malolos, Bulacan, seeking to enforce their Contract to Sell dated 18 February 1987. In their Complaint docketed as Civil Case No. 215-M-90,⁷ Mario and Guillermo asserted that they have a better right over the subject property and alleged that the subsequent sale thereof effected by Reynaldo to third persons is void as it was done in bad faith. It was prayed in the Complaint that Reynaldo be directed to deliver the SPA and, in case of its impossibility, to return the amount of ₱31,500.00 with legal interest and with damages in either case.

To protect their rights on the subject property, Mario and Guillermo, after initiating Civil Case No. 215-M-90, filed a Notice of *Lis Pendens* registering their claim on the certificate of title covering the entire property.

In refuting the allegations of Mario and Guillermo in their Complaint, Reynaldo in his Answer⁸ countered that the purported Contract to Sell is void, because he never gave his consent thereto. Reynaldo insisted that he was made to understand that the contract between him and the Batongbacals was merely an equitable mortgage whereby it was agreed that the latter will loan to him the amount of ₱31,500.00 payable once he receives his share in the proceeds of the sale of the land registered under TCT No. T-107449.

⁵ Id. at 5.

⁶ Id. at 40-41.

⁷ Records, pp. 1-4.

⁸ Id. at 10-12.



Following the pre-trial conference without the parties reaching an amicable settlement, trial on the merits ensued.⁹ Both parties proceeded to present, in open court, documentary and testimonial evidence to substantiate their claims.

For failure of Mario and Guillermo as plaintiffs therein to adduce sufficient evidence to support their complaint, the RTC, in a Decision¹⁰ dated 24 March 1999, dismissed Civil Case No. 215-M-90 and ordered Reynaldo to return to the former the sum of ₱28,000.00 with 12% annual interest. Reynaldo failed to convince the court *a quo* that the contract he entered into with Mario was an equitable mortgage. It was held by the trial court, however, that the supposed Contract to Sell denominated as *Resibo* is unenforceable under Article 1403 of the New Civil Code because Reynaldo cannot bind his co-owners into such contract without an SPA authorizing him to do so. As such, Reynaldo cannot be compelled to deliver the subject property but he was nonetheless ordered by the court to return the amount he received as part of the contract price since no one should be allowed to unjustly enrich himself at the expense of another. The RTC disposed in this wise:

WHEREFORE, premises considered[,] the instant complaint is hereby DISMISSED.

However, [Reynaldo is] hereby ordered to return to [Mario and Guillermo] the sum of ₱28,000.00 plus 12% interest per annum from the date of this decision until fully paid.¹¹

On appeal, the Court of Appeals, in its Decision¹² dated 7 December 2006, brushed aside the claim of equitable mortgage and held that the sale effected by Reynaldo of his undivided share in the property is valid and enforceable. According to the appellate court, no SPA is necessary for Reynaldo's disposition of his undivided share as it is limited to the portion that may be allotted to him upon the termination of the co-ownership. The Batongbacals could have validly demanded from Reynaldo to deliver the subject property pursuant to the Contract to Sell but such option is no longer feasible because the entire property has already been sold to third persons to whom a new title was issued. The appellate court thus proceeded to rescind the contract and ordered Reynaldo to return the amount he received as consideration thereby restoring the parties to their situation before entering into the agreement. The decretal portion of the decision reads:

⁹ In the course of the trial, Guillermo died and he was substituted by his heirs as party to the case.

¹⁰ *Rollo*, pp. 51-87.

¹¹ *Id.* at 87.

¹² *Id.* at 36-46.

WHEREFORE, the decision dated March 24, 1999 is AFFIRMED with modification that appellee is ordered to return to appellants the amount of P31,500.00 plus 12% interest per annum from the date of decision of the trial court until full payment thereof.

In addition, the appellee is ordered:

1. To pay appellants P50,000.00 as compensatory damages; P50,000.00 as moral damages; and P30,000.00 as exemplary damages.
2. To pay attorney's fees and litigation expenses of P50,000.00; and
3. Double costs.¹³

In seeking modification of the appellate court's decision, Mario and Guillermo pointed out that the title of the subject property has not yet been transferred to third persons, and thus, Reynaldo can still be compelled to execute a deed of conveyance over his undivided share of the entire property.

In a Resolution¹⁴ dated 8 August 2007, the Court of Appeals granted the Motion for Reconsideration of Mario and Guillermo and directed Reynaldo to convey the subject property to them, *viz*:

WHEREFORE, [Reynaldo's] Motion for Reconsideration is DENIED for lack of merit.

Upon the other hand, [Mario and Guillermo] Motion for Reconsideration is GRANTED. Accordingly, the decision dated December 7, 2006 is PARTIALLY RECONSIDERED ordering defendant-appellee Reynaldo dela Rosa or his successor-in-interest to execute the requisite Deed of Sale over his $\frac{1}{4}$ undivided share in the subject property covered by TCT T-107449 and to accept the consideration of P156,000.00 within thirty (30) days from the finality of the decision.

In case of failure of [Reynaldo] to execute the deed of sale, the Branch Clerk of Court of RTC Br. 16 of Malolos, Bulacan is directed to execute the same and receive the P156,000.00 balance on the purchase price on behalf of Reynaldo dela Rosa.¹⁵

On 9 September 2007, the appellate court was notified of the death of Reynaldo, and his heirs sought to be substituted as party in this case.¹⁶

¹³ Id. at 44-45.

¹⁴ Id. at 48-50.

¹⁵ Id. at 49-50.

¹⁶ CA *rollo*, pp. 159.-161.

Petitioners Heirs of Reynaldo are now before this Court *via* this instant Petition for Review on *Certiorari* praying that the Court of Appeals Decision and Resolution be reversed on the ground that it was rendered not in accordance with the applicable law and jurisprudence.

Issues

I.
WHETHER OR NOT THERE IS A CONTRACT OF SALE BETWEEN REYNALDO DELA ROSA AND GUILLERMO BATONGBACAL;

II.
ASSUMING THAT THERE IS A CONTRACT OF SALE, WHETHER OR NOT GUILLERMO BATONGBACAL COMPLIED WITH HIS OBLIGATION [UNDER THE CONTRACT];

III.
WHETHER OR NOT RESPONDENTS ARE GUILTY OF LACHES;

IV.
WHETHER OR NOT MARIO BATONGBACAL IS A PARTY TO THE TRANSACTION BETWEEN REYNALDO DELA ROSA AND GUILLERMO BATONGBACAL;

V.
WHETHER OR NOT RESPONDENT[S] ARE ENTITLED TO AN AWARD OF DAMAGES;

VI.
ASSUMING ARGUENDO THAT RESPONDENTS ARE ENTITLED TO AWARD OF DAMAGES, WHETHER OR NOT THE COURT OF APPEALS' AWARD OF DAMAGES WAS EXCESSIVE.¹⁷

The various contentions revolve on the sole issue of whether the contract entered into by parties was a Contract to Sell or an equitable mortgage. The Court will not delve into questions which are factual in nature, consistent with the rule that this Court is not a trier of facts.

The Court's Ruling

In assailing the Court of Appeals' Decision and Resolution, petitioners are unflinching in their stand that the disputed contract purporting to be an absolute deed of sale was an equitable mortgage with the subject

¹⁷ *Rollo*, pp. 18-19.

property as security for a loan obligation. To prove their point, petitioners asserted that the consideration in the amount of ₱187,500.00 for a property consisting of 15,001 square meters is grossly inadequate because the land valuation in *Barrio Saog*, Marilao, Bulacan, at the time the transaction was entered into by the parties in 1984, was already ₱80.00 to ₱100.00 per square meter. The gross inadequacy of the price, the Heirs of Reynaldo argued, is telling of the intention of the parties to mortgage and not to sell the property with the end view of affording the mortgagor an easy opportunity to redeem the property should his means permit him to do so.

An equitable mortgage is defined as one 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. For the presumption of an equitable mortgage to arise, two requisites must concur: (1) that the parties entered into a contract denominated as a sale; and (2) the intention was to secure an existing debt by way of mortgage. Consequently, the non-payment of the debt when due gives the mortgagee the right to foreclose the mortgage, sell the property and apply the proceeds of the sale for the satisfaction of the loan obligation.¹⁸ While there is no single test to determine whether the deed of absolute sale on its face is really a simple loan accommodation secured by a mortgage, the Civil Code, however, enumerates several instances when a contract is presumed to be an equitable mortgage, to wit:

Article 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.

¹⁸

Spouses Alvaro v. Spouses Ternida, 515 Phil. 267, 271-272 (2006).

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.

A perusal of the contract denominated as *Resibo* reveals the utter frailty of petitioners' position because nothing therein suggests, even remotely, that the subject property was given to secure a monetary obligation. The terms of the contract set forth in no uncertain terms that the instrument was executed with the intention of transferring the ownership of the subject property to the buyer in exchange for the price. Nowhere in the deed is it indicated that the transfer was merely intended to secure a debt obligation. On the contrary, the document clearly indicates the intent of Reynaldo to sell his share in the property. The primary consideration in determining the true nature of a contract is the intention of the parties.¹⁹ If the words of a contract appear to contravene the evident intention of the parties, the latter shall prevail.²⁰ Such intention is determined not only from the express terms of their agreement, but also from the contemporaneous and subsequent acts of the parties.²¹ That the parties intended some other acts or contracts apart from the express terms of the agreement, was not proven by Reynaldo during the trial or by his heirs herein.²² Beyond their bare and uncorroborated asseverations that the contract failed to express the true intention of the parties, the record is bereft of any evidence indicative that there was an equitable mortgage.

Neither could the allegation of gross inadequacy of the price carry the day for the petitioners. It must be underscored at this point that the subject of the Contract to Sell was limited only to $\frac{1}{4}$ *pro-indiviso* share of Reynaldo consisting an area of 3,750 square meter and not the entire 15,001-square meter parcel of land. As a co-owner of the subject property, Reynaldo's right to sell, assign or mortgage his ideal share in the property held in common is sanctioned by law. The applicable law is Article 493 of the New Civil Code, which spells out the rights of co-owners over a co-owned property, to wit:

Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited

¹⁹ *Heirs of Policronio M. Ureta, Sr. v. Heirs of Liberato M. Ureta*, G.R. No. 165748, 14 September 2011, 657 SCRA 555, 576.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*



to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Pursuant to this law, a co-owner has the right to alienate his *pro-indiviso* share in the co-owned property even without the consent of his co-owners.²³ This right is absolute and in accordance with the well-settled doctrine that a co-owner has a full ownership of his *pro-indiviso* share and has the right to alienate, assign or mortgage it, and substitute another person for its enjoyment.²⁴ In other words, the law does not prohibit a co-owner from selling, alienating, mortgaging his ideal share in the property held in common.²⁵

In *Vagilidad v. Vagilidad, Jr.*, a case nearly on all fours to the present petition, the Court upheld the right of the co-owner to alienate his *pro-indiviso* share in the co-owned property as part of his right of dominion. It was even pointed out that since the previous sale is valid, the subsequent conveyance effected by the co-owner is null and void pursuant to the principle that “no one can give what he does not have,” *nemo dat quod non habet*, thus:

LORETO sold the subject property to GABINO, JR. on May 12, 1986 as a co-owner. LORETO had a right, even before the partition of the property on January 19, 1987, to transfer in whole or in part his undivided interest in the lot even without the consent of his co-heirs. This right is absolute in accordance with the well-settled doctrine that a co-owner has full ownership of his *pro-indiviso* share and has the right to alienate, assign or mortgage it, and substitute another person for its enjoyment. Thus, what GABINO, JR. obtained by virtue of the sale on May 12, 1986 were the same rights as the vendor LORETO had as co-owner, in an ideal share equivalent to the consideration given under their transaction.

LORETO sold some 1,604 square meters of Lot No. 1253 to GABINO, JR. Consequently, when LORETO purportedly sold to WILFREDO on December 7, 1989 the same portion of the lot, he was no longer the owner of Lot No. 1253-B. Based on the principle that “no one can give what he does not have,” LORETO could not have validly sold to WILFREDO on December 7, 1989 what he no longer had. **As correctly pointed out by the appellate court, the sale made by LORETO in favor of WILFREDO is void as LORETO did not have the right to transfer the ownership of the subject property at the time of sale.**²⁶ (Emphasis supplied).

²³ *Mercado v. Court of Appeals*, G.R. No. 108592, 26 January 1995, 240 SCRA 616, 620-621.

²⁴ *Vagilidad v. Vagilidad, Jr.*, 537 Phil. 310, 327 (2006).

²⁵ *Acebedo v. Abesamis*, G.R. No. 102380, 18 January 1993, 217 SCRA 186, 194-195.

²⁶ Supra note 24 at 327.

In the same breadth, a co-owner cannot be compelled by the court to give their consent to the sale of his share in a co-owned property. In *Arambulo v. Nolasco*, the Court intimated:

The ultimate authorities in civil law, recognized as such by the Court, agree that co-owners such as respondents have over their part, the right of full and absolute ownership. Such right is the same as that of individual owners which is not diminished by the fact that the entire property is co-owned with others. That part which ideally belongs to them, or their mental portion, may be disposed of as they please, independent of the decision of their co-owners. So we rule in this case. The respondents cannot be ordered to sell their portion of the co-owned properties. In the language of *Rodriguez v. Court of first Instance of Rizal*, “each party is the sole judge of what is good for him.”²⁷ (Underscoring ours).

Thus, even if the impression of the Court of Appeals were true, *i.e.*, that the entire property has been sold to thirds persons, such sale could not have affected the right of Mario and Guillermo to recover the property from Reynaldo. In view of the nature of co-ownership, the Court of Appeals correctly ruled that the terms in the Contract to Sell, which limited the subject to Reynaldo’s ideal share in the property held in common is perfectly valid and binding. In fact, no authority from the other co-owners is necessary for such disposition to be valid as he is afforded by the law full-ownership of his part and of the fruits and benefits pertaining thereto. A condition set forth in a sale contract requiring a co-owner to secure an authority from his co-owners for the alienation of his share, as seemingly indicated in this case, should be considered mere surplusage and does not, in any way, affect the validity or the enforceability of the contract. Nor should such a condition indicate an intention to sell the whole because the contrary intention has been clearly written:

x x x *Ang bahaging aking ipinagbibili ay ang Lote No. 1, may sukat na 3,750 sq.m. na makikita sa nakalakip na sketch plan na aking ding nilagdaan sa ikaliliwanag ng kasulatang ito.*²⁸

Indeed, the intention clearly written, settles the issue regarding the purchase price. A contract of sale is a consensual contract, which becomes valid and binding upon the meeting of minds of the parties on the price and the object of the sale.²⁹ The mere inadequacy of the price does not affect its validity when both parties are in a position to form an independent judgment

²⁷ G.R. No. 189420, 26 March 2014.

²⁸ Folder of Exhibits, pp. 52-53.

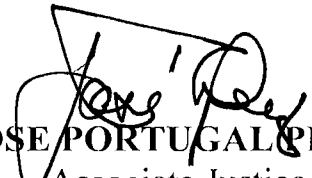
²⁹ *Bravo-Guerrero v. Bravo*, 503 Phil. 220, 235 (2005).

concerning the transaction, unless fraud, mistake or undue influence indicative of a defect in consent is present.³⁰ A contract may consequently be annulled on the ground of vitiated consent and not due to the inadequacy of the price.³¹ In the case at bar, however, no evidence to prove fraud, mistake or undue influence indicative of vitiated consent is attendant.


As the parties invoking equitable mortgage, the Heirs of Reynaldo did not even come close to proving that the parties intended to charge the property as security for a debt, leaving us with no other choice but to uphold the stipulations in the contract. Basic is the rule that if the terms of the contract are clear and leave no doubt upon the intention of the parties, the literal meaning of its stipulations shall control,³² we find that the Court of Appeals cannot be faulted for ruling, in modification of its original judgment, that the sale effected by Reynaldo of his undivided share in the property is valid and enforceable.

WHEREFORE, premises considered, the petition is **DENIED**. The assailed Decision and Resolution of the Court of Appeals are hereby **AFFIRMED**.

SO ORDERED.


JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

³⁰ *Bautista v. Court of Appeals*, 479 Phil. 787, 795 (2004).

³¹ *Id.*

³² New Civil Code, Art. 1370.




ARTURO D. BRION

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



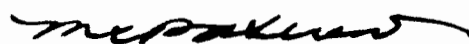
ANTONIO T. CARPIO

Associate Justice

Chairperson, Second Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice