

## SECOND DIVISION

[ G.R. No. 140357, September 24, 2004 ]

**SPOUSES REYNALDO AND EDITHA LOPEZ, PETITIONERS, VS.  
MARGARITA SARABIA, RESPONDENT.**

### DECISION

**CALLEJO, SR., J.:**

This is a petition for review on certiorari of the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated June 11, 1999 and the Resolution dated October 5, 1999 denying the motion for reconsideration thereof in CA-G.R. CV No. 50656 which affirmed with modification the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Kalibo, Aklan, Branch 6.

#### Case for the Respondent

Margarita Sarabia owned two (2) lots with a residential house built on one of the lots in Poblacion, Kalibo, Aklan. Spouses Reynaldo and Editha Lopez were renting the second floor of the house for ₱300.00 per month. On the other lot was a building rented by Dr. Nilda Tambong for ₱600.00 a month, with two (2) boarders upstairs paying ₱440.00 a month.<sup>[3]</sup> Sometime in March 1984, the Spouses Lopez approached Margarita and asked her if they could construct additional rooms for their growing children. Margarita told them that she did not have the money for such construction project. They then proposed that they could apply for a Pag-ibig Housing Loan from the Development Bank of the Philippines (DBP) and use Margarita's property as collateral. Margarita, however, informed them that her property had already been mortgaged to the Philippine National Bank (PNB) in 1978 in the amount of ₱20,000.00,<sup>[4]</sup> and was, in fact, in danger of being foreclosed for non-payment of amortization. Her outstanding loan balance as of March 1984 had already ballooned to about ₱63,000.00.

The Spouses Lopez tried to convince Margarita that it was better to transfer the mortgage to the DBP where interest rates were lower; Editha Lopez was a public school teacher and the monthly amortization could easily be deducted from her salary. They told Margarita that the PNB loan balance could be paid off from the proceeds of the loan from the DBP, and the excess could be used for the construction of the rooms. In order to facilitate the loan, it was, however, necessary that the property be in the name of the Spouses Lopez.

Relying on the couple's good faith and assurances that they would religiously pay the amortization, Margarita agreed to their proposition. A document was thus executed denominated as "Assumption of Mortgage with Quitclaim."<sup>[5]</sup> In said document, the Register of Deeds was authorized to cancel TCT No. T-4471 and TCT No. T-4474 over the two (2) parcels of land and issue new TCT's<sup>[6]</sup> under the name

of the Spouses Lopez covering the two lots. The Spouses Lopez then mortgaged the properties to DBP where they obtained a loan in the amount of ₱163,000.00. They paid the PNB, which then released the mortgage of Margarita. The Spouses Lopez ceased paying rentals to Margarita and even collected the rentals from the other lot as part of the payment of the monthly amortization.

Sometime in October 1987, Reynaldo Lopez approached Margarita and informed her that he needed ₱30,000.00 to update their loan payments. Margarita gave him the amount as part of the refund to the payment of the PNB loan. She expected Reynaldo to give her an official receipt from the DBP, but did not receive any. Sensing something irregular, she went to the DBP to inquire about the status of the loan. She was aghast to find out that the loan amortization had not been paid and that her property was again in danger of being foreclosed.

Margarita was constrained to file an action with the RTC against the Spouses Lopez for annulment of document, specific performance and reconveyance with damages. The DBP was included as party-defendant. In her complaint, Margarita prayed for the following:

- a. Declaring the Assumption of Mortgage with Quitclaim null and void;
- b. Ordering the defendants Lopezes to redeem the parcels of land and residential house presently mortgaged to the Development Bank of the Philippines;
- c. Ordering the defendants to reconvey the certificates of title as well as the tax declarations of the said parcels of land and the house in favor of plaintiff;
- d. Ordering the defendants to pay the plaintiff the amount of ₱10,000.00 as attorney's fee; litigation expenses in the amount of ₱10,000.00, and as actual damage to the value of the property mentioned above to be determined by this Honorable Court, and monthly rental of ₱300.00 from 1984 up to actual payment.<sup>[7]</sup>

### **Case for the Petitioners**

In their Answer<sup>[8]</sup> to the Complaint, the Spouses Lopez averred that it was Margarita who approached them to help her redeem her property from the PNB because it was going to be foreclosed. She was aware that the couple wanted to buy a house and lot of their own, and offered her property to them instead. The Spouses Lopez told her that they did not have the money to redeem the property, but if Margarita was certain in selling her house to them, they could arrange for a loan from the DBP, the proceeds of which the PNB loan could be paid in full and would form part of the purchase price. The balance would also be taken from the proceeds of the DBP loan. Pursuant to their mutual and verbal agreement, Margarita executed a Deed of Assumption of Mortgage with Quitclaim,<sup>[9]</sup> authorizing the couple to assume her loan with the PNB over the two lots, together with all the improvements thereon and renouncing all her rights over the property. The same document authorized the Register of Deeds of Aklan to cancel TCT Nos. T-4471 and T-4474 and issue two (2) new certificates of title in the name of the Spouses Reynaldo and Editha Lopez. In April 1984, Margarita asked for partial payment from the Spouses Lopez and was given the amount of ₱6,700.00 which the former acknowledged.<sup>[10]</sup> On May 8, 1984, Margarita executed a Special Power of

Attorney<sup>[11]</sup> appointing the DBP to be her attorney-in-fact, where the latter would issue a check in favor of the PNB covering the amount of ₱63,307.34 as payment of the outstanding loan balance. Another check in the amount of ₱89,992.66 was also issued in the name of Margarita, as per the Distribution of Proceeds and Release Guide of the DBP.<sup>[12]</sup> The couple has introduced improvements on the land since then, which cost them about ₱300,000.00. The Spouses Lopez claim and assert ownership over the subject properties, as evidenced by the TCTs issued in their names.

On the part of DBP, it alleged in its answer with cross-claim that it had no knowledge of the agreement between Margarita and the Spouses Lopez. It granted a loan to the spouses in the amount of ₱163,500.00 and accepted the certificates of title presented to it by the Spouses Lopez over the two parcels of land as security/collateral. It had the right to rely on the certificates of title presented to it, which were free from all liens and encumbrances. The DBP was an innocent mortgagee for value. As cross-claim, DBP demanded payment from the Spouses Lopez the amount of the loan granted to them, plus damages for misrepresenting to the bank that they were the owners in fee simple of the subject properties which they mortgaged to the bank.<sup>[13]</sup>

### **The Findings of the RTC**

On November 29, 1994, the RTC rendered judgment in favor of Margarita. The trial court found that it was Margarita who sought the help of the Spouses Lopez so that she could redeem her property which was on the verge of being foreclosed by the PNB for non-payment of the loan amortization. By virtue of the documents executed by Margarita in favor of the Spouses Lopez, *viz*, Deed of Assumption and Quitclaim dated March 6, 1984,<sup>[14]</sup> Offer to Sell dated March 20, 1984,<sup>[15]</sup> and Release of Real Estate Mortgage dated May 9, 1984,<sup>[16]</sup> the titles to the land were transferred and registered in the names of the latter. The Spouses Lopez applied for a Pag-ibig Housing Loan from the DBP using Margarita's property as security, and was granted thereof in the amount of ₱163,500.00. The PNB loan was paid pursuant to the special power of attorney. Although another check in the amount of ₱87,000.00 was issued to Margarita and later endorsed by her for encashment, she testified that she never received the money.<sup>[17]</sup> The Spouses Lopez ceased paying rentals and even collected the rentals of the other tenants which were supposed to be applied to the monthly amortization.

The trial court found that the true intentions of the parties were not really embodied in the documents/instruments. The documentary, as well as parol evidence, clearly showed that Margarita did not really intend to convey her property to the petitioners. She merely agreed to lend her titles so that the Spouses Lopez could procure a bigger loan which she could not possibly obtain, considering her age and meager salary as Supervising Accounting Clerk in the Municipality of Kalibo. She agreed to sign the pertinent documents with the understanding that they were requirements of the bank in processing the loan applied for by the Spouses Lopez. The trial court continued to rule that the Spouses Lopez were in bad faith, so whatever improvements were made on the land were forfeited in favor of Margarita.<sup>[18]</sup>

The dispositive portion of the decision reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring the Deed of Assumption and Quitclaim executed by the plaintiff in favor of the defendant spouses, Exhibit "G" of the plaintiff and Exhibit "4" of defendants a relatively simulated contract;
2. Declaring the conveyance of title in favor of the defendant spouses under TCT No. T-13472 and TCT No. T-13473, as a simulated or fictitious transfer, and therefore void; and that said spouses merely hold legal title in trust and for the benefit of the plaintiff;
3. Declaring the assumption by the defendant spouses of plaintiff's loan valid;
4. Declaring the loan obtained by the defendant spouses from the defendant bank valid and subsisting, but declaring the mortgage, giving the properties in question as a security for the payment thereof, null and void;
5. Ordering that the properties in question with all the existing improvements thereon, covered by TCT No. T-13472 and TCT No. T-13473 in the names of the defendant spouses, be conveyed in the name of the plaintiff upon payment of proper fees; and for the purpose, ordering the defendant bank to return the owner's duplicate of said certificates of title to the plaintiff;
6. Ordering the defendant spouses to vacate the premises and return possession over the same to the plaintiff;
7. Ordering the defendant spouses to pay Ten Thousand Pesos (₱10,000.00) as attorney's fees, and litigation expenses, and to pay the costs.<sup>[19]</sup>

The Spouses Lopez appealed to the Court of Appeals. The CA affirmed the RTC finding that the nature of the transaction between Margarita and the Spouses Lopez was, verily, an equitable mortgage and not a sale. The CA, however, declared that the petitioners were builders in good faith. According to the CA, Margarita was aware and approved the construction/improvements undertaken by the Spouses Lopez; thus, forfeiture of the improvements in favor of Margarita was unwarranted. The *fallo* of the decision reads:

WHEREFORE, the decision appealed from is AFFIRMED with the modification that, defendant-appellant Lopez spouses being considered builders in good faith, the improvements they introduced after the transaction in question be either purchased by plaintiff-appellee Margarita Sarabia or removed at defendant-appellants' own expense. <sup>[20]</sup>

The Spouses Lopez are now before the Court raising the following:

- (1) THAT WHILE THE COURT OF APPEALS HAS CORRECTLY REVERSED THE FINDING OF THE TRIAL COURT THAT THE

DEFENDANTS-APPELLANTS (HEREIN PETITIONERS) WERE NOT BUILDERS IN BAD FAITH AND CATEGORICALLY DECLARED THEM TO BE BUILDERS IN GOOD FAITH, IT FAILED TO APPLY CORRECTLY THE RULES ON BUILDER IN GOOD FAITH UNDER ART. 448 OF THE NEW CIVIL CODE ON THE OPTIONS OF THE OWNER OF THE LAND AND THE RIGHTS OF THE BUILDER IN GOOD FAITH; and

- (2) THAT WHILE THE HONORABLE COURT OF APPEALS HAS AFFIRMED THE RULING OF THE TRIAL COURT THAT THE REAL AGREEMENT BETWEEN THE PARTIES WAS A FORM OF EQUITABLE MORTGAGE AND NOT A SALE, IT FAILED TO DEFINE AND ADJUDICATE WITH CERTAINTY THE RELATIVE RIGHTS AND RECIPROCAL OBLIGATIONS OF THE PARTIES UNDER ART. 1616 OF THE NEW CIVIL CODE. [21]

### **Ruling of the Court**

There is no dispute that the transaction between the parties is one of equitable mortgage and not a sale as maintained by the petitioners. This was a finding correctly made by the trial court and the appellate court, which we find no cogent reason to disturb.

No matter what nomenclature is given to a document, Article 1602 of the New Civil Code provides that the contract is presumed to be an equitable mortgage in any of the following cases:

- 1) When the price of a sale with right to repurchase is usually inadequate;
- 2) When the vendor remains in possession as lessee or otherwise;
- 3) When upon 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 the usury laws.

The pertinent document which is subject to scrutiny in this case is the Deed of Assumption of Mortgage with Quitclaim [22] executed by Margarita in favor of the Spouses Lopez. The said document empowered the Spouses Lopez to assume the loan of Margarita with the PNB. And in consideration for such assumption of indebtedness, Margarita was considered to have waived all her rights and participation over the two parcels of land, together with all the improvements thereon, and that such titles were transferred to the Spouses Lopez. This document