

## THIRD DIVISION

[ G.R. No. 102557, July 30, 1996 ]

**ALFONSO D. ZAMORA, PETITIONER, VS. COURT OF APPEALS AND  
MA. JACINTA D. DE GUZMAN, RESPONDENTS.**

### DECISION

**PANGANIBAN, J.:**

In dispute is the nature of the contract entered into by the parties in 1988 -- whether the same is an absolute sale or an equitable mortgage.

Challenged in this petition under Rule 45 is the Decision<sup>[1]</sup> of the Court of Appeals<sup>[2]</sup> in CA-G.R. CV No. 27319 promulgated on August 19, 1991, affirming the judgment of the trial court which ruled that the contract in question was an equitable mortgage and not a deed of absolute sale, and respondent Court's subsequent Resolution<sup>[3]</sup> promulgated on October 25, 1991, denying reconsideration.

#### The Facts

Some material facts are not disputed. The petition<sup>[4]</sup> itself reproduced the respondent Court's narration thereof as follows:<sup>[5]</sup>

"Plaintiff is one of five (5) brothers and sisters who own in common a parcel of land together with improvements thereon located at E. Rodriguez Avenue, Quezon City. The property with an area of 1,539 square meters, more or less, is covered by TCT No. 81503 issued by the Register of Deeds of Quezon City.

Starting January 8, 1973, the property in question had been leased to and occupied by the defendant for a period of fifteen (15) years at a monthly rental of P5,000.00.

On January 16, 1987, plaintiff executed a real estate mortgage over her share and interest in the subject property in favor of the defendant as a security for her loan of indebtedness to the latter in the sum of P140,000.00. This contract (Exh. A or Exh. 7) provided inter alia that the loan was payable within one (1) year with the interest at 18% per annum, and constituted the defendant (mortgagee) as plaintiff's attorney-in-fact to choose the sheriff in case of extrajudicial foreclosure.

Plaintiff failed to pay the loan within the stipulated period of one (1) year. But no foreclosure took place because plaintiff asked for and was extended more loans on five different occasions, evidenced by temporary receipts marked Exhs. 8 to 12 inclusive. These additional loans, upon agreement of plaintiff and defendant, were made subject to the security

provided by the same real estate mortgage. Plaintiff failed to pay the loans which now totalled P272,356.00 (including interest). On March 1, 1988 plaintiff as vendor executed a document known as "Absolute Sale of Undivided Share of Land" in favor of defendant, for a total consideration of P450,000.00. This Deed of Conveyance (Exh. E or Exh. 5) which appears to be unilaterally executed covered plaintiff's individual share and interest consisting of approximately 300 square meters undivided share and participation in the same property described in and covered by TCT No. 81503. The balance of P177,644.00 (P450,000 minus the loan) was duly paid by defendant to the plaintiff within one week after plaintiff signed the document of sale in the presence of Celia Zamora, defendant's spouse.

Defendant caused the registration of the "Absolute Sale of Undivided Share of Land" with the Register of Deeds and obtained a new title TCT No. 378689 (Exh. 6 or Exh. G), wherein defendant is now named as one of the registered owners of the property together with the brothers and sister of plaintiff. Soon after defendant obtained a copy of TCT No. 378689, his wife, Celia, delivered the same to plaintiff.

Subsequently, the Office of the Register of Deeds of Quezon City was gutted by fire. When Celia Zamora asked plaintiff as to who would work for the reconstitution of the title, the latter indicated that the defendant should do it and the title was given by plaintiff to Celia for the purpose of reconstitution. On August 2, 1988 defendant applied for administrative reconstitution of the title on August 22, 1988 (sic). After the same was accomplished, the title was again returned to the plaintiff.

Plaintiff, well-known by her nickname Maja, has been regarded and looked up to as the head of the family consisting of two sisters and three brothers. She is a graduate of Fine Arts from the College of the Holy Spirit in Quezon City."

The foregoing are the facts admitted by both parties. Petitioner alleges that the "following are other important facts which have substantial bearing to the instant controversy but which are conspicuously absent in the foregoing summary by the Court of Appeals":

"2. When the petitioner paid the balance of P177,644.00 to private respondent within one (1) week after execution of the Absolute Sale of Undivided Share of Land (Exh. "5"), the latter (private respondent) signed a receipt dated March 3, 1988 (Exh. "3") wherein she stated:

'March 3, 1988

'Received from Alfonso D. Zamora the amount of ONE HUNDRED SEVENTY SEVEN THOUSAND SIX HUNDRED FORTY FOUR PESOS (P177,644.00) Philippine currency. as the final payment, making the total amount of P450,000.00 as embodied in the Absolute Sale of Undivided Share of Land, of the sale of share and rights and interest as executed in the said Sale of Undivided Share of Land.

Payment breakdown as follows:

March 1, 1988 MPSB MC  
No. 007246 P 30,000.00

March 1, 1988 SBTC Check  
No. 048207 5,000.00

March 2, 1988 MPSB MC  
No. 007247 117,644.00

March 2. 1988 BO MC  
No. 002635 25,000.00  
Total P177,644.00

Received by:

(Sgd.)  
Maria Jacinta de Guzman'

(Underscoring ours)

3. The Absolute Sale of Undivided Share of Land (Exh. "5") was notarized on March 9, 1988 and a new title (TCT No. 378689) was issued to petitioner as co-owner on March 22, 1988 (Exh. "6") (p. 7. Court of Appeals' Decision);

4. Notwithstanding the execution of such deed of absolute sale of undivided share of land (Exh. "5") on March 9, 1988, petitioner still paid the full P5,000.00 rental, at P1,000.00 per co-owner/lessor for the whole month of March thru a bank deposit as a gesture of goodwill as gleaned from his letter (Exh. "I") addressed to private respondent and her brothers as (sic) sisters dated March 29, 1988;

5. Beginning the month of April 1988, petitioner started to deduct the amount of P1,000.00 from his monthly rental of P5,000.00 as said amount (P1,000.00) corresponded to the one-fifth (1/5) undivided share now owned by him in the property by virtue of the cited deed of absolute sale (Exh. "5");

6. On May 1, 1988, petitioner wrote private respondent a letter (Exh. "F") giving the latter the option to repurchase her share, which option was however verbally withdrawn by petitioner on the very next day (May 2). The verbal withdrawal was subsequently confirmed by petitioner's written notice (Exh. "1") dated May 3, 1988 wherein petitioner informed private respondent that he had "reconsidered" his offer (p. 8, Decision of the Court of Appeals; p. 6, Decision of the Regional Trial Court);

7. On May 5, 1988, private respondent, through counsel, sent a letter (Exh. "H") to petitioner informing the latter of her desire to repurchase her share. The aforesaid letter (Exh. "H") was received by petitioner on May 6, 1988 (ibid.);

8. On May 9, 1988, petitioner wrote a letter-reply (Exh. "2") to private respondent's counsel intimating that petitioner's reason for withdrawing/reconsidering his earlier offer (for the repurchase of the one-fifth (1/5) share) was due to "certain new developments" (ibid.);

9. On September 12, 1988, private respondent instituted the instant action below to decide as null, void and ineffectual the Absolute Sale of Undivided Share of Land (Exh. "5") and to cancel TCT No. 378689. In addition, private respondent asked for reconveyance of her one-fifth (1/5) share in the subject property and prayed for damages;

10. On May 22, 1990, the trial court rendered judgment in favor of private respondent declaring the contract of absolute conveyance between the parties as instead one of equitable mortgage and directing inter alia the reconveyance of the subject one-fifth (1/5) undivided share unto private respondent;-

The decretal portion<sup>[6]</sup> of the trial court's decision dated May 22, 1990 which respondent Court affirmed in toto, is as follows:

"WHEREFORE, the contract between the parties is hereby declared to be one of equitable mortgage and the defendant is ordered to reconvey to the plaintiff the latter's undivided 1/5 interest in the subject property, upon the latter's payment of the sum of P450,000.00 plus interest at 18% per annum from March 14, 1988, the date of the instrument, up to the date of such payment.

The Register of Deeds of this City is directed to cancel TCT No. 378689 and re-issue a new one in the names of the plaintiff as well as Francisco de Guzman, Bernardina de Guzman, Placido de Guzman III, Joseph Gerard de Guzman, represented by their guardian, Esmeraldo Dimatulac, upon proof of compliance by the plaintiff of the above undertaking within 30 days from receipt hereof.

The prayers for damages and attorney's fees are hereby DENIED.

The defendant's counterclaim is DISMISSED.

SO ORDERED."

In affirming the trial court, the Court of Appeals summarized "the extant factors in the case at bar that preponderantly justify the consideration of the questioned 'Absolute Sale' as an equitable mortgage," as follows:<sup>[7]</sup>

"1. Plaintiff obtained a series of loans from the defendant in a long period of time with interest at 18% per annum;

2. Time come (sic) when the loans reached an aggregate amount of P272,356.00, and plaintiff was unable to pay the same, plaintiff finding herself in a really bad fix acceded to sign a contract prepared by defendant for the sale of her one-fifth (1/5) share and interest in the property for the price of P450,000.00;

3. As agreed upon, the document of sale was not intended to be registered, let alone the issuance of a new title thereto wherein defendant would be named as one of the co-owners of the property, but the registration and titling were accomplished by defendant contrary to their mutual understanding;

4. Defendant in a letter assured plaintiff that she could repurchase the property for the same amount of P450,000.00 but when the latter decided to exercise her right, defendant refused;

5. Copy of the title was in the possession of plaintiff even after a new one was issued wherein defendant was already named as one of the co-owners;

6. After the conflagration that destroyed the records of the Register of Deeds of Quezon City, the title to the subject property was reconstituted at the instance of defendant but thereafter the title was again returned to plaintiff for safekeeping;

7. The court a quo considered the price of P450,000.00 for the share of plaintiff consisting of 300 square meters of prime land located at E. Rodriguez Avenue, Quezon City, as grossly inadequate and inequitable (sic). We agree with this finding, having in mind that in 1988 business was already booming and the prices of real estate in the metropolis were on the gallop. Business abruptly came to a standstill and the price indices only fell after the aborted coup in December, 1989."

### The Issues

Petitioner now assigns the following errors<sup>[8]</sup> allegedly committed by the appellate court:

#### "I

The Court of Appeals gravely erred and abused its discretion in ruling that the absolute sale of undivided share of land (Exh. '5' ) is in reality an equitable mortgage notwithstanding the presence of incontrovertible circumstances in the case at bar clearly showing that the real intention of the parties was to enter into a contract of absolute conveyance.

#### II

The Court of Appeals gravely erred and abused its discretion in ruling that the purchase price of P1,500.00 per sq. meter of the subject property in 1988 is grossly inadequate.

#### III

The Court of Appeals gravely erred and abused its discretion in affirming the judgment of the trial court which dismissed petitioner's counterclaim against private respondent."

In fine, the threshold issue in this case may simply be stated thus: Is the contract entered into between the parties one of absolute sale or equitable mortgage?

### The Court's Ruling