

FIFTH DIVISION

[CA-G.R. CV NO. 96404, November 17, 2014]

**REGALADO TOMAS, REPRESENTED BY MARY JANE TOMAS
GUERZON, PLAINTIFF-APPELLEE, VS. ALEJANDRO CABALTICA
AND EMILY CABALTICA, DEFENDANTS-APPELLANTS.**

DECISION

CRUZ, J.:

THE CASE

This is an appeal under Rule 41 of the Rules of Court seeking to reverse and set aside the Decision dated October 21, 2010^[1] of the Regional Trial Court (RTC) of Cabanatuan City, Branch 23 in Civil Case No. 4800-AF. The *fallo* of the Decision reads:

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xxx xxx xxx

WHEREFORE, judgment is hereby rendered:

1. Ordering the defendants to return/surrender possession over the one (1) hectare portion of the land consisting of 1.7846 hectares located at Sta. Barbara, San Jose (now Ligaya), Llanera, Nueva Ecija, covered by TCT No. NT-39897, to plaintiff upon payment to them by the plaintiff the amount of P103,000.00 and,
2. Dismissing both parties' claim for damages and attorney's fees.

No pronouncement as to costs.

SO ORDERED.

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THE ANTECEDENTS

On September 20, 2004, Regalado Tomas represented by Mary Jane Tomas Guerzon, as plaintiff, filed a complaint for redemption, specific performance, accounting, liquidation and damages against Alejandro Cabaltica, as defendant, before the Regional Trial Court (RTC), of Cabanatuan City, Branch 23, docketed as Civil Case No. 4800-AF.^[2]

Plaintiff alleged the following material facts:

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3. That sometime on the year 1992 the plaintiff mortgage the above mentioned parcel of land with a total consideration of P103,000.00, with a condition that the net realized harvest shall be applied to the mortgage consideration, considering that the possession was delivered to the defendant and that the premises was principally dedicated with the planting of palay crops, the mortgage was orally agreed upon by the plaintiff Regalado Tomas and defendant;

4. That since 1992 up to the present no accounting and liquidation was made by the defendant despite oral demands, including to vacate the land;

5. That because of the actuations of the defendant, the plaintiff brought the matter to the Barangay Justice, who issued a certification to file action, xxx xxx

6. Because of the actuations of the defendants the plaintiffs were constrained to file the instant case and so doing will incur expenses and damages.^[3]

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Hence, she prayed that the RTC render judgment as follows:

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xxx xxx xxx

a. A decision be issued by ordering the defendant to deliver the possession of the subject land to the plaintiff;

b. Ordering the defendant to render an accounting and liquidation of the harvest from 1992 to present and convert it to peso money equivalent and thereafter deduct the amount of P103,000.00 including the legal rate of interest as the mortgage consideration and the remaining excess of the purchase price be delivered to the plaintiff;

c. Ordering defendant to pay the plaintiff damages and expenses in the amount of P20,000.00.

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Defendant moved initially for the dismissal of the complaint on the ground of lack of jurisdiction^[4] but the same was denied in the Order dated July 4, 2005.^[5]

Then, in his Answer,^[6] Defendant Alejandro Cabaltica denied the material allegations of the complaint and in his defense, averred, that, since plaintiff seeks for the recovery of possession over one (1) hectare of the total land area of 1.7846 hectares, which has a proportionate assessed value of P18,866.97, Philippine Currency, the action falls within the jurisdiction of the MTC and not the RTC; they have entered into a sale over the subject land with an area of one (1) hectare and have been in possession thereof since 1992 and the amount of consideration is P103,000.00, Philippine Currency; he is the owner of the subject land with an area of one (1) hectare by virtue of a verbal contract of sale entered into by the parties in 1992; plaintiff also seeks to enforce an oral agreement and since more than six (6) years has passed, her cause of action has already prescribed.

On September 14, 2006, plaintiff amended the complaint to implead Emily Cabaltica, the wife of Defendant Alejandro Cabaltica, as one of the defendants.^[7] The RTC, in its Order dated October 26, 2006,^[8] admitted the Amended Complaint.

In the interim, Regalado Tomas, who died,^[9] was substituted by his daughter, Mary Jane Tomas Guerzon.^[10]

On October 21, 2010, the RTC rendered a Decision^[11] in favor of the plaintiff. According to the RTC, the allegation in the complaint that plaintiff mortgaged the subject land to the defendants on the condition that the net realized harvest shall be deducted to the loan is a mere allegation and cannot be given weight in evidence. In the absence of proof, the allegation is bare and self-serving and defendants cannot be obliged to render an accounting and liquidation in favor of the plaintiff of the fruits/harvest from 1992 to the present. It however found that the arrangement between the parties was one of usufruct because of the following circumstances: (i) the possession over the property was delivered to the defendants to enjoy the fruits of the same, and (ii) the duration is temporary in nature, that is, until the return of the money given by the defendants to the plaintiff. It also held that plaintiff has clearly established ownership over the subject land as evidenced by the TCT No. NT-39897, thus, he has a right to recover the possession of the one (1) hectare portion of the total area of 1.7846 hectares.

Hence, the RTC decreed that:

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xxx xxx xxx

WHEREFORE, judgment is hereby rendered:

1. Ordering the defendants to return/surrender possession over the one (1) hectare portion of the land consisting of 1.7846 hectares located at Sta. Barbara, San Jose (now Ligaya) Llanera, Nueva Ecija, covered by TCT No. NT-39897, to plaintiff upon payment to them by the plaintiff the amount of P103,000.00; and

2. Dismissing both parties' claim for damages and attorney's fees.

No pronouncement as to costs.

SO ORDERED.

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Aggrieved, defendants filed a Notice of Appeal,^[12] which the RTC gave due course in its Order dated January 4, 2011.^[13]

THE ASSIGNED ERRORS

Defendants, as appellants before Us, assert the following errors of the RTC, that:

I. THE HONORABLE COURT A *QUO* ERRED IN DECLARING THAT A USUFRUCT WAS CONSTITUTED BETWEEN THE PARTIES INSTEAD OF A SALE;

II. THE COURT A *QUO* ERRED IN NOT DISMISSING THE CASE AS THE CAUSE OF ACTION HAD PRESCRIBED OR THAT LACHES HAD ATTACHED.

Defendants-appellants, in their Brief,^[14] submit that the RTC grossly erred in finding that a usufruct was constituted. They point out that while there is an absence of a written agreement, the following circumstances clearly show their intention which was one of sale, because (1) the possession of the subject land given to them by the late Regalado Tomas in 1993 was in the concept of an owner; (2) in consideration thereof, the amount of P103,000.00, Philippine Currency, was given to the late Regalado Tomas; (3) the subject property was to be subdivided and that the cost of the survey in the amount of P15,000.00 was given on June 10, 1995 by Defendant-Appellant Emily Cabaltica; (4) they have been paying real property taxes over the one (1) hectare portion of the land; (5) plaintiff-appellee cannot execute a deed of sale because the certificate of title was lost; (6) the consideration in the amount of P103,000.00, Philippine Currency, was higher than the market value appearing in the Tax Declaration, *i.e.* P84,166.55, Philippine Currency; (7) plaintiff-appellee never manifested any intention to return the P103,000.00, Philippine Currency, either by tender of payment or by consignment; and (8) defendants-appellants have introduced improvements on the subject land to make it more productive. Since a sale has been consummated between them, the plaintiff-appellee must be ordered to execute the necessary deed of sale to formally convey the property to them.

They also maintain that the Statute of Frauds is inapplicable in the present case because the verbal contract of sale is already executed or completed arguing that the sale of land, once consummated, is valid regardless of the form it may have been entered into. They add that plaintiff-appellee's cause of action has already

prescribed or is barred by laches, hence, the complaint must be dismissed.

On the other hand, plaintiff-appellee, in her Brief,^[15] maintains the contrary view and asserts that the RTC is correct. The defendants-appellants have already admitted the transaction between them to be one of loan secured by a real property as shown in the Barangay Confrontation dated July 21, 2002 marked as Exhibit "G", where Defendant-Appellant Emily Cabaltica solicited P50,000.00, Philippine Currency, as "*porciento*" or "*tubo*" for the money borrowed from her, hence, the appeal must be dismissed.

OUR RULING

The RTC erred in ruling that a usufruct was constituted between the parties

We, based on what appears in the records, are tasked to determine whether the nature of the agreement between the parties' over the subject land is one of loan secured by a mortgage as argued by the plaintiff-appellee or a sale albeit an oral one as claimed by the defendants-appellants.

It is a staid precept that in determining the nature of a contract or agreement, We are not bound by the title or name given by the parties. The decisive factor in evaluating an agreement is the intention of the parties, as shown not necessarily by the terminology used but by all the surrounding circumstances, such as the relative situation of the parties at that time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the agreement, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding.^[16]

The defendants-appellants failed to substantiate their assertion that the subject land was already sold to them by plaintiff-appellee. First, there is a patent absence of any document categorically conveying the subject property from the late Regalado Tomas to defendants-appellants. What they did was to try to prove the sale by testimonial evidence. Pertinent portions of the testimony^[17] of Emily Cabaltica, who claimed that she paid the purchase price but admitted that she has no proof of payment reads, *viz*:

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xxx xxx xxx

Court:

Questions from the Court. Clarification.

Q You said you paid certain downpayment and then installment until you paid the amount of One Hundred Thousand (P100,000.00). Is that your testimony?

A Yes, your honor.