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Considering that that the RTC of Makati did not have jurisdiction to hear Civil Case No. 8389, it becomes unnecessary to resolve the other issues raised by petitioners.

WHEREFORE, the petition for review is *DENIED*. The assailed decision and resolution of the Court of Appeals are hereby *AFFIRMED*. Costs against petitioners.

SO ORDERED.

Davide, Jr., C.J., Vitug, and *Carpio, JJ.*, concur.

Ynares-Santiago, J., on leave.

THIRD DIVISION

[G.R. No. 125755. February 24, 2003]

PEDRO MOLINA, *petitioner-appellant, vs.* **HON. COURT OF APPEALS and SPOUSES MARGARITO M. FLORES and NERISA HERRERA,** *respondents-appellee.*

SYNOPSIS

On April 23, 1984, petitioner, co-owner of a parcel of land in Naic, Cavite, covered by TCT No. T-44010, executed a Deed of Sale conveying his share in the said property to his sister Felisa. More than four years after the sale, petitioner, upon the request of his sister, executed another Deed of Absolute Sale in lieu of the first, covering the same share in favor of Felisa's son, herein private respondent Margarito Flores and the latter's wife. On September 5, 1990, petitioner filed an action for reformation of instrument and/or annulment of document and title with reconveyance and damages before the Regional Trial Court of Cavite, alleging that the Deed of Absolute Sale in favor of respondent spouses did not express the true will and intention of the parties. The trial court favorably

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ruled for the petitioner. On appeal, the Court of Appeals reversed the decision of the trial court and dismissed petitioner's complaint. Hence, this petition.

In denying the petition, the Court found that the parties to the Deed were fully aware of its contents and meaning, and that there were no acts done or events that occurred prior to, simultaneous to, or after the execution of the Deed that would indicate the intention of any of the parties to have been otherwise than to sell the property to respondent spouses. It held that the alleged inadequacy of the price harped upon by petitioner does not by itself support the conclusion that the property was not at all sold or that the contract was one of loan. Petitioner failed to present proof that the value of the property at the time the Deed was executed in 1988 is considerably higher than the purchase price stated in the deed. The Court further held that petitioner's continued receipt of rentals due on the property from its current lessee was a gesture of generosity, kinship and leniency from his relatives, he being jobless and without visible means of support.

SYLLABUS

1. **CIVIL LAW; SALES; EXTINGUISHMENT OF SALE; CONVENTIONAL REDEMPTION; EQUITABLE MORTGAGE, DEFINED.**— An equitable mortgage is defined as one which, 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. The intention of the parties to an agreement is shown not necessarily by the terminology used therein but by all the surrounding circumstances, such as the relative situation of the parties at the time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the deed, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding.

2. **ID.; ID.; ID.; ID.; PRESUMPTION OF AN EQUITABLE MORTGAGE; REQUISITES; CASE AT BAR.**— For the presumption of an equitable mortgage to arise under Art. 1602,

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two (2) requisites must concur: (a) that the parties entered into a contract denominated as a contract of sale, and (b) that their *intention was to secure an existing debt by way of a mortgage*. In the case at bar, the second requisite is conspicuously absent. That the alleged loan was received in installments of ₱1,000.00 per month for ten months or a total of ₱10,000.00 in fact indicates that the transaction was not one of a loan but of sale on installment.

3. **ID.; ID.; ID.; INADEQUACY OF THE PRICE DOES NOT BY ITSELF SUPPORT THE CONCLUSION THAT THE CONTRACT WAS ONE OF A LOAN.**— The alleged inadequacy of the price harped upon by petitioner does not by itself support the conclusion that the property was not at all sold or that the contract was one of a loan. In any event, no proof was presented to show that the value of the 92 sq. m. property located in *Naic*, Cavite was, at the time the Deed was executed in *1988*, considerably higher than the therein stated purchase price ₱8,000.00.

4. **ID.; ID.; ID.; NON-PAYMENT OF THE ENTIRE PURCHASE PRICE DOES NOT BY ITSELF BAR THE TRANSFER OF OWNERSHIP OR POSSESSION OF THE PROPERTY, MUCH LESS DISSOLVE THE CONTRACT OF SALE.**— Petitioner argues, nevertheless, that assuming *arguendo* that a contract of sale was entered into, it was not consummated as the entire purchase price was not paid. Assuming that to be so albeit, by the Deed in question petitioner *acknowledged receipt of the ₱8,000.00 purchase price*, it does not by itself bar the transfer of the ownership or possession of the property, much less dissolve the contract of sale. The contract remains but the payment of the price is a resolutory condition, and the remedy of the seller is to exact fulfillment or, in case of a substantial breach, to rescind the contract under Article 1191 of the Civil Code.

5. **ID.; ID.; TRANSACTION BETWEEN THE PARTIES WAS NOT ONE OF A LOAN BUT OF A SALE ON INSTALLMENT IN CASE AT BAR.**— That petitioner, prior to the execution of the impugned Deed, signed receipts identically denominated as "*Kasunduan*" under which he acknowledged receiving sums of money *as payment* for his property, which *receipts were worded in the vernacular* and

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could not have been mistaken or misunderstood for anything else other than as evidence of the sale of his property, seals the case against him. It confirms this Court's earlier observation that the transaction indicated was one of sale on installment. Additionally, petitioner affixed his signature on the Deed after its contents were sufficiently explained to him in the vernacular, which was witnessed by two other persons of legal age and duly acknowledged before a notary public. Ironically, petitioner's own witness, Nemecio Molina, who was likewise a witness to the execution of the Deed, belied his claim of having no knowledge of the contents of the subject instrument when he took the witness stand: x x x. Another witness to the document, Atty. Edwina Mendoza, testified that prior to the execution of the Deed, the parties thereto approached her "to tell [her] that sometime in the future, they will have to execute a deed of conveyance because they are entering to (sic) this kind of transaction," adding that when petitioner was informed that he would actually be selling his property, the latter readily acceded. In fine, this Court finds that the parties to the Deed were fully aware of its contents and meaning, and that there were no acts done or events that occurred prior to, simultaneous to, or after the execution of the Deed that would indicate the intention of any of the parties to have been otherwise than to sell the property to respondent spouses.

APPEARANCES OF COUNSEL

Jose M. Resus for petitioner.
Manuelito C. Diosomito for private respondents.

D E C I S I O N

CARPIO MORALES, *J.*:

His motion for reconsideration having been denied, petitioner brought the present petition for review on *certiorari* to set aside the decision of April 30, 1996 of the Court of Appeals[1] in CA-G.R. CV No. 46107 which reversed the April 4, 1994 decision

[1] Records at 93-102.

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of the Regional Trial Court of Cavite, Branch 15[2] in Civil Case No. NC-325 in favor of petitioner.

Petitioner Pedro Molina and his siblings Felisa, Felix and Tomas Molina were co-owners of a parcel of land in Naic, Cavite registered in their names under TCT No. T-44010 of the Registry of Deeds of Cavite.[3]

On April 23, 1984, petitioner, by Deed of Absolute Sale,[4] conveyed to his sister Felisa his share in the co-owned property. The sale was not, however, registered.

The siblings subsequently entered into an agreement wherein they partitioned the property as follows:

Lot No. 98-A-1 with an area of 92 square m. for FELIX MOLINA;

Lot No. 98-A-2 with an area of 92 square m. for PEDRO MOLINA;

No. 98-A-3 with an area of 92 square m. for FELISA MOLINA;

Lot No. 98-A-4 with an area of 92 square m. for TOMAS MOLINA;

Lot No. 98-A-5 with an area of 43 square m. as the RIGHT OF WAY;[5]

More than four years after petitioner executed the Deed of Sale conveying his share of the property to his sister Felisa or on June 13, 1988, upon the request of Felisa, he executed another Deed of Absolute Sale[6] in lieu of the first covering the same share in favor of Felisa's son private respondent Margarito Flores and his wife private respondent Nerisa Herrera. The pertinent provisions of the second Deed are reproduced hereunder:

x x x x x x x x x

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[2] *Id.* at 103-109.

[3] Exhibit "A", Records at 53.

[4] Exhibit "2", Records at 28.

[5] *Rollo* at 7.

[6] Exhibit "3", Records at 29.

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That the Vendor is the absolute owner in fee simple of a ¼ portion of a parcel of land, situated in the Poblacion, Naic, Cavite, Philippines, known as and more specifically described as follows:

x x x x x x x x x

That for and in consideration of the sum of EIGHT THOUSAND PESOS ONLY (₱8,000.00) Philippine Currency, *receipt of which in full is hereby acknowledged by the Vendor from the Vendee,* the Vendor hereby sells, transfers and conveys and by these presents have (sic) sold, transferred and conveyed unto the above named Vendee, her (sic) heirs and assigns the (1/4) square meters (sic) portion of the above described parcel of land, free from all kinds of liens and encumbrances whatsoever. (Italics supplied).

x x x x x x x x x

TCT No. T-170585[7] in the name of respondent spouses covering petitioner's share in the co-owned property was accordingly issued.

On September 5, 1990, petitioner filed an action for reformation of instrument and/or annulment of document and title with reconveyance and damages before the Regional Trial Court of Cavite, alleging that the Deed of Absolute Sale in favor of respondent spouses does not express the true will and intention of the parties.

Respondent spouses maintained that their acquisition of petitioner's share was valid, legal and binding.[8]

After trial, finding for petitioner, the trial court ordered the annulment of the Deed of Absolute Sale, disposing as follows:

Wherefore, this Court finds merit in plaintiff's complaint and hereby orders:

1. The annulment of the contract, Absolute Deed of Sale dated June 13, 1988 among and between the plaintiff and the defendants which is null and void;

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[7] Exhibit "C", Records at 55.

[8] Records at 13.

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2. The cancellation of TCT No. 170585 of the Register of Deeds of Cavite Province at Trece Martires City; and

3. The defendants to pay plaintiff reasonable attorney's fees of ₱5,000.00.

Plus costs of suit.

SO ORDERED.[9]

Upon recourse to the Court of Appeals, the trial court's decision was reversed and the complaint of petitioner was dismissed, hence the present petition anchored on the following assigned errors:

I. RESPONDENT COURT APPEALS COMMITTED REVERSIBLE ERROR IN NOT HOLDING THAT THE DEED OF SALE DO (*sic*) NOT EXPRESS THE TRUE INTENT AND AGREEMENT OF THE PARTIES;

II. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THE TRANSACTION TO BE AN EQUITABLE MORTGAGE AND NOT A DEED OF SALE AND THEREFORE TRANSCENDS THE CORRECT APPLICATION OF ART. 1602 OF THE CIVIL CODE;

III. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT HOLDING THAT THE ALLEGED SALE WAS NOT A CONSUMATED (sic) CONTRACT OF SALE;

IV. RESPONDENT COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT THE PETITIONER WAS DEFRAUDED BY FELISA MOLINA IN SIGNING THE SIMULATED AND FICTITIOUS DEED OF SALE."[10]

Petitioner contends that he signed the Deed of Absolute Sale through the misrepresentations of his sister Felisa who made him believe that what he was signing was only a receipt evidencing his indebtedness to her[11] which, by his own admission, he had

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[9] Records at 109.

[10] *Rollo* at 6.

[11] TSN, January 24, 1991 at 9.

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incurred on several occasions; that Felisa took advantage of his lack of sufficient education and knowledge of English to defraud him into selling his property; and that parol evidence should be admitted to prove the real nature of the transaction which he claims was one of an equitable mortgage.

Petitioner calls attention to the consideration given for his property, ₱8,000.00, which he claims is inadequate, and to his regular receipt of rentals being paid by the lessee of the premises, one Erlinda de Guzman which circumstances are allegedly badges of equitable mortgage. Thus he cites Articles 1602 and 1604 of the Civil Code which provide:

Art. 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.

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 usury laws (Emphasis supplied).

Art. 1604. The provisions of Article 1602 shall also apply to a contract purporting to be an absolute sale.

In issue then is whether the parties intended the Deed of Absolute Sale in favor of respondent to be an equitable mortgage.

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An equitable mortgage is defined as one which, 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.[12]

The intention of the parties to an agreement is shown not necessarily by the terminology used therein but by all the surrounding circumstances, such as the relative situation of the parties at the time, the attitude, acts, conduct, declarations of the parties, the negotiations between them leading to the deed, and generally, all pertinent facts having a tendency to fix and determine the real nature of their design and understanding.[13]

For the presumption of an equitable mortgage to arise under Art. 1602, two (2) requisites must concur: (a) that the parties entered into a contract denominated as a contract of sale, and (b) that their intention was to secure an existing debt by way of a mortgage.[14]

In the case at bar, the second requisite is conspicuously absent. Consider the following testimony of petitioner himself:

Q: In connection with that issue, do you remember *how much you owed your sister?*

A: Yes, your Honor.

Q: How much?

A: *Ten thousand (₱10,000.00) pesos,* your Honor.

Q: Do you have any copy of that agreement of your loan?

A: None, sir.

Q: *How did you receive that amount of money*?

A: Little by little, sir. *Month by month* (*buwan buwan*), sir.

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[12] *Matanguihan v. Court of Appeals,* 275 SCRA 381, 390 (1997) (citation omitted).

[13] *Reyes v. Court of Appeals,* 339 SCRA 97, 103 (2000).

[14] *Reyes,* 339 SCRA 104.

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Q: *And how long did you receive that amount of ten thousand (₱10,000.00) pesos*?

A: *Ten months. Every month, I was allowed to received sic ₱1,000.00.*

Q: *You did not put up any collateral to your loan? Did you*?

A: *None, your Honor.* (Italics supplied).[15]

That the alleged loan was received in installments of ₱1,000.00 per month for ten months or a total of ₱10,000.00 in fact indicates that the transaction was not one of a loan but of sale on installment.

The alleged inadequacy of the price harped upon by petitioner does not by itself support the conclusion that the property was not at all sold or that the contract was one of a loan.[16]

In any event, no proof was presented to show that the value of the 92 sq. m. property located in *Naic,* Cavite was, at the time the Deed was executed in *1988*, considerably higher than the therein stated purchase price ₱8,000.00.

As for petitioner's continued receipt of rentals due on the property from its current lessee this Court finds the same as did the appellate court, to be a gesture of generosity, kinship and leniency from his relatives, he being jobless and without visible means of support.[17]

Petitioner argues, nevertheless, that assuming *arguendo* that a contract of sale was entered into, it was not consummated as the entire purchase price was not paid.[18] Assuming that to be so albeit, by the Deed in question petitioner acknowledged receipt of the ₱8,000.00 purchase price, it does not by itself bar the transfer of the ownership or possession of the property, much less dissolve the contract of sale.[19] The contract remains but

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[15] TSN, January 24, 1991 at 13.

[16] *Cachola, Sr. v. Court of Appeals*, 208 SCRA 496, 501 (1992).

[17] Records at 101.

[18] *Rollo* at 17.

[19] *Ocampo v. Court of Appeals*, 233 SCRA 551, 560 (1994).

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the payment of the price is a resolutory condition, and the remedy of the seller is to exact fulfillment or, in case of a substantial breach, to rescind the contract under Article 1191 of the Civil Code[20] which provides:

Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

That petitioner, prior to the execution of the impugned Deed, signed receipts identically denominated as "*Kasunduan*" under which he acknowledged receiving sums of money *as payment* for his property, which *receipts were worded in the vernacular* and could not have been mistaken or misunderstood for anything else other than as evidence of the sale of his property, seals the case against him. It confirms this Court's earlier observation that the transaction indicated was one of sale on installment. Thus each of the receipts — *Kasunduan*[21] provides:

Ako si PEDRO MOLINA, balo, may sapat na gulang, Pilipino, naninirahan sa Naik, Kabite, ay tumanggap ng halagang one thousand (₱1,000) sa aking kapatid na si FELISA S. MOLINA bilang tanda na ipinagbibili ko sa kanya ang aking kaparte sa lupang minana naming sa aming mga magulang, nakilala bilang Lote Numero 98-A na may titulo Numero T-44010 na nasa Kalye ZAMORA NAIK, KABITE, x x x

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[20] *Villaflor v. Court of Appeals*, 280 SCRA 297, 339 (1997) (citation omitted).

[21] Exhibits "1", "1-A" - "I" at 18-27.

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Additionally, petitioner affixed his signature on the Deed after its contents were sufficiently explained to him in the vernacular, which was witnessed by two other persons of legal age and duly acknowledged before a notary public. Ironically, petitioner's own witness, Nemecio Molina, who was likewise a witness to the execution of the Deed, belied his claim of having no knowledge of the contents of the subject instrument when he took the witness stand:

Q: Now, before the said document was signed by the parties, do you know what was done by the Notary Public, Mariano Villanueva?

A: Yes, sir.

Q: What was done by Notary Public Mariano Villanueva before the parties signed the document?

A: *He read the document to Pedro Molina.*

Q: In what vernacular did Atty. Villanueva use the reading of the document, Tagalog or English?

A: In English, your Honor.

Q: You mean to say that Notary Public Mariano Villanueva was reading the contents of the sale of the document which is in English?

A: Yes, sir.

Q: And that is all what (sic) Atty. Villanueva did before he required the parties to sign?

A: *He told her secretary to translate it in Tagalog.*[22] (Emphasis supplied).

More. Another witness to the document, Atty. Edwina Mendoza, testified that prior to the execution of the Deed, the parties thereto approached her "to tell [her] that sometime in the future, they will have to execute a deed of conveyance because they are entering to (sic) this kind of transaction,"[23]

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[22] TSN, March 20, 1991 at 9.

[23] TSN, October 23, 1991 at 16.

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adding that when petitioner was informed that he would actually be selling his property, the latter readily acceded.[24]

In fine, this Court finds that the parties to the Deed were fully aware of its contents and meaning, and that there were no acts done or events that occurred prior to, simultaneous to, or after the execution of the Deed that would indicate the intention of any of the parties to have been otherwise than to sell the property to respondent spouses.

WHEREFORE, the Petition is hereby *DENIED*. The Decision of the Court of Appeals in CA-G.R. CV No. 46107 dated April 30, 1996 is hereby *AFFIRMED*.

SO ORDERED.

Puno (Chairman), Panganiban, and *Sandoval-Gutierrez, JJ.*, concur.

Corona, J., on leave.

EN BANC

[G.R. No. 143708. February 24, 2003]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **ROGELIO SAMBRANO *y* TINDERO,** *accused-appellant.*

SYNOPSIS

For sexually abusing the five-year-old daughter of his common-law spouse, accused-appellant was charged and subsequently found guilty of the crime of rape by the Regional Trial Court of Bataan, and was sentenced to death.

Hence, this automatic review.

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[24] *Id.* at 18.