Supreme Court E-Library

SECOND DIVISION

[G.R. No. 143388. October 6, 2003]

ROLANDO and ROSITA both surnamed CRUZ, *petitioners, vs.* **THE HONORABLE COURT OF APPEALS, THE HONORABLE ALFREDO R. ENRIQUEZ, Presiding Judge, Metropolitan Trial Court, Branch 79, Las Piñas City, and MIGUEL and CECILIA both surnamed CAPISTRANO,** *respondents.*

SYNOPSIS

Petitioners-spouses Rolando and Rosita Cruz were the owners and operators of a dry goods stall in Divisoria. They contracted a series of loans in varied amounts in the total amount of ₱195,000.00 from private respondents-spouses Miguel and Cecilia Capistrano who were in the business of lending money on a "five-six" basis. To secure the loan, private respondents obliged the petitioners, among others, to surrender their Transfer Certificate of Title No. S-98034, to which petitioners promptly complied. However, after all the sidewalk stalls in Divisoria were demolished, private respondents Capistrano were no longer able to collect from the petitioners. Later, petitioners discovered that private respondents had mortgaged their property to San Miguel Corporation to secure a credit line. Verification from the Register of Deeds of Las Piñas showed that TCT No. S-98034 was already cancelled and TCT No.(98729) T-2156-A was issued in the name of private respondents by using a Deed of Absolute Sale purportedly executed in their favor by petitioners. Petitioners denied having executed the Deed, but that they were allegedly made to sign blank forms with the understanding that private respondents would superimpose a mortgage deed thereon. On the other hand, private respondents alleged that petitioners, who were unable to pay their indebtedness of ₱195,000.00, delivered to them a Deed of Absolute Sale of the property in litigation in order to offset said indebtedness. Criminal complaints filed by the parties against each other were dismissed and ultimately what remained were Civil Case No. 88-2747 for annulment of TCT

Supreme Court E-Library

No. 98729, the deeds of sale and mortgage pending before RTC-Br. 135 Makati, and Civil Case No. 89-5682, which is an appeal from the ejectment case which was consolidated with Civil Case No. 88-2747 in RTC Br. 275, Las Pinas.

The principal issues in this case are: whether or not the questioned document is a deed of absolute sale or a deed of mortgage, and whether or not the loans had already been paid.

The trial court ruled in favor of the petitioners, declaring: (a) the Deed of Absolute Sale purportedly executed by petitioners and the Deed of Mortgage executed by the Capistranos in favor of San Miguel Corporation as null and void *ab initio*; and (b) the Transfer Certificate of Title issued in favor of the Capistranos as *ipso facto* cancelled; and ordering the issuance of a new title in favor of petitioners but devoid of any annotation of the Capistranos' mortgage with the SMC.

On appeal, the Court of Appeals reversed the decision of the court *a quo* and dimissed the complaint of the petitioners.

On review by *certiorari*, the Supreme Court, in applying Arts. 1602 and 1604 of the New Civil Code, ruled that a contract appearing on its face to be a definite sale, like the contract in question, may be an equitable mortgage if any of the circumstances mentioned in the above mentioned law are present, such as the gross inadequacy of the price and the continuous and unmolested physical possession of the contested property by the petitioners. The Register of Deeds of Las Pinas was directed to cancel the transfer certificate of title issued in favor of the Capistranos and to issue a new title in favor of the petitioners subject to the equitable mortgage in favor of the respondents.

SYLLABUS

1. **CIVIL LAW; SALES; EQUITABLE MORTGAGE; DEED OF SALE CONSIDERED EQUITABLE MORTGAGE UNDER ART. 1602 AND 1604 OF THE NEW CIVIL CODE; PURPOSE OF THE LAW.** — Vendors covered by Art. 1602 usually find themselves in an unequal position when bargaining with the vendees, and will readily sign onerous contracts to get the money they need. Necessitous

Supreme Court E-Library

men are not really free men in the sense that to answer a pressing emergency they will submit to any terms that the crafty may impose on them. This is precisely the evil that Art. 1602 seeks to guard against. The evident intent of the provision is to give the supposed vendor maximum safeguards for the protection of his legal rights under the true agreement of the parties.

2. **ID.; ID.; ID.; GROSS INADEQUACY OF THE PRICE OF A PURPORTED SALE, A CASE OF.** — Beneath the veneer of an absolute deed of sale is an entirely different agreement. Indeed the records are replete with telltale traces of a concealed mortgage. The rule is well settled that a contract appearing on its face to be a definite sale, like the contract in question, may be interpreted to be an equitable mortgage if any of the circumstance in Art. 1602 of the New Civil Code such as the gross inadequacy of the price is present. Art. 1602 par. (1) accords significance to the gross inadequacy of the price of a purported sale to such an extent as to create a presumption that the transaction is an equitable mortgage, where petitioners spent a total of ₱358,000.00 in acquiring the property and introducing improvements thereon and yet the property was purportedly sold to private respondents in 1988 for a measly sum of ₱66,000, or barely 19% of its total acquisition and improvement cost three years before in 1982. Furthermore, this Court takes judicial notice of the fact that the value of real properties does not remain stagnant, but on a constant upswing so that given the incessant currency devaluation and spiraling costs of commodities, it would certainly be unrealistic that the market value of petitioners' property in 1985 would depreciate greatly three years later. The rule is well-settled that a contract appearing on its face to be a definite sale, like the contract in question, may be interpreted as an equitable mortgage if any of the circumstances in Art. 1602 of the *New Civil Code*, such as the gross inadequacy of the price, is present.

3. **ID.; ID.; ID.; CONTINUOUS AND UNMOLESTED PHYSICAL POSSESSION OF THE CONTESTED PROPERTY BY PETITIONERS.** — The other factor to consider is the continuous and unmolested physical possession of the contested property by petitioners for almost three years from the time

Supreme Court E-Library

of the alleged sale of the property in 1985 to the filing of petitioners of the case for annulment of the deed of sale in 1988. Although symbolically, the Deed of Absolute Sale transferred possession of the property to respondent Capistrano, it was petitioners the supposed vendors who remained in physical possession of the property. In fact it does not even appear from the records that the Capistranos ever declared the property in their names for taxation purposes or paid taxes thereon since the execution of the document. Neither is there any showing that private respondents or any person acting in their behalf ever demanded of petitioners to vacate the premises after the "execution" of the "deed of sale" in their favor. Verily, had the intention of the parties been a contract of sale and not merely a contract of mortgage, private respondents could have asserted their right to possess the property, and would not have allowed petitioners to freely stay thereon for such a long period of almost three (3) years. Private respondents' decision to eject petitioners from the property came only as an afterthought, and designed merely to harass petitioners.

4. **ID.; ID.; ID.; RESPONDENT'S ADMISSION REINFORCES COURT'S CONCLUSION THAT CONTRACT IN CASE AT BAR IS AN EQUITABLE MORTGAGE.**— Respondent Cecilia Capistrano's admission during the trial that the title to the property was delivered to her by petitioners only to secure payment of the loans reinforces the Court's conclusion that the contested contract is not really a sale but an equitable mortgage. Said admission all but demolishes whatever vestige of doubt is left as to the true nature of the contract in question. The evident intention of the parties, *vis-a-vis* petitioners' property, was not to transmit ownership but merely to guarantee payment.

5. **ID.; ID.; ID.; ACQUISITION OF MORTGAGED PROPERTY IN A *PACTUM COMMISSORIUM* FASHION IS CONTRARY TO GOOD MORALS AND PUBLIC POLICY; CASE AT BAR.** — Private respondents could not in a *pactum commissorium* fashion appropriate the disputed property for themselves as they appeared to have done; otherwise, their act will not be countenanced by this court being contrary to good morals and public policy, hence void. If they wish to secure perfect title over the mortgaged property, they should do so

Supreme Court E-Library

in accordance with law, *i.e.* by foreclosing the mortgage and buying the property in the auction sale.

6. **ID.; ID.; ID.; TITLE TO MORTGAGED PROPERTY REMAINED WITH OWNERS-MORTGAGORS.**— In the meantime, title to the subject property which had supposedly been transferred to respondents Capistranos, actually remained with petitioners as owners-mortgagors, conformably with the well established doctrine that the mortgagee does not automatically become the owner of the mortgaged property as the ownership thereof remains with the mortgagor.

7. **ID.; CONTRACTS; INTERPRETATION THEREOF IN CASE OF DOUBT; GENERAL RULE.** — In case of doubt in the circumstances surrounding the execution of a contract, as in this case, the least transmission of rights and interests shall prevail if the contract is gratuitous and if onerous, the doubt shall be settled in favor of the greatest reciprocity of interests.

8. **REMEDIAL LAW; APPEAL; FINDINGS OF COURT OF APPEALS ENTITLED TO GREAT WEIGHT AND RESPECT; EXCEPTIONS.** — Ordinarily the findings of the Court of Appeals are entitled to great weight and respect, at times even finality, and shall not be disturbed on appeal. Nevertheless, when, as in this case, (a) the findings of the Court of Appeals are at variance with those of the trial court; (b) the inference made or the conclusion drawn on the basis of certain state of facts is manifestly mistaken; or, (c) the Court of Appeals manifestly overlooked or disregarded matters of substance which if considered, would very likely change the outcome of the case, this Court is not precluded from exercising the power of review.

9. **CIVIL LAW; SALES; EQUITABLE MORTGAGE; INTERPRETATION AS TO AMOUNT ACTUALLY DUE.** — The truth appears to be somewhere in the middle. *Veritas in medio stat.* Petitioners only made payments of what were due but did not fully settle the debt. Private respondents have a valid and subsisting credit, not in the entire amount of the loan but only for ₱66,000.00 the alleged purchase price in the deed of sale which actually pertained to the unpaid balance of the loans for which private respondents appropriated petitioners' property in full satisfaction thereof.

Supreme Court E-Library

10. ID.; ID.; ID.; JUDGMENT DECLARING THE CONTRACT TO BE EQUITABLE MORTGAGE IS NOT A BAR TO FORECLOSURE PROCEEDINGS. — Let it be made clear that our judgment herein declaring the contract to be an equitable mortgage should not be construed as a bar to the collection of unpaid loans. Private respondents have the perfect right to foreclose the mortgage and sell the property subject thereof to satisfy the mortgage debt.

APPEARANCES OF COUNSEL

Pacifico M. Lontok & Arcangelita M. Romilla-Lontok for petitioners.

Rogelio P. Terrado for respondents.

D E C I S I O N

BELLOSILLO, *J.*:

The *Decision* of the Court of Appeals of 24 April 2000[1] reversing and setting aside the *Decision* of RTC-Br. 135, Makati City,[2] and dismissing the *Complaints* filed by petitioners herein is assailed in this *Petition for Review*.

Petitioners Rolando and Rosita Cruz, spouses, were the owners and operators of a dry goods stall in Divisoria. They contracted a series of loans in varied amounts from private respondents, spouses Miguel and Cecilia Capistrano, who were in the business of lending money on a "five-six" basis. Respondent Cecilia Capistrano was then operating her lending business on a portion of petitioners' stall. The Capistranos and the Cruzes were close friends.[3]

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[1] Decision penned by Associate Justice Martin S. Villarama, Jr. concurred in by Associate Justices Cancio C. Garcia and Romeo J. Callejo, Sr. (now a member of this Court, hence, takes no part in this Decision.

[2] Actually a joint Decision penned by Judge Omar U. Amin, RTC-Br. 135, Makati City, in Civil Cases Nos. 88-2747 & 89-5682.

[3] *Rollo*, p. 74.

Supreme Court E-Library

On 31 May 1985 petitioners obtained the first of these loans in the total amount of ₱135,000.00 evidenced by two (2) separate receipts.[4] As conditions for the loan, private respondents required petitioner Rosita Cruz to open a checking account with PhilBanking, Las Piñas Extension Office, and thereafter asked her to sign a blank check with the promise that the check would only be for safekeeping and would not be deposited with the bank.[5] To secure the loan, private respondents obliged petitioners to surrender their Transfer Certificate of Title No. S-98034 covering a 240-square meter lot together with the house standing thereon located in San Antonio Valley XVII, Las Piñas, Metro Manila. Petitioner Rosita Cruz promptly complied with all the conditions imposed by private respondents.

Subsequently, petitioners secured three (3) more loans from the Capistranos on various dates in the amounts of ₱40,000.00,[6] ₱15,000.00[7] and ₱5,000.00.[8]

Sometime in 1988, after all the sidewalk stalls in Divisoria were demolished, respondent Capistranos were no longer able to collect from the vendors who owed them. Petitioners later discovered that private respondents had mortgaged their property in Las Piñas, Metro Manila, to San Miguel Corporation (SMC) to secure payment of a credit line. Verification from the Office of the Register of Deeds of Las Piñas showed that petitioners' TCT No. S-98034 was already cancelled and TCT No. (98729) T-2156-A was issued in the name of private respondents Miguel and Cecilia Capistrano[9] by using a *Deed of Absolute Sale* purportedly executed in their favor by petitioners.[10]

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[4] Annex "A" for ₱120,000.00 and Annex "B" for ₱15,000.00; Records, pp. 52-53.

[5] TSN, 23 January 1990, pp. 7-9.

[6] Annex "C;" Records, p. 54.

[7] Annex "D;" *id.*, p. 55.

[8] Annex "E;" *id.*, p. 56.

[9] Exhs. "J" and "K;" Folder of Exhibits, pp. 10, 13.

[10] Exh. "L"; *id.*, p. 16.

Supreme Court E-Library

The parties' respective versions as to how the disputed *Deed of Absolute Sale* came about differed radically. Petitioners denied executing the *Deed of Absolute Sale*, tenaciously asserting that at the time they were negotiating with private respondents concerning the loans, the latter required them to sign on several blank sheets of paper with the understanding that private respondents would superimpose a mortgage deed thereon,[11] but it turned out that private respondents, instead of a deed of mortgage, typed on those blank papers the deed of sale in question.

Private respondents, on the other hand, claimed that in November 1985 petitioners intimated to them that they would not be able to pay the ₱195,000.00 debt upon its maturity in December 1985 and, by way of offsetting the indebtedness, they delivered to respondents a duly accomplished and notarized *Deed of Absolute Sale*.

On 21 December 1988 petitioners filed a complaint against private respondents and SMC with the Regional Trial Court of Makati City,[12] seeking the annulment of the *Deed of Absolute Sale* (Exh. "L"), Transfer Certificate of Title No. 98729 (Exh. "K") issued in the name of private respondents, and the deeds of mortgage executed by the Capistranos in favor of SMC (Exh. "K-2").[13] Petitioners likewise filed a criminal complaint for *Estafa Through Falsification of Public Documents* against private respondents before the Office of the Provincial Fiscal of Rizal.[14]

Respondent Capistranos countered with separate criminal complaints for *Violation of C.A. No. 142 (Illegal Use of Aliases), Violation of BP 22,* and *Estafa*, as well as an action for Ejectment[15]

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[11] TSN, 23 January 1990, p. 14.

[12] Raffled to RTC-Br. 135.

[13] See Civil Case No. 88-2747, "Rolando and Rosita both surnamed *Cruz v. Miguel and Cecilia both surnamed Capistrano, San Miguel Corporation and the Register of Deeds of Las Piñas.*"

[14] I.S. No. 88-10173; Exh. "M."

[15] Civil Case No. 3016 for ejectment was raffled to MTC-Br. 79, Las Piñas, Metro Manila, presided over by Judge Alfredo R. Enriquez.

Supreme Court E-Library

against petitioners after private respondents' demand to vacate the subject property went unheeded.

The criminal complaint for *Estafa Through Falsification of Public Documents* filed by petitioners against private respondents was later dismissed by the Office of the Provincial Fiscal of Rizal for lack of merit. As for private respondents' criminal complaints against petitioners for *Violation of C.A. No. 142, Violation of BP 22,* and *Estafa,* the trial court eventually exonerated petitioners on reasonable doubt.

Ultimately, what remained were Civil Case No. 88-2747 for annulment of TCT No. 98729, the deeds of sale and mortgage, pending before RTC-Br. 135, Makati City;[16] and Civil Case No. 89-5682, an appeal from the ejectment case[17] pending before RTC-Br. 275, Las Piñas, Metro Manila. On 21 February 1992 Presiding Judge Florentino M. Alumbres of RTC-Br. 275, Las Piñas, Metro Manila, ordered the consolidation of Civil Case No. 89-5682 with Civil Case No. 88-2747.[18]

On 21 March 1994, after hearing, the trial court rendered a decision in favor of petitioners and against respondent Capistranos, decreeing that: (a) The *Deed of Absolute Sale* dated November 5, 1985 (Exh. "7") conveying the subject property, together with the improvements thereon, covered by TCT No. S-98034 (Exh. "C") to defendant Capistranos was null and void *ab initio*; (b) The *Transfer Certificate of Title No. (98729) T-2156-A* (Exh. "K") issued by the Registry of Deeds of Las Piñas was *ipso facto* cancelled; (c) The *Deeds of Mortgage* executed by

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[16] Incidentally on 19 February 1991, SMC filed a motion to dismiss the complaint against it on the ground that respondents already replaced TCT No. 98729 with another collateral as security for their indebtedness to SMC. That with the replacement of the collateral, SMC no longer had anything to do with the contested property. In its Order of 14 April 1991, the trial court finally dismissed the complaint against SMC, with the conformity of petitioners.

[17] Petitioners challenged the jurisdiction of MTC-Br. 79, Las Piñas, Metro Manila, over the ejectment case. After Judge Alfredo R. Enriquez ruled against their objection, petitioners filed a petition for *certiorari* with application for preliminary injunction with RTC, Las Piñas, Metro Manila.

[18] Records, p. 734.

Supreme Court E-Library

defendant Capistranos over the subject property covered by TCT No. (98729T-2156-A) to secure a credit line from SMC was null and void *ab initio*; (d) The Registrar of Deeds of Las Piñas issue a new title over the subject property in favor of plaintiffs devoid of any annotation of defendant Capistranos' mortgage to SMC; (e) The questioned Order of 30 October 1989 issued by public respondent Alfredo R. Enriquez, Presiding Judge of the MTC-Br. 79, Las Piñas, Metro Manila, be set aside, and that Civil Case No. 3016 pending before him dismissed for lack of cause of action; and, (f) The defendant Capistranos should pay plaintiffs the sum of ₱20,000.00 as litigation expenses by way of compensatory damages, ₱20,000.00 as attorney's fees, and pay the costs in these cases.

On 24 May 1995 private respondents challenged the trial court's decision before the Court of Appeals.[19] On 24 April 2000 the appellate court rendered its assailed Decision reversing the court *a quo* and dismissing the complaint filed by petitioners. The appellate court found that petitioners failed to substantiate their allegation of fraud that would warrant the annulment of the *Deed of Absolute Sale* in question; that "except for the allegation that the signatures of the vendors in the deed were not directly aligned to their typewritten names, no other badges of fraud were presented by the appellees (petitioners) to prove that said notarized deed of sale was not duly executed"; and, that petitioners had not presented a single receipt to prove that their indebtedness to private respondents had already been extinguished by payment.

Their motion for reconsideration having been denied, petitioners now come to us for relief contending mainly that the Court of Appeals erred in upholding the validity of the *Deed of Absolute Sale* and failing to recognize that the actual transactions between the parties were in fact loans. More specifically, petitioners argue that: (a) it is the practice in "five-six" lending operations that receipts are not issued for payment and borrowers are not

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[19] Docketed as CA-G.R. CV No. 46049, *Rolando and Rosita both surnamed Cruz v. The Honorable Alfredo R. Enriquez, Miguel and Cecilia both surnamed Capistrano.*

Supreme Court E-Library

to demand receipts. Petitioners also claim that borrowers would not be extended succeeding loans unless they shall have fully settled the previous ones — a uniform practice in the "five-six" lending trade; (b) the awkward positions of petitioners' signatures on the *Deed of Absolute Sale*, viewed *vis-a-vis* their typewritten names on the instrument, show very conspicuously that those signatures were affixed in blank; (c) the gross inadequacy of the purchase price appearing on the purported deed of sale, *i.e.*, ₱66,000.00, showed that the purported deed of sale did not reflect the true intention of the parties. Even granting without conceding that the loans were unpaid, the proper document should have been a deed of mortgage, not sale; and, (d) it is inconceivable that petitioners would trade off their house and lot valued at ₱750,000.00 at the time just to pay an alleged loan of ₱195,000.00.

Private respondents, on the other hand, posit in their *Comment* that (a) petitioners had not presented a single proof of payment of their indebtedness to private respondents in the amount of ₱195,000.00; (b) except for petitioners' allegation that their signatures in the deed of sale were not directly aligned to their typewritten names, no other badges of fraud were alleged and proved by them to dispute the due execution of the deed of sale; (c) the intention of the contracting parties should prevail in determining the true nature of the contract denominated *Deed of Absolute Sale*, and the true intention of the parties is that of sale and not merely mortgage; and, (d) petitioners voluntarily delivered to private respondents the disputed deed of sale conveying to the latter the subject house and lot in full settlement of their indebtedness.

At the heart of the controversy, reduced to its simplest, are: *first*, whether the *Deed of Absolute Sale* is, in reality, one of equitable mortgage; and, *second* whether petitioners' loans to private respondents have already been paid.

The Court of Appeals concluded that the contract subject of the instant case was, in fact, one of sale and not merely of mortgage, thus —

Supreme Court E-Library

In the absence of clear and convincing evidence of such alleged payment, We are not ready to conclude that the appellees in signing the Deed of Sale executed on November 4, 1985 merely intended a mortgage and not a deed of conveyance as the terms of the contract clearly and unmistakably indicate. The finding of non-payment of the indebtedness of appellees to appellants tends to support the claim of the appellants that the deed of sale in their favor was executed by the appellees to offset their outstanding obligation to the appellants. With no evidence showing a contrary intention, the clear and plain terms of the Deed of Sale executed between the parties must be construed as an absolute conveyance made by the debtors, herein appellees, in full settlement of their outstanding obligation with their creditors, herein appellants.[20]

We hold otherwise. Beneath the veneer of an absolute deed of sale is an entirely different agreement. Indeed, the records are replete with telltale traces of a concealed mortgage. The applicable law may be found in the *New Civil Code* thus —

Art. 1602. The contract shall be presumed to be an equitable mortgage in any of the following cases:

(1) ***When the price of the 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 of 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.***

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[20] *Rollo*, p. 81.

Supreme Court E-Library

In any of the foregoing case, 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 (italics supplied).

Equally important is Art. 1604 of the same *Code* —

Art. 1604. The provisions of Article 1602 shall also *apply to a contract purporting to be an absolute sale* (italics supplied).

Vendors covered by Art. 1602 usually find themselves in an unequal position when bargaining with the vendees, and will readily sign onerous contracts to get the money they need. Necessitous men are not really free men in the sense that to answer a pressing emergency they will submit to any terms that the crafty may impose on them.[21] This is precisely the evil that Art. 1602 seeks to guard against. The evident intent of the provision is to give the supposed vendor maximum safeguards for the protection of his legal rights under the true agreement of the parties.

Article 1602, par. (1), accords significance to the *gross inadequacy of the price* of a purported sale to such an extent as to create the presumption that the transaction is an equitable mortgage.

In the instant case, petitioners acquired the 240-square meter house and lot subject of the deed of sale for ₱78,000.00 in 1975.[22] The house was remodeled and converted into a two-storey residence in 1982 at the cost of ₱280,000.00.[23] From these figures, petitioners spent a total of ₱358,000.00 in acquiring the property and introducing improvements thereon. Yet, the property was purportedly sold to private respondents in 1985 for a measly ₱66,000.00, *or barely 19% of its total acquisition*

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[21] See *Lao v. Court of Appeals*, G.R. No. 115307, 8 July 1997, 275 SCRA 237, 253.

[22] TSN, 5 February 1991, p. 4.

[23] *Id.*, p. 6.

Supreme Court E-Library

and improvement cost three (3) years before, in 1982.[24] Certainly, no seller in his right senses would agree to part with his valuable property for such an unusually inadequate consideration.

We take judicial notice of the fact that the value of real properties does not remain stagnant, but is on a constant upswing. Given the incessant currency devaluation and spiraling costs of commodities, it would certainly be unrealistic that the market value of petitioners' property in 1985 would depreciate greatly three (3) years later.

The rule is well-settled that a contract appearing on its face to be a definite sale, like the contract in question, may be interpreted as an equitable mortgage if any of the circumstances in Art. 1602 of the *New Civil Code*, such as the gross inadequacy of the price, is present.

The other factor to consider is the continuous and unmolested physical possession of the contested property by petitioners for almost three (3) years, from the time of the alleged sale of the property in 1985 to the filing by petitioners of the case for annulment of the deed of sale in 1988. Although symbolically, the *Deed of Absolute Sale* transferred possession of the property to respondent Capistranos, it was petitioners, the supposed vendors, who remained in physical possession of the property. In fact, it does not even appear from the records that the Capistranos ever declared the property in their names for taxation purposes or paid taxes thereon since the execution of the document. Neither is there any showing that private respondents or any person acting in their behalf ever demanded of petitioners to vacate the premises after the "execution" of the "deed of sale" in their favor.

Verily, had the intention of the parties been a contract of sale and not merely a contract of mortgage, private respondents could have asserted their right to possess the property, and would not have allowed petitioners to freely stay thereon *for*

[24] Petitioners' claim that the property has a market value of ₱750,000.00 in 1985 would appear to be bloated. ₱750,000.00 could not be the price of the property at the time of the execution of the deed of sale, but it may be the price of the property AFTER the sale was executed.

Supreme Court E-Library

such a long period of almost three (3) years. Private respondents' decision to eject petitioners from the property came only after the institution of this case by petitioners; obviously an afterthought, and designed merely to harass petitioners.

Apart from the foregoing, a crucial circumstance reinforces our conclusion that the contested contract is not really a sale but an equitable mortage: respondent Cecilia Capistrano's *admission* during the trial that the title to the property was delivered to her by petitioners *only to secure payment of the loans*, thus —

Atty. Mendez:

On this "*pagpapatunay*" dated May 31, 1985 it is stated that plaintiffs shall pay you the amount of ₱120,000.00 on or before December 1985, did they offer you anything to secure the payment of this ₱120,000.00?

A — ***They offered to us their transfer certificate of title of their house and lot located at Las Piñas as security, sir. x x x***

Atty. Mendez:

You stated that this Exh. "2" referring to Transfer Certificate of Title No. S-98043 covers the house and lot of the plaintiffs spouses Rolando and Rosita Cruz, is this the same house and lot subject matter of this case?

A — Yes, sir.

Q — You said that this certificate of title marked as Exh. "2" for the defendants Capistrano was ***offered to you as security for the payment of this ₱120,000.00, when did the plaintiffs give you this certificate of title?***

A — ***On the same day that we gave them the amount of ₱120,000.00, sir*** (emphasis supplied).[25]

This admission of respondent Cecilia Capistrano all but demolishes whatever vestige of doubt is left as to the true nature of the contract in question. The evident intention of the parties, *vis-a-vis* petitioners' property, was not to transmit ownership but merely to guarantee payment of the debt. In *Lao v. Court of Appeals*,[26] we held —

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[25] TSN, 20 August 1991, pp. 8-9.

[26] See Note 21.

Supreme Court E-Library

x x x In determining the nature of a contract, the Court looks at the intent of the parties and not at the nomenclature used to describe it. Pivotal to deciding this issue is the true aim and purpose of the contracting parties as shown by the terminology used in the covenant, as well as "by their conduct, words, actions and deeds prior to, during and immediately after executing the agreement." In this regard, parole evidence becomes admissible to prove the true intent and agreement of the parties which the Court will enforce even if the title to the property in question has already been registered and a new transfer certificate of title issued in the name of the transferee.

Indeed, all these circumstances, taken together, are familiar badges of an equitable mortgage. Private respondents could not in a *pactum commissorium* fashion appropriate the disputed property for themselves as they appeared to have done; otherwise, their act will not be countenanced by this Court being contrary to good morals and public policy hence void. If they wish to secure a perfect title over the mortgaged property, they should do so in accordance with law, *i.e.*, by foreclosing the mortgage and buying the property in the auction sale.

In the meantime, title to the subject property, which had supposedly been transferred to respondent Capistranos, actually remained with petitioners as owners-mortgagors, conformably with the well-established doctrine that the mortgagee does not automatically become the owner of the mortgaged property as the ownership thereof remains with the mortgagor.[27]

Moreover, we have ruled that in case of doubt in the circumstances surrounding the execution of a contract, as in this case, the least transmission of rights and interests shall prevail if the contract is gratuitous and, if onerous, the doubt shall be settled in favor of the greatest reciprocity of interests. In *Labasan v. Lacuesta*,[28] citing the 1909 case of *Olino v. Medina*,[29] we similarly held —

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[27] Art. 2088, New Civil Code, states: "The creditor cannot appropriate the things given by way of pledge or mortgage, or dispose of them. Any stipulation to the contrary is null and void."

[28] No. L-25931, 30 October 1978, 86 SCRA 16.

[29] 13 Phil. 379, 382–383 (1909).

Supreme Court E-Library

Thus, in the early case of *Olino v. Medina*, 1909, Olino filed a complaint against Medina to recover a parcel of riceland which he alleged to have mortgaged for ₱175.00 and which Medina refused to return on the ground that the latter allegedly bought the property. In deciding the conflict of allegations between the parties, this Court, through Justice Florentino Flores, considered the transaction over the property as a loan, reasoning that "such contract involves a smaller transmission of rights and interests, and the debtor does not surrender all rights to his property but simply confers upon the creditor the right to collect what is owing from the value of the thing given as security, there existing between the parties a greater reciprocity of rights and obligations."

Ordinarily, findings of the Court of Appeals are entitled to great weight and respect, at times even finality, and shall not be disturbed on appeal. Nevertheless, when, as in this case, (a) the findings of fact of the Court of Appeals are at variance with those of the trial court; (b) the inference made or the conclusion drawn on the basis of certain state of facts is manifestly mistaken; or, (c) the Court of Appeals manifestly overlooked or disregarded matters of substance which, if considered, would very likely change the outcome of the case, this Court is not precluded from exercising its power of review.[30]

Anent the second issue, we are not inclined to completely sustain petitioners' claim that their loan obligations to private respondents had been *fully* extinguished by payment, in the absence of adequate evidence to justify that conclusion. While we believe that petitioners exerted efforts to settle their indebtedness as they fell due, it is plain to us that they have not fully paid the subject loans.

Private respondents insisted that not a single centavo of petitioners' debt had been discharged by payment. Astute in the lending business and wise in the ways of men, it is not unreasonable to assume that private respondents kept track of all their monetary receivables, and the moment these became due their *natural impulse would have been to immediately demand*

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[30] See *Castillo, et al. v. Court of Appeals*, G.R. No. 106472, 7 August 1996, 260 SCRA 375.

Supreme Court E-Library

payment from their debtors. Curiously, we cannot discern from the records that private respondents ever demanded payment from petitioners. We are baffled by their silence and passivity despite the maturity of the questioned loans. Could it be that the Capistranos wanted the mortgaged property so badly that they simply allowed the loans to mature and thereafter instantly appropriated the property for themselves? Or, more plausibly, could it be that petitioners on the other hand somehow *took pains to pay the loans little by little just to keep their end of the bargain, hence, giving no cause for private respondents to make demands?*

The truth appears to us to be somewhere in the middle. *Veritas in medio stat*. Petitioners only made payments of what were due but did not fully settle the debt. Private respondents have a valid and subsisting credit, not in the entire amount of the loans but only to the extent as will be discussed shortly hereafter.

Let it be made clear that our judgment herein declaring the contract to be an equitable mortgage should not be construed as a bar to the collection of the unpaid loans. Private respondents have the perfect right to foreclose the mortgage and sell the property subject thereof to satisfy the mortgage debt. This brings us to the question of how much petitioners are actually liable to private respondents.

The purchase price of ₱66,000.00 could not have just come out of nowhere and found its way into the deed of sale by chance or accident. Surely, the amount was placed in the *Deed of Absolute Sale* for a purpose, and could not have been merely dictated by the whim and caprice of the contracting parties. If, as asserted by private respondents, the contested house and lot subject of the deed of sale were *given in payment* of the loans, then why were they purportedly sold for only ₱66,000.00 and not for ₱195,000.00 or so, the total amount alleged to have been unpaid? We cannot conceive of any other credible explanation under the circumstances than that the alleged purchase price of ₱66,000.00 in the deed of sale actually pertained to the *unpaid balance* of the loans, for which private respondents appropriated petitioners' property in full satisfaction thereof.

Supreme Court E-Library

WHEREFORE, the Decision of the Court of Appeals of 24 April 2000 is *MODIFIED*. The Registrar of Deeds of the City of Las Piñas is *DIRECTED* to cancel TCT No. (98729) T-2156-A issued in the name of private respondent spouses Miguel and Cecilia Capistrano and to issue a new title in the name of petitioner spouses Rolando and Rosita Cruz, subject to the equitable mortgage rights of private respondent spouses Miguel and Cecilia Capistrano.

Petitioner Rolando and Rosita Cruz are *ORDERED* to pay private respondent spouses Miguel and Cecilia Capistrano the unpaid balance of the loans in the total amount of ₱66,000.00 with legal interest within ten (10) months[31] from the finality of this Decision; otherwise, the mortgaged property shall be sold at public auction to cover payment of the mortgage debt and the costs of suit.

SO ORDERED.

Quisumbing, Austria-Martinez and *Tinga, JJ.*, concur.

Callejo, Sr., J., took no part; signatory in assailed decision.

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[31] In *Montevirgen, et al. v. Court of Appeals, et al.*, No. L-44943, 17 March 1982, 112 SCRA 641, we did not find objectionable the trial court decision of 1 July 1971 declaring the transaction to be an equitable mortgage, and fixing a period of ten (10) months from that date within which petitioners must pay their obligation with legal interest, otherwise execution would follow.