



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

LOURDES N. CANDO,
Petitioner,

G.R. No. 251792

- versus -

Present:
CAGUIOA, J., *Chairperson,*
INTING,
GAERLAN,
LOPEZ, J.,**** and
SINGH, JJ.

FLOCERFIDA* DE GUZMAN
SOLIS, JOAN SOLIS and
MICHELLE** SOLIS,***

Promulgated:

Respondents. February 27, 2023

X ----- ~~Misplaced~~ ----- X

RESOLUTION

INTING, J.:

Before the Court is the Appeal by *Certiorari* under Rule 45¹ of the Rules of Court assailing the Decision² dated January 29, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 111032. The CA affirmed the Decision³ dated February 28, 2017 of Branch 98, Regional Trial Court (RTC), Quezon City in Civil Case No. Q-1372786 which, *inter alia*, granted the complaint for annulment of deed of absolute sale that Spouses Jose Guyala Solis⁴ (Jose) and Flocerfida de Guzman Solis (Flocerfida)

* Referred to as "Flocerfida" and "Florcerfida" in some parts of the *rollo*.

** Referred to as "Michell" in some parts of the *rollo*.

*** Spouses Jose Guyala Solis and Flocerfida De Guzman Solis were named as respondents on the first page of the petition, *rollo*, p. 27.

**** Per raffle dated February 21, 2023.

¹ *Rollo*, pp. 27-40.

² Id. at 10-21. Penned by Associate Myra V. Garcia-Fernandez and concurred in by Associate Justices Japar B. Dimaampao (now a Member of the Court) and Perpetua Susana T. Atal-Paño.

³ Id. at 46-56. Penned by Presiding Judge Marilou D. Runes-Tamang.

⁴ In the caption of the RTC Decision. Jose Guyala Solis was already substituted by his legal heirs.

(collectively, Spouses Solis) filed against petitioner Lourdes N. Cando (Cando) and the Registry of Deeds of Quezon City.⁵

The Antecedents

Spouses Solis were the registered owners of two parcels of land located in Quezon City and covered by Transfer Certificates of Title (TCT) Nos. N-313735⁶ and N-313736,⁷ with an area of 429 square meters (sq. m.) and 510 sq. m., respectively, where a house stands (subject properties).⁸

On February 27, 2012, Spouses Solis borrowed ₱15,000,000.00 from Cando. As a guarantee thereto, they executed a document denominated as Real Estate Mortgage Without Judicial Proceedings⁹ (deed of mortgage) covering the subject properties wherein Spouses Solis, as mortgagors, undertook to pay their indebtedness to Cando, as mortgagee, within a period of six months and with interest at five percent (5%) per month.¹⁰

On February 19, 2013, Spouses Solis received a demand letter¹¹ dated January 29, 2013 from Cando's counsel stating that the former already sold the subject properties to Cando, but they refused to vacate the premises. Thus, Cando's counsel demanded that Spouses Solis vacate the subject properties within 15 days from receipt of the letter, pointing out that their occupancy of the premises was only by Cando's mere tolerance.¹²

Alleging that they signed the document out of mistake and of the belief that the document was a real estate mortgage and not a sale, Spouses Solis filed a complaint for annulment of sale with reformation of instrument and damages against Cando before the RTC.¹³ They averred that although they signed the deed of mortgage prepared by Cando's counsel, the last portion thereof stated:

namely, Flocerfida de Guzman Solis, and Joanne and Michelle Solis, id. at 46, 49.

⁵ Id. at 46, 55.

⁶ Id. at 74-75.

⁷ Id. at 76-77.

⁸ Id. at 46.

⁹ Id. at 78-80.

¹⁰ Id. at 46.

¹¹ Id. at 81.

¹² Id.

¹³ Id. at 46.

x x x [F]ailure on the part of the MORTGAGOR[S] to pay the said indebtedness[,] the latter hereby agrees and hereby agreed that the herein MORTGAGEE may enforce her rights herein without judicial proceedings and the MORTGAGEE has the right to transfer the ownership of the subject property in her favour without any legal intervention of the herein MORTGAGOR[S].¹⁴

Thus, Spouses Solis maintained that *first*, the deed of mortgage did not disclose their true intent because their transaction with Cando was one of mortgage and not the sale of the subject properties and *second*, the document was null and void for being a *pactum commissorium*. They pointed out that the price of ₱15,000,000.00 for two properties that were actually worth ₱60,000,000.00 was considerably inadequate; consequently, it can be inferred that the real intent of the parties to the transaction was to secure the payment of Spouses Solis' ₱15,000,000.00 indebtedness to Cando.¹⁵

Thus, in the complaint, Spouses Solis prayed that (1) the deed of mortgage be ordered reformed and declared as a mere real estate mortgage, and (2) they be awarded actual and moral damages, and attorney's fees.¹⁶

The complaint was later amended to implead the Registry of Deeds of Quezon City as a party-defendant. In the amended complaint, Spouses Solis asseverated that after they filed the original complaint with the RTC, they attempted to cause the annotation of notices of *lis pendens* on the respective titles of the two properties. However, the Registry of Deeds of Quezon City refused to do so on the ground that the subject properties were purportedly covered by a previous sale. Thus, in addition to its earlier prayers in the original complaint, Spouses Solis prayed that the Registry of Deeds of Quezon City be ordered to annotate the notices of *lis pendens* on the titles to the subject properties.¹⁷

In her Answer with Compulsory Counterclaim, Cando countered that Spouses Solis already sold the subject properties to her pursuant to a Deed of Absolute Sale¹⁸ (deed of sale) dated October 29, 2012 which the latter executed in her favor. She also denied that her counsel drafted the deed of mortgage and further averred that the document was presented to her when Spouses Solis offered to mortgage the subject properties. Further, Cando insisted that Spouses Solis are highly educated people,

¹⁴ Id. at 79.

¹⁵ Id. at 46-47.

¹⁶ Id. at 47.

¹⁷ Id.

¹⁸ Id. at 86-87.

specifically Jose, who was a former congressman; as such, they would not have been tricked or deceived into signing any document which they did not understand.¹⁹

At any rate, Cando argued that the last portion of the deed of mortgage that Spouses Solis quoted in their complaint, *i.e.*, Cando's right to transfer the ownership of the subject properties in her favor without any legal intervention of Spouses Solis upon default, did not fall within the definition of *pactum commissorium* because it did not automatically vest ownership of the subject properties to her as creditor. Cando posited that the stipulation contemplated the exercise of a right to transfer ownership which she never did anyway; and, assuming that the stipulation is void, it would not invalidate the agreement of the parties as regards the loan and the mortgage.²⁰

Moreover, Cando stated that the deed of mortgage had been superseded and rendered moot by the subsequent execution of the deed of sale covering the subject properties in her favor. In turn, the deed of sale was used to cause the cancellation of TCT Nos. N-313735 and N-313736 covering the subject properties. Thus, she argued that the instant complaint should be dismissed as Spouses Solis were already barred by prescription, estoppel, laches, renunciation, waiver, or abandonment.²¹

In their Reply, Spouses Solis insisted that Cando merely induced them into signing the deed of sale as a mere formality and to convince her lender that she was already the owner of the subject properties in order to facilitate the release of the amount of ₱15,000,000.00. In fact, Spouses Solis pointed out that there was no mention of a deed of sale in Cando's demand letter dated January 29, 2013; the letter only threatened to evict them from their residence for non-payment of their loan and violation of the real estate mortgage agreement.²²

Further, Spouses Solis emphasized that Jose could not have signed the deed of sale before a notary public in Quezon City on October 29, 2012 because he was confined at a hospital in Bicol at that time. Hence, they asserted that Cando made use of a falsified document and misrepresented before the Registry of Deeds of Quezon City that the deed of sale was perfectly valid and regular when she caused the transfer of the

¹⁹ *Id.* at 47.

²⁰ *Id.*

²¹ *Id.* at 47-48.

²² *Id.* at 48.

titles to the subject properties in her name.²³

Because of Cando's and her counsel's repeated failure to attend the preliminary conference and pre-trial despite due notice and without any valid explanation, Spouses Solis were allowed to present their evidence *ex parte*.²⁴

Meanwhile, Jose died during the pendency of the case in the RTC. He was then substituted by his heirs: Flocerfida, and their daughters, Joanne and Michelle Solis (collectively, respondents) as plaintiffs in the proceedings.²⁵

The Ruling of the RTC

In a Decision²⁶ dated February 28, 2017, the RTC granted the complaint for annulment of deed of sale but dismissed the action for reformation of deed of real estate mortgage. Thus:

WHEREFORE, premises considered, the Annulment of Deed of Absolute Sale dated October 29, 2012 is GRANTED, while the action for Reformation of Deed of Real Estate Mortgage dated February 27, 2012 is DISMISSED. Perforce, judgment is hereby rendered:

1. Annulling the Deed of Sale of the properties covered by TCT Nos. N-313735 and N-313736 dated October 29, 2012 purportedly executed by Spouses Jose Guyala Solis and Flocerfida De Guzman Solis, in favor of defendant Lourdes N. Cando;

2. Ordering the Register of Deeds of Quezon City to cancel Transfer Certificate of Title Nos. 004-2013003761 and 004-2013003762 in the name of defendant Lourdes N. Cando and to reinstate Transfer Certificate of Title Nos. N-313735 and N-313736 in the names of the plaintiffs Spouses Jose Guyala Solis and Flocerfida De Guzman Solis which shall contain a memorandum of the fact and shall in all respect be entitled to like faith and credit as the original certificate of title and shall, thereafter be regarded as such for all intents and purposes under the law;

3. Declaring the transaction between Spouses Jose Guyala Solis and Flocerfida De Guzman Solis and defendant Lourdes N. Cando as a deed of mortgage securing the loan of Php15,000,000.00,

²³ Id.

²⁴ Id. at 65-66.

²⁵ Id. at 49.

²⁶ Id. at 46-56.

which is now deemed due and demandable. The running of interest, however, is suspended from the time the subject properties were transferred in the name of Lourdes N. Cando until Transfer Certificate of Title Nos. N-313735 and N-313736 in the names of Spouses Jose Guyala Solis and Flocerfida De Guzman Solis are revived, with right of the defendant to judicially foreclose the subject properties in case of non-payment of their obligation[.]

4. Ordering defendant Lourdes N. Cando to pay plaintiffs the amount of Thirty Thousand ([Php]30,000.00) as nominal damages;

5. Ordering defendant Lourdes N. Cando to pay plaintiffs the amount of Thirty Thousand ([Php]30,000.00) as attorney's fees; and

6. Ordering defendant Lourdes N. Cando to pay plaintiffs the costs of suit.

SO ORDERED.²⁷ (Emphasis omitted)

In declaring the deed of sale to be void *ab initio*, the RTC held that Spouses Solis never intended to sell the subject properties to Cando; they only intended to mortgage them as evidenced by the deed of mortgage that they executed on February 27, 2012. The RTC noted the discrepancy between the alleged price of the supposed sale at ₱15,000,000.00 *vis-à-vis* their actual value of ₱60,000,000.00 and the manner by which Spouses Solis were evicted therefrom. It further noted that while Spouses Solis were in Bulan, Sorsogon, the caretaker of the subject properties was driven out of the house, which is far from the picture of a regular sale.²⁸

Be that as it may, the RTC found no basis to reform the deed of mortgage considering that Cando transferred the titles to the subject properties under her name through the deed of sale and not through the deed of mortgage; hence, there was no *pactum commissorium* to speak of. The RTC ruled that there was nothing to reform because the real intent of the parties was to enter into a contract of mortgage with a provision on extrajudicial foreclosure.²⁹

Still, even with the provision on extrajudicial foreclosure, the RTC explained that the properties cannot be the subject thereof under Act No. 3135³⁰ because of the lack of the requisite special power of attorney

²⁷ Id. at 55-56.

²⁸ Id. at 51-52.

²⁹ Id. at 53.

³⁰ Entitled "An Act to Regulate the Sale of Property Under Special Powers Inserted In or Annexed to Real Estate Mortgages," approved on March 6, 1924.

authorizing their sale to the mortgagee, Cando, or to third parties. In addition, the RTC noted that the mortgage was not registered with the Registry of Deeds of Quezon City as required under Act No. 3135. Nevertheless, it opined that Cando can still collect the loan obligation from Spouses Solis or opt to judicially foreclose the subject properties.³¹

As to damages, the RTC did not grant Spouses Solis' prayer for actual damages for failure to prove their claim by preponderance of evidence. Nonetheless, the RTC awarded ₱30,000.00 in nominal damages to Spouses Solis in view of the violation of their rights and the same amount as attorney's fees because they were compelled to litigate or incur expenses to protect their interests.³²

Cando sought reconsideration, but the RTC denied the motion in an Order³³ dated May 11, 2018. Aggrieved, she elevated the matter to the CA on appeal.

The Ruling of the CA

The CA denied the appeal in the assailed Decision³⁴ dated January 29, 2020. The *fallo* of the CA decision reads:

WHEREFORE, the appeal is DENIED. The decision of the Regional Trial Court of Quezon City dated February 28, 2017 in Civil Case No. Q-1372786 is AFFIRMED.

SO ORDERED.³⁵ (Emphasis omitted)

The CA denied Cando's appeal on the ground that there were several circumstances that point to the existence of an equitable mortgage in the agreement between the parties. For instance, the CA ratiocinated that even though Cando insisted that the subject properties were sold to her, Spouses Solis remained in possession thereof until their caretaker was evicted therefrom while they were in Bulan, Sorsogon. Moreover, the CA agreed with the RTC that there was an inadequacy of the purchase price and pointed out the absence of evidence to prove that taxes were paid by either of the parties to effect the transfer of the titles to the subject properties after their purported sale.³⁶

³¹ *Rollo*, p. 54.

³² *Id.* at 55.

³³ *Id.* at 57-61.

³⁴ *Id.* at 10-21.

³⁵ *Id.* at 20.

³⁶ *Id.* at 19.

The CA likewise affirmed the RTC's award of nominal damages and attorney's fees in favor of Spouses Solis.³⁷

Undaunted, Cando filed the present appeal.³⁸

Petitioner's Arguments

Cando avers that despite the waiver of her right to adduce her evidence before the RTC, Spouses Solis still failed to prove the elements of an equitable mortgage.³⁹ Cando submits the following:

First, Spouses Solis did not impugn the validity of the deed of mortgage dated February 27, 2012.⁴⁰

Second, Spouses Solis did not deny that after they failed to pay the loan covered by the mortgage, they executed and signed the deed of sale dated October 29, 2012 in her favor.⁴¹

Third, the RTC's finding that there was no *pactum commissorium* to speak of was not questioned before the CA and had attained finality insofar as the issue is concerned.⁴²

Fourth, the CA committed an error when it concluded that the deed of sale was intended to guarantee an existing debt by way of mortgage because the debt was already secured by a deed of mortgage. To issue a second document denominated as a deed of sale in order to secure anew the same existing debt did not make sense.⁴³

Fifth, the deed of mortgage was more than enough to secure the previously existing debt.⁴⁴

³⁷ Id. at 20.

³⁸ Id. at 27-40.

³⁹ Id. at 35.

⁴⁰ Id.

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id.

Sixth, had the intent been confined to mortgage, she could have simply foreclosed the property.⁴⁵

Seventh, the deed of mortgage states, among others, that the “MORTGAGEE [may] enforce her rights herein without judicial proceedings and the MORTGAGEE has the right [to] transfer the ownership of the subject property in her favor without any legal intervention of herein MORTGAGOR.” Thus, the parties agreed that she need not go through the process of foreclosure, judicial or extrajudicial.⁴⁶

Eighth, the only legal way to transfer ownership of the subject properties was for Spouses Solis to execute a deed of sale in her favor, which they did.⁴⁷

And *ninth*, based on the tax declarations of the subject properties, their total market value at the time of the mortgage was only ₱4,023,230.00; thus, Spouses Solis received more than triple the amount than the properties’ declared market value.⁴⁸

Further, Cando maintains that Spouses Solis tried to mislead the RTC when they did not mention both in their complaint and amended complaint that they executed a deed of sale in her favor covering the subject properties.⁴⁹ Also, she avers that the allegation that the properties remained in possession of Spouses Solis until their caretaker was evicted therefrom was not supported by any evidence; the caretaker was not even presented as a witness and the deed of mortgage clearly states that possession thereof was already delivered to her.⁵⁰

Respondents’ Counter-Arguments

In their Comment,⁵¹ respondents counter that the CA correctly affirmed the RTC’s Order dated June 27, 2016 which allowed them to present their evidence *ex parte* considering that Cando and her counsel repeatedly failed to appear and caused postponements during the pre-trial of the case.⁵² They argue that the RTC had given Cando more than

⁴⁵ Id.

⁴⁶ Id. at 36.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id. at 37.

⁵⁰ Id. at 38.

⁵¹ See Respondents’ Comment and Opposition, id. at 151-166.

⁵² Id. at 155-156.

adequate leniency and enough chances to attend the pre-trial that she cannot argue that she was not accorded due process; her predicament is entirely due to her own fault.⁵³

Respondents also contend that the CA did not err when it upheld the RTC in ordering the annulment of the deed of sale dated October 29, 2012 due to the lack of consent from Spouses Solis. They assert that Spouses Solis never intended to sell their lots as they were merely asked to sign the deed of sale based on Cando's false representation that it was simply a formality or accommodation in support of her loan. Had they intended to sell the subject properties, Spouses Solis would have asked for an adjustment in the price and a much higher consideration.⁵⁴

Moreover, respondents stress that Cando had misrepresented that the deed of sale was notarized by one Atty. Jesus P. Calades, Jr. They point out that no record exists as regards the alleged notarization per Certification from the Office of the Clerk of Court of Quezon City. More importantly, they aver that during the date of the alleged execution of the deed of sale, Spouses Solis were in Bulan, Sorsogon where Jose eventually died.⁵⁵

The Issue

The main issue in the case is whether the agreement between Spouses Solis and Cando is one of equitable mortgage that warrants the annulment of the deed of sale they supposedly entered into.

The Court's Ruling

The petition is without merit.

In *Meralco Industrial Engineering Services Corp. v. National Labor Relations Commission*,⁵⁶ the Court explained that the scope of its review in Rule 45 proceedings is ordinarily limited to resolving only legal, not factual issues, viz.:

This Court is not a trier of facts. Well-settled is the rule that the

⁵³ Id. at 156-157.

⁵⁴ Id. at 157.

⁵⁵ Id. at 157-158.

⁵⁶ 572 Phil. 94 (2008).

jurisdiction of this Court in a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court is limited to reviewing only errors of law, not of fact, unless the factual findings complained of are completely devoid of support from the evidence on record, or the assailed judgment is based on a gross misapprehension of facts. x x x.⁵⁷

A judicious perusal of the petition shows that Cando raises in the main a question of fact, *i.e.*, whether the agreement between the parties is an equitable mortgage, which requires the Court to review the evidence in the case. As earlier stated, however, questions of fact are generally not subject to review in a petition under Rule 45. While this rule admits of exceptions,⁵⁸ none of them exists in the case. Thus, the Court finds no cogent reason to depart from the findings of fact and conclusions of law of the CA, more so when these are supported by the evidence on record.⁵⁹

“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.”⁶⁰ The intention of the parties to an agreement is determined not only by the terminology used in the document but also by all the surrounding circumstances that would show the real nature of their understanding.⁶¹

Corollarily, Article 1602 of the New Civil Code provides that a contract shall be presumed as an equitable mortgage in any of the instances enumerated therein:

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

⁵⁷ Id. at 117.

⁵⁸ As provided in *Twin Towers Condominium Corp. v. Court of Appeals*, 446 Phil. 280, 310 (2003), citing *Fuentes v. CA*, 335 Phil. 1163, 1168-1169 (1997), the following are the exceptions: (a) where there is grave abuse of discretion; (b) when the finding is grounded entirely on speculations, surmises or conjectures; (c) when the inference made is manifestly mistaken, absurd or impossible; (d) when the judgment of the Court of Appeals was based on a misapprehension of facts; (e) when the factual findings are conflicting; (f) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same are contrary to the admissions of both appellant and appellee; (g) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and, (h) where the findings of fact of the Court of Appeals are contrary to those of the trial court, or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by the respondent, or where the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.

⁵⁹ See *CIR v. Embroidery and Garments Industries (Phil.), Inc.*, 364 Phil. 541, 546 (1999). Citations omitted.

⁶⁰ *Molina v. Court of Appeals*, 446 Phil. 133, 141 (2003). Emphasis in the original.

⁶¹ Id.

- (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 the usury laws.

“For the presumption of an equitable mortgage to arise under Article 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.”⁶² Moreover, the existence of *any* of the circumstances stated under Article 1602 is sufficient for a contract of sale to be presumed as an equitable mortgage.⁶³

Applying the foregoing, the CA correctly affirmed the ruling of the RTC that an equitable mortgage existed in the case. Thus, the annulment of the deed of sale is warranted.

It is undisputed that on February 27, 2012, Spouses Solis borrowed ₱15,000,000.00 from Cando which was guaranteed by a deed of mortgage covering the subject properties. In the document, Spouses Solis, as mortgagors, undertook to pay their indebtedness to Cando, as mortgagee, within a period of six months with interest at five percent (5%) per month.⁶⁴ It is also a fact that Spouses Solis executed the deed of sale dated

⁶² *Sps. Reyes v. Court of Appeals*, 393 Phil. 479, 490 (2000).

⁶³ *Id.*

⁶⁴ *Rollo*, pp. 33, 46, and 78-80.

October 29, 2012 wherein they sold the subject properties to Cando for the same amount of ₱15,000,000.00.⁶⁵

Cando submits that the principle of equitable mortgage only applies when the parties enter into a contract of sale while their real intent is to secure an existing debt by way of mortgage. However, in the case, she posits that the parties *first* executed a deed of mortgage which was their real intent, but they eventually executed a deed of sale when Spouses Solis could no longer redeem the subject properties⁶⁶ in order to obviate the rigors of judicial proceedings for the transfer of titles under her name.⁶⁷ Otherwise stated, Cando wants the Court to disregard the deed of mortgage and consider it to have been superseded by the deed of sale of the subject properties.

The Court is not persuaded.

The requisites for the presumption of an equitable mortgage to arise under Article 1602 are present in the case: (a) Spouses Solis and Cando entered into a contract of sale dated October 29, 2012 and (b) the circumstances show that they executed the contract to guarantee the loan amounting to ₱15,000,000.00. Verily, the facts and evidence in the case show that *the true intent of the parties was to secure the payment of the loan* and not to transfer the ownership of the subject properties in favor of Cando. In particular, the presence of the following badges of equitable mortgage cannot be ignored:

First, there was an *existing loan* obtained by Spouses Solis from Cando amounting to ₱15,000,000.00 which was guaranteed by a deed of mortgage covering the subject properties. This circumstance alone proves that the transaction between the parties is a contract of loan and not a *bona fide* sale.

Second, as the lower courts found, the stated purchase price of ₱15,000,000.00 was inadequate as compared to the actual market value of the subject properties at ₱60,000,000.00.⁶⁸

Third, Spouses Solis continued their possession of the subject

⁶⁵ Id. at 33, 47-48, and 86-87.

⁶⁶ Id. at 169.

⁶⁷ Id. at 33.

⁶⁸ Id. at 51-52.

properties even after the supposed sale thereof on October 29, 2012. In fact, Cando's counsel sent them a demand letter on February 19, 2013 demanding them to vacate the house and lot—a circumstance that is inconsistent with a contract of sale voluntarily entered into between the parties. Had they intended to enter into a sale, there would have been no need to repeatedly demand from the supposed sellers to vacate the properties subject thereof.


Fourth and last, Flocerfida was able to sufficiently explain why she and her husband signed the deed of sale. She testified that during the course of their transaction, Cando requested them to sign the deed of sale and told them that it would only be used in the bank to obtain the amount for their loan. In other words, they only executed the deed of sale to show the bank that there was a transaction between the parties;⁶⁹ there was no real intent on their part to sell the subject properties.

The presence of the foregoing badges thus creates a strong presumption of the existence of an equitable mortgage in the case. Considering further that the presumptions remained uncontroverted as the proceedings in the RTC were held *ex parte*, the Court finds that the deed of sale entered into by the parties is indeed an equitable mortgage. Consequently, the deed of sale being null and void, the deed of mortgage entered into between the parties on February 27, 2012 stands.

All told, the Court finds that the CA correctly affirmed the decision of the RTC declaring the sale between Spouses Solis and Cando as null and void, and the transaction of the parties as a deed of mortgage.


WHEREFORE, the petition is **DENIED**. The Decision dated January 29, 2020 of the Court of Appeals in CA-G.R. CV No. 111032 is **AFFIRMED**.

SO ORDERED.

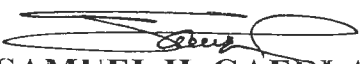

HENRI JEAN PAUL B. INTING
Associate Justice

⁶⁹ *id.* at 49.

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



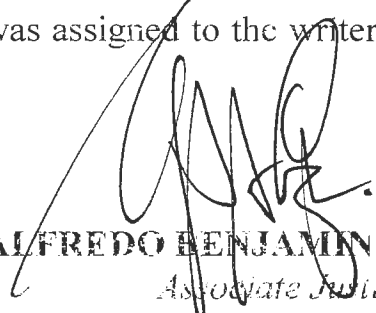
JHOSEPY LOPEZ
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

