REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **04 December 2019** which reads as follows:

“G.R. No. 228652 (Spouses Jose Salonga and Mercedita Salonga, substituted by their heirs, namely: Arnold Salonga, Angelita Salonga-Esquivel, Aimee Salonga-Dela Rosa and Armee Salonga-Reyes, as represented by Arvin C. Salonga vs. Spouses Efren A. Lorenzo and Carmelita D. Lorenzo). – This is a Petition for Review on *Certiorari*¹ taken under Rule 45 of the Rules of Court seeking to nullify the Resolution² dated October 21, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 93501.

Factual Antecedents

Spouses Efren A. Lorenzo and Carmelita D. Lorenzo (respondents) are the registered owners of eight parcels of land and the improvements thereon (subject properties) which they mortgaged to the PCI Bank for a loan.³ According to the respondents, to avoid the foreclosure of the said mortgage, they asked spouses Jose and Mercedita Salonga (petitioners) to pay their obligation in the amount of ₱150,000.00 to PCI Bank, which the petitioners did.⁴ As a result, the petitioners and respondents agreed that the former will possess the titles to the subject properties until the latter shall have the money to reimburse the petitioners with the amount paid to PCI Bank.⁵

On August 12, 2005, however, the respondents learned that a group of prospective buyers forcibly entered one of the subject properties, and that their title to that lot has been cancelled and transferred to the name of the petitioners.⁶ The basis for the cancellation was a Deed of Absolute sale showing that the respondents are the vendors and the petitioners are the vendee of the lot for a consideration of ₱132,000.00.⁷ The respondents also

¹ Rollo, pp. 48-62.

² Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associates Justices Magdangal M. De Leon and Victoria Isabel A. Paredes; id. at 130-135.

³ Id. 78

⁴ Id.

⁵ Id. at 78-79.

⁶ Id. at 79.

⁷ Id.

discovered that all the other titles of the subject properties have been cancelled and new titles have been issued in favor of the petitioners.⁸

The respondents deny selling the subject properties and claim that their signatures in the Deed of Absolute Sale on December 29, 1978 were forgeries.⁹ This prompted them to file a complaint for declaration of nullity of deed of sale and recovery of property against the petitioners before the Regional Trial Court (RTC).¹⁰

Ruling of the RTC

On May 11, 2009, the RTC promulgated a decision dismissing the respondents' complaint, to wit:

WHEREFORE, premises considered, the instant case is hereby **DISMISSED**. No pronouncement as to costs.

For the failure of the defendants to prove their counterclaim, the same is hereby likewise **DISMISSED**.

SO ORDERED.¹¹

The RTC ruled that the respondents failed to prove that their signatures in the Deed of Absolute Sale are mere forgeries. The Court also noted that the petitioners expressed no interest in forever holding the titles of the subject properties as their own but merely want the payment of the loan they extended to the respondents.¹²

Dissatisfied, the respondents appealed the decision before CA.

Ruling of CA

On December 13, 2013, the CA promulgated a decision granting the appeal of the respondents, to wit:

WHEREFORE, premises considered, the decision dated May 11, 2009 of the Regional Trial Court of Gapan City, Nueva Ecija, Branch 34 is Reversed and Set Aside. The Deed of Absolute Sale dated December 29, 1978 between [respondents] and [petitioners] is declared as an equitable mortgage. [Respondents] are obligated to reconvey to [petitioners] the properties covered by TCT No. NT-192373, TCT No. NT-192374, TCT No. NT-192375, TCT No. NT-192376, TCT No. NT-192377, TCT No. NT-192378, TCT No. NT-192379 and TCT No. NT-

⁸ Id.
⁹ Id. at 79-80
¹⁰ Id. at 78.
¹¹ Id. at 74-75.
¹² Id. at 74.

192380 of the Register of Deeds of Nueva Ecija upon payment of the amount of Seven Hundred Thousand Pesos (₱700,000.00) with legal interest of twelve (12%) percent per annum from December 29, 1978, within ninety (90) days from finality of this decision.

SO ORDERED.¹³

While the CA agreed with the RTC that the claim of forgery was not proven, it ruled that the Deed of Absolute Sale is void for being an equitable mortgage. Under Article 1602 of the Civil Code, regardless of the nomenclature of a contract, it shall be presumed to be an equitable mortgage when it can be fairly inferred that the real intention of the parties is that the transaction shall secure the payment of debt or the performance of any other obligation.¹⁴

Records show that the respondents executed the deed of absolute sale only for the purpose of holding on to the properties with the end in view of treating them as security for the payment of their loan.¹⁵ Thus, the petitioners cannot appropriate the mortgaged properties except through public auction. Otherwise, the acquisition will violate the rule against *pactum commissorium* and be void under Article 2088 of the New Civil Code.¹⁶

Both the petitioners and respondents filed their separate motions for reconsideration. The respondents sought reconsideration claiming that the petitioners should reconvey the subject properties to them, and that they are not under any contractual obligation to pay interest because there was no interest expressly agreed upon by them in writing.¹⁷ On the other hand, the petitioners argued that the existence of an equitable mortgage is a new matter which may not be raised on appeal.¹⁸

In a resolution dated October 21, 2016, the CA denied the motion of the petitioners but partially granted that of the respondents, to wit:

WHEREFORE, the motion for reconsideration of plaintiffs-appellants Spouses Efren A. Lorenzo and Carmelita D. Lorenzo is **PARTIALLY GRANTED**. The decision dated May 11, 2009 of the Regional Trial Court of Gapan City, Nueva Ecija, Branch 34 is **REVERSED** and **SET ASIDE**. The Deed of Absolute Sale dated December 29, 1978 between plaintiffs-appellants Spouses Efren A. Lorenzo and Carmelita D. Lorenzo and defendants-appellees Spouses Jose Salonga and Mercedita Salonga is declared as an equitable mortgage.

¹³ Id. at 95-96.

¹⁴ Id. at 92-93.

¹⁵ Id. at 88.

¹⁶ Id. at 92.

¹⁷ Id. at 130.

¹⁸ Id. at 131.

Defendants-appellees are obligated to reconvey to plaintiffs-appellants the properties covered by TCT No. NT-192373, TCT No. NT-192374, TCT No. NT-192375, TCT No. NT-192376, TCT No. NT-192377, TCT No. NT-192378, TCT No. NT-192379 and TCT No. NT-192380 of the Register of Deeds of Nueva Ecija upon payment of the amount of Seven Hundred Thousand Pesos (P700,000.00) with legal interest of six (6%) percent per annum from December 29, 1978, within ninety (90) days from finality of this decision. The motion for reconsideration of defendants-appellees Spouses Jose Salonga and Mercedita Salonga is **DENIED**.

SO ORDERED.¹⁹

The CA denied the petitioners claim on the ground that it was they who first introduced the issue on equitable mortgage during their presentation of evidence before the RTC.²⁰ Considering that there was a dispute concerning the due execution of the deed of absolute sale, the CA ruled that it is justified in reviewing the possibility of an equitable mortgage, which is a closely related issue.²¹

Moreover, the CA partially granted the respondents' motion by lowering the interest rate from 12% to 6% per annum. Pursuant to BSP Circular No. 799, Series of 2013 and effective on July 1, 2013, the rate of interest for the loan or forbearance of any money, goods or credits and the rate allowed in judgments, in the absence of an express contract as to such rate of interest, shall be 6% per annum. However, the CA emphasized that the respondents can only recover the subject properties upon payment of the full amount which the petitioners paid to PCI Bank.²²

Hence, the petitioners filed the instant petition.

Issues

Whether or not the CA committed a reversible error in ruling that the Deed of Sale was an equitable mortgage.

Whether or not the respondents' cause of action has already prescribed.

The Ruling of this Court

The petition is bereft of merit.

¹⁹ Id at 134-135.

²⁰ Id. at 131.

²¹ Id. at 133.

²² Id.

While the respondents never mentioned the words “equitable mortgage” in any of its pleadings before the RTC, the petitioners cannot claim that the principle of equitable mortgage was never previously mentioned or raised. In fact, it was the petitioners who admitted to the presence of an equitable mortgage agreement. To be specific, they testified that despite the execution of a deed of absolute sale they never intended to keep the subject properties for themselves. The real intent behind the execution of the Deed of Sale was merely to retrieve the amount of cash the petitioners advanced in favor of the respondents. This is precisely the essence of an equitable mortgage disguised as a deed of sale. Moreover, it is worthy to note that the petitioners never denied that their arrangement with the respondents is merely an equitable mortgage, instead of an actual sale with the intent to transfer the ownership of the property.

However, the petitioners still claim that the CA erred in finding that the Deed of Sale was an equitable mortgage because such error was allegedly never specifically raised by the respondents.

The Court is not convinced.

As a general rule, the CA cannot consider errors on appeal unless stated in the assignment of errors in the appellant’s brief. As an exception, however, even if a question is not raised in the assignment of errors, the same may still be adjudicated by the appellate court if the unraised issue or question is closely related or dependent to an assigned error.²³

Jurisprudence is replete with cases where this Court affirmed the decisions of the CA reversing lower court decision based on a related issue which was not specifically raised as an error before latter. The case of *Hiponia-Mayuga v. Metropolitan Bank and Trust Co., et al.*²⁴ enumerated some of the cases that applied the exception to the general rule, to wit:

In *Demafelis v. CA*, the petitioner sued private respondent for ejectment, and the trial court ruled in favor of the petitioner. Respondent-appellant appealed, and the CA reversed the judgment in its favor. The issue of the identity of the land was passed upon by the CA, even if the only issue raised on appeal was the affirmation of the trial court’s decision. Applying the exception for the appellant, the Court held that the CA had ample authority to decide the issue. In *Holy Trinity v. De la Cruz*, the issue raised on appeal to the CA was the validity of the emancipation patent, but the Court allowed the CA to rule on the issue of whether or not the land is covered by the agrarian reform laws. Thus, the appellate court correctly waived the lack of specific assignment of error and considered the second issue in favor of the appellant.

²³ *Hiponia-Mayuga v. Metropolitan Bank and Trust Co., et al.*, 761 Phil. 521, 532 (2015).
²⁴ 761 Phil. 521 (2015).

In *Banco De Oro Unibank, Inc. v. Spouses Locsin*, the CA decided the issue of the sufficiency of evidence regarding the petitioner's entitlement to the claim of deficiency after foreclosure, despite non-assignment on appeal. Once again, the Court favored the appellant, and ruled that the issue of entitlement to the deficiency is closely related to the issue of whether or not such claim was proven through preponderance of evidence.

In the above-cited cases, the CA decided issues not assigned as errors but were closely related to or dependent on an assigned error and properly argued by the appellants.²⁵

Evidently, as an exception to Section 8, Rule 51 of the Rules of Court, the CA can rule on issues not specifically assigned as an error provided that they are closely related to the errors assigned. The exception also applies in the present case. This case originated from a complaint for declaration of nullity of deed of sale and recovery of property filed by the respondents against the petitioners. The primary issue raised was whether or not the deed of sale in favor of the petitioners are valid considering the alleged forgeries in their execution. Although the original issue raised was the alleged forgery of the deed of sale, the finding that the Deed of Sale is void for another reason, being an equitable mortgage, is not farfetched but very closely related to the assigned error. Notably, the CA still resolved the primary issue which is the validity of the deed of sale. Thus, the issue of equitable mortgage was properly considered by the CA.

On the alleged prescription of the respondents' cause of action, this Court is likewise unconvinced.

Article 1141 of the New Civil Code states that any real action over immovable property will prescribe after 30 years from the date the cause of action accrues, to wit:

Art. 1141. Real actions over immovables prescribe after thirty years.

This provision is without prejudice to what is established for the acquisition of ownership and other real rights by prescription. (Emphasis supplied)

In this case, the respondents filed a real action to recover the titles and possession of the subject properties before the 30-year prescriptive period has lapsed.

²⁵ Id. at 531-532.

It must be recalled that in December 29, 1978, the contested deed of sale was executed by the respondents in favor of the petitioners. However, the subject properties were only transferred to the petitioners in 1986. On the other hand, the respondents filed their complaint for recovery of title and possession of the subject properties on August 31, 2005.

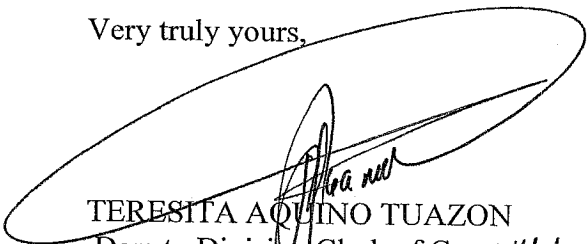
In view of the foregoing details, 26 years and eight months has lapsed from the time the Deed of Sale was executed, and about 19 years has lapsed since the subject properties were transferred to the petitioners. What is clear is that the 30 years extinctive period has not set in. Thus, the respondents' cause of action has not yet prescribed.

Clearly, the petitioners failed to present any factual and legal reason to warrant a reversal of the CA's Decision.

WHEREFORE, the Petition is **DENIED**. The assailed Resolution dated October 21, 2016 of the Court Appeals in CA-G.R. CV No. 93501. is **AFFIRMED**.

SO ORDERED." (Bernabe, J., on official business; Zalameda, J., on official leave)

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *Utch* 1/3
03 JAN 2020

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