

ALEJANDRA CUARTO VDA. DE LUNA, ET AL., PLAINTIFFS AND APPELLEES, VS. SEVERIANO VALLE, ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. L-26878. December 27, 1972*

Ponente: MAKALINTAL, J.

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Appeal from the decision of the Court of First Instance of Quezon in Civil Case No. 6818[1] dated January 31, 1966 adjudicating a parcel of coconut land subject of a deed of sale with the right of repurchase in favor of the heirs of the vendee a retro and ordering the reconveyance of said land to them by the subsequent purchasers for value from the heirs of the vendor a retro.

Involved in this case is a private instrument of sale with the right of repurchase covering a parcel of agricultural land located in Barrio Balubal, Sariaya, Quezon, for the amount of P3,334.00. This instrument was executed on December 1, 1928 by the spouses Nicasio Valle and Maxima Abril, as vendors a retro, in favor of Sotero de Luna. It was stipulated that the period of repurchase was five years from date of the contract; that the title to the property had been approved by the cadastral judge in the names of the vendors; and that upon receipt of the certificate of title the vendors should deliver the same to the vendee.

On January 31, 1931, before the five-year period expired, the decree of registration in the names of the vendors was issued, but it was not until January 13, 1965 that they obtained the certificate of title (OCT No. 0-11568). It is admitted, however, that the vendee Sotero de Luna took possession of the property upon the execution of the deed of sale and that such possession was continued by his heirs after his death in 1961 up to the present.

There is no evidence to show that the vendors ever attempted to exercise their right of repurchase. On March 23, 1936 - more than seven years after the execution of the sale and five years after the decree of registration was issued - the vendee Sotero de Luna filed a suit against the Valle spouses to compel them to acknowledge the instrument before a notary public so that he could register it in the Register of Deeds. The suit (Civil Case No. 3897), decided after default of the defendants, was nevertheless dismissed on July 31, 1936 on the ground that the period for filing the action had already prescribed under Article 43 of the Code of Civil Procedure. The order of dismissal quoted the report of the Clerk of Court, who had been commissioned to receive the evidence, that the spouses "obtuvieron del demandante Sotero de Luna un prestamo por valor de P3,334.00; que para garantizar dichas obligaciones de los demandados, estos vendieron en venta con pacto de retro dentro del plazo de cinco años sobre una parcela de terreno * * *."

Reconsideration was sought by Sotero de Luna on August 19, 1936, questioning the aforequoted portion of the order and alleging that the defense of prescription had not been specially pleaded, since the defendants had been adjudged in default. This motion for reconsideration remained unresolved for several years. The parties - Sotero de Luna and the spouses Nicasio Valle and Maxima Abril - died in the meantime. On February 4, 1965, a month after O.C.T. No. 0-11568 was issued in favor of the Valle spouses, the motion for reconsideration was declared by

the court as abandoned. A reconsideration of this order sought by the heirs of Sotero de Luna was denied on February 25, 1965.

On March 20, 1965 notice was published in the Quezon Times regarding the execution by the heirs of Nicasio Valle and Maxima Abril of a "Deed of Extra-judicial Partition with Absolute Sale" covering the disputed property. The instrument was both an adjudication of the land to Severiano Valle and Emeterio Valle and a sale thereof to the spouses Domingo Villota and Elena Pabelonia.

The present suit was thereupon instituted on April 14, 1965 by Alejandra Cuarto Vda. de Luna, surviving spouse of Sotero de Luna, in her own behalf and in behalf of her children, against the heirs of the Valle spouses and the subsequent purchasers Domingo Villota and Elena Pabelonia, to have said "Deed of Extra-judicial Partition with Absolute Sale" declared null and void, O.C.T. No. 0-11568 cancelled and a new title issued in the names of the plaintiffs. The complaint included a prayer for the issuance of a writ of preliminary injunction to enjoin the Register of Deeds from registering the challenged instrument.

On April 19, 1965 a notice of lispendens involving the suit was entered on the back of O.C.T. No. 11568. On May 17, 1965, after the requirement of publication under Rule 74 of the Rules of Court with respect to settlement of estates was complied with, the deed of partition was also annotated on the title. Thereupon T.C.T. No. T-62673 was issued in the names of the heirs of the Valle spouses. This title was subsequently cancelled and a new title, T.C.T. No. T-62696 was issued, on the same day, to the purchasers Domingo Villota and Elena Pabelonia. Both of these transfer certificates, however, carried notice of lispendens.

The defendants filed their answer to the complaint, with a counterclaim for moral and exemplary damages, on May 21, 1965, alleging as affirmative and special defenses that the cause of action was barred by prior judgment in Civil Case No. 3897; that the claim had either been paid, waived, abandoned or otherwise extinguished; that the Valle spouses had acquired an indefeasible title to the property upon the issuance of O.C.T. No. 0-11568; and that the subsequent purchasers, Domingo Villota and Elena Pabelonia, were buyers in good faith.

Judgment was rendered on January 31, 1966 (subsequently amended on April 18, 1966), ordering the purchasers Domingo Villota and Elena Pabelonia to reconvey the title to the property to the plaintiffs and ordering likewise the issuance of a new certificate of title in their names.

1. The first question is the effect of the judgment in Civil Case No. 3897 on the present suit. It is argued that res judicata or estoppel by judgment should apply. The argument is without merit.

Civil Case No. 3897 was instituted to compel the vendors to acknowledge the private deed of sale with pacto de retro before a notary public, in accordance with Article 1279 of the Old Civil Code. The report of the Clerk of Court, while quoted in the decision, was not necessarily approved or adopted by the Judge, who dismissed the complaint on the sole ground that the action had prescribed. The present suit, on the other hand, was filed in order to enforce the stipulations in the contract. There is clearly a lack of identity of subject matter and of causes of action in the two cases.

Estoppel by judgment, while not requiring identity of causes of action, bars a subsequent litigation only on "a point which was actually and directly in issue in a former suit, and was there judicially passed upon and determined by a domestic court of competent jurisdiction." [2] The question as to whether the contract here was one of sale with pacto de retro or some other contract was not put in issue in Civil Case No. 3897. The only point resolved by the court therein was that the complaint to compel notarial acknowledgment of a private instrument was filed beyond the prescriptive period. The finding made by the Clerk of Court that the contract was actually a loan had no relevance to the relief sought and was not passed upon by the Judge in disposing of the case. Thus a

determination of the issue in the present action does not militate against the principle invoked by defendants.

2. The contract in question stipulates a sale with the right of repurchase. It does not contain any other condition to indicate that a different transaction was intended by the parties. No extraneous evidence was presented to show that a mortgage or antichresis was the real purpose of the instrument. Nor was there any proof offered that the purchase price was ever repaid. The vendee was placed in possession of the land immediately after the execution of the contract in 1928 and this possession was continued by his heirs up to the present without any objection from the vendors or their heirs at least until this action was instituted. All these facts justify the conclusion that the contract was indeed a sale, subject to the right of repurchase, and that the vendors failed to exercise such right. Applicable here is Article 1509 of the Old Civil Code, which provides: "If the vendor does not comply with the provisions of Article 1518 [i.e., does not exercise right of redemption], the vendee shall acquire irrevocably the ownership of the thing sold." It follows that right of ownership over the land was consolidated in the person of the vendee Sotero de Luna by operation of law upon the lapse of the five-year period of repurchase.

3. Defendants assert the indefeasibility of the decree of registration and the certificate of title issued in the names of their predecessors-in-interest. The doctrine of indefeasibility under the Torrens System is no defense. In a similar case, *Cabanos vs. The Register of Deeds of Laguna*, 40 Phil. 620, 630, where the vendor a retro obtained the registration of the property in his name without the knowledge of the vendee and thereafter failed to repurchase the property, this Court, while holding that "the decree of registration and the certificate of title have rendered ineffective the consolidation of the right of the purchaser,"[3] allowed the latter to recover the property for the reason that:

"the issuance in his (vendor's) favor of said title does not destroy the validity of the executed contract and does not exempt him from the obligation of complying with it in accordance with the provisions of Article 1445 et seq. of the Civil Code (which deals with purchase and sale) for it would then be highly unjust that the defendant, who received the price of the sale of the lands in question would still retain said lands thereby enriching himself at the expense and to the great prejudice of the plaintiff."

In this case, reasons other than equity exist in favor of plaintiffs' right over the property. At the time the contract was executed the title of the vendors had already been approved by the cadastral judge. The contract itself stipulated that upon the issuance of the certificate of title the vendors should deliver it to the vendee. The obligation thus created was not only contractual; it was fiduciary. The trust relationship was never repudiated by the vendors and their heirs, until 1965, when the latter executed the deed of extra-judicial partition with absolute sale. They never attempted to take possession of the land from the vendee from the time the decree of registration was promulgated in 1931 up to the time the present dispute arose - a span of more than 30 years.

4. The sale of the land to the spouses Domingo Villota and Elena Pabelonia and the subsequent issuance of a certificate of title in their names do not bar the plaintiffs' rights. At the time the sale was executed the title to the land was still in the names of Nicasio Valle and Maxima Abril and not in the names of the transferors. This was sufficient notice to the vendees that the property they were buying was not yet at the free disposal of their vendors. They cannot therefore be considered innocent purchasers within the protection of Section 55 of the Land Registration Act. For as stated by this Court, "good faith affords protection only to purchasers for value from the registered owners." [4] The Valle heirs, the transferors, were not the registered owners of the land at the time the sale was made. They became registered owners only after complying with the requirements of Rule 74 of the Rules of Court, on May 17, 1965. By this time, however, there was already a notation of *lis pendens*, dated April 19, 1965, on the back of O.C.T. No. 0-11568. The effect of this prior entry is to charge the purchasers Domingo Villota and Elena Pabelonia with notice of the litigation and consequently they are bound by any judgment against their transferors.

The fact that the deed of partition with sale was actually made prior to the notation of the lis pendens does not negate the effect of said notation. Under Section 1 of Rule 74 of the Rules of Court, in order that a deed of partition may affect third parties and creditors, the same must be in a public instrument and filed in the office of the register of deeds. And with respect to the sale, Section 56 of the Land Registration Act provides that the act of registration shall be the operative act to convey and affect the land. Therefore, as far as plaintiffs are concerned the deed of partition with sale was non-existent prior to May 17, 1965. It follows that the sale, having been registered only after the plaintiffs had caused a notice of lis pendens to be noted on the back of O.C.T. No. 0-11568 and T.C.T. No. T-62673, remains subordinate to the rights adjudged in favor of the plaintiffs in the present suit.[5]

WHEREFORE, the decision appealed from is affirmed, with costs against appellants.

Concepcion, C.J., Zaldivar, Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[1] "Alejandra Cuarto Vda. de Luna vs. Severiano Valle, et al." for Cancellation of Title.

[2] Peñalosa vs. Tuason 22 Phil. 303, 313.

[3] The concurring opinion of Justice Araullo, with Justice Malcolm agreeing, took exception to the portion of the decision that the certificate of title had rendered ineffective the consolidation of title, opining that: "it is precisely because in fact and in law the ownership of the purchaser Cabanos over the lands in question has been consolidated (inspite of the certificate of title issued in favor of the defendant-vendor) and because the latter's obligation contracted in Exhibit A still subsists * * * that the defendant Obiñana is obliged to deliver * * * and to put in the possession of the plaintiff Cabanos the lands he had sold to him." (page 634)

[4] Mari vs. Bonilla 83 Phil. 137 cited in Maquiling vs. Umadhay May 29, 1970, 33 SCRA 99, 103.

[5] See Capitol Subdivision, Inc. and Montelibano Subdivision vs. Montelibano and Hojilla 109 Phil. 546, 551.

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