

ALFREDO FRIAS, ET AL., APPLICANTS AND APPELLEES VS. SANTIAGO ESQUIVEL, ET AL., OPPOSITORS AND APPELLANTS.*G. R. No. L-17366. July 31, 1962*

Ponente: DIZON, J.

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On March 26, 1952, appellee spouses Alfredo N. Frias and Belen Lustre filed in the Court of First Instance of Nueva Ecija an application to register a residential lot situated in Jaen, Nueva Ecija, containing an area of about 2,974 square meters, more particularly bounded and described in plan Psu-131405 Exhibit A.

On September 22, 1952, Santiago Esquivel and his sisters, Felisa, Rosalia, Rosa, Ceferina, and his sister-in-law, Perpetua Pada-Esquivel, widow of their brother; Alvaro, as legal guardian of her minor children, Ricardo, Vicente, Aurelio, Raymundo and Prudencio (Reynaldo), all surnamed Esquivel, opposed the application claiming ownership of a portion of 1,357 square meters of the land sought to be registered, having inherited the same from their parents, Victoriano Esquivel and Catalina Villamanca. They also sought the postponement of the proceedings pending final determination of Civil Case No. 998 of the same court between themselves as plaintiffs and the applicants as defendants, involving the ownership and possession of the land subject of their opposition.

In the civil case mentioned above, the plaintiffs alleged that they, together with their youngest sister, Anastacia Esquivel de Yambao (who refused to be joined as a party in the action), inherited pro-indiviso from their parents, Victoriano Esquivel and Catalina Villamanca, a parcel of land with improvements thereon situated at Jaen, Nueva Ecija, containing an area of about 1,357 square meters; that while said property was still owned in common, on or about July 16, 1951, without their knowledge and consent, Anastacia Esquivel de Yambao sold the whole of it to the defendants, the Frias spouses, who knew, at the time of the sale, that their vendor owned only a part thereof; that the defendants had taken possession of the land and had refused to reconvey it to them despite repeated demands therefor.

On September 30, 1952, the Court issued an order postponing the hearing on the application until after final adjudication of Civil Case No. 998, but on March 24, 1953 issued an order of general default except as against the oppositors and the Director of Lands.

On April 20, 1956 we rendered judgment in Civil Case No. 998 (G.R. No. L-8825) declaring the deed of sale executed by Anastacia Esquivel valid insofar as Santiago, Felisa, Ceferina and Anastacia, all surnamed Esquivel, were concerned, but invalid with respect to the minor heirs of the late Alvaro Esquivel. In our decision we found the following facts as having been established: The parcel of land in question originally belonged to the spouses Victoriano Esquivel and Catalina Villamanca who had seven children, namely, Santiago, Felisa, Rosalia, Rosa, Ceferina, Anastacia and Alvaro. Alvaro died on December 19, 1940 leaving his widow, Perpetua Pada, and their children, Ricardo, Vicente, Aurelio, Raymundo and Prudencio (Reynaldo). Victorino Esquivel died on January 7, 1943 leaving considerable real estate in Jaen, Nueva Ecija, consisting of rice and residential lands, which were extra-judicially partitioned by and amongst his heirs sometime in 1946, the land in question having been

adjudicated to Anastacia, who sold it to the Frias spouses on July 16, 1951. The minor heirs of the late Alvaro Esquivel were represented in the partition by their mother, Perpetua Pada, who was neither their legal guardian nor the administratrix of their property. As the partition was made in 1946, the applicable law was found to be Section 553 of the Code of Civil Procedure which provided that the father or mother is only deemed to be the natural guardian of his or her minor children and not of his estate unless appointed by the court. As a result, the land in question was declared to be common property of Anastacia Esquivel and the minor heirs of Alvaro Esquivel at the time of its sale by the former to the Frias spouses.

It appears that, subsequent to our decision, that is, on February 15, 1957, the children of the deceased Alvaro Esquivel—who had attained the age of majority, with the exception of Alvaro and Reynaldo—and their mother, Perpetua Pada de Zaragosa (remarried to Eduardo Zaragosa), as natural guardian of the two minors, executed a deed of sale conveying their one-seventh participation in the land to the Frias spouses. (Exhibit I)

On October 2, 1957, in the aforesaid registration proceedings, after due notice and hearing, the Court rendered judgment adjudicating the land described in the plan Exhibit A in favor of the applicants and ordering its registration in their name. After the same had become final and executory, the Court ordered the issuance of the Decree of Registration, and on December 11, 1957 the Chief of the General Land Registration Office issued Decree of Registration No. 60798 in favor of the Frias spouses.

On December 8, 1958, Rosario Esquivel-Gonzales, as the duly appointed guardian of the minors Reynaldo and Ricardo Esquivel, filed a verified petition to reopen the decree of registration on the ground of fraud committed,—according to the petition—as follows:

"5. That the herein applicants committed fraud in obtaining said decree of registration, and such fraud consists of the following: the herein applicants had falsely represented to this Honorable Court during the hearing of their application that they were the owners of the entire residential lot included in their plan marked as Exhibit "A" and now covered by the decree of registration, when at that time they knew fully well they were not the owners thereof in its entirety; that they were aware of such fraudulent representation when they made it because they were parties in Civil Case No. 998 of this Court involving precisely the validity of their title to the aforementioned lot; they also knew that on appeal the case became G.R. No. L-8825 of the Supreme Court which, in a decision promulgated on April 20, 1956, held that the title (a deed of sale) to that residential lot claimed by the herein applicants is invalid with regard to the minor heirs of the late Alvaro Esquivel', one of them being Reynaldo Esquivel, your petitioner's ward, in whose behalf this petition is being presented;

"6. That your petitioner has been informed, believes the information, and therefore alleges that in order to perpetrate the aforesaid fraud upon this Court and upon your petitioner's ward, Reynaldo Esquivel, the herein applicants had maneuvered sometime in February of 1957 the execution in their favor of a deed of sale of the share in the oft-repeated residential lot pertaining to the minor heirs of the late Alvaro Esquivel, and that deed of sale signed by Perpetua P. Zaragoza, widow and mother of the Esquivel minors, but who has remarried many years before she was made to sign it and who has taken up residence in Asingan, Pangasinan, since her remarriage, away from her minor children aforesaid, particularly from the minor Reynaldo Esquivel who had to be taken care of alternately by his uncle and his aunts;"

On February 22, 1960, the Court denied the above mentioned petition. Hence the present appeal.

To justify the setting aside or review of a decree of registration under Section 38 of Act No. 496, the party seeking relief must allege and prove, *inter alia*, that the registration was procured through fraud—actual and extrinsic. It has been held in this connection that if the fraud alleged in the petition to set aside the decree is involved in the same proceedings in which the party seeking relief had ample opportunity to assert his right, to attack the document presented by the applicant for registration, and to cross-examine the witnesses who testified relative thereto, then

the fraud relied upon is intrinsic. The fraud is extrinsic if it was employed to deprive a party of his day in court, thus preventing him from asserting his right to the property registered in the name of the applicant (*Bagoyboy vs. Director of Lands*, 37 Off. Gaz., 1956).

Upon consideration of the facts relied upon by appellants to justify a review of the decree in question, we find that the same do not constitute the extrinsic fraud required as justification for the granting of the relief sought by them.

Wherefore, the decision appealed from is affirmed, with costs.

Bengzon, C. J., Padilla, Labrador, Concepcion, Barrera, Regala, and Makalintal, JJ., concur.

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