

MARIANO GARCIA AND SPOUSES HERMAN SANTOS AND ARSENIA GARCIA, PETITIONERS, VS. COURT OF APPEALS, HEIRS OF EUGENIO DE JESUS, NAMELY, DOMICIANO, JESUS, JOSEFINA AND AURELIO, ALL SU...

G.R. Nos. L-49644-45. July 16, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is a controversy about a parcel of unregistered land with an area of 581 square meters located at Barrio Parulan, Plaridel, Bulacan, assessed at P930. It was the conjugal property of the spouses Eugenio de Jesus and Petra Buenaventura acquired on November 6, 1966 with earnings from their drugstore business.

On March 26, 1969, De Jesus, 92, while suffering from a cataract, signed a supposed deed whereby he exchanged that land for the 3,600 square meters of riceland, the proindiviso share of his tenant, Mariano Garcia, 58, covered by OCT No. 3915. De Jesus allegedly signed the deed on the understanding that it was not a deed of exchange but a document whereby Garcia would build a house on his 581-square-meter lot and pay the land taxes thereon. His wife, Petra Buenaventura, did not sign the deed.

There were deficiencies in the deed which were filled up with the use of another typewriter, after De Jesus had signed it to make the document registerable under Act No. 3344. The notary did not testify on its due execution.

Mariano Garcia transferred the said land to the spouses Arsenia Garcia and Herman Santos who allegedly delivered its possession to the spouses Natividad Antonio and Arcadio Flores. The Flores spouses built a house of light materials and a hut (kulakob). Clara Gatmaitan Vda. de Antonio resided therein with her daughter and son-in-law.

On November 25, 1969, the Santos spouses sued the Flores spouses and Mrs. Antonio for the recovery of possession of the land. This case was docketed as Civil Case No. 108-B of the Court of First Instance of Bulacan, Baliuag Branch IV.

On February 2, 1970, the De Jesus spouses sued Mariano Garcia and the Santos spouses for the purpose of annulling the deed of exchange and the conveyance of the said land to the Santos spouses (Civil Case No. 127-B).

The trial court voided the deed of exchange. The Court of Appeals affirmed that judgment with the modification that the heirs of Eugenio De Jesus and Petra Buenaventura should return to Mariano Garcia the riceland which they received under the deed of exchange and that the lower court's order of August 27, 1975, dismissing Civil Case No. 108-B was affirmed.

In this appeal, Mariano Garcia and the Santos spouses assign six "grave errors of law" which in reality involve factual issues about the validity of the deed of exchange. They are not the purely legal issues contemplated in section 4, Rule 45 of the Rules of Court.

We hold that the finding of the trial court and the Court of Appeals that the wife, Petra Buenaventura, did not consent to the deed of exchange executed by her husband is binding and conclusive on this Court.

The deed of exchange was void because of the absence of the wife's conformity to such disposition of the ganancial property, as required by article 166 of the Civil Code, a mandatory requirement (Art. 5, Civil Code; 1 Padilla, Civil Code, 1975 Ed., p. 742; Tolentino vs. Cardenas, 123 Phil. 517; Bucoy vs. Paulino, L-25775, April 26, 1968, 23 SCRA 248, 274).

The Santos spouses cannot be regarded as innocent purchasers for value (a term used with respect to registered lands) because, as the deed of exchange was void ab initio, Mariano Garcia acquired no rights whatsoever. He could not transmit anything to his vendees. Nemo dat qui non habet (No one can give what he has not).

WHEREFORE, the judgment of the Court of Appeals is affirmed with costs against the petitioners.

SO ORDERED.

Concepcion, Jr., Guerrero, and Cuevas, JJ., concur.

Makasiar, J., (Chairman), in the result.

Abad Santos and Escolin, JJ., no part.

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