

AMANDO, FRANCISCO I, TEOFILA AND BENITA, ALL SURNAMED AÑONUEVO, PLAINTIFFS-APPELLANTS, VS. ALBERTO, FRANCISCO II, FLORENCIO, DAVID, MER-CEDES, EDUVIJIS AND BRI-GIDO, ALL SURNAME...*G.R. No. L-22269. December 20, 1967*

Ponente: CONCEPCION, C. J.

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Direct appeal, on questions purely of law, from a decision of the Court of First Instance of Albay.

Plaintiffs, Amando, Francisco I, Teofilo and Benita, all surnamed Añonuevo, are children of the deceased Tomas Añonuevo, by his first marriage to Pascuala Baldivina. They brought this action, in said court, for the partition of six (6) parcels of land-one (1) located in Legaspi, Albay, the others in Libog, Albay, and more particularly described in paragraph (4) of the complaint-allegedly belonging to their aforementioned father, Defendants Alberto, Francisco II, Florencio, David and Mercedes, likewise, surnamed Añonuevo, are plaintiffs' half-brothers and half-sister. They are children of said Tomas Añonuevo, by his second marriage to Ciriaca Apon. Defendants Eduvijis and Brigido, both surnamed Añonuevo, are children of the deceased, Sixto Añonuevo, another son of Tomas Añonuevo, by his aforesaid first marriage, whereas defendants Oscar and Fe, both surnamed Enciso, are children of Rafaela Añonuevo, also, deceased, a daughter, by second marriage, of Tomas Añonuevo.

Plaintiffs alleged that said parcels of land were acquired by him during the lifetime of his first wife, Pascuala Baldivina, with funds coming from her paraphernal property; that after her death, Tomas Añonuevo brought said lands to his second marriage, without a liquidation of the conjugal partnership with his first wife or a settlement of her estate; that plaintiffs were then minors; that upon the death of Tomas Añonuevo in 1950 - his second wife had died prior thereto - plaintiffs demanded a partition of said lots; that defendants proposed that the lands be held by defendant Alberto Añonuevo, on behalf and for the benefit of all of the heirs of Tomas Añonuevo; and that in 1955, however, the defendants - except Eduvijis and Brigido Añonuevo and Oscar and Fe Enciso - assumed exclusive possession of the lands and excluded the plaintiffs, as well as Eduvijis and Brigido Añonuevo, and Oscar and Fe Enciso, from any participation in the produce of said lands. Plaintiffs prayed, therefore, that the same be partitioned and that the defendants be sentenced to render accounts of the produce thereof, in addition to paying damages, attorney's fees and costs.

The defendants filed an answer, admitting some allegations of the complaint and denying other allegations thereof. They, like-wise, set up affirmative defenses and a "counterclaim" or cross-complaint for the partition of nine (9) other lots - situated in Legaspi and otherwise known as lots Nos. 4318, 5694, 5705, 5765, 5805, 5881, 5907, 5945 and 7242 - allegedly belonging to their common father and held by the plaintiffs.

In due course, thereafter, the lower court rendered a decision directing the partition of the six (6) parcels of land described in the complaint and of three (3) of the nine (9) lots which are the subject-matter of the "counterclaim" (cross-complaint) - namely, lots Nos. 5705, 5765 and 5805 - and dismissing the same as regards the remaining

six (6) lots. Plaintiffs have interposed the present appeal insofar as the lower court has ordered the partition of said three (3) lots Nos. 5705, 5765 and 5805.

Plaintiffs maintain that, since Teofila Añonuevo had transfer certificates of title to these lots, in her name and that of her husband, Juan C. Arandia, the appealed decree for the partition thereof violates the principle of indefeasibility of a Torrens title.

In this connection, the records show and the lower court found that said lots were originally covered by Original Certificates of Title in the name of Tomas Añonuevo, who died on December 17, 1950; that on May 31, 1957, plaintiff Teofila Añonuevo filed a petition for the reconstitution of said Original Certificates of Title, upon the ground that the same were in her name and that of her husband, Juan C. Arandia, and had been destroyed or lost; that said petition for reconstitution was filed in Cadastral Case No. RT-457 of the Court of First Instance of Albay; that on August 20, 1957, Branch I of said court, to which the petition had been assigned, issued an order granting it; that on September 30, 1957, herein defendant Alberto Añonuevo filed a motion for reconsideration of this order, alleging that Teofila Añonuevo had no right to seek the aforementioned reconstitution, the original certificates of title involved therein having been issued, not in her name, but in that of her deceased father, Tomas Añonuevo; that on February 28, 1958, said Branch I of the Court of First Instance of Albay granted the motion for reconsideration and amended its order of August 20, 1957, by denying the reconstitution of the original certificates of title over the aforementioned lots Nos. 5705, 5765 and 5805; that, soon thereafter, or on April 8, 1958, Teofila Añonuevo filed with the same Court, but before Branch II thereof, a motion for reconstitution - in Cadastral Case No. 506 - of transfer certificates of title allegedly covering said lots Nos. 5705, 5765 and 5805, upon the ground that said transfer certificates of title were in her name and that of her late husband, Juan C. Arandia, and had been destroyed or lost; that on August 1, 1958, said Branch II of the Court of First Instance of Albay granted the motion for the reconstitution; and that, accordingly, Transfer Certificates of Title Nos. RT-952(NA), 951(NA) and 950(NA), covering said lots Nos. 5705, 5765 and 5805, respectively, were issued, on September 2, 1958, in the name of said spouses.

Defendants herein maintain, that the "reconstitution" of these transfer certificates of title had been secured through fraud, misrepresentation and deceit; and that, accordingly, the order for the reconstitution thereof should be nullified, and the lots aforementioned partitioned, in accordance with law, among the heirs of Tomas Añonuevo, including defendants herein. After due trial, the lower court rendered judgment for the defendants. Hence, this appeal by the plaintiffs.

Plaintiffs' theory to the effect that said judgment is inconsistent with the indefeasibility of Torrens certificates of title is untenable. The decision appealed from does not impair the validity of the decrees in pursuance of which the lots in question were registered under the Torrens system, or review said decrees. As a matter of fact, plaintiffs do not claim to have any such decrees in their favor. Teofila Añonuevo had merely "reconstituted" transfer certificates of title, which were issued upon misrepresentations made by her, in Cadastral Case No. RT-506, to the effect that she and her late husband had bought lots Nos. 5705, 5765 and 5805 from the original owner thereof, Tomas Añonuevo, and that the corresponding transfer certificates of title of said spouses were subsequently lost or destroyed.

In fact, no such transfer certificates of title had ever existed. Plaintiffs would have the lower court believe that Teofila Añonuevo and Juan C. Arandia had bought lots Nos. 5705 and 5805 from Tomas Añonuevo on December 20, 1950, although Tomas Añonuevo had died 3 days before. Similarly, in their petition for reconstitution in Cadastral Case No. 457, Teofila Añonuevo alleged that these lots and lot No. 5765 were originally registered in her name and that of her deceased husband, which was an impossibility because the decrees for the registration of said lots were issued in 1927, and the evidence introduced by her in said cadastral case was to the effect that she and

Juan C. Arandia had bought lot No. 5705 in 1933, lot No. 5765 in 1935, and lot No. 5805 in 1938. Indeed, if these allegations were true, Teofila Añonuevo and Juan C. Arandia would have had transfer certificates of title in their favor on or before May 31, 1957. Yet, the petition, filed by them on that date, for reconstitution of the original certificates of title to said lots, evidently proves that they then had no such transfer certificates of title, for, otherwise, the petition would have referred to the latter, not to the former.

Then, again, the absence of such transfer certificates of title, despite the purchases allegedly made by said spouses from 1933 to 1938, establishes, beyond doubt, that no such purchases had really been made by them. The filing of the second petition for reconstitution in Branch II of the Court of First Instance of Albay underscores the intent to conceal, from the judge who presided it, the first petition for reconstitution and the adverse findings, made by Branch I of the same Court, in connection therewith.

It is thus apparent that the "reconstituted" certificates of title invoked by plaintiffs herein had been secured through misrepresentation, deceit and fraud. This notwithstanding, the lower court has neither reviewed the order of reconstitution in Cadastral Case No. 506, nor annulled the "owner's duplicate" certificates issued in compliance therewith. It, in effect, regarded Teofila Añonuevo as a mere trustee for the heirs of Tomas Añonuevo, with the obligation to give and convey to them their respective shares. Hence, the decision ordering the partition, which is in accordance with law and the elementary principles of justice, equity and fair play.

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

Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

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