

JOSE O. BARRIOS (DECEASED) (SUBSTITUTED BY SON JOSELITO BARRIOS), PETITIONER, VS. COURT OF APPEALS, HERACLEO B. VILLACIN, JR. AND VICENTE B. VILLACIN, RESPONDENTS.

G.R. No. L-32531. August 31, 1977

Ponente: GUERRERO, J.

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GUERRERO, J.:

Appeal by certiorari to review the Decision of the respondent Court of Appeals[1] in CA-G.R. No. 38142-R entitled "Jose O. Barrios versus Heracleo B. Villacin, Jr. and Vicente B. Villacin" and from its order denying the motion for reconsideration of the petitioner.

Originally, there were two (2) cases appealed to the Court of Appeals: 1. CA-G.R. No. 38138-R (Civil Case No. 223) entitled "Jose O. Barrios v. Apolonia Vda. de Alegre, et al.,"; and 2. CA-G.R. No. 38142-R (Civil Case No. 229) entitled "Jose O. Barrios v. Heracleo B. Villacin, Jr. and Vicente Villacin." Both are ordinary actions for the recovery of possession of a parcel of land, damages and attorney's fees originating from the Court of First Instance of Negros Occidental where they were tried jointly on the ground that the land in controversy is the same, although different portions thereof were respectively claimed by the two (2) sets of defendants, and the issues raised therein are identical.

In a decision dated May 12, 1966 as modified on June 16, 1966, the trial court found the defendants in the said two cases as possessors in bad faith and ordered them to vacate the premises and to pay the plaintiff (petitioner herein) damages, which in the case of the present respondents is the sum of P18,000.00 per year from 1964 until they vacate the property.

On appeal by both the defendants, the Court of Appeals, in a decision dated May 15, 1970, affirmed the findings of the trial court in Civil Case No. 223 entitled "Jose Barrios v. Apolonia Vda. de Alegre, et al." declaring the defendants possessors in bad faith, but reversed that in Civil Case No. 229 entitled "Jose O. Barrios v. Heracleo B. Villacin, Jr. and Vicente Villacin." The Appellate Court now found the respondents Villacins possessors in good faith and ordered the petitioner to exercise the options available to him under Article 448 of the New Civil Code, that is, either to appropriate the improvements introduced by the said defendants on the area in controversy and to pay the value thereof in the amount of P22,000.00, or to compel these defendants (respondents herein) to pay the reasonable price of that area.

Petitioner now comes to Us seeking the review only of the decision of the Court of Appeals in CA-G.R. No. 38142-R (Civil Case No. 229).

In said Civil Case No. 229 entitled "Jose O. Barrios v. Heracleo B. Villacin, Jr. and Vicente B. Villacin," the following facts appear:

A certain Lorenza Montaña was the original registered owner of a large tract of land with an area of 188,212 sq. meters, more or less, situated in Barrio Mabini, Cadiz, Negros Occidental. Her ownership was evidenced by

Original Certificate of Title No. F-1670 entered under her name pursuant to Free Patent V-4415 issued to her on June 13, 1956.

However, prior to March 25, 1960, the area in controversy was part of the forestal zone. This notwithstanding and before its release from the forestal zone, a certain Graciano Lamis entered the same and from then on, was known to be in continuous and uninterrupted possession and occupation thereof, continuing the cultivation of the land begun by the Alegres (defendants in Civil Case No. 223). On March 25, 1960, that area was released from the forestal zone and declared part of the disposable patrimony of the State.

On September 6, 1962, Lorenza Montaña sold her land to the petitioner herein as a consequence of which her Original Certificate of Title was cancelled and in lieu thereof Transfer Certificate of Title No. T-33012 was issued in the name of petitioner, Jose O. Barrios, by the Register of Deeds of Negros Occidental.

On March 27, 1963, Graciano Lamis sold his rights over the area in controversy to a certain Virgilio Butaz. However, on March 5, 1964, Lamis repurchased the same from Butaz, and on the same day, Lamis sold all his rights and interests in the controverted area and all the improvements found therein to respondents Villacins, the sale being unsupported by any kind of evidence of title of the vendor, Lamis.

Meanwhile, petitioner received information that his land was being sold by one Valentine Botas, whom he erroneously thought to be the vendor, to Mayor Heracleo Villacin, Sr. of Cadiz City and the father of herein respondents. On March 31, 1964, petitioner thru his lawyer, sent a letter to Mayor Villacin informing the latter of the true ownership of the land, to wit,

"Bacolod City

March 31, 1964

The Honorable

Mayor Heracleo Villacin

Cadiz, Negros Occidental

Dear Mayor Villacin:

Last week, my client Mr. Jose O. Barrios informed me that he received an information that you bought from a certain Valentine Botas a piece of land located at Barrio Mabini, Cadiz, Negros Occidental. That incidentally, the land sold to you by this person who professes to be the owner thereof is Lot No. 209 covered by Transfer Certificate of Title No. T-33012 issued in the name of my client, Mr. Jose O. Barrios. Hence this letter.

To protect your rights and interest, I suggest that you make an inquiry from the Office of the Register of Deeds, Bacolod City, about the description and ownership of the property sold to you by this Valentine Botas. Otherwise, you will be left holding an empty bag.

I am sending you a photostatic copy of Transfer Certificate of Title No. T-33012 issued in the name of Mr. Barrios to help guide you in determining whether the land sold to you by Mr. Valentine Botas located at Barrio Mabini, Cadiz, is the very one described therein or not. May you be guided accordingly.

Yours truly,

(SGD.) RAYMUNDO M. LOZADA, JR."

(p. 14, Rollo, Exhibit B)

Despite this letter, the mayor's men using tractors bearing the mayor's initials, entered and occupied, on April 7, 1964, nine (9) hectares of the middle portion of the petitioner's property and threatened petitioner's encargado, Bienvenido Cartagena with bodily harm unless he vacates the premises.

On April 15, 1964, another letter was sent by the petitioner reiterating his ownership and demanding that the mayor vacate the premises, to wit:

"Bacolod City

April 15, 1964

The Honorable

Mayor Heracleo Villacin

Cadiz, Negros Occidental

Dear Mayor Villacin:

I have been informed by Mr. Jose O. Barrios that his land situated at Barrio Mabini, Cadiz, Negros Occidental, is being worked by your men with the use of two tractors. This is lamentable because notwithstanding my letter to you dated March 31, 1964, in which you were fully apprised of the ownership of the land as evidenced by Transfer Certificate of Title No. T-33012 issued in the name of Mr. Jose O. Barrios, you persisted in forcibly entering the place with intent to gain. Consequently, this is manifestly an act done in bad faith.

Please consider this letter as a demand to vacate the premises immediately and to return to the owner the peaceful possession and occupation thereof. We will be expecting your wise judgment to guide you in this matter before we will be forced, much to our regret, to invoke the law to protect the rights and interests of our client.

Yours truly,

(SGD.) RAYMUNDO M. LOZADA, JR."

(p. 15, Rollo, Exhibit C)

There being non-compliance with said demand, petitioner filed. Civil Case No. 472 before the Municipal Court against the Mayor for forcible entry. The inferior court dismissed the complaint upon agreement of the parties and for the purpose of filing the proper pleading before the competent court; and on July 16, 1965, petitioner filed Civil Case No. 229 in the Court of First Instance of Silay City, Negros Occidental against Mayor Villacin, the complaint later amended to include the sons of the Mayor, Heracleo Jr. and Vicente, as the real defendants.

In his brief, petitioner makes the following assignment of errors, to wit:

- I. The Court of Appeals erred in holding the respondent buyers and possessors in good faith of the land in dispute.
- II. The Court of Appeals erred in ordering petitioner to exercise the option under Article 448 of the New Civil Code either by appropriating the improvements introduced by the respondents or to compel them to pay the price of the land.
- III. The Court of Appeals erred in disregarding the letters sent to respondent's father, Mayor Heracleo Villacin advising him of the ownership of the land in dispute.

After perusal of this assignment of errors and considering that all are closely related, We deem that the lone issue presented to Us is whether or not the Court of Appeals was correct in interpreting the facts and circumstances

attending the possession of the Villacins of the area in question as constituting possession in good faith.

At the very outset, We must hold that there is no merit to the contention of the respondents Villacins that the aforesaid issue is a question of fact, the finding of the Court of Appeals being binding on this Court. True, except for some exceptions, findings of facts made by the Court of Appeals are conclusive on this Court. But in the case at bar, whether or not the facts, as found by the Court of Appeals, are constitutive of possession in good faith or possession in bad faith, is a question of law which may properly be brought before Us.

The Court of Appeals in imputing good faith to respondents Villacins declared, and We quote:

"Consequently, considering that portion B of the plan Exhibit F had been in the possession of Graciano Lamis publicly and continuously since time immemorial, without anyone disturbing him in his possession, and considering further that this particular parcel was released from the forestal zone only on March 5, 1960, defendants Villacins had certainly no reason to suspect that such land could have been included in the free patent of Lorenza Montaña issued in 1956. Under these circumstances, when they bought the rights of Lamis over that land on March 5, 1964, they must have done so in good faith. This is especially so in view of the fact that the evidence has not clearly proved the bad faith of said defendants."

(p. 38, Rollo)

We do not agree. Several facts, as disclosed by the records and taken together, are reasonably suspicious to have put the respondents Villacins in inquiry as to the alleged rights of the vendor, Lamis, over the area in controversy.

Firstly, when respondents bought the land from Lamis, the latter could not and did not at any time produce any title or application to said land.

Well settled is the rule that,

"The law protects to a greater degree a purchaser who buys from the registered owner himself. Corollarily, it requires a higher degree of prudence from one who buys from a person who is not the registered owner, altho the land object of the transaction is registered. While one who buys from the registered owner does not have to look behind the certificate of title, one who buys from one who is not the registered owner is expected to examine not only the Certificate of Title but all factual circumstances necessary for him to determine if there are any flaws in the title of the transferor, or in his capacity to transfer the land." [2]

If such a degree of prudence is required of a purchaser of registered land from one who shows a Certificate of Title but who appears not to be the registered owner, more so should the law require the utmost caution from a purchaser of registered land from one who could not show any title nor any evidence of his capacity to transfer the land. Failing to exercise caution of any kind whatsoever, as in the case of the respondents Villacins, is tantamount to bad faith.

Secondly, petitioner sent letters to the father of the respondents informing him of the true ownership of the aforesaid land. The Court of Appeals in disregarding this fact said, to wit:

"The registered letter dated March 31, 1964 xxx is not proof that herein defendants Villacins were also apprised of the information supposedly given by said plaintiff to the Mayor. It will be observed that Mayor Villacin is not a party to this case and is a person different from the herein two defendants Villacins. Moreover, such advise, was given after defendants Villacins had already bought the rights of Lamis over the controverted area on March 5, 1964."

(p. 21, Rollo)

We deem this untenable. In the normal course of daily life, it is very probable, if not decidedly certain, that sons

and father had occasion to talk about the aforesaid letters containing this information. It must be noted that it was never controverted in the trial that men of the mayor entered the premises of the petitioner and that land tractors bearing the initials of the mayor were used. This being so, the mayor had knowledge that his sons bought the land and it is difficult for Us to imagine that he withheld the information of the true ownership of the land from his sons, unless he was not acting in their interest, which is quite remote. Learning of this information, the more must We require of the respondents that exercise of prudence required by law in inquiring as to the status of the land they bought. But instead, they did nothing but took possession of the land and started planting sugar cane thereon. Of a case similarly situated, the Supreme Court ruled:

"Defendant's bad faith began after the warning given in a letter by the plaintiff's daughter in March 1909, for after having received it, she then had ground to doubt that Sotera and Juan Caño could transfer any title of possession in the following December." [3]

Thirdly, respondents herein knew of the case of forcible entry brought by petitioner against their father, Mayor Villacin, Sr., under the impression that the latter was the vendee. Such knowledge was a warning to them that the land they bought is subject to the claim of other parties, but again they continued in their possession of the land and planting thereon.

Considering these facts, We are constrained to hold that the respondents cannot now come to this Court claiming the benefit of being purchasers of registered land in good faith.

Art. 526 of the New Civil Code is clear.

"Art. 526: He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

He is deemed a possessor in bad faith who possesses in any case contrary to the foregoing."

In interpreting the above quoted provision, We have repeatedly ruled that if circumstances exist that require a prudent man to investigate, and he does not, he is deemed to have acted in mala fide. A party's mere refusal to believe that a defect exists or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title will not make him an innocent purchaser for value, if it afterwards develops that the title was in fact defective.[4] Similarly, a buyer of registered land who fails to act with the diligence of a prudent man cannot be a purchaser in good faith.[5]

Lastly, as a special defense in the proceedings below, respondents Villacins alleged the non-efficacy and nullity of the title of Lorenza Montaña from which the title of the petitioner stemmed. We need not pass upon this. The Court of Appeals is correct in holding that this is a collateral attack on a Torrens Title which under our laws and established jurisprudence is not permitted and cannot be legally done.[6]

Premises considered, We now apply Art. 449, 450, 451 and 452, New Civil Code.

Art. 449. He who builds, plants or sows in bad faith on the land of another, loses that is built, planted, or sown without right to indemnity.

Art. 450. The owner of the land on which anything has been built, planted or sown in bad faith may demand the demolition of the work, or that the planting or sowing be removed, in order to replace things in their former condition at the expense of the person who built, planted or sowed; or he may compel the builder or planter to pay the price of the land and the sower the proper rent.

Art. 451. In the cases of the two preceding articles, the landowner is entitled to damages from the builder, planter or sower.

Art. 452. The builder, planter, or sower in bad faith is entitled to reimbursement for the necessary expenses of the preservation of the land.

As the records show that the Villacins planted sugar cane which is harvested every crop year and, therefore, cannot be considered as a necessary expense for the preservation of the land, they are not entitled to any such reimbursement of amount expended by them.

The records also indicate that the parties, at the pre-trial hearing, agreed to the payment of liquidated damages to the prevailing party the amount of P18,000.00 per year until the final adjudication of the case (Record on Appeal, pp. 37-38), which the trial court incorporated in its modified Decision dated June 16, 1966, ordering the Villacins to pay liquidated damages of P18,000.00 per year beginning 1964. (Record on Appeal, pp. 84-90). We hold that the amount agreed as liquidated damages, complies with Art. 451 of the New Civil Code.

WHEREFORE, the decision of the Court of Appeals is reversed and another one is entered declaring the Villacins to be purchasers and possessors in bad faith without right to indemnity to that built, planted or sown by them on the land, further ordering said respondents to restore possession of the land to the petitioner and to pay to the petitioner liquidated damages in the amount of P18,000.00 per year beginning 1964 until the time said land is restored to the possession of the petitioner. The respondents Villacins shall also pay the petitioner the amount of P3,000.00 for and as attorney's fees plus costs. The Villacins' liability under this judgment is declared joint and several.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Martin, and Fernandez, JJ., concur.

[1] Special Third Division, penned by Justice Jose B. Rodriguez, concurred by Justices Nicasio A. Yatco and Manuel P. Barcelona.

[2] *Revilla v. Galindez*, 107 Phil. 480 (1960)

[3] *Ortiz v. Fuentebella*, 27 Phil. 537 (1914)

[4] *Leung Lee v. Strong*, 37 Phil. 644 (1918)

[5] *RFC v. Javillonar*, 107 Phil. 664 (1960)

[6] *Lagunia v. Valsoby*, 31 Phil. 390 (1915); *Domingo v. Ongsisko et al.*, 55 Phil. 390 (1930); *Sorsogon v. Makalintal*, L-1692, February 24, 1948, 45 O.G. 3819; *Baldoz v. Papa, et al.*, L-18150, July 30, 1965; *Malaguit v. Alipio et al.*, L-18596, September 30, 1964.

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