

TEOFILA DE GUINOO, ETC., PETITIONER, VS. THE COURT OF APPEALS, ET AL., RESPONDENT.*G.R. No. L-5541. June 25, 1955*

Ponente: JUGO, J.

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This is an appeal by certiorari from a decision of the Court of Appeals. The findings of fact made by said Court are briefly as follows:

Bernabe Macansantos alias Bernabe M. Santos and Feliza Enriquez were married on May 5, 1907 in Davao City, and out of their marriage two children were born, Lorenzo and Tomas. In 1910 Bernabe acquired from one Cenon Rasay a lot containing 1,222 square meters of residential land (Lot No. 127 of Davao City), for which he obtained a decree and the original certificate of title No. 238 in the name of "Bernabe M. Santos casado con Feliza Enriquez". The original certificate of title was cancelled and replaced first, by Transfer Certificate No. 32 of the Province of Davao retaining the name of the owner as Bernabe M. Santos casado con Feliza Enriquez".

Feliza Enriquez died on May 19, 1930. On November 15, 1934 Bernabe Macansantos sold one-half of Lot No. 127 to Teofila de Guinoo for P800.00, for which reason he had the land subdivided into Lots 127-A and 127-B, adjudicating the first portion to Teofila. On April 1, 1935 Bernabe likewise sold the remaining half (Lot 127-B) to the Honganji Mission, a Japanese religious corporation, through its representative, Kogan Imei. Both deeds of sale were registered on January 18, 1940, as a result of which Transfer Certificate of Title No. 1333 of Davao City was issued to Teofila de Guinoo and Transfer Certificate of Title No. 1334 was issued to the Honganji Mission.

Bernabe died in 1943.

On April 14, 1948, two complaints were filed by Lorenzo and Tomas Macansantos in the Court of First Instance of Davao, one against Teofila de Guinoo (Civil Case No. 196), and the other against the Philippine Alien Property Administration and the Director of Lands (Civil Case No. 197), to have the deeds of sale executed by their deceased father declared void for the reason that the land was a conjugal property of the spouses Barnabe Macansantos and Feliza Enriquez, and that there having been no liquidation and partition of the conjugal partnership Bernabe had no right to sell Lot No. 127 without the knowledge and consent of his own sons who were together with their father pro indiviso owners thereof. The Philippine Alien Property Administration filed a motion to dismiss the complaint in Civil Case No. 127, on the ground that it had no interest in the property in question, the land having been turned over to the Republic of the Philippines. Accordingly, the Director of Lands was left as sole defendant therein. With the consent of both parties, a joint hearing of the two cases was held.

Tomas Macansantos was informed by one Cosme Bartolome, a neighbor and friend of the family, that his father intended to sell one-half of Lot No. 127 to Teofila de Guinoo. Upon being so informed, Tomas and his brother Lorenzo protested to their father (who was then living with a querida, apart from his sons) against such sale. Tomas accompanied by Cosme Bartolome personally went to Teofila de Guinoo and warned her that the property she was intending to buy was owned in common by Bernabe and his sons. In spite of plaintiffs' protestations, their

father went ahead with the sale to Teofila. Tomas filed with the Register of Deeds a protest against the registration of the sale. All copies of the protest were lost during the Japanese occupation.

Kogan Imei, who represented the Honganji Mission, was not warned by Tomas and Lorenzo that part of the property belonged to them.

It was contended that the sale to the Honganji Mission was void as said entity was a foreign corporation. However, the sale to it took place on April 1, 1935, before the approval of the constitution on November 15, 1935.

The only question to be considered regards the validity of the sale to Teofila de Guinoo.

The question raised in this Court is whether Lot No. 127 of Davao City was a conjugal property of the spouses Bernabe Macansantos and Feliza Enriquez. Under Article 1407 of the old Civil Code and 160 of the new, any property acquired during the marriage is presumed to be conjugal. Bernabe and Feliza were married in 1907 and the property in question was acquired in 1910. No evidence was presented that the funds with which Bernabe purchased it belonged to him exclusively. The fact that it was acquired by Bernabe in his own name does not destroy the conjugal character of the property, especially considering that the husband is the administrator of the conjugal partnership. We believe that the Court of Appeals is correct in this conclusion.

The petitioner-appellant argues that the action brought by the respondents-appellees was barred by the statutes of limitations. The sale to Teofila de Guinoo was on January 18, 1940 and that was the date from which the cause of action in favor of the plaintiffs accrued. The complaint was filed on April 14, 1948, that is, eight years only after the registration of the sale. The appellant, however, claims that the period of prescription should be counted from the date of the sale which was on December 15, 1934. It appears from the findings of the Court of Appeals that Cosme Bartolome informed Tomas Macansantos of the intention of his father to sell one-half of Lot No. 127 to Teofila de Guinoo. The cause of action of Tomas could not have accrued then for the reason that he was informed only of the intention but not of the actual sale of the lot. He could not have brought an action based only on the supposed intention of his father. The period of prescription should, therefore, be counted from the date of the registration of the sale, which was a notice to all the world. A sale which is not registered may be valid between the parties, but in this case the brothers Lorenzo and Tomas were not parties to said transaction and should be considered as third persons. .

Teofila de Guinoo maintains that she has acquired the land by acquisitive prescription Since the time she bought it up to the time the complaint was tiled. There was no prescription against registered property. In this case it is clear that the rights of Lorenzo and Tomas are based on a Torren's certificate of title, the two children being the continuation of the personality of their parents, having inherited a conjugal property duly registered.

The appellant says that an action for fraud must be brought within four years. Such action is incumbent upon the parties to a contract but not on the respondents-appellees who were no parties.

The Court of Appeals adjudicated the whole of Lot No. 127-A to the plaintiffs-appellees (respondents-appellees herein). It should be considered, however, that in the complaint filed by them they asked only for one-half of Lot No. 137-A. Consequently that only should be adjudicated to them. This is in accordance with the fact that only the sale of one-half should be declared void as belonging to them.

In view of the foregoing, the judgment of the Court of Appeals is modified by sentencing Teofila de Guinoo to reconvey only one-half of Lot No. 127-A to Lorenzo and Tomas Macansantos. As thus modified, the judgment of the Court of Appeals is affirmed, without pronouncement as to costs. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, and Concepcion, JJ., concur.

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