

**ASUNCION ATILANO, CRISTINA ATILANO, ROSARIO ATILANO,
ASSISTED BY THEIR RESPECTIVE HUSBANDS, HILARIO ROMANO,
FELIPE BERNARDO, AND MAXIMO LACANDALO, ISABEL ATILANO
AND GREGORIO AT...**

G.R. No. L-22487. May 21, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In 1916 Eulogio Atilano I acquired, by purchase from one Gerardo Villanueva, lot No. 535 of the then municipality of Zamboanga cadastre. The vendee thereafter obtained transfer certificate of title No. 1134 in his name. In 1920 he had the land subdivided into five parts, identified as lots Nos. 535-A, 535-B, 535-C, 535-D and 535-E, respectively. On May 18 of the same year, after the sub-division had been effected, Eulogio Atilano I, for the sum of P150.00, executed a deed of sale covering lot No. 535-E in favor of his brother Eulogio Atilano II, who thereupon obtained transfer certificate of title No. 3129 in his name. Three other portions, namely, lots Nos. 535-B, 535-C and 535-D, were likewise sold to other persons, the original owner, Eulogio Atilano I, retaining for himself only the remaining portion of the land, presumably covered by the title to lot No. 535-A. Upon his death the title to this lot passed to Ladislao Atilano, defendant in this case, in whose name the corresponding certificate (No. T-5056) was issued.

On December 6, 1952, Eulogio Atilano II having become a widower upon the death of his wife Luisa Bautista, he and his children obtained transfer certificate of title No. 4889 over lot No. 535-E in their names as co-owners. Then, on July 16, 1959, desiring to put an end to the co-ownership, they had the land resurveyed so that it could properly be subdivided; and it was then discovered that the land they were actually occupying on the strength of the deed of sale executed in 1920 was lot No. 535-A and not lot 535-E, as referred to in the deed, while the land which re-mained in the possession of the vendor, Eulogio Atilano I, and which passed to his successor, defendant Ladislao Atilano, was lot No. 535-E and not lot No. 535-A.

On January 25, 1960, the heirs of Eulogio Atilano II, who was by then also deceased, filed the present action in the Court of First Instance of Zamboanga, alleging, inter alia, that they had offered to surrender to the defendants the possession of lot No. 535-A and demanded in return the possession of lot No. 535-E, but that the defendants had refused to accept the exchange. The plain-tiffs' insistence is quite understandable, since lot No. 535-E has an area of 2,612 square meters, as compared to the 1,808 square-meter area of lot No. 535-A.

In their answer to the complaint the defendants alleged that the reference to lot No. 535-E in the deed of sale of May 18, 1920 was an involuntary error; that the intention of the parties to that sale was to convey the lot correctly identified as lot No. 535-A; that since 1916, when he acquired the entirety of lot No. 535, and up to the time of his death, Eulogio Atilano I had been posses-sing and had his house on the portion designated as lot No. 535-E, after which he was succeeded in such possession by the defendants herein; and that as a matter of fact Eulogio Atilano I even increased the area under his possession when on June 11, 1920 he bought a portion of an adjoining lot, No.

536, from its owner Fruto del Carpio. On the basis of the foregoing allegations the defendants interposed a counterclaim, praying that the plaintiffs be ordered to execute in their favor the corresponding deed of transfer with respect to lot No. 535-E.

The trial court rendered judgment for the plain-tiffs on the sole ground that since the property was registered under the Land Registration Act the defendants could not acquire it through prescription. There can be, of course, no dispute as to the correctness of this legal proposition; but the defendants, aside from alleging ad-verse possession in their answer and counterclaim, also alleged error in the deed of sale of May 18, 1920, thus: "Eulogio Atilano 1.o, por equivocacion o error involuntario, cedio y traspaso a su hermano Eulogio Atilano 2.do el lote No. 535-E en vez del Lote No. 535-A."

The logic and common sense of the situation lean heavily in favor of the defendants' contention. When one sells or buys real property - a piece of land, for example one sells or buys the property as he sees it, in its actual setting and by its physical metes and bounds, and not by the mere lot number assigned to it in the certificate of title. In the particular case before us, the portion correctly re-ferred to as lot No. 535-A was already in the possession of the vendee, Eulogio Atilano II, who had constructed his residence therein, even before the sale in his favor; indeed, even before the subdivision of the entire lot No. 535 at the instance of its owner, Eulogio Atilano I. In like manner the latter had his house on the portion correctly identified, after the subdivision, as lot No. 535-E, even adding to the area thereof by purchasing a portion of an adjoining property belonging to a different owner. The two brothers continued in possession of the respective portions for the rest of their lives, obviously ignorant of the initial mistake in the designation of the lot subject of the 1920 sale until 1959, when the mistake was discovered for the first time.

The real issue here is not adverse possession, but the real intention of the parties to that sale. From all the facts and circumstances we are convinced that the object thereof, as intended and understood by the parties, was that specific portion where the vendee was then already residing, where he reconstructed his house at the end of the war, and where his heirs, the plaintiffs herein, continued to reside thereafter: namely, lot: No. 535-A; and that its designation as lot No. 535-E in the deed of sale was a simple mistake in the drafting of the document. The mistake did not vitiate the consent of the parties, or affect the validity and binding effect of the contract between them. The new Civil Code provides a remedy for such a situation by means of reformation of the instrument. This remedy is available when, there having been a meeting of the minds of the parties to a contract, their true intention is not ex-pressed in the instrument purporting to embody the agreement by reason of mistake, fraud, inequitable conduct or accident. (Art. 1359, et seq.) In this case, the deed of sale executed in 1920 need no longer be reformed. The parties have retained possession of their respective properties conformably to the real intention of the parties to that sale, and all they should do is to execute mutual deeds of conveyance.

Wherefore, the judgment appealed from is reversed. The plaintiffs are ordered to execute a deed of conveyance of lot No. 535-E in favor of the defendants, and the latter, in turn, are ordered to execute a similar document, covering lot No. 535-A, in favor of the plaintiffs. Costs against the latter.

Reyes, J.B.L. (Acting C.J.), Dizon, Zaldivar, Sanchez, Fernando, and Capistrano, JJ., concur.
Teehankee and Capistrano, JJ., took no part.
Concepcion, C.J., and Castro, J., are on leave.

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