

AURELIO BALBIN AND FRANCISCO BALBIN, PETITIONERS, VS. REGISTER OF DEEDS OF ILOCOS SUR, RESPONDENT.

G.R. No. L-20611. May 08, 1969

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal from the resolution of the Commissioner of Land Registration in LRC Consulta No. 366.

On November 15, 1961 petitioners presented to the register of deeds of Ilocos Sur a duplicate copy of the registered owners certificate of title (OCT No. 548) and an instrument entitled "Deed of Donation inter-vivos", with the request that; the same be annotated on the title. Under the terms of the instrument sought to be annotated one Cornelio Balbin, registered owner of the parcel of land described in OCT No. 548, appears to have donated inter-vivos an undivided two-thirds (2/3) portion thereof in favor of petitioners. The entire area of the land is 11.2225 hectares.

The register of deeds denied the requested annotation for being "legally defective or otherwise not sufficient in law." It appears that previously annotated in the memorandum of encumbrances on the certificate are three separate sales of undivided portions of the land earlier executed by Cornelio Balbin in favor of three different buyers. The pertinent entries read:

"Entry No. 5658. Sales.

Sale for the sum of P400.00 executed by the registered owner, conveying an undivided portion of an area of 3.710 square meters only in favor of Florentino Gabayan, this Original Certificate of Title No. 548 is hereby cancelled with respect to said area of 3.710 square meters and in lieu thereof, the name of the vendee x x x is hereby substituted to succeed to all rights, participation in interest of the vendor. x x x

"Date of Instrument: January 25, 1955, x x x

x x x

"Entry No. 5659. Sale of portion.

Sale for the sum of P100.00 executed by the registered owner, conveying an undivided portion of an area of 16.713 square meters in favor of Roberto Bravo, this Original Certificate of Title No. 548 is hereby cancelled with respect to said undivided portion x x x and in lieu thereof the name of the vendee x x x is hereby substituted to succeed to all rights, participation and interest of the vendor x x x

"Date of Instrument: June 9, 1953. x x x

x x x

"Entry No. 5660. Sale of portion.

Sale for the sum of P400.00 executed by the registered owner, conveying an undivided portion of an area of

15,000 square meters in favor of Juana Gabayan, this Certificate of Title No. 548 is hereby cancelled with respect to said undivided portion x x x and in lieu there-of the name of the vendee x x x is here-by substituted to succeed to all rights, participation and interest of the vendor x x x

"Date of instrument: February 12, 1952. x x x"

The final part of the annotations referring to the above-mentioned sales contains an additional memorandum stating that "three co-owner's duplicate certificates of title No. 548 have been issued (by the register of deeds of Ilocos Sur) in the name of Florentino Gabayan, Roberto Bravo and Juana Gabayan upon verbal request of Mr. Andres Cabeldo, Notary Public of Caoayan, I. Sur, for and in the name of the vendees, this 5th day of January, 1956 at Vigan, I. Sur." Mainly because these three other co-owner's copies of the certificate of title No. 548 had not been pre-sented by petitioners the Register of Deeds refused to make the requested annotation.

Unsatisfied, petitioners referred the matter to the Commissioner of Land Registration, who subsequently upheld the action of the Register of Deeds in a resolution dated April 10, 1962. With respect to the principal point in controversy, the Commissioner observed:

"(1) It appears that the donor is now merely a co-owner of the property described in the Original Certificate of Title No. 548, having previously sold undivided portions thereof on three different occasions in favor of three different buyers. Consequently, aside from the owner's duplicate issued to Cornelio Balbin, there are now three co-owner's duplicates which are pre-sumably in the possession of the three buyers. Accordingly, in addition to the owner's duplicate of Original Certificate of Title No. 548, the three co-owner's duplicates must likewise be surrendered. The claim of counsel for the donees that the issuance of the three co-owner's duplicates was unauthorized is beside the point. Unless and until a court of competent jurisdiction rules to the contrary, these titles are presumed to have been lawfully issued."

Without presenting those three (3) other duplicates of the title, petitioners would want to compel annotation of the deed of donation upon the copy in their possession, citing section 55 of Act 496, which provides that "the production of the owner's duplicate certificate of title whenever any voluntary instrument is presented for registration shall be conclusive authority from the registered owner to the register of deeds to make a memorandum of registration in accordance with such instrument." Under this provision, according to petitioners, the presentation of the other copies of the title is not required, first, because it speaks of "registered owner" and not one whose claim to or interest in the property is merely annotated on the title, such as the three vendees-co-owners in this case; and secondly, because the issuance of the duplicate copies in their favor was illegal or unauthorized.

We find no merit in petitioners' contention. Section 55, supra, obviously assumes that there is only one duplicate copy of the title in question, namely, that of the registered owner himself, such that its production whenever a voluntary instrument is presented constitutes sufficient authority from him for the register of deeds to make the corresponding memorandum of registration. In the case at bar, the three other copies of the title were in existence, presumably issued under section 43+ of Act 496. As correctly observed by the Land Registration Commissioner, petitioners' claim that the issuance of those copies was unauthorized or illegal is beside the point, its legality being presumed until otherwise declared by a court of competent jurisdiction. There being several copies of the same title in existence, it is easy to see how their integrity may be adversely affected if an encumbrance, or an outright conveyance, is annotated on one copy and not on the others. The law itself refers to every copy authorized to be issued as a duplicate of the original, which means that both must contain identical entries of the transactions, particularly voluntary ones, affecting the land covered by the title. If this were not so, if different copies were permitted to carry differing annotations, the whole system of Torrens registration would cease to be reliable.

One other ground relied upon by the Land Registration Commissioner in upholding the action taken by the

Register of Deeds of Ilocos Sur is that since the property subject of the donation is presumed conjugal, that is, property of the marriage of the donor, Cornelio Balbin, and his deceased wife, Nemesia Mina, "there should first be a liquidation of the partnership before the surviving spouse may make such a conveyance." This legal conclusion may appear too general and sweeping in its implications, for without a previous settlement of the partnership a surviving spouse may dispose of his aliquot share or interest therein - subject of course to the result of future liquidation. Nevertheless, it is not to be denied that, if the conjugal character of the property is assumed, the deed of donation executed by the husband, Cornelio Balbin, bears on its face an infirmity which justified the denial of its registration, namely, the fact that the two-thirds portion of said property which he donated was more than his one-half share, not to say more than what remained of such share after he had sold portions of the same Land to three other parties.

It appears that there is a case pending in the Court of First Instance of Ilocos Sur (CC No. 2221), wherein the civil status of the donor Cornelio Balbin and the character of the land in question are in issue, as well as the validity of the different conveyances executed by him. The matter of registration of the deed of donation may well await the out-come of that case, and in the meantime the rights of the interested parties could be protected by filing the proper notices of lis pendens.

In view of the foregoing, the decisions of the Register of Deeds of Ilocos Sur and that of the Commissioner of Land Registration are affirmed. No pronouncement as to costs.

Reyes, J.B.L.(Acting C.J.), Dizon, Zaldivar, Sanchez, Fernando, Teehankee, and Barredo, JJ., concur.

Capistrano, J., did not take part.

Concepcion, C.J., and Castro, J., are on leave.

+ Section 43. Certificates where land registered in names of two or more persons. Where two or more persons are registered owners as tenants in com-mon, or otherwise, one owner's duplicate certificate may be issued for the whole land, or a separate duplicate may be issued to each for his undivided share.

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