

**PEDRO PILAPIL AND TEODORICA PENARANDA, PETITIONERS, VS.
HONORABLE COURT OF APPEALS, SPOUSES CARMEN OTADORA AND
LUIS MASIAS, VITALIANA OTADORA, SPOUSES MACARIO BENSIG
AND MARCELA...**

G.R. No. L-55134. December 04, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

Felix Otadora was the registered owner of a 273,796-square meter parcel of land in Ormoc City known as Lot 8734 and covered by Original Certificate of Title No. 26026. He died in 1940 survived by his wife, Leona Garbo, and their children Vitaliana, Maxima and Agaton. Another son, Sergio, predeceased him. From 1946 to 1947, Leona and the three children sold portions of Lot 8734 to separate buyers, leaving a segregated portion known as Lot 8734-B-5 with an area of 51,019 square meters. Leona died in 1956.

On March 21, 1962, the Otadora siblings, together with Sergio's son Antonio, executed a deed of extrajudicial partition and confirmation of sales,[1] giving each of them a one-fourth undivided share in the remaining property.[2]

That very same day, Vitaliana and Agaton sold to petitioners an undivided portion, measuring 18,626 square meters, of Lot 8734-B-5.[3] The deed of sale, which was executed in the presence of Antonio and a certain Eulogio Simon, specified that the possession and ownership of the property sold shall be transferred to the buyers from the date of the instrument.

The deed of extrajudicial partition was annotated on OCT No. 26026 on March 26, 1962 under Entry No. 10897. Because of such partition, OCT No. 26026 was cancelled and replaced by Transfer Certificate of Title No. 4026 which, in turn, was superseded by TCT No. 4029, indicating as owners Agaton, Vitaliana, Maxima, and Antonio. The sale to petitioners was inscribed at the back of TCT No. 4029 as Entry No. 10903 on March 29, 1962.

Meanwhile, Antonio sold on October 11, 1962 his one-fourth share in the lot to his cousin Macario Bensig, Maxima's son, who ceded one-half thereof, or one-eighth of the entire partitioned lot, to the spouses Visitacion Otadora and Sinforoso Andrin, by way of a Deed of Quitclaim dated February 12, 1963,[4] and in recognition of Visitacion's hereditary rights as Antonio's sister.

Thus, TCT No. 4029 was cancelled on February 15, 1963 and supplanted by TCT No. 4484,[5] which showed Agaton, Vitaliana, Maxima, Macario, and the spouses Visitacion and Sinforoso Andrin as owners of Lot 8734-B-5. Petitioners' names did not appear among the owners, although in the memorandum of encumbrances at the back of TCT No. 4484, Entry No. 10903 regarding the sale to them by Vitaliana and Agaton was retained.

Despite the sale of 18,626 square meters of their undivided share in Lot No. 8734-B-5 earlier made in favor of petitioners, however, Agaton again sold his one-fourth share in the lot to his daughter Carmen on February 12, 1970;[6] Vitaliana, on the other hand, re-sold her one-fourth share to Maxima on January 28, 1971.[7] Four days

later, Maxima sold her now one-half share to her sons Dionisio and Macario Bensig,[8] who were able to register on August 12, 1971 the said properties in their and their wives' names, respectively, as Lot 8734-B-5-D, under TCT No. 9096[9] covering an area of 5,508 square meters, and as Lot 8734-B-5-C, under TCT No. 9094[10] covering an area of 26,378 square meters.

On September 8, 1971, TCT No. 9129[11] was issued to the spouses Sinforoso and Visitacion Andrin for their 6,378-square meter lot now known as Lot No. 8734-B-5-B, and TCT No. 9130[12] was issued to Carmen and her husband Luis Masias for their 12,755-square meter lot now known as Lot No. 8734-B-5-A.

It must be noted that while Entry No. 10903 does not seem to have been inscribed on TCT Nos. 9096 and 9129, the records show that it appears on the back of TCT Nos. 9094 and 9130.[13] With the issuance of these four certificates of title, TCT No. 4484 was finally cancelled.

Upon discovery of the new titles, petitioners filed a protest with the Register of Deeds of Ormoc City who, in a letter dated December 9, 1971, informed Carmen, Sinforoso, Macario, and Dionisio of the existence of the deed of sale in favor of petitioners and required them to present their (original) titles for proper annotation.[14] Such request was, however, ignored.

On July 10, 1972, Carmen and Luis Masias sold Lot No. 8734-B-5-A to H. Serafica & Sons Corporation,[15] which was not able to register the same because of the annotation in TCT No. 9130 earlier made showing the sale in favor of petitioners. Because of this, the corporation charged the vendors with estafa before the City Fiscal's Office, but the complaint did not prosper.

Petitioners therefore filed, on December 8, 1973, a complaint for quieting of title, annulment of deeds, cancellation of titles, partition, and recovery of ownership with damages, against herein private respondents. The complaint alleged, among other things, that petitioners succeeded in possessing only 12,000 square meters of the lot and needed 6,626 square meters more to complete the total area purchased from Vitaliana and Agaton in 1962.

In its decision dated June 20, 1994, the court a quo concluded that the annotation on TCT No. 4484 of the sale by Vitaliana and Agaton in favor of petitioners was null and void because the latter failed to surrender the owner's duplicate copy of the title, in violation of Section 55 of the Land Registration Act (Act No. 496).[16] It states:

"WHEREFORE, decision is hereby rendered in favor of the defendants and against the plaintiffs hereby dismissing plaintiffs' complaint, and ordering the plaintiffs to pay the defendants at the rate of P1,000.00 for each counsel for and as attorney's fees, to vacate Lot No. 8734-B-5-A, and deliver the same to defendant H. Serafica & Sons Corporation, and further ordering the plaintiffs and defendants spouses Luis Masias and Carmen Otadora to jointly and severally pay H. Serafica & Sons Corporation actual damages at the rate of P1,275.00 a year from July 10, 1972, until said land shall have been delivered to H. Serafica & Sons Corporation all of which amounts shall bear legal rate of interest from the filing of the complaint until paid, with costs against the plaintiffs."

On appeal, the appellate court made the following findings:

"x x x. However, it is clear from the documents presented, particularly Exhibit C, that the certificate of title mentioned therein as covering the land at the time of the sale was Original Certificate of Title No. 26026. But it appears from OCT No. 26026 that the owners thereof were Felix Otadora and Leona Garbo. It may, therefore, be deduced therefrom that at the time of the registration of the deed, OCT No. 26026 had already been cancelled, and the certificate of title covering the land sold was TCT No. 4029 which was issued on March 29, 1962 (should be March 26, 1962) and the inscription of the deed of sale was made on March 29, 1962. OCT No. 26026 thereby became inexistent, it having been already cancelled by TCT(s) Nos. 4026 and 4029. It would have been against the law to have the deed of sale registered in TCT No. 4029 without an order

from the proper court authorizing such registration, specifically because OCT No. 26026 had already undergone two cancellations, first by TCT No. 4026 and then by TCT No. 4029. Appellants should have filed the necessary petition with the proper court asking that the Register of Deeds be authorized to annotate the deed of sale executed by Agaton Otadora and Vitaliana Otadora in their favor because OCT No. 26026 was omitted. The said title was, therefore, null and void, and the same did not acquire the effect of a constructive notice to the whole world of the interest over the land in question of the plaintiffs-appellants. At most, the deed of sale is merely a contract between the plaintiffs-appellants and the vendors appearing therein but without any binding effect upon their persons and upon whom bad faith cannot be imputed.

The whole property has not been subdivided into specific portions to be owned by each co-owners (sic). No definite portion having been clearly allocated to them, the plaintiffs-appellants cannot take possession of the land allegedly sold to them. They should have demanded a subdivision of the land, or forged an agreement with the other co-owners as to which portion they would be allowed to take possession while awaiting for (sic) the actual subdivision thereof. But this, the plaintiffs-appellants had not done, and their entry into the land without those conditions previously complied with amounts to a transgression on the property rights of the other co-owners.

Plaintiffs-appellants claim to have bought an area of 18,626 square meters out of the total share of the vendors of 25,510 square meters but they had taken possession over an area of 12,000 square meters. The deed of sale did not specify what part of the 1/4 share of each of the registered owners who executed the sale was sold to the appellants."

The Court of Appeals also agreed with the lower court that H. Serafica & Sons Corporation was an innocent purchaser for value as it was not required by law to go beyond TCT No. 9130 which, on its face, appeared to be unencumbered. It ruled that while the Pilapil spouses "may have a cause of action against the other defendants-appellees, there is no ground or reason upon which the same action would lie against appellee corporation." Hence, the Court of Appeals affirmed the decision of the lower court with the modification that the award of damages of P1,275.00 a year from July 10, 1972 be cancelled.

In the instant petition for review on certiorari, petitioners argue that the Court of Appeals erred in holding that: (a) the annotation of the sale in their favor on TCT No. 4029 is ineffectual; (b) the deeds of sale respectively executed by Agaton and Vitaliana in favor of Carmen and Maxima are valid and superior to that executed earlier by Agaton and Vitaliana in their favor; (c) their entry into Lot No. 8734-B-5 is illegal; (d) the sale between Maxima and her children is valid; and (e) H. Serafica & Sons Corporation is a buyer in good faith, when it was "at least negligent in not verifying or inspecting the land or title of its vendors." Petitioners contend that the liability of the Otadoras who sold the same property twice should have been determined to avoid multiplicity of suits and that by upholding the award of attorney's fees, a travesty of justice had been tolerated by the appellate court.

After examining the records of the case, as well as the applicable law and jurisprudence, the Court is convinced of the merits of the petition.

The court below correctly ruled that the annotation of Entry No. 10903 in the certificates of title was not made in accordance with law. To affect the land sold, the presentation of the deed of sale and its entry in the day book must be done with the surrender of the owner's duplicate of the certificate of title.[17] Production of the owner's duplicate of the certificate of title is required by Section 55 of Act No. 496 (now Section 53 of Presidential Decree No. 1529), and only after compliance with this and other requirements shall actual registration retroact to the date of entry in the day book.[18]

However, nonproduction of the owner's duplicate of the certificate of title may not invalidate petitioners' claim of ownership over the lot involved considering the factual circumstances of this case.

It is undisputed that after the sale of the lot to petitioners, the same vendors sold the same property to persons who cannot be considered in law to be unaware of the prior sale to the petitioners.

Thus, Agaton sold his one-fourth share of the lot to his daughter Carmen, while Vitaliana also sold her one-fourth share to her sister Maxima. Considering these relationships and contrary to the findings of the courts below, the vendees, Carmen and Maxima, cannot be considered as third parties who are not bound by the prior sale between Agaton and Vitaliana as vendors and petitioners as vendees, because there is privity of interest between them and their predecessors.[19] The reason for this is that the validity of a title to a piece of property depends on the buyer's knowledge, actual or constructive, of a prior sale.[20] While there is no direct proof that Carmen and Maxima actually knew of the sale to petitioners, they are deemed to have constructive knowledge thereof by virtue of their relationship to both Agaton and Vitaliana.

Hence, it has become immaterial if the sale to petitioners was properly annotated on the correct certificate of title or not. As we held in *Abuyo v. De Suazo*: [21]

[t]he purpose of the registration is to give notice to third persons. And, privies are not third persons. The vendor's heirs are his privies. Against them, failure to register will not vitiate or annul the vendee's right of ownership conferred by such unregistered deed of sale.

It is not disputed that of the 25,510 square meters which pertain to Vitaliana and Agaton as their combined undivided share in Lot No. 8734-B-5, an area of 18,626 square meters had been sold to petitioners who, in turn, were able to possess only 12,000 square meters thereof. Thus, at most, Vitaliana and Agaton had a remainder of 6,884 square meters of undivided share which they could have legally disposed of. As it turned out, however, they sold their entire individual one-fourth shares to Carmen and Maxima who, as earlier concluded, were privy to the prior sale to petitioners.

Thus, when Carmen sold the property to H. Serafica and Sons Corporation, she no longer had any rights of dominion to transmit, since her own father who sold to her the property had himself earlier relinquished his ownership rights in favor of the petitioners. Accordingly, Carmen transmitted no right to the corporation.

Under these circumstances, the corporation, having failed to obtain relief through the criminal complaint filed against the spouses Carmen Otadora and Luis Masias, and having relied on the unencumbered transfer certificate of title shown to it by the Masias spouses, is entitled to damages of P1,275.00 a year from July 10, 1972, which was awarded to it by the trial court. Needless to say, the corporation may file a case against the assurance fund under Section 101 of the Land Registration Act and Section 95 of P.D. No. 1529; but to obviate multiplicity of suits, the award of damages in its favor should now be upheld.

As regards the sale made by Vitaliana to her sister Maxima, the former can no longer transmit any property rights over the subject lot when she sold it to her own sister as she had previously sold the same property to petitioners. Moreover, as Vitaliana's sister, Maxima was actually a co-owner of Lot No. 8734-B-5 which, at the time of the sale to petitioners, was not yet partitioned and segregated. Maxima was, therefore, privy to the contract. As defined in *Basa v. Aguilar*, [22] a third person, within the meaning of Article 1620 of the Civil Code (on the right of legal redemption of a co-owner) is anyone who is not a co-owner.

On the matter of whether the rights of co-owners had been transgressed by the sale to the petitioners, the trial court erroneously ruled that there should be proof of compliance with Article 1623 of the Civil Code requiring the vendor of the property to give a written notice of sale to the other co-owners. Said provision of law had been rendered inutile by the fact that petitioners took possession of the property immediately after the execution of the deed of sale in their favor and continue to possess the same. Since the fact of possession by the petitioners had not

been questioned by any of the co-owners, the latter may be deemed to have knowledge of the sale.

In view of the foregoing, the sale to the petitioners must be respected by the successors-in-interest of Agaton and Vitaliana. Inasmuch as petitioners had managed to possess only 12,000 square meters of the 18,625 square meters they bought from Agaton and Vitaliana, the whole area purchased by them should be taken from the shares of Agaton and Vitaliana upon partition of the property.

WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE. Consequently, petitioners are declared the lawful owners of 18,626 square meters of Lot 8734-B-5, which should be partitioned as prayed for, and the lot of petitioners taken in equal portions from the shares thereof of Agaton and Vitaliana or their successors-in-interest. Transfer Certificates of Title Nos. 9129, 9130, 9094, and 9096 are hereby declared null and void. Private respondents spouses Luis Masias and Carmen Otadora are also ordered to pay actual damages to H. Serafica & Sons Corporation at the rate of P1,275.00 a year from July 10, 1972. Costs against private respondents except H. Serafica & Sons Corporation.

SO ORDERED.

Feliciano, (Chairman), Melo, and Panganiban, JJ., concur.
Vitug, J., in the result.

[1] Records, pp. 100-102.

[2] Henceforth, reference can be made to the two annexes, "A" (Chronology of Events) and "B" (Transfer of Property and Issuance of Titles), both of which form integral parts of this decision.

[3] Ibid., p. 170.

[4] Id., p. 51.

[5] Id., pp. 166-168.

[6] Id., p. 171.

[7] Id., p. 172.

[8] Id., p. 173.

[9] Id., p. 174.

[10] Id., p. 176.

[11] Id., p. 177.

[12] Id., p. 178.

[13] Id., pp. 176 and 178.

[14] Id., p. 192.

[15] Id., p. 180.

[16] "SEC. 55. No new certificate of title shall be entered, no memorandum shall be made upon any certificate of title by the register of deeds, in pursuance of any deed or other voluntary instrument, unless the owner's duplicate certificate is presented for such indorsement, except in cases expressly provided for in this Act, or upon the order

of the court for cause shown; and whenever such order is made, a memorandum thereof shall be entered upon the new certificate of title and upon the owner's duplicate: x x x."

[17] Barretto v. Arevalo, 99 Phil. 771 (1956); Levin v. Bass, 91 Phil. 420 (1952).

[18] Ramirez v. Causin, 101 Phil. 1009 (1957).

[19] Galasinao v. Austria, 97 Phil. 82 (1955).

[20] Heirs of Claro L. Laureta v. IAC, G.R. No. 72194, April 5, 1990, 184 SCRA 157.

[21] L-21202, October 29, 1966, 18 SCRA 600, reiterated in Phil. Suburban Development Corp. v. Auditor General, L-19545, April 18, 1975, 63 SCRA 397.

[22] L-30994, September 30, 1982, 117 SCRA 130; Villanueva v. Florendo, L-33150, October 17, 1985, 139 SCRA 333.

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