MERLYN O. IGNACIO IKEDA, PLAINTIFF-APPELLEE, VS. BRENDA CALAPATIA AND BRIAN KEITH L. CALAPATIA, DEFENDANTS-APPELLANTS.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the appeal filed by Brenda L. Calapatia and Brian Keith L. Calapatia ("defendants-appellants Brenda and Brian") who substituted for the deceased defendant Rogelio G. Calapatia ("defendant Rogelio") in Civil Case No. Q-96-29103, entitled "Merlyn O. Ignacio-Ikeda v. Natalie C. Limpe, Cristina C. Arriola, Rogelio Calapatia, Corazon Cortez, Felizarda Durana, Myrna Santiago, Lolita Alfonso, Antonio Vasquez, Viterbo Cahilig, Julio Santelices, and the Register of Deeds of Quezon City." Defendants-appellants Brenda and Brian assail the Decision dated 20 September 2010[2] ("assailed Decision") issued by the Regional Trial Court, Branch 221, Quezon City ("RTC").

The facts are as follows: on 10 September 1996, Merlyn O. Ignacio Ikeda ("plaintiff-appellee Ikeda") entered into the Deed of Conditional Sale[3] with the registered owner, Natalie C. Limpe ("defendant Limpe"), over the 585 square meter parcel of land in Tierra Pura Homes, Tandang Sora, Quezon City, covered by Transfer Certificate of Title ("TCT") No. 265519[4] ("subject property"). Plaintiff-appellee Ikeda initially paid Cristina C. Arriola ("defendant Arriola," defendant Limpe's attorney-in-fact) Php 100,000.00, with the condition that defendant Limpe herself would sign the Deed of Absolute Sale.[5] On 14 September 1996, defendant Limpe signed the Deed of Absolute Sale in the presence of plaintiff-appellee Ikeda. Then, on 19 September 1996, plaintiff-appellee Ikeda paid defendant Arriola Php 1,356,156.25. Plaintiff-appellee Ikeda also paid defendant Rogelio (who later on passed away, and was substituted by defendants-appellants Brenda and Brian) Php 2,000,000.00 for the cancellation of the prior mortgage (because there was a prior mortgage between the defendant Rogelio [as mortgagee] and defendant Limpe [as mortgagor] over the subject property). After receipt of the payment, defendant Rogelio executed the Cancellation of Real Estate Mortgage.[6]

Plaintiff-appellee Ikeda went to the Office of the Register of Deeds, Quezon City to register the Cancellation of Real Estate Mortgage. However, the Registrar denied the registration, and informed plaintiff-appellee Ikeda that the owner's duplicate copy of the TCT No. 265519 from defendant Rogelio, which plaintiff-appellee Ikeda presented, was fake.

Aggrieved, plaintiff-appellee Ikeda filed the Complaint for Damages with Prayer for a Writ of Preliminary Attachment[7] before the RTC, against defendant Limpe, defendant Arriola, defendant Rogelio, Corazon Cortez ("defendant Cortez"), Felizarda Durana ("defendant Durana"), Myrna Santiago ("defendant Santiago"), Lolita Alfonso ("defendant Alfonso"), Antonio Vasquez ("defendant Vasquez"), Viterbo Cahilig ("defendant Cahilig"), and Julio Santelices ("defendant Santelices").

The Complaint before the RTC alleged: defendant Rogelio knew that the owner's duplicate copy of TCT No. 265519 was fake; despite knowledge of the defect in his title, defendant Rogelio did not inform plaintiff-appellee

Ikeda that the owner's duplicate copy of TCT No. 265519, he (defendant Rogelio) negotiated and turned over to plaintiff-appellee Ikeda had a defect; the employees of the Office of the Register of Deeds conspired with defendant Rogelio, defendant Limpe, and defendant Arriola, in annotating the mortgage on the fake owner's duplicate copy of TCT No. 265519.

The Complaint prayed for: a writ of preliminary attachment; Php 3,685,500.00, as actual damages; moral damages, exemplary damages, and attorney's fees.

The RTC conducted ex-parte hearing on plaintiff-appellee Ikeda's application for the issuance of a writ of preliminary attachment.[8] Plaintiff-appellee Ikeda testified: defendant Rogelio is guilty of fraud in negotiating with plaintiff-appellee Ikeda over the subject property; defendant Rogelio failed to inform plaintiff-appellee Ikeda that the owner's duplicate copy of TCT No. 265519 in defendant Rogelio's possession was spurious.[9]

The RTC granted the prayer for the issuance of the writ of preliminary attachment,[10] and upon plaintiff-appellee Ikeda's posting of the bond, the RTC issued the corresponding writ on 13 January 1997.[11] The RTC levied upon the owner type Jeep Wrangler registered in the name of defendant Rogelio.[12]

Defendant Rogelio filed Answer[13] and alleged: defendant Rogelio was not privy to the sale of the subject property between plaintiff-appellee Ikeda and defendant Limpe, and defendant Rogelio's participation was limited to the cancellation of the mortgage; in May 1995, defendant Rogelio previously verified the authenticity of the owner's duplicate copy of TCT No. 265519 and gathered no adverse information from the Office of the Register of Deeds; after verifying that the owner's duplicate copy of TCT No. 265519 was genuine, defendant Rogelio gave defendant Limpe Php 1,000,000.00, as a loan, and secured the loan by the mortgage over the subject property and the Office of the Register of Deeds annotated the mortgage at the back of TCT No. 265519; plaintiff-appellee Ikeda's payment of Php 2,000,000.00 to defendant Rogelio was done regularly because the amount represented the redemption price of the subject property; after the redemption took effect, defendant Rogelio executed the Cancellation of Mortgage and turned over the owner's duplicate copy of TCT No. 265519 of the subject property to plaintiff-appellee Ikeda.

Defendant Rogelio raised several affirmative defenses in his Answer, thus: on 24 May 1995, defendant Limpe obtained a loan from defendant Rogelio and his spouse for Php 1,000,000.00, with interest of 5% per month, for which the parties executed the Real Estate Mortgage over the subject property;[14] on 19 October 1995, defendant Rogelio registered the mortgage with the Office of the Register of Deeds, and the Registrar annotated the mortgage at the back of TCT No. 265519; on 28 March 1996, defendant Rogelio extrajudicially foreclosed the mortgage, and complied with the publication requirement; on 27 May 1996, the auction sale was conducted and the subject property was sold to defendant Rogelio, however, the sale was not immediately registered because the Office of the Register of Deeds had to clarify matters with the owner, defendant Limpe; defendant Rogelio got back the owner's duplicate copy of TCT No. 265519 and the certificate of sale from the Office of the Register of Deeds even without the sale having been registered, because defendant Arriola assured defendant Rogelio that the subject property would be redeemed; true to the promise, defendant Arriola redeemed the subject property on 19 September 1996 by the payment of Php 2,000,000.00 from the proceeds of the sale of the subject property to plaintiff-appellee Ikeda; plaintiff-appellee Ikeda's cause of action is against defendants Limpe and Arriola for the violation of the warranties of sale, and not against defendant Rogelio who had a distinct and regular mortgage transaction with defendants Limpe and Arriola.

Defendant Rogelio filed Application for Damages,[15] on account of the execution of the Writ of Preliminary Attachment against him. Plaintiff-appellee Ikeda filed Opposition/Comment to Discharge of Attachment and Application for Damage.[16]

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The RTC conducted hearings on defendant Rogelio's affirmative defenses. Defendant Rogelio[17] and defendant Cortez[18] testified. The evidence for defendant Rogelio is summarized thus: defendant Rogelio was a mortgagee in good faith, because there was a valid mortgage contract entered into between defendant Rogelio and defendant Limpe; defendant Rogelio granted defendant Limpe Php 1,000,000.00 loan, with the agreement that it will be fully paid within 2 months, and as guarantee, defendant Limpe issued the postdated check for Php 1,000,000.00, however, upon presentment, the check was dishonored due to account closed; after defendant Limpe failed to pay the loan, defendant Rogelio registered the Real Estate Mortgage with the Office of the Register of Deeds, and had the mortgage annotated on TCT No. 265519; when defendant Rogelio registered the mortgage, the Office of the Register of Deeds issued the certified true copy of TCT No. 265519, and verified that the owner's duplicate copy of TCT No. 265519 was genuine; defendant Rogelio extrajudicially foreclosed the property after complying with the legal requirements; on 27 May 1996, the auction sale was conducted, and defendant Rogelio was the highest bidder; defendant Rogelio registered the certificate of sale in the Office of the Register of Deeds, and delivered the pertinent documents to effect the registration; the certificate of sale was not registered, and defendant Rogelio withdrew the owner's duplicate copy of TCT No. 265519 and the certificate of sale on 8 August 1996; defendant Arriola called and advised defendant Rogelio not to register the sale because defendants Arriola and Limpe would redeem the subject property; on 19 September 2006, defendants Arriola and Limpe redeemed the subject property from defendant Rogelio by the payment of Php 2,000,000.00 from the proceeds of the sale of the subject property to plaintiff-appellee Ikeda; after the payment, defendant Rogelio executed the Cancellation of Real Estate Mortgage.

Defendant Rogelio and defendant Cortez filed the Joint Formal Offer of Evidence,[19] in support of their affirmative defenses. Plaintiff-appellee Ikeda filed Comment and/or Objection (To Defendants' Offer of Evidence).[20]

The following persons testified for plaintiff-appellee Ikeda regarding defendant Rogelio's affirmative defenses: defendant Santelices,[21] Rosario Bautista Cunanan.[22] The evidence for plaintiff-appellee Ikeda is summarized thus: defendant Rogelio was in bad faith in receiving the Php 2,000,000.00 from plaintiff-appellee Ikeda, because defendant Rogelio had prior knowledge of the defect in the owner's duplicate copy of TCT No. 265519; when defendant Rogelio tried to register the certificate of sale, defendant Santelices informed defendant Rogelio that there were discrepancies between the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio, and the original copy of TCT No. 265519 on file with the Office of the Register of Deeds, however, despite such knowledge, defendant Rogelio failed to inform plaintiff-appellee Ikeda that the owner's duplicate copy of TCT No. 265519 was fake.

Plaintiff-appellee Ikeda filed Formal Offer of Evidence by Plaintiff,[23] while defendant Rogelio filed Comment-Opposition (To Plaintiff's Formal Offer of Evidence).[24]

Defendant Rogelio and plaintiff-appellee Ikeda filed separate Memorandum.[25]

With the submission of the parties' memoranda, defendant Rogelio's affirmative defenses were submitted for resolution.

On 15 January 2002, the RTC denied defendant Rogelio's affirmative defenses, and Motion for Damages,[26] and then scheduled the case for pre-trial.

Plaintiff-appellee Ikeda filed Pre-Trial Brief.[27]

On 4 October 2002, the RTC declared defendant Rogelio in default because of his failure to file pre-trial brief, and allowed plaintiff-appellee Ikeda to present evidence ex-parte.[28]

Plaintiff-appellee Ikeda testified on her behalf,[29] and manifested that no additional witness would be presented, and that plaintiff-appellee Ikeda was adopting the evidence presented at the hearing for the application for the writ of preliminary attachment,[30] as part of her evidence in chief.

The evidence of plaintiff-appellee Ikeda is summarized thus: plaintiff-appellee Ikeda suffered actual damages (i.e., Php 2,000,000.00 paid to defendant Rogelio; Php 1,356,156.25 paid to defendant Limpe; Php 100,000.00 paid to defendant Ariola as earnest money; Php 168,187.50 as capital gains tax; Php 50,176.75 for documentary stamps, litigation costs and attorney's fees) in the fraudulent transaction arising from the sale of the subject property; defendant Rogelio presented to the Office of the Register of Deeds, a fake owner's duplicate copy of TCT No. 265519 which defendant Rogelio later withdrew; the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio, and the original of TCT No. 265519 which is in the custody of the Office of the Register of Deeds, had several discrepancies (i.e., “the number 30 of the prints the number 3 and 0 are very close to each other in the owner's duplicate title, while the 3 and 0 are very much separated in the original title kept at the vault of the Register of Deeds of Quezon City;”[31] “the number 76 is a little bit separated from the word degree in the owner's duplicate title, whereas the same is very much near to each other in the original title kept at the vault of the Register of Deeds of Quezon City”[32]); the entries in the primary entry book of the Office of the Register of Deeds show that defendant Rogelio had knowledge, prior to the sale of the subject property to plaintiff-appellee Ikeda, that the owner's duplicate copy of TCT No. 265519 was fake; despite knowledge of the defect in the owner's duplicate copy of TCT No. 265519, defendant Rogelio failed to inform plaintiff-appellee Ikeda, and defendant Rogelio still received the Php 2,000,000.00 payment from plaintiff-appellee Ikeda which manifested defendant Rogelio's bad faith; defendant Santelices and witness Rosario Bautista Cunanan both testified that defendant Rogelio was notified of the falsity of the owner's duplicate copy of TCT No. 265519 when defendant Rogelio attempted to register the certificate of sale.

Plaintiff-appellee Ikeda filed Plaintiff's Memorandum.[33]

On 20 September 2010, the RTC issued the assailed Decision. The dispositive portion of the assailed Decision stated:

> WHEREFORE, the Court finds in favor of plaintiff Merlin O Ignacio-Ikeda and against defendant Rogelio Calapatia. Defendant Calapatia is ordered to pay plaintiff Ikeda the following:
>
> 1. Two Million Pesos (P 2,000,000.00) as actual damages;
> 2. One Hundred Fifty Thousand Pesos (P 150,000.00) as moral damages;
> 3. Seventy Five Thousand Pesos (P 75,000.00) as exemplary damages;
> 4. Twenty Nine Thousand Three Hundred Seventy One Pesos and Thirty Centavos (P 29,371.30) for litigation expenses; and
> 5. Seventy Five Thousand Pesos (P 75,000.00) as attorney's fees.
>
> The Clerk of Court is ordered to forthwith issue summons to defendants Felizarda Durana, Myrna Santiago and Lolita Alfonso.
>
> The Court Sheriff is ordered to forthwith issue summons to defendants Natalie C. Limpe, Cristina C. Arriola and Corazon Cortez and make a return of service thereof within five (5) days from date of service.
>
> Plaintiff is ordered to move in the premises, with regard to the other answering defendants, Antonio Vasquez, Viterbo Cahilig and Samuel C. Cleofe within fifteen (15) days from receipt of a copy of this Decision otherwise the case, as against said defendants shall be dismissed for lack of interest and failure to prosecute.
>
> SO ORDERED.

Thus, this appeal by the defendants-appellants Brenda and Brian (substituting defendant Rogelio), with the following assignment of errors:

I.

THE PROCEEDINGS BEFORE THE COURT A QUO IS A NULLITY CONSIDERING THAT NO SUMMONS (sic) WERE SERVED TO THE PRINCIPAL DEFENDANTS NAMELY NATALIE C. LIMPE, CRISTINA C. ARRIOLA, CORAZON CORTES, FELIZARDA DURANA, MYRNA SANTIAGO AND LOLITA ALFONSO WHO ARE INDISPENSABLE PARTIES OF THE CASE.

II.

THE COURT A QUO ERRED IN FINDING THAT THE OWNER'S DUPLICATE COPY OF TRANSFER CERTIFICATE TITLE NO. 265519 IS FAKE.

III.

THE HONORABLE COURT A QUO ERRED IN HOLDING ROGELIO CALAPATIA, APPELLANT'S HUSBAND, TO BE IN BAD FAITH.

The issues are: (1) whether the RTC should have dismissed the Complaint because no summonses were served on the indispensable parties (i.e., defendants Limpe, Arriola, Cortes, Durana, Santiago, and Alfonso); (2) whether the RTC erred in finding that the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio is fake; and (3) whether the RTC erred in holding defendant Rogelio liable for damages against plaintiff-appellee Ikeda.

THE DEFENDANTS-APPELLANTS' ARGUMENTS

Anent the first issue, defendants-appellants Brenda and Brian answer in the affirmative. The RTC should have dismissed the Complaint because no summonses were served on the indispensable parties (i.e., defendants Limpe, Arriola, Cortes, Durana, Santiago, and Alfonso).

The Appellant's Brief[34] thrusts: the other defendants were indispensable parties to the case, because they were the vendors in the Deed of Absolute Sale and they made warranties on the authenticity of the title, thus without the presence of the indispensable parties, the judgment could not attain finality, and any award of damages against defendant Rogelio is void.

Regarding the second issue, defendants-appellants Brenda and Brian answer in the affirmative. The RTC erred in finding that the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio is fake.

The Appellant's Brief thrusts: there is no evidence to show that defendant Rogelio had knowledge of the falsity of the owner's duplicate copy of TCT No. 265519; the owner's duplicate copy of TCT No. 265519 bears the presumption of regularity and there was no evidence to show that the owner's duplicate copy of TCT No. 265519 held by defendant Rogelio was forged; there was no evidence that defendant Rogelio took part in the fraud against plaintiff-appellee Ikeda; in CA-G.R. SP No. 77889 (Rogelio Calapatia v. Hon. Ma. Merceditas N. Gutierrez et al.,), which is now final and executory, the Court of Appeals dismissed the complaint for falsification of public document filed by defendants Vasquez and Santelices against defendant Rogelio, and stated that there was no clear and satisfactory proof that the owner's duplicate title of TCT No. 265519 was falsified, nor was it shown that defendant Rogelio was previously notified of any defect in the owner's duplicate title of TCT No. 265519.

Concerning the third issue, defendants-appellants Brenda and Brian answer in the affirmative. The RTC erred in holding defendant Rogelio liable for damages against plaintiff-appellee Ikeda.

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The Appellant's Brief thrusts: without any participation in the fraud against plaintiff-appellee Ikeda and no knowledge on the defect in the owner's duplicate copy of TCT No. 265519, defendant Rogelio was not in bad faith and defendants-appellants Brenda and Brian could not be held liable for damages.

THE PLAINTIFF-APPELLEE'S ARGUMENTS

Anent the first issue, plaintiff-appellee Ikeda answers in the negative. The RTC should not have dismissed the Complaint on the mere fact that no summonses were served on defendants Limpe, Arriola, Cortes, Durana, Santiago, and Alfonso.

The Appellee's Brief[35] parries: the issue of failure to serve summonses on other defendants was raised for the first time on appeal; the RTC did not err when it did not dismiss the Complaint, and proceeded as against defendant Rogelio, because the RTC validly acquired jurisdiction over defendant Rogelio, and plaintiff-appellee Ikeda's cause of action against defendant Rogelio was separate and distinct from the causes of action against the other defendants.

Regarding the second issue, plaintiff-appellee Ikeda answers in the negative. The RTC did not err in finding that the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio was fake.

The Appellee's Brief parries: plaintiff-appellee Ikeda presented the copies of the fake owner's duplicate copy of TCT No. 265519 in the custody of defendant Rogelio, and the original of TCT No. 265519, and pointed out the discrepancies between the two; plaintiff-appellee Ikeda presented defendant Santelices and witness Rose Bautista Cunanan, employees of the Office of the Register of Deeds, who testified that the owner's duplicate copy of TCT No. 265519 of defendant Rogelio was fake.

Concerning the third issue, plaintiff-appellee Ikeda answers in the negative. The RTC did not err in holding defendant Rogelio liable for damages against plaintiff-appellee Ikeda.

The Appellee's Brief parries: defendant Rogelio was in bad faith in passing his owner's duplicate copy of TCT No. 265519 to plaintiff-appellee Ikeda, knowing fully well that the owner's duplicate copy of TCT No. 265519 in his possession was fake; defendant Rogelio having been in bad faith, defendants-appellants Brenda and Brian are liable for damages.

THE COURT'S RULING

Anent the first issue, we rule in the negative. The RTC correctly refused to dismiss the Complaint upon the mere failure to serve summonses on the other defendants (i.e., defendants Limpe, Arriola, Cortes, Durana, Santiago, and Alfonso). The failure to cause service of summons on the other defendants did not necessitate the dismissal of the case as against defendant Rogelio (because summons had been served upon him).

Defendants-appellants Brenda and Brian argue that defendants Limpe, Arriola, Cortes, Durana, Santiago, and Alfonso are indispensable parties to the case, and the failure of the RTC to serve summonses on them, hence the failure to acquire jurisdiction over these defendants, warranted the dismissal of the case as against defendant Rogelio.

We do not agree.

Records show that the RTC validly acquired jurisdiction over the person of defendant Rogelio via the service of summons upon him. It is well settled that jurisdiction once acquired is not lost but continues until the case is finally terminated. Moreso, the failure to serve summonses on the other defendants did not affect the court's jurisdiction over defendant Rogelio.

Further, Rule 3, Section 7[36] of the Rules of Court defines “indispensable parties” as those who are parties in interest without whom no final determination can be had of an action.[37] They are those parties who possess such an interest in the controversy that a final decree would necessarily affect their rights so that the courts cannot proceed without their presence.[38] A person is not an indispensable party if his interest in the controversy or subject matter is separable from the interest of the other parties, so that he will not necessarily be injuriously affected by a decree that does complete justice between the other parties.[39] He is also not indispensable if his presence would merely permit complete relief between him and those already parties to the action or will simply avoid multiple litigations.[40]

Perusal of plaintiff-appellee Ikeda's complaint for damages shows that it alleges distinct and divisible causes of action against the several defendants. Notably, plaintiff-appellee Ikeda's claims against defendant Rogelio are separate from the claims against the other defendants. Thus, the RTC can proceed with the case against defendant Rogelio even without the inclusion of the other defendants.

Regarding the second issue, we rule in the affirmative. The RTC erred in finding that the owner's duplicate copy of TCT No. 265519 presented by defendant Rogelio was fake.

Notably, there is no evidence that the owner's duplicate copy of TCT No. 265519 in possession of defendant Rogelio was falsified and that he had knowledge of such fact.

Relevant are the findings in Rogelio Calapatia v. Hon. Ma. Merceditas N. Gutierrez et al.,[41] (“CA-G.R. SP No. 77889”) which have the same factual antecedents in the case at bar. In CA-G.R. SP No. 77889, the Special Fourth Division of the Court of Appeals reversed the Resolution of the Department of Justice which found probable cause for the crime of falsification of a public document (i.e., owner's duplicate copy of TCT No. 265519) against defendant Rogelio. On the issue of the genuiness of the owner's duplicate copy of TCT No. 265519 held by defendant Rogelio, the Court of Appeals, Special Fourth Division found:

> “It can be seen from the foregoing that the real estate mortgage executed by (defendant) Natalie Limpe in favor of the petitioner was annotated on the subject duplicate certificate of title (TCT No. 265519) by the herein respondents (defendants Vasquez and Santelices) from the Register of Deeds without any issue being raised as to its genuineness or authenticity. When the certificate of sale from the foreclosure proceedings of the said mortgage was subsequently submitted by the petitioner (deceased defendant Rogelio) for registration, a certain clerk-typist supposedly noticed differences between the typewriter print of the subject duplicate title and that of the original title on file with the Register of Deeds, without specifying what these discrepancies were. Even with such purported finding that the said duplicate title was not genuine, respondents Vasquez and Santelices did not confiscate such forged title and still allowed the petitioner to withdraw the certificate of sale and duplicate title on August 8, 1996. The said respondents likewise did not investigate the petitioner or file any complaint for falsification against him at that time, nor did they inform the registered owner of the subject property, Natalie Limpe, of such fact. More than a month later, the cancellation of the mortgage document was presented by a certain Corazon Moreno, and the memorandum of cancellation was again inscribed on both the original title on file and the subject owner's duplicate copy of TCT No. 265519. While the Deputy Register of Deeds thereafter ordered the non-registration of the said mortgage cancellation, no complaint for falsification was immediately falsified against Moreno, the possessor at that time of the alleged fake title who presented it for registration. It was only on September 23, 1996 that the Register of Deeds sent a letter to Natalie Limpe, the registered owner. Worse, it was only on July 21, 1999 that herein respondents Vasquez and Santelices filed a complaint-affidavit against the petitioner for falsification of public document. All these circumstances show that there was no clear and satisfactory proof that the subject owner's duplicate title of TCT No. 265519 was indeed falsified and that the petitioner was previously notified of such finding.”[42]

Similarly, the Records of this case do not show that the owner's duplicate title of TCT No. T-265519 in the

possession of defendant Rogelio was falsified.

In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." "Preponderance of evidence" is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[43]

In this case, plaintiff-appellee Ikeda has not shown by preponderance of evidence that the owner's duplicate copy of TCT No. 265519 in the custody of defendant Rogelio was fake. Notably, defendant Rogelio was able to present the owner's duplicate copy of TCT No. 265519 in his custody to the Office of the Register of Deeds for the registration of the Real Estate Mortgage. Defendant Rogelio also foreclosed the mortgage, using the owner's duplicate copy of TCT No. 265519 which was in his possession, which led to the issuance of the certificate of sale. Thus, we can infer from these circumstances that the owner's duplicate copy of TCT No. 265519 in the custody of defendant Rogelio was regarded as valid, and defendant Rogelio had reasonable expectation to believe that his title to the subject property had no defects.

Concerning the third issue, we rule in the affirmative. The RTC erred in holding defendant Rogelio liable for damages against plaintiff-appellee Ikeda.

Plaintiff-appellee Ikeda argues that defendant Rogelio was in bad faith when he received payment of Php 2,000,000.00, to discharge the mortgage over the subject property, despite knowledge of the defect in the title.

We do not agree.

There was no evidence of bad faith on the part of defendant Rogelio when he received payment from plaintiff-appellee Ikeda. Records show that defendant Rogelio had a valid mortgage, in view of the Php 1,000,000.00 loan to defendant Limpe, the registered owner of the subject property. Thus, the payment of Php 2,000,000.00 was to discharge defendant Rogelio's mortgage.

Good faith is always presumed unless convincing evidence to the contrary is adduced. It is incumbent upon the party alleging bad faith to sufficiently prove such allegation. Absent enough proof thereof, the presumption of good faith prevails.[44]

In this case, plaintiff-appellee Ikeda had the burden of proving the bad faith of defendant Rogelio. As stated, there is no evidence that the owner's duplicate copy of TCT No. 265519 in possession of defendant Rogelio was falsified and that he had previous knowledge of such defect. Plaintiff-appellee Ikeda has not established that defendant Rogelio had prior knowledge of any falsity or forgery in the owner's duplicate copy of TCT No. 265519. Thus, without clear evidence of bad faith and defendant Rogelio's participation in the commission of fraud, the presumption of good faith in favor of defendant Rogelio stands.

We note that plaintiff-appellee Ikeda's cause of action is against defendant Limpe, the vendor in the Deed of Absolute Sale and not against defendant Rogelio. Defendant Rogelio was not privy to the sale of the subject property. As the vendor, defendant Limpe had the obligation to deliver to plaintiff-appellee Ikeda the clean title to the subject property. Thus, it is unjust to hold defendant Rogelio liable for damages against plaintiff-appellee Ikeda.

We GRANT the appeal of Brenda L. Calapatia and Brian Keith L. Calapatia. We SET ASIDE the Decision dated 20 September 2010 issued by the Regional Trial Court, Branch 221, Quezon City and instead DISMISS Civil

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Case No. Q-96-29103, absent preponderance of evidence.

IT IS SO ORDERED.

Veloso (Chairperson) and Lantion, JJ., concur.

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[1] Per Resolution dated 27 July 2011 (C.A. Rollo, p. 28) which declared surviving heirs Brenda Calapatia and Brian Keith L. Calapatia as substitute of deceased defendant Rogelio Calapatia.

[2] Records, pp. 606-623.

[3] Records, p. 3.

[4] Records, pp. 19-20.

[5] Records, pp. 13-15.

[6] Records, pp. 34-35.

[7] Records, pp. 1-42.

[8] Records, p. 60.

[9] TSN, 14 November 1996.

[10] Records, pp. 65-67.

[11] Records, p. 70.

[12] Records, p. 62.

[13] Records, pp. 92-112.

[14] Records, pp. 16-18.

[15] Records, pp. 164-165.

[16] Records, pp. 172-173.

[17] TSN, 20 March 1997; 20 June 1997; 5 August 1997; 2 December 1997; 5 February 1998; 23 July 1998; 29 September 1998; 11 February 1999.

[18] TSN, 14 May 1999; 29 July 1999; 5 October 1999.

[19] Records, pp. 241-252.

[20] Records, pp. 342-345.

[21] TSN, 4 April 2000; 17 August 2000; 7 December 2000.

[22] TSN, 5 April 2001.

[23] Records, pp. 383-385.

[24] Records, pp. 401-404.

[25] Records, pp. 407-419, 424-428.

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[26] Records, pp. 430-431.

[27] Records, pp. 464-465.

[28] Records, p. 500.

[29] TSN 13 February 2003.

[30] Records, p. 526.

[31] TSN 13 February 2003, pp. 23-24.

[32] TSN 13 February 2003, p. 25.

[33] Records, pp. 533-537.

[34] C.A. Rollo, pp. 33-81.

[35] C.A. Rollo, pp. 104-119.

[36] Section 7 – Compulsory joinder of indispensable parties. - Parties in interest without whom no final determination can be had of an action shall be joined either as plaintiffs or defendants.

[37] Macababbad, Jr., et al., v. Masirag et al., G.R. No. 161237, 14 January 2009 citing Uy v. Court of Appeals, G.R. No. 157065, July 11, 2006, 494 SCRA 535.

[38] Ibid. citing Seno v. Mangubat, G.R. No. L-44339, December 2, 1987, 156 SCRA 113.

[39] Foster-Gallego v. Spouses Romeo and Galang, et al., G.R. No. 130228, 27 July 2004 citing Metropolitan Bank & Trust Co. v. Alejo 417 Phil. 303 (2001).

[40] Ibid., citing BA Finance Corporation v. CA, 327 Phil. 716 (1996).

[41] CA-G.R. SP No. 7789, 12 November 2004.

[42] Emphasis supplied.

[43] Heirs of Jose Lim v. Lim, G.R. No. 172690, 3 March 2010 citing Perfecta Cavile, Jose de la Cruz and Rural Bank of Bayawan, Inc. v. Justina Litania-Hong, accompanied and joined by her husband, Leopoldo Hong and Genoveva Litania, G.R. No. 179540, March 13, 2009, citing Go v. Court of Appeals, 403 Phil. 883, 890-891 (2001).

[44] Andrade v. Court of Appeals et al., G.R. No. 127932, 7 December 2001 citing Heirs of Severa Gregorio v. CA, 300 SCRA 565, 575-576 [1998].

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