

**ALFREDO N. FRIAS AND BELEN LUSTRE, PETITIONERS, VS.
ANASTACIA ESQUIVEL, FELISA ESQUIVEL, ROSA ESQUIVEL,
SANTIAGO ESQUIVEL, ROSALIA ESQUIVEL, CEFERINA ESQUIVEL,
PERPETUA P. ZARAG...**

G.R. No. L-24679. October 30, 1975

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. No. 28717-R dated September 26, 1964 and its resolution in the same case dated May 29, 1965 ordering the segregation, from the parcel of land registered in the name of herein petitioners, the spouses Alfredo Frias and Belen Lustre, of 116.13 square meters in favor of three (3) of herein private respondents (defendants-appellants below), namely, Ricardo, Reynaldo and Alvaro, Jr., all surnamed Esquivel, on the ground that the contract conveying their interest on the said parcel of land in favor of petitioners is null and void as to Ricardo who was then insane, and unenforceable as to Alvaro, Jr. and Reynaldo who were then minors because the said contract of conveyance was signed in their behalf by their mother, herein respondent Perpetua P. Zaragoza, who at the time of the execution of said contract had already lost parental authority over them for having contracted a second marriage.

The case at bar is not actually the first time in which petitioners and private respondents had elevated to this Court what appears to be a multi-faceted controversy over the parcel of land involved in the instant petition — a residential lot situated in Jaen, Nueva Ecija, with an area of 1,357 square meters, originally forming part of the hereditary estate of respondents' predecessors-in-interest, the spouses Victoriano Esquivel and Catalina Villamanca who, after their demise left as heirs of their various properties, including the said lot, their six (6) surviving children, namely, herein respondents Anastacia, Ceferina, Feliza, Rosalia, Rosa and Santiago, and their five (5) grandchildren from a deceased child (Alvaro Esquivel, Sr.), namely, Alvaro, Jr., Orlando, Reynaldo, Ricardo and Vicente and the latter's mother, herein respondent Perpetua P. Zaragoza.

In G.R. No. L-8825, promulgated on April 20, 1956,[1] aforementioned respondents, with the exception of Anastacia Esquivel, tried to impugn the validity of a deed of sale of the said lot dated July 16, 1951 executed by Anastacia in favor of petitioners on the ground that the lot did not belong exclusively to her but in common with the other respondents herein. The attempt was, however, only partly successful. It was found out that Ceferina, Feliza, Rosa and Rosalia already parted with whatever right, interest or participation they may have had in the said lot in favor of Anastacia way back in 1946 as shown by their affidavits which, this Court held, substantially complied with the requisites of a valid extra-judicial partition. Their brother, Santiago, on the other hand, was held estopped from denying the said partition on account of his silence while the trial of the annulment case in the court a quo was in progress which was deemed to be tantamount to his acquiescence thereto.

We, however, held, as to the other complainants therein that —

"A different consideration should be made with regard to the heirs of Alvaro Esquivel. There is no dispute that

at the time of the partition made in 1946 they were minors and were merely represented by their mother who was neither their legal guardian nor the administrator of their property . . . [under] section 553 of the Code of Civil Procedure . . . [in which] the father or mother is only deemed to be the natural guardian of his or her minor children and not of his estate unless ordered by the Court ... This requirement of the law not having been followed, it is evident that the partition in so far as said minors are concerned is of no validity and should not be allowed to stand to their prejudice. In this sense, the land in question should still be deemed as community property as to which the rights of the minors should be respected."

In view of the foregoing findings and conclusions, this Court declared in the dispositive portion of its judgment —

"Wherefore, the decision appealed from is modified in the sense that the deed of sale in question is valid only in so far as plaintiffs Santiago, Feliza, Rosalia, Rosa, Ceferina and Anastacia are concerned, but is invalid with regard to the minor heirs of the late Alvaro Esquivel, subject to any adjustment that the heirs may deem proper to make which would safeguard the rights of the minors. The Court reserves to spouses Frias whatever action they may deem proper to take to protect their interest. No pronouncement as to costs."

Apparently in pursuance of what this Court said in the foregoing decision, the surviving spouse of the late Alvaro Esquivel, Sr. (who, in the meantime, had contracted a second marriage) and their children executed, on February 15, 1957, in favor of the Frias spouses, petitioners herein, a deed of sale of their one-seventh (1/7) interest and participation over the parcel of land in question. It will be noted, however, that when this deed was signed, only three (3) of the five children were of age, Alvaro, Jr. and Reynaldo being then only 19 and 17 years old, respectively. Their mother Perpetua, nevertheless, signed the said contract in their behalf and in her capacity as their natural guardian.

The execution of the foregoing deed of sale of the lot in question failed, however, to produce complete accord between the contending parties.

It appears that way back in March, 1952, petitioners had commenced proceedings for the registration of the said lot in their name under the Land Registration Act. Their application was opposed by respondents. Due to the aforementioned action for annulment of the deed of sale executed by Anastacia, the registration proceedings were held in abeyance pending final determination of the said civil case.

Thereafter, on October 2, 1957, after Our decision in the annulment case (L-8825) and after the execution of the aforesaid deed of conveyance by Perpetua Zaragoza and her children, the Land Registration Court rendered judgment adjudicating the lot in question to herein petitioners and ordering its registration in their name. The decree of registration was subsequently issued by the Land Registration Office on December 11, 1957 in favor of petitioners.

On December 8, 1958, a petition to re-open the said decree of registration was filed by a certain Rosario Esquivel-Gonzales in her capacity as guardian ad litem of the minors Alvaro, Jr. and Reynaldo Esquivel and of Ricardo Esquivel who was considered by the appointing court as a non compos mentis. This petition, which was denied by the Land Registration Court, was brought to this Court on appeal in G.R. No. L-17366. We affirmed the appealed order in a decision dated July 31, 1962 on the ground that the facts relied upon in the petition "do not constitute the extrinsic fraud required as justification for the granting of the relief sought by them."

While having the lot in question registered in their name, petitioners also filed in the Court of First Instance of Nueva Ecija the instant civil suit praying that they be declared the owners of the aforementioned lot; that the defendants therein be compelled to remove an uninhabited house constructed by the latter thereon; and that they pay accumulated rentals arising from the house's occupancy of the lot until its removal therefrom, plus costs.

On August 25, 1960, the trial court rendered its decision on the case, the dispositive portion of which reads as

follows:

"WHEREFORE, the Court renders decision in favor of the plaintiffs and against the defendants declaring that the plaintiffs are the lawful owners of the land bought by them from Anastacia Esquivel and Perpetua Zaragoza, except a portion of the same with an area of 77.54 square meters, which shall be segregated from the oft-repeated land [for the minors Alvaro, Jr. and Reynaldo] on the eastern side from north to south of the same land; to remove the uninhabited house from the land where it is now erected; to pay monthly rental of P20.00 a month from February 28, 1957, the date of the filing of the complaint, up to the time it is completely removed from the same place; to pay the sum of P200.00 as fee of the plaintiff's counsel, and to pay the costs."

The above decision was appealed by respondents to the Court of Appeals which, on September 26, 1964, rendered judgment affirming the same.*

On May 29, 1965, acting on a motion for reconsideration filed by Ricardo Esquivel through his guardian, and, finding that he was insane at the time the lot in question was sold to the petitioners on February 15, 1957, the Court of Appeals modified its previous judgment by ordering the segregation from the land in dispute of an area of P38.77 square meters "in favor of Ricardo Esquivel in addition to the 77.54 square meters already ordered segregated in favor of Reynaldo and Alvaro, Jr., both surnamed Esquivels."

On June 28, 1965, petitioners, not being satisfied with the Court of Appeals' decision, filed before this Court the instant petition for certiorari.

It is contended by petitioners that the Court of Appeals erred in ordering the segregation of 38.77 square meters each for Reynaldo, Alvaro, Jr. and Ricardo Esquivel from the lot in question for the following reasons: (a) The torrens title issued to them "is absolute, conclusive and indefeasible, and immune from collateral attack, and is subject only to the exceptions in Section 38, Act 496, for a petition for review and for damages."; and (b) "The petitioners, for having paid P500 for the 'equity' of the minor heirs of Alvaro Esquivel, must stand as the absolute owners of the land in question without a defeasance."

A person who succeeds in having a piece of real estate registered to his name is, no doubt, insulated by law from a number of claims and liens. There are, however, a number of instances or causes by which such insulation may be cut loose. The registered owner, for instance, is not rendered immune by the law from the claim that he is not the real owner of the land he had registered in his name. This Court had thus in a number of cases prescribed reconveyance of the registered land to the rightful but as yet unregistered owner.[2] Indeed, Section 102 of Act 496, after description of the procedure to be pursued to enable a person wrongfully deprived of his land or any interest therein as a result of the application and operation of the Land Registration Act, to recover from the Assurance Fund the losses or damages he had sustained, states:

". . . That nothing in this Act shall be construed to deprive the plaintiff of any action which he may have against any person for such loss or damage or deprivation of land or any estate or interest therein without joining the Treasurer of the Philippine Archipelago as a defendant therein."

The above-quoted proviso to Section 102 of Act 496 constitutes sufficient statutory authority, aside from the dictates of equity, under which the remedy of reconveyance may be invoked. It must be conceded, nevertheless, that this remedy cannot always be availed of by an aggrieved claimant, as when the rights of innocent purchasers for value will be affected.[3]

Contrary then to the argument of petitioners, the rule of indefeasibility of a torrens title is not "subject only to the exceptions in Section 38, Act 496, for a petition for review and damages."

In the case at bar, petitioners' complaint that they be declared the owners of the lot in question was diametrically

disputed by respondents who alleged that they are the only owners in common of the said lot by virtue of Our decision in L-8825. The nature of respondents' opposition amounts to an action for reconveyance which sufficiently vested and clothed the court below with authority to adjudicate and settle the question of ownership of the lot in dispute.

In this connection, We do not find any error in the conclusion reached by the court below and the Court of Appeals that the said lot should be considered as owned in common only by petitioners Alfredo Frias and Belen Lustre-Frias and Alvaro, Jr., Reynaldo and Ricardo Esquivel who are some of the private respondents in the case at bar.

In L-8825, it was categorically declared that herein respondents Santiago, Feliza, Rosa, Rosalia and Ceferina, all surnamed Esquivel, and Perpetua P. Zaragoza no longer possess any right, interest or participation in the disputed lot (which is the same lot involved herein). The same is obviously true of Anastacia Esquivel who was the one who sold the said lot to the petitioners.

In the case of the children of legal age of the late Alvaro Esquivel, Sr., namely, Vicente and Orlando, who executed the deed of conveyance of their interest and participation in the said lot dated February 15, 1957 in favor of petitioners, the obvious conclusion is that their interest and participation in the said lot already belongs to petitioners.

On the other hand, the matter of Ricardo Esquivel and his then minor brothers, Alvaro, Jr. and Reynaldo, deserves a different consideration.

It is not denied that the late Alvaro Esquivel, Sr. died intestate, and that at the time the aforementioned deed of conveyance dated February 15, 1957 was executed by Perpetua P. Zaragoza in behalf of the said minors she had already married for the second time. In view of this, she already lost at that time her parental authority over the said unemancipated children. Section 328 of the New Civil Code provides that —[4]

"The mother who contracts a subsequent marriage loses the parental authority over her children, unless the deceased husband, father of the latter, has expressly provided in his will that his widow might marry again, and has ordered that in such case she should keep and exercise parental authority over their children. . ."

Inasmuch as Perpetua P. Zaragoza does not appear to have been appointed a judicial guardian of her minor children with the power to sell their property, the aforesaid deed of conveyance insofar as Alvaro, Jr. and Reynaldo are concerned is, therefore, unenforceable. Articles 1403 (1) and 1317 of the New Civil Code both specify that unless ratified by the person on whose behalf it has been executed, a contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, is unenforceable. In the case at bar, there are no real and definite traces of ratification made by the said minors of the disposition of their interest in the disputed lot which their mother made in their behalf. Indeed, both the trial court and the Court of Appeals found no such evidence, thereby rendering untenable petitioners' claim that they already paid for the said minors' "equity" in the lot in question.

With regard to Ricardo Esquivel, the Court of Appeals found him to be insane at the time of the execution of the deed of conveyance on February 15, 1957. This finding which is not disputed, shows that the said deed is void as to him for as correctly held by the Appellate Court there was lack of authority on the part of his mother Perpetua P. Zaragoza to sell his portion, she not having been appointed judicial guardian of said Ricardo Esquivel.

But while We agree with the conclusion of the Court of Appeals on the ownership of the lot in controversy, We do not subscribe to its approval of the manner in which the trial court physically partitioned and assigned specific portions of the lot to Alvaro, Jr. and Reynaldo Esquivel. It does not appear that the trial court made use of, or

followed, the rules prescribed for the judicial partition of properties owned in common. The procedure concerning partition prescribed in the Rules of Court, designed to provide a just and equitable settlement of the relative rights of co-owners by securing to them the benefits of a trial during which the details of partition will be taken up, should have been followed.

An independent action for partition is not necessary, however, in the instant situation. All the parties involved in the case at bar appear to be the only ones claiming an interest in the said lot. Hence, to afford them complete and adequate relief and to avoid a protracted and unnecessarily burdensome litigation, a partition of the lot in question in this very action is the most logical and equitable path to pursue. Note that both contending parties in their respective pleadings in the court a quo pray that they be granted such further and other relief as may be just and equitable under the premises, and the partition of the lot is well within the general relief prayed for.

ACCORDINGLY, the decision of the Court of Appeals dated September 26, 1964 as modified in its resolution of May 29, 1965 is hereby AFFIRMED, with the following modification: (1) the trial court shall proceed with the partition of the lot in question, in accordance with pertinent provisions of Rule 69 of the Rules of Court, among petitioners herein and Alvaro, Jr., Reynaldo and Ricardo Esquivel; and (2) the aforementioned private respondents who are co-owners of the property of petitioners shall not be made to pay any share in the rentals and the amounts awarded by the trial court in favor of the latter. The case at bar is, therefore, remanded to the court a quo in order that it may proceed as indicated. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Acting Chairman), Aquino, Concepcion, Jr., and Martin, JJ., concur.

Esguerra, J., on official leave.

Makasiar, J., does not take part as he was the Judge who decided Land Registration Proceeding No. 193-GLRO record No. N-5397, CFI of Nueva Ecija.

[*] Justice Francisco B. Capistrano, ponente, with JJ. Fred Ruiz Castro and Julio Villamor concurring

[1] See also 98 Phil. 1008. The action for annulment was filed with the Court of First Instance of Nueva Ecija on July 24, 1952.

[2] *Severino vs. Severino*, 44 Phil. 343 (1923) involving land registered by the administrator thereof in his own name. This Court considered the action for reconveyance of the registered land as a suit in equity; *Garcia vs. Reyes*, 51 Phil. 413 (1928) where the Court described the procedure to be followed when a co-owner registers a piece of land in his own name; *Manarpaac vs. Cabanatan*, L-23300, October 31, 1967, 21 SCRA 743; *Casillan vs. Espartero*, L-6902, Sept. 16, 1954, 95 Phil. 799 citing *Dir. of Lands vs. Reg. of Deeds*, 49 O.G. No. 3, p. 935.

[3] *C. Fule vs. De Legare*, L-17951, Feb. 28, 1963, 7 SCRA 351 and cases cited therein.

[4] It will also be noted that under Art. 320 of the Code, parents are merely the legal administrator of the property pertaining to the child under parental authority.

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