

PEDRO A. BERNAS, PETITIONER, VS. COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. L-27636. May 19, 1984

Ponente: PLANA, J.

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PLANA, J.:

This is a petition for review of the decision of the defunct Court of Appeals dismissing petitioner's complaint and respondents' counterclaim for recovery of some parcels of land in Pilar, Capiz.

Pedro Bernas filed with the Court of First Instance of Capiz an action for recovery of possession of a parcel of land known as lot 477 of the Cadastral Survey of Pilar, Capiz, against spouses Filomeno and Josefa Villanueva, claiming to be the owner thereof for having bought it from a certain Consolacion Patricio. Defendants' answer, besides setting up the claim of ownership of lot 477, also put up a counterclaim for the recovery of three other lots in plaintiff's possession (lots 317, 318 and 319 of the Cadastral Survey of Pilar, Capiz), claiming that he bought all four lots from a certain Fortunato Jayme who had acquired them by inheritance from Efigenia Enriquez. To the counterclaim, plaintiff Bernas filed an answer asserting ownership over lots 317, 318 and 319.

The trial court rendered judgment declaring Bernas owner of lots 318 and 319. With respect to lots 317 and 477, however, the trial court adjudicated one-half of each lot to Bernas and Villanueva, thus:

- a) To Pedro Bernas - Lots 317-A and 477-B
- b) To the Villanuevas - Lots 317-B and 477-A.

The Villanuevas did not appeal. Only Bernas appealed to the Court of Appeals on the following assignment of errors:

1. "The lower court erred in declaring that the lot which was the subject matter of the sale with right to repurchase between Consolacion Patricio and Caridad Mon and identified as Exhibit "A", was and is not Lot 477, because the lot number was not mentioned or stated in said document.
2. "The lower court erred in not declaring that plaintiff was a purchaser in good faith at a sheriff's sale of all the right, title and interest of the judgment debtor, and is entitled to the property under the provisions of law, as against one who claims the property by virtue of an unrecorded deed of sale executed in his favor by a third person after the date of the sheriff's sale.
3. "The lower court erred in not declaring that the land belonged to a debtor that was attached by virtue of a final judgment and sold at public auction and its sale recorded in the property registry, and no third-party claim to its ownership has been filed, the vendee is the absolute owner of such land thus acquired by him at the execution sale.
4. "The lower court erred in making its own subdivision of the lands in question, when the original plan as surveyed by the cadastral survey states only lots 317 and 477. Likewise, the lower court erred in making the subdivision and adjudicated lots 317-A and 477-B to plaintiff and lots 317-B and 477-A to defendants based

upon plan exhibit "X" as surveyed for the heirs of Efigenia Enriquez, the predecessors in interest of the defendants, when the parties claimed and litigated each lot as a whole and not a portion there-of.

5. "The lower court erred in not declaring that lots nos. 317 and 477 of Pilar, Capiz are owned exclusively by the plaintiff and entitled to the possession thereof, and that defendants must pay damages to the plaintiff for the products which the latter failed to receive. Likewise, the lower court erred in not awarding costs in favor of the plaintiff."

Examining the evidence, the Court of Appeals found that "lots 477 and 317 were properties included among those purchased by Bernas in a public auction" way back in 1938 after they had been "levied upon to satisfy a judgment rendered against Consolacion Patricio" (owner) in favor of Bernas, but the said lots (317 and 477) could not be identified as included among the properties inherited by Fortunato Jayme before they were allegedly sold by the latter to the Villanuevas. The Court of Appeals therefore concluded that the portion of "the judgment appealed from was not based on actual facts." Strangely, however, the Court of Appeals remanded the case to the trial court "for further proceedings," i.e., "the relocation of lots 477 and 317 should be made to find out whether they can be identified among those mentioned in the project of partition adjudicating five parcels of land to Fortunato E. Jayme; what relation, if any, have the five parcels with lots 317 and 477 and as to why these were subdivided. After this shall have been done, the Court a quo should render a new decision." To quote the decision of the Court of Appeals:

"... Lots 477 and 317 were properties included among those purchased by Bernas in a public auction held on September 29, 1938, in the then municipality of Capiz, Capiz. One Caridad Mon filed a third-party claim with the Sheriff regarding lot 477 but, Bernas having readily acknowledged the third-party claimant's interest, the sale of the property proceeded. Mon had bought it a retro from Consolacion Patricio and was at the time of the auction sale in possession thereof. Later, upon payment of the redemption price, she delivered the land to Bernas, but continued in its occupancy for the new owner until she was compelled to leave it in the year 1943, due to the chaotic conditions prevailing then. Incidentally, it is to be noted that lots 477 and 317 were among others which were levied upon to satisfy a judgment rendered against Consolacion Patricio in a case where she was a defendant, with Pedro A. Bernas as plaintiff. Mon averred that Patricio was in possession of lot 477, at least fifteen years before the latter sold it to her a retro. One Dioscoro Basea, who was 39 years old when he testified on August 29, 1949, likewise averred that he had known lot 477 since he had attained the use of reason, with Patricio possessing it throughout.

"On the other hand, defendants' contention is that they had bought lots 477 and 317 from one Fortunato E. Jayme on March 22, 1941, and that Jayme, in turn, acquired said properties from Efigenia Enriquez as inheritance. Examining the project of partition where Jayme purportedly received several parcels of land indicated as parcels 5, 6, 7, 8 and 13, it can be seen that no one of them tallies with any of lots 477 and 317. It is worthwhile noticing that the new tax declaration (Exh. 7) for lot 477 in the name of Filomeno Villanueva derives from a tax declaration merely referred to as 'prev. de.', and that all previous tax declarations for that lot appearing on record are in the name of Consolacion Patricio (Exhs. M and W). As to lot 317, Villanueva had never been in possession of it. Indeed, we are at a loss why the Court a quo adjudicated lots 317-A and 477-B to Bernas and lots 477-A and 317-B to the Villanuevas. It seems to run counter to both the pleadings of record and the evidence given in support thereof. In fact, each party claimed lots 317 and 477 in their entirety.

"Apparently, the trial judge relied completely for its findings on the subdivision appearing in plan Exh. 'X' made for the heirs of Efigenia Enriquez. No explanation, however, was given for this subdivision, nor does it appear that Pedro A. Bernas had anything to do with it. With the view we take on the matter, we are constrained to conclude that the judgment appealed from was not based on actual facts.

"In justice, however, to both parties, we believe that this case should be returned to the court of origin for further proceedings. Relocation of lots 477 and 317 should be made, to find out whether they can be identified

among those mentioned in the project of par-tition adjudicating five parcels of land to Fortunato E. Jayme; what relation, if any, have the five parcels with lots 317 and 477 and as to why these were subdivided. After this shall have been done, the Court a quo should render a new decision."

After the remand, the trial court repeatedly set the case for hearing but no reception of evidence took place as the parties invariably asked for postponement on account of unavailability of evidence. Finally, after 9 years, the trial court returned the case to the Court of Appeals without the desired evidence. Thereupon, the latter dismissed both the complaint and counterclaim on lots 317 and 477, without prejudice. Said the Court:

"... it appears that after a period of nine (9) years, the parties have not been able to secure the evidence required to re-locate lots Nos. 317 and 477, and it seems that they would not be able to do so within the foreseeable future. The state of the evidence in this case remains the same and consequently, the necessity to revise the conclusion (previously) arrived at by this Court...is not called for. In view of the above circumstances, therefore, we have no other alternative but to order the dismissal of the complaint as well as the counter-complaint, in so far as they refer to lots 317 and 477." (Rollo, p. 8.)

Bernas sought reconsideration of the dismissal and asked for clarification of the dismissal "without prejudice," but his motion was denied.

Hence this petition, assigning two errors:

1. The Court of Appeals erred in dismissing the complaint when its findings declare that petitioner is entitled to the possession of the properties in litigation; and
2. The Court of Appeals erred in not resolving the motion for clarification of the words "without prejudice" in its decision.

The first assigned error must be sustained.

The Court of Appeals found that Consolacion Patricio was the owner of lots 317 and 477 before they were levied upon to satisfy a judgment obtained by Bernas against Consolacion Patricio, after which, a public auction was held in 1938 at which lots 477 and 317 were bought by Bernas together with other properties; that originally, lot 477 was in the possession of Consolacion Patricio when she was still the owner thereof, but she yielded its possession to Caridad Mon when the latter bought it a retro; and that after Mon had been paid the redemption price, she delivered possession of lot 477 to Bernas as the new owner thereof who bought it at public auction. On the other hand, the Court of Appeals also found that while the Villanuevas claimed to have bought in 1941 the same lots 317 and 477 from Fortunato Jayme who allegedly inherited them from Efigenia Enriquez, it appears that not one of the several parcels of land inherited by Jayme tallies with either lot 477 or lot 317; that "the new tax declaration (Exh. 7) for lot 477 in the name of Filomeno Villanueva derives from a tax declaration merely referred to as 'prev. de', and that all previous tax declarations for that lot appearing on record are in the name of Consolacion Patricio (Vendor of Bernas)"; and that as to lot 317, Villanueva had never been in possession of it. (Rollo, pp. 13-14.)

It would seem that the evidence, as evaluated by the Court of Appeals, has established the interests of Bernas in lots 317 and 477, just as it has negated the pretensions of the Villanuevas. It was therefore error for the Court of Appeals to remand the case to the trial court for further proceedings and subsequently to dismiss the complaint of Bernas, after the Villanuevas had failed to establish the connection between the parcels of land inherited by Jayme (which the Villanuevas allegedly bought) and lots 317 and 477.

When the evidence on record does not sustain the position of one of the parties (nor the decision rendered by the trial judge), the proper step is for the appellate court to render a decision on the basis of the evidence on hand,

sustaining the party upheld by the evidence, and not to suspend judgment by remanding the case to the trial court for the purpose of giving the other party a second chance to present evidence.

Moreover, based on the factual findings of the Court of Appeals, petitioner Bernas would at the very least be entitled to $\frac{1}{2}$ of lot 317 and $\frac{1}{2}$ of lot 477, as awarded to him in the decision of the trial court, from which no appeal was taken by the Villanuevas and which therefore has become final and executory. But under the decision of the Court of Appeals dismissing Bernas' complaint, even this vested right would be wiped out.

It is unnecessary to resolve the second assigned error.

WHEREFORE, the assailed decision of the defunct Court of Appeals dismissing the complaint is set aside. In the interest of dispatch, the petitioner is declared the owner of lots 317 and 477 of the cadastral survey of Pilar, Capiz in their entirety, entitled as such to the possession thereof. The Intermediate Appellate Court is directed to decide the issue of damages to which the petitioner may be entitled. Costs against the respondents. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

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