

EPIFANIA SARSOSA VDA. DE BARSOBIA AND PACITA W. VALLAR, PETITIONERS, VS. VICTORIANO T. CUENCO, RESPONDENT.

G.R. No. L-33048. April 16, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Epifania Sarsosa Vda. de Barsobia and Pacita W. Vallar, Defendants-appellees," declaring Victoriano T. Cuenco (now the respondent) as the absolute owner of the coconut land in question.

Sought to be reviewed herein is the judgment, dated August 18, 1970, of the Court of Appeals,[1] rendered in CA-G.R. No. 41318-R, entitled "Victoriano T. Cuenco, Plaintiff-appellant, versus

The lot in controversy is a one-half portion (on the northern side) of two adjoining parcels of coconut land located at Barrio Mancapagao, Sagay, Camiguin, Misamis Oriental (now Camiguin province), with an area of 29,150 square meters, more or less.[2]

The entire land was owned previously by a certain Leocadia Balisado, who had sold it to the spouses Patricio Barsobia (now deceased) and Epifania Sarsosa, one of the petitioners herein. They are Filipino citizens.

On September 5, 1936, Epifania Sarsosa, then a widow, sold the land in controversy to a Chinese, Ong King Po, for the sum of P1,050.00 (Exhibit "B"). Ong King Po took actual possession and enjoyed the fruits thereof.

On August 5, 1961, Ong King Po sold the litigated property to Victoriano T. Cuenco (respondent herein), a naturalized Filipino, for the sum of P5,000.00 (Exhibit "A"). Respondent immediately took actual possession and harvested the fruits therefrom.

On March 6, 1962, Epifania "usurped" the controverted property, and on July 26, 1962, Epifania (through her only daughter and child, Emeteria Barsobia), sold a one-half (1/2) portion of the land in question to Pacita W. Vallar, the other petitioner herein (Exhibit "2"). Epifania claimed that it was not her intention to sell the land to Ong King Po and that she signed the document of sale merely to evidence her indebtedness to the latter in the amount of P1,050.00. Epifania has been in possession ever since except for the portion sold to the other petitioner Pacita.

On September 19, 1962, respondent filed a Forcible Entry case against Epifania before the Municipal Court of Sagay, Camiguin. The case was dismissed for lack of jurisdiction since, as the laws then stood, the question of possession could not be properly determined without first settling that of ownership.

On December 27, 1966, respondent instituted before the Court of First Instance of Misamis Oriental a Complaint for recovery of possession and ownership of the litigated land, against Epifania and Pacita Vallar (hereinafter referred to simply as petitioners).

In their Answer below, petitioners insisted that they were the owners and possessors of the litigated land; that its sale to Ong King Po, a Chinese, was inexistent and/or void ab initio; and that the deed of sale between them was

only an evidence of Epifania's indebtedness to Ong King Po.

The trial Court rendered judgment:

- "1. Dismissing the complaint with costs against plaintiff (respondent herein);
- "2. Declaring the two Deeds of Sale, Exhibits A and B, respectively, inexistent and void from the beginning; and
- "3. Declaring defendant Pacita W. Vallar as the lawful owner and possessor of the portion of land she bought from Emeteria Barsobia (pp. 57, 67, Record.)"[3]

On appeal, the Court of Appeals reversed the aforementioned Decision and decreed instead that respondent was the owner of the litigated property, thus:

"x x x.

In view of all the foregoing considerations, the judgment appealed from is hereby reversed. In lieu thereof, we render judgment:

- (a) Declaring the plaintiff-appellant Victoriano T. Cuenco the absolute owner of the land in question, with the right of possession thereof;
- (b) Ordering the defendants-appellees to restore the possession of said land to the plaintiff;
- (c) Dismissing the defendants' counterclaim;
- (d) Condemning the defendants to pay to the plaintiff the sum of P10,000.00 representing the latter's share from the sale of copra which he failed to receive since March, 1962 when he was deprived of his possession over the land, and which defendants illegally appropriated it to their own use and benefit, plus legal interest from the filing of the complaint until fully paid; plus P2,000.00 representing expenses and attorney's fees;
- (e) Sentencing the defendants to pay the costs.

SO ORDERED."[4]

Following the denial of their Motion for Reconsideration, petitioners filed the instant Petition for Review on Certiorari with this Court on January 21, 1971. Petitioners claim that the Court of Appeals erred:

"I. x x x when it reversed the judgment of the trial court declaring petitioner Pacita W. Vallar as the lawful possessor and owner of the portion of land she purchased from Emeteria Barsobia, not a party to this case, there being no evidence against her.

"II. x x x when it included petitioner Pacita W. Vallar to pay P10,000.00, with legal interest from the filing of the complaint, representing respondent's share in the harvest and to pay the costs, there being no evidence against her.

"III. x x x when it condemned petitioners to pay P2,000.00 representing expenses and attorney's fees, there being no factual, legal and equitable justification.

"IV. x x x in not applying the rule on *pari delicto* to the facts of the case or the doctrine enunciated x x x in the case of *Philippine Banking Corporation vs. Lui She*, L-17587, September 12, 1967, to x x x Petitioner Epifania Sarsosa Vda. de Barsobia.

"V. x x x in denying, for lack of sufficient merits, petitioners' motion for rehearing or reconsideration of its decision."[5]

As the facts stand, a parcel of coconut land was sold by its Filipino owner, petitioner Epifania, to a Chinese, Ong King Po, and by the latter to a naturalized Filipino, respondent herein. In the meantime, the Filipino owner had unilaterally repudiated the sale she had made to the Chinese and had resold the property to another Filipino. The basic issue is: Who is the rightful owner of the property?

There should be no question that the sale of the land in question in 1936 by Epifania to Ong King Po was inexistent and void from the beginning (Art. 1409 [7], Civil Code) [6] because it was a contract executed against the mandatory provision of the 1935 Constitution, which is an expression of public policy to conserve lands for the Filipinos. Said provision reads:

"Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations, qualified to acquire or hold lands of the public domain." [7]

Had this been a suit between Epifania and Ong King Po, she could have been declared entitled to the litigated land on the basis, as claimed, of the ruling in *Philippine Banking Corporation vs. Lui She*, [8] reading:

"x x x For another thing, and this is not only cogent but also important. Article 1416 of the Civil Code provides as an exception to the rule on *pari delicto* that when the agreement is not illegal *per se* but is merely prohibited, and the prohibition by the law is designed for the protection of the plaintiff, he may, if public policy is thereby enhanced, recover what he has sold or delivered. x x x"

But the factual set-up has changed. The litigated property is now in the hands of a naturalized Filipino. It is no longer owned by a disqualified vendee. Respondent, as a naturalized citizen, was constitutionally qualified to own the subject property. There would be no more public policy to be served in allowing petitioner Epifania to recover the land as it is already in the hands of a qualified person. Applying by analogy the ruling of this Court in *Vasquez vs. Giap and Li Seng Giap & Sons*: [9]

"x x x if the ban on aliens from acquiring not only agricultural but also urban lands, as construed by this Court in the *Krivenko* case, is to preserve the nation's lands for future generations of Filipinos, that aim or purpose would not be thwarted but achieved by making lawful the acquisition of real estate by aliens who became Filipino citizens by naturalization."

While, strictly speaking, Ong King Po, private respondent's vendor, had no rights of ownership to transmit, it is likewise inescapable that petitioner Epifania had slept on her rights for 26 years from 1936 to 1962. By her long inaction or inexcusable neglect, she should be held barred from asserting her claim to the litigated property (*Sotto vs. Teves*, 86 SCRA 157 [1978]).

"Laches has been defined as the failure or neglect, for an unreasonable and unexplained length of time, to do that which by exercising due diligence could or should have been done earlier; it is negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. (*Tijam, et al. vs. Sibonghanoy, et al.*, No. L-21450, April 15, 1968, 23 SCRA 29, 35)." (cited in *Sotto vs. Teves*, 86 SCRA 154 [1978]).

Respondent, therefore, must be declared to be the rightful owner of the property.

The award of actual damages in respondent's favor of P10,000.00, as well as of attorney's fees and expenses of litigation of P2,000.00, is justified. Respondent was deprived of the possession of his land and the enjoyment of its fruits from March, 1962. The Court of Appeals fixed respondent's share of the sale of copra at P10,000.00 for eight years at four (4) harvests a year. The accuracy of this finding has not been disputed.

However, we find merit in the assigned error that petitioner, Pacita Vallar, should not be held also liable for actual damages to respondent. In the absence of contrary proof, she, too, must be considered as a vendee in good faith of

petitioner Epifania.

The award of attorney's fees and litigation expenses in the sum of P2,000.00 in respondent's favor is in order considering that both petitioners compelled respondent to litigate for the protection of his interests. Moreover, the amount is reasonable.[10]

WHEREFORE, except for that portion holding petitioner, Pacita W. Vallar, also liable for damages of P10,000.00, the appealed judgment is hereby affirmed.

Costs against petitioners.

SO ORDERED.

Teehankee, Acting C.J., (Chairman), Makasiar, Fernandez, Guerrero, and Plana, JJ., concur.

[1] Penned by Justice Jose M. Mendoza and concurred in by Justices Magno S. Gatmaitan and Edilberto Soriano.

[2] Record on Appeal, pp. 57-58, Rollo, p. 58.

[3] p. 7, Petitioners' Brief.

[4] Decision, p. 10, Rollo p. 49.

[5] Brief for the Petitioners, pp. 1-3, Rollo p. 71.

[6]"Art. 1409. The following contracts are inexistent and void from the beginning:

x x x

(7) Those expressly prohibited or declared void by law.

"These contracts cannot be ratified. Neither can the right to set up the defense of illegality be waived."

[7] Section 5, Article XIII.

[8]21 SCRA 52 (1967).

[9]96 Phil. 447 (1955).

[10]Art. 2208, Civil Code.

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