

**FELIX GOCHAN & SONS REALTY CORPORATION,
PETITIONER-APPELLANT, VS. VICENTE CAÑADA, SUBSTITUTED BY
MONA LISA MA. REYES, AND THE COURT OF APPEALS,
RESPONDENTS-APPELLEES.**

G.R. No. L-49686. August 31, 1988

Ponente: GRIÑO-AQUINO. J.

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GRIÑO-AQUINO. J.

During the pendency of an action for partition of a parcel of unregistered land, one of the co-owners surreptitiously applied for the registration of the entire parcel under the Torrens system in his name only, without notice to the other co-owner, and, upon obtaining a title, sold the entire lot to a stranger to the action. Did the judgment for partition bind the vendee?

This is an appeal of that vendee from the decision of the Court of Appeals affirming the order of the lower court to partition the vendee's lot and hand over one-half of it to the plaintiff in the partition case.

A good many actions, in which the present petitioner-appellant had had no participation or intervention whatsoever, had preceded this appeal.

Civil Case No. R-1630

Vicente Cañada vs. Juan] Jabutay

Juan Jabutay was the owner of Lot No. 6733, a 2.5-hectare parcel of unregistered land in Barrio Punta Princesa, Cebu City.

On August 11, 1939, Jabutay sold a one-half pro-indiviso portion of Lot No. 6733 to Eustaquio Paraiso for P600 to cover the attorney's fees of Jabutay's lawyer, Atty. Sofronio Savellon, who was a friend of Paraiso. However, Jabutay continued to occupy Paraiso's one-half portion as lessee of Paraiso.

Twenty-two (22) years later, on July 20, 1951, without informing Jabutay, Paraiso sold his one-half undivided portion to Vicente Cañada, the estranged son-in-law of Jabutay. On July 31, 1951, Cañada filed an action for partition against Jabutay to recover his one-half portion of Lot 6733. The case was docketed as Civil Case No. R-1630 in the Court of First Instance of Cebu (pp. 21-22, Record on Appeal).

In a decision dated July 5, 1957, the trial court declared Cañada and Jabutay co-owners of Lot 6733 and ordered that it be partitioned between them in equal parts (pp. 17-26, Record on appeal). Jabutay appealed to the Court of Appeals where the appeal was docketed as CA-G.R. No. 22909-R.

During the pendency of the appeal and without notice to Cañada, Jabutay filed an application for registration of Lot 6733 in his name. On March 2, 1959, OCT No. 51 was issued to him. On April 22, 1959, he sold the entire Lot 6733 to Felix Gochan & Sons Realty Corporation, herein petitioner "GOCHAN" for brevity. Unaware of the pendency of Civil Case No. R-1630 between Cañada and Jabutay, as no notice of lis pendens was recorded on the

back of Jabutay's title, Gochan paid the stipulated consideration of the sale and took possession of the lot. Jabutay's OCT No. 51 was cancelled and TCT 19612 was issued to Gochan.

Civil Case No. R-6130,
Vicente Cañada vs. Felix
Gochan & Sons Realty
Corporation, Juan Jabutay
and Anastacio Ponseca.

Upon discovering that Lot 6733 had been registered in Jabutay's name and sold to Gochan, Cañada filed on April 30, 1959 an action against Jabutay and Gochan to annul the sale, cancel Gochan's TCT 19612, and have a new title issued to him (Cañada) plus damages. It was docketed as Civil Case No. R-6130 entitled, "Vicente Cañada vs. Felix Gochan & Sons Realty Corporation, Juan Jabutay, et al." On February 12, 1962 Cañada caused a notice of lis pendens to be annotated on Gochan's TCT No. 19612.

CA-G.R. No. 22909-R
Vicente Cañada, Appellee,
vs. Juan Jabutay, Defendant-Appellant.

On June 18, 1964, the Court of Appeals in CA-G.R. No. 22909-R affirmed the decision of the trial court in the partition case, Civil Case No. R-1630. (Signed by Justices Ruiz Castro; Capistrano and Villamor, pp. 29-30, Record on Appeal.)

Cañada's counsel, Attorney Primitivo Sato, filed on July 28, 1964 a motion for reconsideration of the Appellate Court's decision on the ground that Mona Lisa Ma. Reyes had acquired Cañada's interest in the lot by dacion en pago, hence, she had become the real party-plaintiff in the case. He further revealed (erroneously) that Jabutay had assigned Lot 6733 during the pendency of the action, to the intestate estate of Felix Gochan, represented by the administrator Esteban Gochan. He prayed that a substitution of parties be made so that the caption of the case should read: "MONA LISA MA. REYES vs. JUAN JABUTAY and INTESTATE ESTATE OF FELIX GOCHAN." He did not disclose, however, that Mona Lisa Ma. Reyes was his daughter.

Esteban Gochan manifested to the court that there were no proceedings for the settlement of the estate of Felix Gochan; that he was not the administrator of the estate; and that there was a pending case involving Lot 6733 in another branch of the Court of First Instance of Cebu - Civil Case No. R-6130, entitled "Vicente Cañada versus Felix Gochan & Sons Realty Corporation and Juan Jabutay." He prayed that the motion be denied.

On June 2, 1966, the Court of Appeals ordered Mona Lisa Ma. Reyes to be substituted for Vicente Cañada as plaintiff, and the heir or heirs of Felix Gochan and/or his estate be considered "as additional party defendants" in the partition case (pp. 36-39, Record on Appeal).

A motion for reconsideration was filed by Esteban Gochan praying that the heirs of Felix Gochan be excluded from the case and that the rights and title of Felix Gochan & Sons Realty Corporation to the lot in question be left for determination in Civil Case No. 6130 (for annulment of title). The Court of Appeals, on July 20, 1966, denied Esteban's motion for reconsideration and ordered "the inclusion as additional defendant, of Felix Gochan & Sons Realty Corporation which is the purchaser of the whole Lot No. 6733" (p. 102, Record on Appeal).

On September 9, 1966, Mona Lisa Ma. Reyes filed another motion in the Court of Appeals to change the caption of the case to: "Mona Lisa Ma. Reyes vs. Juan Jabutay, the Heir or Heirs of Felix Gochan and/or his Estate, and Felix Gochan & Sons Realty Corporation." The Court of Appeals granted her motion (p. 104, Record on Appeal).

Gochan filed a petition for certiorari in the Supreme Court (G.R. No. L-26627 "Felix Gochan & Sons Realty Corporation vs. The Court of Appeals, et al.") but it was dismissed for lack of merit in a minute resolution dated October 10, 1966 (p. 41, Record, on Appeal).

On May 11, 1968, Attorney Primitivo Sato, as alleged assignee of his daughter's interest in the land in question, filed a motion for execution of the decision in Civil Case No. 1630-R. The court granted the motion for execution (pp. 46-49, Record on Appeal). However, the sheriff returned the writ unsatisfied "on the ground that there is still a pending case in connection with this same lot before this Court entitled CAÑADA vs. GOCHAN, Civil Case No. R-1630" should be R-6130).

On September 26, 1968, the Heirs of Vicente Cañada (who died on April 27, 1960) filed a motion to quash the writ of execution in Civil Case No. 1630. They denied having assigned their interest in the land to Mona Lisa Ma. Reyes or her father Attorney Sato who, as Cañada's counsel, was disqualified to acquire the land of his client (pp. 50-56, Record on Appeal).

Dismissal of Civil Case No. R-6130.

Presumably on motion of the heirs of Cañada, Mona Lisa Ma. Reyes was joined as an additional defendant in Civil Case No. 6130, for annulment of Gochan's title to Lot 6733.

On January 14, 1969, Reyes filed a motion to dismiss the case on the ground that the plaintiffs therein (Cañada, et al.) were no longer the real parties in interest because their share of Lot 6733 "was already assigned and finally adjudicated to Mona Lisa Ma. Reyes by the Court of Appeals." On February 6, 1969, the trial court dismissed the case.

Reyes' Motion for Execution
in Civil Case No. R-1630.

On August 13, 1969, Mona Lisa Ma. Reyes reappeared in the partition case (Civil Case No. R-1630) her father having retreated to the background once more. She asked for an alias writ of execution (pp. 66-69, Record on Appeal).

By a special appearance through counsel and without waiving the court's lack of jurisdiction over its person, Gochan opposed the motion for execution. It alleged that it is the registered owner in fee simple of Lot 6733; that Reyes waived all her rights of action and claims in the lot when she filed a motion for the dismissal of Civil Case No. R-6130 ("VICENTE CAÑADA, ET AL. vs. FELIX GOCHAN & SONS REALTY CORPORATION, , ET AL.") instead of asking to be substituted as plaintiff in lieu of Cañada; and that, as Gochan had not been impleaded nor summoned in the partition case (Civil Case No., R-1630), the court did not acquire jurisdiction over it. It had not been duly heard in the case. The decision therein was neither binding nor enforceable against it. It argued that the Court of Appeals did not, and could not, by merely changing the title of the already - decided case, acquire jurisdiction over Gochan (pp. 76-82, Record on Appeal).

On October 2, 1969, the trial court denied Reyes' motion for execution in Civil Case No. R-6130. It noted that the judgment sought to be executed referred to "the heir's of Felix Gochan and/or his estate" who are not the owners of the property in question, as the registered owner is "Felix Gochan & Sons Realty Corporation" which has a personality distinct separate and apart from the stockholders thereof; and that Felix Gochan & Sons Realty Corporation became the registered owner of Lot 6733 on April 22, 1959, three years before Cañada's notice of lis pendens was recorded on its title on February 12, 1962 (pp. 83-84, Record on Appeal). The trial court observed that, "the only remedy left to the plaintiff (Reyes) is to go against the corporation itself who, as any other party litigant, is entitled to due process or the right to be heard." (p. 84, Record on Appeal.)

Reyes filed a motion for reconsideration of that order (pp. 85-87, Record on Appeal) but it was denied by the trial court (pp. 91-95, Record on Appeal).

On August 10, 1970, Reyes filed an ex parte "motion for correction" in the Court of Appeals praying that its resolution dated June 2, 1966 in CA-G. R. No. 22909-R be amended so as to include Felix Gochan & Sons Realty Corporation as party-defendant and that the lower court be ordered to issue a writ of execution against the said corporation. The Court of Appeals on August 26, 1970 once more obliged. It ruled that "the writ of execution may be issued by the court a quo against the defendants including Felix Gochan & Sons Realty Corporation." (pp. 101-105, Record on Appeal.)

Without delay, Reyes filed another motion for execution in the trial court which, on October 13, 1970, granted a second alias writ of execution against the defendants, including Felix Gochan & Sons Realty Corporation (pp. 106-110, Record on Appeal).

Gochan filed a motion to set aside the order and writ of execution (pp. 110-117, Record on Appeal). The court denied it "without prejudice on the part of the oppositor-corporation to seek clarification from the Court of Appeals x x x on the question of whether by means of Resolution No. 44 ordering the inclusion of said corporation as party defendant, it becomes bound by the judgment automatically" (pp. 123-124, Record on Appeal).

Reyes pressed for the appointment of commissioners. Gochan opposed the motion as it was still awaiting clarification from the Court of Appeals (pp. 125-130, Record on Appeal). On December 9, 1970, the court fixed January 15, 1971 as the deadline for Gochan to secure the needed clarification.

Without waiting for the deadline, Gochan filed in the trial court on December 22, 1970 a "MOTION TO ADMIT ANSWER AND TO AUTHORIZE DEFENDANT FELIX GOCHAN & SONS REALTY CORPORATION TO CROSS-EXAMINE PLAINTIFF'S WITNESSES AND TO ADDUCE EVIDENCE IN SUPPORT OF ITS STAND." Reyes opposed it (pp. 150-161, Record on Appeal). The trial court denied Gochan's motion for being "unprecedented" as the case had already been decided on July 5, 1957, or 13 years earlier, and the period for filing an answer had long expired (pp. 162-163, Record on Appeal).

On February 6, 1971, the court appointed three commissioners to make a partition of Lot 6733 (pp. 163-164, Record on Appeal). On April 13, 1971, they filed their Report, dividing the property into two parts (pp. 164-172, Record on Appeal). Gochan opposed the report on the grounds that: (1) the court lacked jurisdiction over it; (2) it was denied due process; (3) another case was pending between the same parties over the same land in another branch of the court; and (4) res judicata (pp. 173-177, Record on Appeal).

On June 10, 1971, the court approved the Commissioners' Report (p. 182, Record on Appeal). In due time, Gochan perfected an appeal to the Court of Appeals (CA-G.R. No. 49278-R) which affirmed the order of the lower court on December 19, 1978. Hence, this petition for review on certiorari by the aggrieved party, Gochan.

The petition is meritorious. The Court of Appeals, by impressing Gochan into the case long after the decision therein had become final, so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of this Court's power of supervision over it.

The Court of Appeals acted without jurisdiction when it issued its order changing the title of the partition case by impleading Gochan as an additional defendant long after its jurisdiction in the case had ceased.

As the registered owner of Lot 6733, Gochan was not bound by the decision in Civil Case No. R-1630 for it was never summoned in the case and no notice of the pendency of the said case had been annotated on the vendor

Jabutay's title (OCT No. 51) at the time Gochan purchased the lot. The applicable law is not Section 20, Rule 3 of the Rules of Court on which the Court of Appeals based its resolution of June 2, 1966 (p. 35, Record on Appeal) but Section 79 of Act 496 (now Sec. 76 of the Property Registration Law, P.D. 1529) which provides:

"SEC. 79. No action to recover possession of real estate, or to quiet the title thereto, or to remove clouds upon the title thereof, or for partition or other proceeding of any kind in court affecting the title to real estate or the use and occupation thereof or the buildings thereon, and no judgment or decree, and no proceeding to vacate or reverse any judgment or decree, shall have any effect upon registered land as against persons other than the parties thereto, unless a memorandum stating the institution of such action or proceeding and the court wherein the same is pending, and the date of the institution thereof, containing also a reference to the number of the certificate of title of the land affected and the volume and page of the registration book where it is entered, shall be filed and registered. x x x . " (Underscoring supplied.)

This is the essence of the rule on *lis pendens*. Therefore, when a case is commenced involving any right to lands registered under the Land Registration Law, any decision therein will bind the parties only, unless a notice of the pendency of such action is registered on the title of the land, in order to bind the whole world as well (Noblejas, *Land Titles and Deeds*, 1958 Ed., p. 192).

The judgment which was rendered in Civil Case No. R-1630, and which was affirmed by the Court of Appeals on June 18, 1964 in CA-G.R. No. 22909-R, did not bind Gochan because no notice of the pendency of said case was recorded in his vendor's (Jabutay's) title. Jabutay's title was clean and free from liens and encumbrances when Gochan purchased Lot 6733 on April 22, 1959. Gochan received a clean title too. Notice of the pendency of Civil Case No. 1630 was recorded, at Cañada's instance, on Gochan's title on February 12, 1962 five (5) years after judgment had been rendered on July 5, 1957 by the Court of First Instance of Cebu in Civil Case No. 1630.

The Court of Appeals' resolution impleading Gochan as an additional defendant in CA-G.R. No. 22909-R on August 26, 1970 by a mere resolution of said Court changing the title of the case more than six (6) years after it had rendered judgment therein, was null and void for lack of jurisdiction. The Appellate Court's jurisdiction ceased after its judgment in the case had become final and executory and was duly entered on August 20, 1967 (p. 45, Record on Appeal). Impleading Gochan as an additional defendant in the execution stage of the case, violated Gochan's right to due process. The Court of Appeals ignored the fact that Gochan was the registered owner of the entire Lot No. 6733 as evidenced by its TCT No. 19612 dated April 22, 1959, that Gochan was not a party in Civil Case No. R-1630, and that it did not have a chance to be heard therein or to defend its title.

The fact cannot be overemphasized that the registration of Lot 6733 under the Torrens system extinguished all claims, liens, and encumbrances on the land asserted prior to the issuance of the decree of registration except statutory liens, and those noted on the certificate (Sec. 39, Act 496). In a case where the land was purchased after the decree had been issued in favor of the vendor, this Court ruled that nothing that may vitiate the validity of such decree may affect the purchaser if the latter had acted in good faith (*Director of Lands vs. Martin*, 84 Phil. 140). Cañada's claim to one-half of the land under the decision in Civil Case No. R-1630 was extinguished by the registration of the entire lot in Jabutay's name. Said decision in Civil Case No. R-1630 may not be executed against an innocent purchaser of the land for value, which Gochan claims to be.

Respondent Mona Lisa Ma. Reyes' remedy, as Cañada's successor-in-interest, lies in an independent action against Gochan for reconveyance of her one-half share of Lot 6733. In that action, Gochan may defend its title and prove that it purchased the land in good faith and for value with a title superior to Reyes' unregistered claim. Or, Reyes may file a claim for damages against Cañada's estate to recover the consideration that she supposedly paid for his one-half share of the land.

WHEREFORE, the decision dated December 19, 1978 of the Court of Appeals in CA-G.R. No. 49278-R and the

order of partition dated June 10, 1971 issued by the Regional Trial Court in Civil Case No. R-1630 are annulled and set aside. Costs against the private respondent.

SO ORDERED.

Narvasa, Cruz and Medialdea, JJ., concur.

Gancayco, J., on leave.

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