

SALVACION MIRANDA, PLAINTIFF AND APPELLANTS, VS. ESTEBAN FADULLON AND SPOUSES DIONISIO SEGARRA AND CLEMENCIA N. DE SEGARRA, DEFENDANTS AND APPELLEES.*G.R. No. L-8220. October 29, 1955*

Ponente: MONTEMAYOR, J.

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The present appeal was first taken to the Court of Appeals. Later by resolution of the said court it was certified to us under section 17, paragraph 6 of the Judiciary Act of 1948, as amended, the said Tribunal being of the opinion that the case involved only questions of law. The facts as may be gathered from the pleadings filed by the parties may be briefly stated as follows. In the year 1939 one Lucio Tio was the owner of a parcel of land, lot 1589-J of the Banilad Estate, Cebu, under Transfer Certificate of Title No. 10548. On December 29, 1939, a power of attorney in favor of one Esteban Fadullon executed by Lucio Tio was registered in the land records of Cebu City and annotated at the back of the transfer certificate of title. On the same date the deed of mortgage in favor of the Cebu Mutual Building and Loan Association was also annotated on the same certificate of title. In the year 1946, on the strength of the said power of attorney Fadullon sold the property to the spouses Dionisio Segarra and Clemencia N. de Segarra with right to repurchase within the short period of 30 days. Upon failure of Fadullon to make the repurchase within this period, the Segarras about ten days after the expiration of the period filed a sworn petition for the consolidation of their ownership and registered said petition in the office of the Register of Deeds on May 15, 1946. Apprised of the sale of his property, Lucio Tio on June 4, 1946, filed a complaint in the Court of First Instance of Cebu, Civil Case No. 181 to annul the sale. Service of summons was made upon the Segarras on June 10, 1946. After hearing the trial court rendered judgment annulling the sale. The Segarras appealed to the Court of Appeals under CA—G. R. No. 6550-R and the said Tribunal affirmed the appealed decision and further required the Segarras to pay plaintiff the reasonable rentals on the property from the filing of the action until said property shall have been returned to plaintiff. Upon the decision becoming final the corresponding writ of execution was issued directing the Sheriff to put plaintiff Tio in possession of the lot. It turned out however that during the possession of the property by the Segarras they had introduced improvements thereon consisting of a building of three rooms and a storage room, and one artesian well, with tower and water tank and a cement flooring covering about one-third of the lot which according to the Segarras cost them P5,300. They then filed a motion with the trial court claiming that they were possessors in good faith of the lot in question, and that they had introduced the improvements aforementioned in good faith and asked the court to order the plaintiff to pay for the said improvements valued at P5,300 or to allow them to buy the land should the plaintiff decide not to pay for the improvements. On August 28, 1952, the trial court issued the following order:

"The attorney for the plaintiff has been accordingly served with copy of defendant's motion of July 31, 1952, filed through counsel.

"As prayed for, without opposition, the plaintiff is hereby ordered to either pay the defendant spouses, Dionisio Segarra and Clemencia N. Segarra (possessors in good faith) the sum of P5,300, value of the building erected

on the land in question, or otherwise allow said defendants to purchase the aforementioned lot."

The plaintiff filed a motion for reconsideration claiming that the Segarras were possessors and builders in bad faith and so were not entitled to reimbursement for the value of the improvements; that the reason he (plaintiff) did not file an opposition to the motion of the defendants asking for reimbursement was that he thought that the trial court was sufficiently informed and impressed with the bad faith with which defendants bought the land and introduced improvements thereon and that it would consequently deny their motion; and in support of his motion for reconsideration plaintiff quoted portions of the decision of the trial court and the Court of Appeals. Upon the denial of his motion for reconsideration, he took the present appeal.

After a careful review of the record we agree with the plaintiff-appellant. The trial court in its decision declaring the sale of the land to the defendants null and void and commenting on the alleged good faith of defendants in buying the property said the following:

"There are two circumstances which seem to stubbornly belie the professed good faith on the part of the Segarras in buying this property; namely, the circumstances of the power-of-attorney appearing on the back of the title as of five or six years previous and the other circumstances of the comparatively limited period of one month granted vendor Fadullon to redeem the property. Above all these, is the further circumstance that the said property had already been mortgaged in favor of the Cebu Mutual Building and Loan Association by virtue of that power-of-attorney.

"While the evidence did not disclose a collusion or conspiracy between Fadullon and the Segarras, yet, considering the short period of one month within which to redeem and the surrounding circumstances, the possibility of such collusion lingers.

"Obviously there was in this transaction a prevailing intention of railroading the property into a new ownership as may be proven by the fact that said purchasers filed a sworn petition for consolidating their ownership barely ten days after the expiration of thirty days, that is, on April 13, 1946, and registered with the office of Register of Deeds for Cebu twelve days thereafter, or on May 15, 1946."

The Court of Appeals in its decision affirming that of the trial court said:

"The Segarra spouses maintain that they are purchasers in good faith. We will now examine the record on this point. The alleged power of attorney executed by the late Lucio Tio in favor of appellant Fadullon was registered in the land record of the Register of Deeds of Cebu City and annotated at the back of Transfer Certificate of Title No. 10548 on December 29, 1939. On the same date, the deed of mortgage in favor of the Cebu Mutual Building and Loan Association was annotated in the said Torrens title (Exhibits 1 and 1-B). This encumbrance alone should have been sufficient to put the Segarra spouses upon an inquiry as to the authority of Fadullon to sell to them the same property six years later. For instance, the Segarras could have asked themselves this question: Did not the mortgage of P400 serve the purpose for which the power of attorney was executed?

"The Segarras did not require Fadullon to produce his power of attorney. While it is true that said power of attorney is annotated at the back of the Torrens title of Tio, it was still incumbent upon the Segarras to ascertain the scope and authority of Fadullon under said power of attorney. Fadullon executed the sale with the right to repurchase within the extraordinary short period of 30 days. This circumstance, again, should have placed the Segarras on their guards, knowing, as they did, that they were dealing with an agent under a power of attorney executed before the war. These unusual circumstances would seem to engender in our minds the possibility of collusion between the appellants, to hasten the registration of the title of the Segarras to the land in dispute . . .

"* * * the transfer of dominion on the property in question to the Segarras was null and void and of no effect.

The new Certificate of Torrens Title No. 392 on the property now in the name of the Segarras is hereby ordered cancelled and that a new one issued in the name of Lucio Tio and his wife Salvacion Miranda; ordering the Segarras to return the possession of said property to plaintiff;

"The defendants Segarras are furthermore required to pay plaintiff the reasonable rentals on the property from the filing of this action until such time as the said property shall have been returned to plaintiff ..."

Although neither the trial court nor the Court of Appeals did expressly say and in so many words that the defendants-appellees were possessors in bad faith, from a reading of their decisions particularly those we have just quoted, one can logically infer that that was the conclusion of the two courts, or to say it more mildly, that the defendants were not possessors in good faith. Moreover, the very fact that the Court of Appeals sentenced the defendants to pay rentals is an indication, even proof that defendants were considered possessors and builders in bad faith, or at least that they were not possessors and builders in good faith. A builder in good faith may not be required to pay rentals. He has a right to retain the land on which he has built in good faith until he is reimbursed the expenses incurred by him. Possibly he might be required to pay rental only when the owner of the land chooses not to appropriate the improvement and requires the builder in good faith to pay for the land, but that the builder is unwilling or unable to buy the land, and then they decide to leave things as they are and assume the relation of lessor and lessee, and should they disagree as to the amount of the rental then they can go to the court to fix that amount. Furthermore, plaintiff-appellant in her brief (page 7) says without denial or refutation on the part of defendants- appellees that they (defendants) applied for a building permit to construct the improvements in question on December 4, 1946 and the permit was granted on January 11, 1947, all this about seven months after they received the summons on June 10, 1946, meaning to say that the improvements were introduced long after their alleged good faith as possessors had ended.

In view of the foregoing, the appealed order of August 28, 1952 and the order of October 15, 1952, denying plaintiff's motion for reconsideration are set aside. With costs against appellees.

Paras, C. J., Bengzon, Padilla, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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