

MELQUIADES DEMASIADO, PLAINTIFF AND APPELLANT, VS. RAMON VELASCO, DEFENDANT-APPELLEE, NATIVIDAD APLASCA, TARCILA MORALIDAD AND LOLITA MORALIDAD, INTERVENORS AND APPELLANTS.

G.R. No. L-27844. May 10, 1976

Ponente: BARREDO, J.

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BARREDO, J.:

Direct appeal from the decision of the Court of First Instance of Iloilo in its Civil Case No. 7056, whereby the action for recovery of possession filed by appellant Melquiades Demasiado against appellee Ramon Velasco was dismissed as also the latter's counterclaim. The record is incomplete in so far as the appeal of the defendants-intervenors are concerned.[1] Nevertheless, the brief they have filed has already been answered by appellant Demasiado.

The pertinent portions of the appealed decision read thus:

"During the trial of the case the evidence of the plaintiff as testified to by said plaintiff shows that plaintiff bought the land in question - Lot 5169 Janiway cadastre - through pacto de retro sale on May 3, 1955 from his uncle Ambrosio Demasiado for P1,000.00 which vendor a retro could repurchase within ten years after the first five years from the date of the document as shown by document of sale with the right to repurchase Exhibit B. That said vendor a retro subsequently executed a deed of definite sale of same lot in favor of the plaintiff Melquiades Demasiado and his wife Jovita Pareja for a total consideration of P2,000.00 per deed of sale executed on May 14, 1966, Exh. C. That the said land in question was bought by said Ambrosio Demasiado from Pablo Britanico then Justice of the Peace of Janiway in 1936 as stated in the deed of definite sale Exh. C and testified to by plaintiff Melquiades Demasiado; that according to information, this land in question was bought by the late Judge Britanico from Feliciano Ablasca, father of defendants Ablasca; that plaintiff has been living in Silay City since 1963 and while there the land was possessed by his uncle Ambrosio Demasiado who died on November 21, 1966. That when the land in question was definitely sold to him by Ambrosio Demasiado in 1966, he visited the land and found therein defendant Ramon Velasco working on the southern portion of the land and he then told defendant Velasco not to work on the land but since he was not answered, he asked the help of a certain barrio captain Andong Moralidad and as he heard no news from the barrio captain nor from Ramon Velasco, he went to see his lawyer last July 1966 and this case was filed. That the land is still declared in the name of Ambrosio Demasiado per tax declaration No. 3670 Exh. D but he (plaintiff) paid taxes for this land from 1963 to 1966 as shown in Exh. E. That he obtained the sketch of Lot 5169 from the Bureau of Lands Exh. F and on the said plan, witness drew a straight line from point 3 to point 6 to show the northern portion that has been worked by their tenant Romeo Oveja since 1964 to 1966 while the southern portion was worked by defendant Ramon Velasco. This witness further testified that when he bought the land on pacto de retro in 1955, his uncle Ambrosio Demasiado possessed the lot as his overseer and that he was then given his yearly share from the land from 10 to 20 bultos of palay.

It is admitted that both Exh. B (deed of conditional sale dated May 3, 1955) and Exh. C (Deed of Absolute Sale

executed on May 14, 1966) though contained in a public document have not been registered in the office of the Register of Deeds of Iloilo.

The other witness for the plaintiff Aquilino Tablason, testified that he worked on the land as tenant from 1936 to 1947 when it was then owned by Ambrosio Demasiado and he was subsequently succeeded on the land by brothers Emilio Pareja and Ramon Pareja who begun working on the land from 1947 when it was owned by Ambrosio Demasiado and that in 1963, defendant Ramon Velasco entered the land and worked on the southern portion of said property.

Another witness for the plaintiff Romeo Oveja testified that he has been working on the land in question since 1964 under Ambrosio Demasiado and in 1966, he worked as tenant of Melquiades Demasiado who acquired it from Ambrosio Demasiado and that when he worked on the land he already saw there defendant Ramon Velasco working on the southern portion equivalent to 1/2 of the whole lot.

The defendant on the other hand presented only one witness in the person of Asuncion Aplasca who testified that she is one of the registered owners of Lot 5169 covered by Original Certificate of Title No. 61801, Exh. 6 issued on December 7, 1936, under the cadastral case and the said lot was adjudicated to herself and to her two brothers Potenciano, Eniceto and sister Natividad, all surnamed Aplasca in the undivided interest of 1/4 share each. That she occupied the northern portion of said lot 5169 together with her brother Potenciano, while her other brother Eniceto and sister Natividad occupied the southern portion; that sometime in 1946, she (Asuncion) together with her elder brother Potenciano Aplasca mortgaged their shares to Ambrosio Demasiado for P400.00 and because of said mortgage, Ambrosio Demasiado occupied their shares on the northern portion while the other 1/2 southern portion were occupied by Natividad and her husband Ramon Velasco; that the mortgage was then in writing made by a certain Judge Lutero but that they do not have now a copy of said mortgage which was lost, however, they paid to Ambrosio Demasiado the sum of P100.00 as part of the redemption price as shown by the undated receipt Exhibit 3.

After the presentation of this witness, defendants tried to introduce various exhibits as part of their evidence: Exhibit 1-Affidavit of Ramon Pareja which is a certified true copy of the affidavit of Ramon Pareja in the dialect. This affidavit supports the criminal complaint for coercion filed by Ambrosio Demasiado before the Municipal Court of Janiway Criminal Case No. 2190; Exhibit 2, which is Exh. F of the plaintiff, sketch plan of Lot 5169 wherein defendant's witness Asuncion Aplasca pointed that she and her brother Potenciano owned the northern portion of said lot while her other brother Eniceto and sister Natividad Aplasca owned the southern portion. Exhibit 3, an undated receipt in the Visayan dialect signed by Ambrosio Demasiado acknowledging "having received from Potenciano Aplasca and Asuncion Aplasca the sum of P100.00 in payment of my obligation to them." Exhibit 5, is an annotation found on tax declaration No. 3670 (Exh. D) in the name of Ambrosio Demasiado. In said tax declaration of the land in question is annotated the following: "Contested by Natividad Aplasca under Tax No. 518".) Exhibit 6, original certificate of title No. 61801 covering the land in question which is lot No. 5169 Janiway cadastre issued on December 7, 1936, in the names of Potenciano Aplasca married to Lucia M. Asuncion Aplasca the wife of Gregorio Bonito, Eniceto Aplasca, single, and Natividad Aplasca, single, in the undivided interests of 1/4 share each. Exhibit 7, a true copy of criminal complaint No. 2190 of the Justice of the Peace Court of Janiway for grave coercion charging the present defendant Ramon Velasco the crime of grave coercion, Exhibit 7-1, is the affidavit of Ambrosio Demasiado in Visayan attached to the criminal complaint to show that the present defendant Ramon Velasco, coerced and threatened to kill Ramon Pareja, tenant of Ambrosio Demasiado for plowing the land in question; Exhibit 8, the certified copy of the criminal docket of the Justice of the Peace Court of Janiway for criminal case No. 2190 showing that the said criminal case was dismissed; Exhibit 9 is original carbon copy of the complaint for forcible entry in Civil Case No. 577 of the Municipal Court of

Janiuay entitled "Ambrosio Demasiado vs. Ramon Velasco and Natividad Aplasca", for forcible entry and detainer over one-half (1/2) portion of the land in question; Exhibit 10, certified copy of Civil Case No. 577 entitled "Ambrosio Demasiado vs. Ramon Velasco and Natividad Aplasca" wherein it is shown that this case was dismissed provisionally on June 17, 1965. The English translation of Exhibit 1, affidavit of Ramon Pareja; Exhibit 3 undated receipt of P100.00 and Exhibit 7 affidavit of Ambrosio Demasiado, which were reserved then by defendant's counsel are already in the record. All exhibits except Exhibit 2 which is Exhibit F for the plaintiff were all objected by plaintiff's counsel on the ground that they are impertinent and immaterial and the court sustained the objections on the ground that they were not duly identified but on petition of defendant's counsel, all the said exhibits from 1 to 10 inclusive were attached to the record as defendant's counsel argued that they are public documents and under Secs. 21 and 26 of Rule 132 of the Rules of Court they should be admitted in evidence.

After a careful study of whether said Exhibits 1 to 10 of the defendants are admissible or not, we hold that under Sec. 47 of Act 496 Exhibit 6, which is the owner's copy of Original Certificate of Title No. 61801 is admissible and so with Exhibit 8 which is the transcript of Criminal Docket of Criminal Case No. 2190 certified by Municipal Judge of Janiuay and so with Exhibit 10, which is a transcript of civil docket of said Municipal Judge duly certified by said Municipal Judge for Civil Case No. 577, are the only exhibits for the defendant which should be admitted in the present instance.

From the evidence of the plaintiff, it has been established that plaintiff's claim to the land in question is premised on two unregistered documents, to wit: Deed of Sale with Right of Repurchase (Exh. B) executed on May 3, 1955 by spouses Ambrosio Demasiado and Sotera Arillo in favor of Melquiades Masado (Melquiades Demasiado) and Deed of Definite Sale (Exh. C) executed by same vendors on May 14, 1966. We note that in Exh. B (Deed of Sale with Right to Repurchase) executed by Ambrosio Demasiado and wife in favor of plaintiff Melquiades Masado (Melquiades Demasiado) in the description of the property in said Exh. B, there appears the words: "Original Certificate of Title No.____" and the boundaries of lot 5169 are stated by lot numbers. This shows that when said document was executed parties already knew that lot 5169 has been titled and it would have been easy for parties to inquire from the office of the Register of Deeds as to whether this land is titled or not. In plaintiff Exh. C (Deed of Definite Sale) the description of the property seems to have been copied from its tax declaration and it contains a statement that the vendors acquired the lot in question from the late Justice of the Peace Pablo Britanico in 1936. This fact would have given notice to the vendee to inquire about the original deed executed in 1936 by Britanico. It is only on these two documents, Exhs. B and C and the supposed possession of Ambrosio Demasiado of the whole lot that the plaintiff anchors his right over the whole lot 5169.

On the other hand, we have the uncontradicted testimony of Asuncion Aplasca, one of the registered owners of Lot 5169 that she and her brother Potenciano Aplasca, who is also one of the registered owners of the land in question, mortgaged their shares on the northern portion consisting of 1/2 of the entire lot to Ambrosio Demasiado in 1946 for P400.00 and that they have not redeemed the mortgage as they paid, so far, only P100.00 on the redemption value as shown in the undated receipt Exh. 3. Asuncion Aplasca when shown the sketch Exhibit 2 which is also Exhibit F for the plaintiff indicated in said sketch that what she and her elder brother Potenciano Aplasca mortgaged to Ambrosio Demasiado was on the northern portion of the land in question while the one-half portion of the whole lot on the southern portion pertained to Asuncion Aplasca, wife of defendant Ramon Velasco and the two daughters of the late Aniceta Aplasca, Tarcila Moralidad and Lolita Moralidad.

We have on record Owner's Duplicate Copy of Original Certificate of Title No. 61801 Exh. A for plaintiff and also Exh. 6 for defendants issued on December 7, 1936 for the lot in question which was decreed on October 27, 1934, in the name of Potenciano Aplasca, Asuncion Aplasca, Eniceto Aplasca and Natividad Aplasca in the

undivided 1/4 share for each. The title is clear for all liens and encumbrances except for a first lien in favor of the Insular government and there is no showing that the said title has ever been cancelled and annulled and unless clearly shown that said title has been fraudulently issued, its probative value as to the ownership of the land is binding against the whole world evidencing the ownership of persons in whose names the same was issued. Section 47 of Act 496 as amended, provides as conclusive, all matters contained in the Certificate of Title except on matters otherwise provided in said Act. And as decided in the cases of *Visayan Surety & Ins. Corp. vs. Versoza*, 72 Phil. 362 and *Jurado vs. Flores*, 79 Phil. 451 cited on page 144 on Peña's *Registration of Land Titles and Deeds*, Rev. Ed., it is held, "* * *" that, unless bad faith can be established on the part of the persons appearing as owner on the certificate of title, there is no other owners than that in whose favor it has been issued."

The statement found in the deed of absolute sale Exh. C and the testimony of the plaintiff Melquiades Demasiado, that according to information, the land in question was first acquired by the late Pablo Britanico from the father of the defendant Aplasca, that the said Pablo Britanico subsequently sold the land to Ambrosio Demasiado in 1936, from whom the present plaintiff acquired the land in question, can not in itself overthrow the existence of a valid Original Certificate of Title (Exhibit 6) as to the ownership of the land covered by said title. As admitted by the defendant through the testimony of their witness Asuncion Aplasca that she and her brother Potenciano mortgaged their 1/4 share each or 1/2 of the whole lot 5169 on the northern portion to Ambrosio from whom the present plaintiff acquired his right, said Ambrosio could not have acquired the whole lot and could not have therefore transferred to plaintiff Melquiades Demasiado more than what he has acquired from Asuncion and Potenciano Aplasca, so that plaintiff Melquiades Demasiado only acquired a right over 1/2 of the whole lot 5169. The evidence for the defendants testified to by Asuncion Aplasca shows that the defendant Ramon Velasco has been possessing and cultivating 1/2 of the whole lot in the southern portion thereof while she and her brother Potenciano, occupied the northern portion before they mortgaged their shares to Ambrosio Demasiado in 1946. It also appears that in spite of a criminal complaint and a civil action, filed by the late Ambrosio Demasiado against Ramon Velasco, said Ramon Velasco insisted and persisted on his possession of the 1/2 southern portion of the lot.

Based on evidence presented by plaintiff and defendants, the plaintiff has not even proved his clear right over the whole lot, and much more on the one-half (1/2) southern portion occupied by defendant Ramon Velasco for his co-defendants as what has been admitted by defendants is the mortgage of the 1/2 portion on the north of the lot in question. Exhibits B and C (Deeds of Sale) could not be superior to the existing valid original certificate of title, Exh. 6.

With respect to the claim of the defendants to the right of legal redemption, we find that said right of legal redemption on the part of Asuncion Aplasca and Tarcila Moralidad and Lolita Moralidad in pursuance to the provisions of Art. 1623 of the New Civil Code has long expired and they can not now claim that right as it can not be denied that said defendants Asuncion Aplasca and the two Moralidad sisters have long known that the other 1/2 portion of the land in question has been possessed and acquired by plaintiff's predecessor in interest Ambrosio Demasiado and subsequently, by the plaintiff.

IN VIEW OF THE FOREGOING CONSIDERATIONS, judgment is hereby rendered dismissing plaintiff's complaint. For lack of merit, defendants' counterclaim is likewise dismissed.

SO ORDERED." (Pp. 37-49, Rec. on Appeal.)

On the other hand, appellant has assigned only two alleged errors in the above decision as follows:

"PRIMER ERROR - El Juzgado erro al dar valor probatorio, invocando el Art. 47 de la Ley No. 496, al titulo Torrens Exh. 6, despues de no haberlo admitido por "not duly identified";

SEGUNDO ERROR - Y el Juzgado erro al negar valor probatorio a las escrituras de venta con pacto de retro Exh. B y definitiva Exh. C, admitidas sin objecion, y al sobreseer la demanda "In View Of The Foregoing Considerations" no ajustadas a derecho."

Under the first assignment of error, counsel assails the ruling of the trial court sustaining the conclusiveness as proof of the ownership of the land claimed by him of the transfer certificate of title issued in 1936 in the name of appellee Ramon Velasco's wife Natividad Aplasca showing her to be the owner of 1/4 share thereof. According to said title and as found by His Honor, the owners of the other three-fourths (3/4) of said land are: Natividad's brother Aniceto or Eniceto Aplasca, already deceased and succeeded by his heirs Tarcila and Lolita Moralidad, and her other brother Potenciano and sister Asuncion, in equal shares. As against such title, appellant is relying only on an alleged series of transfers of the property in question from Feliciano Aplasca, father of the Aplasca brothers and sisters already mentioned, first to Judge Pablo Britanico, then to Ambrosio Demasiado, uncle of appellant, in 1966, purportedly by virtue of an unregistered deed of sale, Exhibit C, and lastly to appellant in 1966 by virtue of a "deed of definite sale" complementing a sale with pacto de retro previously executed by Ambrosio in favor of appellant. As may be noted, no deed of any kind was produced to proved the supposed transfer from Feliciano Aplasca to Judge Britanico.

In these premises, We cannot see how the contention of appellant can be sustained. Under Section 47 of the Land Registration Act, (Act No. 496) the certificate of title covering registered land "shall be received as evidence in all courts of the Philippines, and shall be conclusive as to all matters contained therein (principally, the identity of the owner of the land covered thereby) except so far as provided" in the Act itself. And there is no pretense that appellant comes under any of the exceptions mentioned in Section 39 of the Act. What appellant tries to point out, however, is that the trial court admitted the certificate of title invoked by appellee without the same being properly identified. According to appellant, although the trial court did rule that said certificate "should be admitted", it did not actually rule that "they are hereby admitted." We believe such argument is unavailing, considering that His Honor's ruling that said certificate, "the owner's copy of Original Certificate of Title No. 61801 is admissible", was precisely made after originally sustaining appellant's counsel's objection to its admission, which must be deemed to be clearly even if not categorically, a reconsideration and reversal of its earlier ruling rejecting the same.

In his second assignment of error, appellant insists that the trial court should have recognized the probative value of the two unregistered deeds of transfer relied upon by him, Exhibits B and C, referred to above, since they are public documents. But, firstly, there is some inaccuracy in the contention of appellants' counsel. His Honor did not actually disregard Exhibits B and C. What the trial judge held was as follows:

"The statement found in the deed of absolute sale Exh. C and the testimony of the plaintiff Melquiades Demasiado, that according to information, the land in question was first acquired by the late Pablo Britanico from the father of the defendant Aplasca, that the said Pablo Britanico subsequently sold the land to Ambrosio Demasiado in 1936, from whom the present plaintiff acquired the land in question, can not in itself overthrow the existence of a valid Original Certificate of Title (Exhibit 6) as to the ownership of the land covered by said title. As admitted by the defendant through the testimony of their witness Asuncion Aplasca that she and her brother Potenciano mortgaged their 1/4 share each or 1/2 of the whole lot 5169 on the northern portion to Ambrosio from whom the present plaintiff acquired his right, said Ambrosio could not have acquired the whole lot and could not have therefore transferred to plaintiff Melquiades Demasiado more than what he has acquired from Asuncion and Potenciano Aplasca, so that plaintiff Melquiades Demasiado only acquired a right over 1/2 of the whole lot 5169. The evidence for the defendants testified to by Asuncion Aplasca shows that the defendant Ramon Velasco has been possessing and cultivating 1/2 of the whole lot in the southern portion thereof while she and her brother Potenciano, occupied the northern portion before they mortgaged their shares to Ambrosio Demasiado in 1946. It

also appears that in spite of a criminal complaint and a civil action filed by the late Ambrosio Demasiado against Ramon Velasco, said Ramon Velasco insisted and persisted on his possession of the 1/2 southern portion of the lot.

Based on evidence presented by plaintiff and defendants, the plaintiff has not even proved his clear right over the whole lot, and much more on the one-half (1/2) southern portion occupied by defendant Ramon Velasco for his co-defendants as what has been admitted by defendants is the mortgage of the 1/2 portion on the north of the lot in question. Exhibits B and C (Deeds of Sale) could not be superior to the existing valid original certificate of title, Exh. 6.

With respect to the claim of the defendants to the right of legal redemption, we find that said right of legal redemption on the part of Asuncion Aplasca and Tarcila Moralidad and Lolita Moralidad in pursuance to the provisions of Art. 1623 of the New Civil Code has long expired and they can not now claim that right as it can not be denied that said defendants Asuncion Aplasca and the two Moralidad sisters have long known that the other 1/2 portion of the land in question has been possessed and acquired by plaintiff's predecessor in interest Ambrosio Demasiado and subsequently, by the plaintiff." (Pp. 47-48, Rec. on Appeal.)

In other words, all that His Honor did was to apply the accepted rule that a certificate of title covering registered land is not subject to collateral attack. And as to the supposed evidence presented by appellant of long possession until appellee allegedly entered the land in question (the southern portion, which according to the title pertains to Natividad and Enecito Aplasca) in 1963, We are not in a position to reverse the factual finding of the trial court adverse to such contention, this appeal being purely on question of law. In any event, it is the law that "no title to registered land in derogation to that of the registered owner shall be acquired by prescription or adverse possession." (Section 46, Land Registration Act.)

In consequence of the above premises, We have no alternative but to affirm the appealed decision in toto.

As regards the appeal of the intervenors, seeking to enforce their supposed right to redeem from appellant Melquiades Demasiado the northern portion of the land in question, from what appears in the appealed decision, there has been no sale of said portion to appellant but only a mortgage, and since there is no showing as to what is the status of said mortgage, there is no clear basis for Us to determine at this stage whether or not the invoked right of redemption may still be exercised. We note, however, that the lower court has held that the period therefor has expired. Intervenors have not shown, they have not even alleged in any of their assignments of error, that such is not the case.

The judgment of the trial court is affirmed with costs against appellant Melquiades Demasiado.

Fernando, (Acting C.J.), Antonio, Aquino, and Martin, JJ., concur.

[1] The record on appeal of intervenors has not been elevated and there is only their motion to join appellant's record.

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