

**LAARNI RECTO GUTIERREZ AND VICTORIO RECTO,
PLAINTIFFS-APPELLEES, VS. GILMORE RECTO, MONICA RECTO,
AILEEN RABINO AND STEPHAN PERSCHKE,
DEFENDANTS-APPELLANTS.**

Ponente: REYES, JR., A. J.

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REYES, JR., A. J.:

This is an appeal from the Decision dated 20 August 2004 (Records, pp. 404-415) of the Regional Trial Court of Romblon, Romblon, Branch 81, in Civil Case No. V-1292 for “Annulment of Deed of Donation, Cancellation of OCT No. P-17711, Reconveyance & Damages, with Prayer for Issuance of Preliminary Injunction” decided in favor of plaintiffs-appellees Laarni Recto Gutierrez and Victorio Recto, the dispositive portion of which reads:

“WHEREFORE, all premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

- The Deed of Donation Inter Vivos (Exhibit ‘D’) from defendant Monica Recto in favor of defendant Gilmore Recto is declared null and void;
- The Original Certificate of Title No. P-17711 (Exhibit ‘C’) in the name of defendant Gilmore Recto and his wife is declared null and void.
- The Absolute Deeds of Sale (Exhibits ‘3’ and ‘4’) as well as the two (2) Special Powers of Attorney (Exhibits ‘F’ and ‘G’) executed by defendant Gilmore Recto and defendant Aileen Rabino, respectively are declared null and void;
- All the Contracts of Lease (Exhibit ‘H’ and ‘I’ and sub-markings) executed by defendant Aileen Rabino and/or defendant Stephan Perschke in favor of all the other defendants are hereby cancelled;
- All the defendants particularly Gilmore Recto and his wife hereby directed to reconvey the subject titled property to the plaintiffs Laarni (Recto) Gutierrez, Victorio Recto, as well as to defendants Gilmore Recto and Monica Recto who are the lawful owners;
- All other defendants concerned are hereby directed to renegotiate with, and execute new contracts of lease with plaintiffs and the lawful owners of the land, otherwise Article 1678 of the New Civil Code applies;
- The defendants Gilmore Recto, Stephan Perschke, and Aileen Rabino, are ordered jointly and severally to pay plaintiffs the amount of P50,000.00 as moral damages, P50,000.00 as exemplary damages, P50,000.00 as and for attorney’s fees plus P1,500.00 per Court appearance and the costs of the suit;
- Defendants Gilmore Recto, Stephan Perschke, and Aileen Rabino, are hereby commanded to reimburse co-defendants Gerd Gandert, Johannes Hans Muethen, and Klaus –Dietr Wuttke, the amount of P50,000.00 DM, 20,000.00 DM and 30,000.00 DM, respectively or their peso equivalent, with legal interests thereon.
- Aforesaid defendants Gilmore Recto, Stephan Perschke, and Aileen Rabino Counterclaims are hereby dismissed for lack of merit.

- In accordance hereto, the Writ of Preliminary Injunction is hereby made permanent; therefore, all the defendants herein are hereby restrained from entering into transactions concerning the land in question as well as introducing improvements thereon without prior authorization from herein plaintiffs and their co-owners.

With costs against defendants Gilmore Recto, Stephan Perschke, and Aileen Rabino.

SO ORDERED.” (Records, pp. 413-414)

It is undisputed that: plaintiffs-appellees and defendant Gilmore Recto (“Gilmore”, for brevity) are the children of the late Felix Recto (Felix, for brevity) and defendant Monica Recto (“Monica”, for brevity). The subject parcel of land was purchased by spouses Felix and Monica Recto on 21 March 1979. Felix died on 1 April 1992 but his estate had never been settled. In 1996, Monica executed a Deed of Donation (Exhibit “D”) over the subject property in favor of Gilmore but the donation was without the consent of plaintiffs-appellees. Later, Gilmore was able to obtain a Free Patent from the Bureau of Lands pursuant to which OCT No. P-17711 was issued. The subject parcel of land was then sold by Gilmore to defendant-appellant Stephan Perschke (“Stephan”, for brevity) through his minor daughter Stephanie (See: Exh. “3”). Later, another Deed of Absolute Sale over the same parcel of land was executed by Gilmore in favor of defendant-appellant Aileen Rabino (common-law wife of Stephan) because Stephanie, being a minor, could not enter into a valid contract. A special power of attorney was executed by Gilmore in favor of defendant-appellant Aileen Rabino (“Aileen”, for brevity) because Stephan discovered that the subject parcel of land could not be sold within five (5) years from the issuance of the free patent. Aileen, in turn, executed in favor of Stephan a special power of attorney to enable him to enter into contracts of lease with third parties.

Seeking to recover the title of the land, plaintiffs-appellees filed a complaint for “Annulment of Deed of Donation with Damages and Request for Preliminary Injunction” (Records, pp. 1-3). However, before responsive pleading can be filed by defendants-appellants, an Amended Complaint (Records, pp. 6-10) was filed. Plaintiffs-appellees alleged that they are the children of late Felix and defendant Monica. They claimed that the deed of donation was executed by Monica without their consent. They asserted that by virtue of the deed of donation, Gilmore was able to obtain a free patent title. They also claimed that a deed of sale was first executed in favor of Stephanie but subsequently a new deed of sale was executed with Aileen as vendee. They sought for the annulment of the deed of donation and cancellation of OCT No. P –17711. They also sought for the issuance of an injunctive order against defendants from further introducing improvements on the subject parcel of land. They also prayed for damages and attorney’s fees.

Still later, a second amended complaint was filed to include the German nationals named therein for having entered into contracts of lease over the subject parcel of land.

Defendants Gilmore and Monica filed an Answer to the Amended Complaint (Records, pp. 6-10) admitting that the deed of donation was without approval of plaintiffs-appellees, and that it resulted to the deprivation of plaintiffs-appellees’ share in the estate of Felix Recto.

Aileen and Stephan, on the other hand, alleged in their Answer (Records, pp. 18-20) that they are in actual physical possession of the subject property and they acquired the same in good faith and without any knowledge of any infirmity of Gilmore’s title.

After the above-mentioned second Amended Complaint was filed, Monica filed a new Answer (to Second Amended Complaint) (Records, pp. 90-91) where she admitted that the donation in favor of Gilmore was null and void because it deprived her other children of their share in the estate of Felix Recto.

During trial, plaintiff-appellee Victorio Recto and defendant Johannes Hans Muethen were presented as witnesses

for plaintiffs-appellees. Their testimonies were summed up by the trial court as follows:

“In the trial on the merits, first witness plaintiff Victorio Recto testified among others, that the lot in question was donated by his defendant mother Monica to defendant Gilmore (Exhibit ‘D’); that he learned of the transfer of the property from his mother defendant Monica while he was in the United States, that the subject property has been titled in the name of his brother Gilmore by virtue of a free patent issued by the government (Exhibit ‘C’ and sub-markings). Annotated on the back of the title were several contracts of lease (Exhibits ‘H’ and ‘I’ and sub-markings) executed between defendant Perschke and defendants German nationals by virtue of Special Power of Attorney (Exhibit ‘G’) given to him by defendant Rabino, who derived her authority from defendant Gilmore (Exhibit ‘F’). Defendant Perschke has no right to lease the subject property to another person because the same belongs to the Rector family.

One of the alien defendants, Johannes Hans Muethen, who was plaintiffs’ adverse party witness, declared that in April 1997, he read an advertisement in a German newspaper about a beautiful place in Sibuyan island. Impressed thereby, he entered into a Contract of Lease over the lots he now occupies with defendant Perschke who represented himself to be the owner thereof. On behalf of his Filipina wife, he paid the amount of 10,000.00 Marks or equivalent to about P200,000.00. However, he later found out that the land belonged to the Rectos.” (Records, pp. 407-408)

Upon the other hand, only Stephan was presented as witness by the defense and his testimony was summed up by the trial court as follows:

“In his testimony, defendant Perschke testified that he prospected for a real property with a beach front and decided to acquire the land in question; that through his minor daughter Stephanie, he purchased the subject property (Exhibit ‘3’) after defendant Gilmore obtained a title on the lot. In fact, there was another Absolute Deed of Sale (Exhibit ‘4’) that the latter executed in favor of defendant Rabino. The second document had to be made to his common-law wife Aileen since he was not allowed to own a land in the Philippines. When he discovered that defendant Gilmore’s title was only a free patent, upon advice at the Register of Deed of Romblon, he caused a Special Power of Attorney to be executed by the former in favor of defendant Rabino, who in turn gave another Special Power of Attorney (Exhibit ‘5’) to the witness. Perschke then caused the subdivision of the property into 40 lots and leased 37 thereof to different foreign nationals, mostly Germans.” (Records, pp. 408-409)

After trial, the court below ruled in favor of plaintiffs-appellees. First, the trial court refused to dismiss the case and ruled that plaintiffs-appellees had a cause of action against defendants-appellants. On the merits of the case, the trial court found that the donation was invalid based on Monica’s own admission that she did not know that Gilmore would use the said deed to cause the entire property to be titled in his own name. The trial court continued that even if the deed were not tainted with fraud, it would be valid only as to Monica’s share in the estate of Felix. As to Gilmore’s title, the trial court held that because Gilmore obtained the free patent through misrepresentation he had no valid title. The Court continued that the indefeasibility of a torrens title does not attach to Gilmore’s title because it was secured through fraud. The trial court further stated that assuming that Gilmore had a valid title, Section 118 of the Public Land Act prohibits alienation or encumbrance of a land obtained through a free patent within five (5) years from the issuance thereof. The trial court also added that because the property was acquired through fraud, Gilmore holds the same merely as a trustee and had a duty to re-convey the same to the real owners. The court below also found that Stephan and Aileen are not innocent purchasers for value because they had the benefit of counsel in the execution of the deed of sale and the special power of attorney. Finally, the trial court ruled that there is no laches because plaintiffs-appellees acted within two (2) years after they found out about the transfer of the subject property.

Obviously dissatisfied, Aileen and Stephan are now before this Court raising the following as errors:

“THE LOWER COURT SERIOUSLY ERRED IN ORDERING THE RECONVEYANCE OF THE SUBJECT PROPERTY TITLED IN THE NAME OF DEFENDANT GILMORE RECTO UNDER O.C.T. NO. P-17711 IN FAVOR OF PLAINTIFFS-APPELLEES AND DEFENDANT MONICA RECTO ABSENT OF CLEAR AND CONVINCING EVIDENCE OF THE LATTER’S TITLE OR OWNERSHIP OVER THE PROPERTY AND ABSENT OF CLEAR AND CONVINCING EVIDENCE OF FRAUD COMMITTED BY DEFENDANT GILMORE RECTO IN HIS APPLICATION FOR FREE PATENT.

THE LOWER COURT SERIOUSLY ERRED IN DECLARING O.C.T. NO. P-17711 IN THE NAME OF DEFENDANT GILMORE RECTO NULL AND VOID WITHOUT SUFFICIENT EVIDENCE BUT BASED MERELY ON ITS PRESUMPTION THAT THE LATTER COMMITTED FRAUD AND MISREPRESENTATION IN HIS APPLICATION FOR FREE PATENT BEFORE THE BUREAU OF LANDS AND NOTWITHSTANDING THE INDEFEASIBILITY OF THE TORRENS TITLE ONE YEAR AFTER THE ISSUANCE OF DECREE OR PATENT.

THE LOWER COURT ALSO ERRED IN FINDING THAT DEFENDANT MONICA RECTO DID NOT EXECUTE THE DEED OF DONATION IN FAVOR OF DEFENDANT GILMORE RECTO WITHOUT SUFFICIENT EVIDENCE BUT BASED ONLY ON THE ADMISSIONS IN AN ANSWER ALLEGEDLY FILED BY DEENDANT MONICA RECTO WHO NEITHER APPEARED NOR TESTIFIED IN COURT.

THE LOWER COURT LIKEWISE ERRED IN ORDERING THE CANCELLATION OF THE SPECIAL POWER OF ATTORNEY EXECUTED BY DEFENDANT GILMORE RECTO IN FAVOR OF DEFENDANT-APPELLANT AILEEN RABINO AND BY THE LATTER IN FAVOR OF DEFENDANT-APPELLANT STEPHAN PERSCHKE WITHOUT SUFFICIENT REASON AND FINDING THAT THE SAME CONSTITUTE AS ENCUMBRANCE OR ALIENATION OF PROPERTY PROHIBITED WITHIN A PERIOD OF FIVE (5) YEARS FROM ISSUANCE OF PATENT UNDER SECTION 118 OF THE PUBLIC LAND ACT (C.A. NO. 141, AS AMENDED). (Rollo, pp. 70-72)

The Court finds that there are two (2) distinct contracts entered into by the parties to this case. The first, the deed of donation purportedly transferring the property from Monica to Gilmore, and the second, the deed of sale executed by Gilmore in favor of Aileen. The Court will first tackle the contract entered into between Gilmore and Aileen.

The Court finds that the trial court was correct in striking down the said deed of sale because it contravenes the provision of the Public Land Act. It is undisputed that defendants-appellants purchased the subject property within five (5) years from issuance of the free patent in violation of the Public Land Act, hence, no right whatsoever was transferred to them.

Having ruled the sale to defendant-appellant to be void, the Court finds that the only connection between defendants-appellants and the subject property are the special power of attorney executed by Gilmore in favor of Aileen and the special power of attorney executed by Aileen in favor of Stephan. In short, the only connection that defendants-appellants may claim to have regarding the subject property is that they are agents of Gilmore, assuming of course that Gilmore is the owner of the property. The question that necessarily arises, therefore, is: Being mere agents, do defendants-appellants have the personality to question the validity of the donation?

It is settled that agents are mere extensions of the principal and their acts are valid only if they do not contravene the authority granted to them (See: *Siredy Enterprises, Inc. v. Court of Appeals*, 389 SCRA 34 [2002]). In the present case, the principal (Gilmore) admitted in his Answer (Records, pp. 16-17) to the amended complaint that the donation in his favor was without approval and consent of the two (2) other heirs and that the donation resulted in the deprivation of the share of plaintiffs-appellees in the estate of Felix and because of the foregoing, the donation is null and void. This admission made by the principal binds the agents, hence, the agent cannot now come to court and claim otherwise.

The Court also agrees with the trial court that Gilmore did not question the admission made by Monica regarding the donation, hence, said admission binds Gilmore that in turn binds defendants-appellants.

As to the assertion that plaintiffs-appellees failed to prove possession since 1945 in accordance with the Land Registration Law, the Court finds this issue irrelevant in the present case because this case does not involve an application for registration of title but merely one to enforce plaintiffs-appellees' right of possession over the property.

Moreover, defendants-appellants may have confused an action for reversion with an action for reconveyance. The present case is not one for reversion, which only the Solicitor General can file, but one for reconveyance, which can be filed by any person who has a better right over the property.

The Court also finds defendants-appellants' assertion that there was no fraud because there was no evidence that the deed of donation was used by Gilmore to obtain his free patent untenable. The fraud in the present case is Gilmore's misrepresentation that he owns the entire property. Therefore, whether or not Gilmore used the deed of donation to obtain the free patent would not change the fact that he committed fraud in the application by failing to name his co-heirs in the application.

As to the claim that the title had become infeasible after one (1) year, it should be remembered that the present case is not for cancellation of title but for reconveyance. That is, the Torrens title would be respected but that the land it covers should be delivered to the proper owners. Thus, in *Villanueva Mijares v. Court of Appeals* (330 SCRA 349 [2000]) it was held:

“x x x True, but notwithstanding the binding effect of the land registration case upon the private respondents, the latter are not deprived of a remedy. While a review of the decree of registration is no longer available after the expiration of the one-year period from entry thereof, an equitable remedy is still available. Those wrongfully deprived of their property may initiate an action for reconveyance of the property.” (330 SCRA at 360)

WHEREFORE, premises considered, the Decision dated 20 August 2004 of the Regional Trial Court of Romblon, Romblon, Branch 81 in Civil Case No. V-1292 is hereby AFFIRMED.

SO ORDERED.

Abdulwahid and Punzalan Castillo, JJ., concur.

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