

**CONSUELO S. DE GARCIA AND ANASTACIO GARCIA, PETITIONERS,
VS. HON. COURT OF APPEALS, ANGELINA D. GUEVARA AND JUAN B.
GUEVARA, RESPONDENTS.**

G.R. No. L-20264. January 30, 1971

Ponente: FERNANDO, J.

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FERNANDO, J.:

This petition for certiorari to review a decision of respondent Court of Appeals was given due course because it was therein vigorously asserted that legal questions of gravity and of moment, there being allegations of an unwarranted departure from and a patent misreading of applicable and controlling decisions, called for determination by this Tribunal. The brief for petitioners-spouses, however, failed to substantiate such imputed failings of respondent Court. The performance did not live up to the promise. On the basis of the facts as duly found by respondent Court, which we are not at liberty to disregard, and the governing legal provisions, there is no basis for reversal. We affirm.

The nature of the case presented before the lower court by private respondent Angelina D. Guevara, assisted by her spouse, Juan B. Guevara, as plaintiffs, was noted in the decision of respondent Court of Appeals thus: "Plaintiff seeks recovery of 'one (1) lady's diamond ring 18 cts. white gold mounting, with one (1) 2.05 cts. diamond-solitaire, and four (4) brills 0.10 cts. total weight' which she bought on October 27, 1947 from R. Rebullida, Inc." [1] Then came a summary of now respondent Guevara of her evidence: "Plaintiff's evidence tends to show that around October 11, 1953 plaintiff while talking to Consuelo S. de Garcia, owner of La Bulakeña restaurant recognized her ring in the finger of Mrs. Garcia and inquired where she bought it, which the defendant answered from her comadre. Plaintiff explained that that ring was stolen from her house in February, 1952. Defendant handed the ring to plaintiff and it fitted her finger. Two or three days later, at the request of plaintiff, plaintiff, her husband Lt. Col. Juan Guevara, Lt. Cementina of Pasay PD, defendant and her attorney proceeded to the store of Mr. Rebullida to whom, they showed the ring in question. Mr. Rebullida examined the ring with the aid of high power lens and after consulting the stock card thereon, concluded that it was the very ring that plaintiff bought from him in 1947. The ring was returned to defendant who despite a written request therefor failed to deliver the ring to plaintiff. Hence, this case. Later on when the sheriff tried to serve the writ of seizure (replevin), defendant refused to deliver the ring which had been examined by Mr. Rebullida, claiming it was lost." [2]

How the defendant, Consuelo S. de Garcia, the present petitioner before us, along with her husband Anastacio Garcia, sought to meet plaintiff's claim was narrated thus: "On the other hand, defendant denied having made any admission before plaintiff or Mr. Rebullida or the sheriff. Her evidence tends to show that the ring (Exhibit 1) was purchased by her from Mrs. Miranda who got it from Miss Angelita Hinahon who in turn got it from the owner, Aling Petring, who was boarding in her house; that the ring she bought could be similar to, but not the same ring plaintiff purchased from Mr. Rebullida which was stolen; that according to a pawn-shop owner the big diamond on Exhibit 1 was before the trial never dismantled. When dismantled, defendant's diamond was found to weigh 2.57 cts." [3]

Plaintiff lost in the lower court. She elevated the matter to respondent Court of Appeals with the judgment of the lower court being reversed. It is this decision now under review.

These are the facts as found by respondent Court of Appeals: "That the ring brought by the parties for examination by Rafael Rebullida on December 14, 1953 was the same ring purchased by plaintiff from R. Rebullida, Inc. on October 27, 1947 and stolen in February, 1952 has been abundantly established by plaintiff's evidence. Before plaintiff lost the ring, she had been wearing it for six years and became familiar with it. Thus, when she saw the missing ring in the finger of defendant, she readily and definitely identified it. Her identification was confirmed by Mr. Rafael Rebullida, whose candid testimony is entitled to great weight, with his 30 years experience behind him in the jewelry business and being a disinterested witness since both parties are his customers. Indeed, defendant made no comment when in her presence Rebullida after examining the ring and stock card told plaintiff that that was her ring, nor did she answer plaintiff's letter of demand,* * * asserting ownership. Further confirmation may be found in the extra-judicial admissions, contained in defendant's original and first amended answers* * *." [4]

These further facts likewise appear therein: "The foregoing proof is not counterbalanced by the denial on the part of defendant or the presentation of the ring, Exhibit I, which has a diamond-solitaire weighing 2. 57 cts., or much heavier than the lost diamond weighing 2.05 cts. only. It is noteworthy that defendant gave a rather dubious source of her ring. Aling Petring from whom the ring supposedly came turned out to be a mysterious and ephemeral figure. Miss Hinahon did not even know her true and full name, nor her forwarding address. She appeared from nowhere, boarded three months in the house of Miss Hinahon long enough to sell her diamond ring, disappearing from the scene a week thereafter. Indeed, the case was terminated without any hearing on the third-party and fourth-party complaints, which would have shown up the falsity of defendant's theory. Moreover, Mrs. Baldomera Miranda, third-party defendant, who tried to corroborate defendant on the latter's alleged attempt to exchange the ring defendant bought through her, is [belied] by her judicial admission in her Answer that appellee 'suggested that she would make alterations to the mounting and structural design of the ring to hide the true identity and appearance of the original one' (Cunanan vs. Amparo, 45 O.G. 3796). Finally, defendant is refuted by her own extra-judicial admissions* * * although made by defendant's counsel. For an attorney who acts as counsel of record and is permitted to act as such, has the authority to manage the cause, and this includes the authority to make admission for the purpose of the litigation. * * * Her proffered explanation that her counsel misunderstood her is puerile because the liability to error as to the identity of the vendor and the exchange of the ring with another ring of the same value, was rather remote." [5]

It is in the light of the above facts as well as the finding that the discrepancy as to the weight between the diamond-solitaire in Exhibit I and the lost diamond was due to defendant having "substituted a diamond-solitaire of plaintiff with a heavier stone" that the decision was rendered, respondent Court reversing the lower court and ordering defendant, now petitioner Consuelo S. de Garcia, to return plaintiff's ring or face value of P1,000.00 and costs, as well as to pay plaintiff P1, 000.00 as attorney's fees and P1, 000.00 as exemplary damages. Hence this appeal.

To repeat, there is no occasion to reverse respondent Court. It correctly applied the law to the facts as found.

1. The controlling provision is Article 559 of the Civil Code. It reads thus: "The possession of movable property acquired in good faith is equivalent to a title. Nevertheless, one who has lost any movable or has been unlawfully deprived thereof may recover it from the person in possession of the same. If the possessor of a movable lost of which the owner has been unlaw-fully deprived, has acquired it in good faith at a public sale, the owner cannot obtain its return without reimbursing the price paid therefore. " Respondent Angelina D. Guevara, having been unlawfully deprived of the diamond ring in question, was entitled to recover it from petitioner Consuelo S. de

Garcia who was found in possession of the same. The only exception the law allows is when there is acquisition in good faith of the possessor at a public sale, in which case the owner cannot obtain its return without reimbursing the price. As authoritatively interpreted in *Cruz v. Pahati*,^[6] the right of the owner cannot be defeated even by proof that there was good faith in the acquisition by the possessor. There is a reiteration of this principle in *Aznar v. Yapdiangco*.^[7] Thus: "Suffice it to say in this regard that the right of the owner to recover personal property acquired in good faith by another, is based on his being dis-possessed without his consent. The common law principle that where one of two innocent persons must suffer by a fraud perpetrated by another, the law imposes the loss upon the party who, by his misplaced confidence, has enabled the fraud to be committed, cannot be applied in a case which is covered by an express provision of the new Civil Code, specifically Article 559. Between a common law principle and a statutory provision, the latter must prevail in this jurisdiction."^[8]

2. It is thus immediately apparent that there is no merit to the contention raised in the first assigned error that her possession in good faith, equivalent to title, sufficed to defeat respondent Guevara's claim. As the above cases demonstrate, even on that assumption the owner can recover the same once she can show illegal deprivation. Respondent Court of Appeals was so convinced from the evidence submitted that the owner of the ring in litigation is such respondent. That is a factual determination to which we must pay heed. Instead of proving any alleged departure from legal norms by respondent Court, petitioner would stress Article 541 of the Civil Code, which provides: "A possessor in the concept of owner has in his favor the legal presumption that he possesses with a just title and he cannot be obliged to show or prove it." She would accord to it a greater legal significance than that to which under the controlling doctrines it is entitled. The brief for respondents did clearly point out why petitioner's assertion is lacking in support not only from the cases but even from commentators. Thus: "Actually, even under the first clause, possession in good faith does not really amount to title, for the reason that Art. 1132 of the Code provides for a period of acquisitive prescription for movables through 'uninterrupted possession for four years in good faith' (Art. 1955 of the old Spanish Code, which provided a period of three years), so that many Spanish writers, including Manresa, Sanchez Roman, Scaevola, De Buen, and Ramos, assert that under Art. 464 of the Spanish Code. (Art. 559 of the New Civil Code), the title of the possessor in good faith is not that of owner-ship, but is merely a presumptive title sufficient to serve as a basis for acquisitive prescription (II Tolentino, Civil Code of the Phil. p. 258; IV Manresa, *Derecho Civil Español*, 6th Ed., p. 380). And it is for the very reason that the title established by the first clause of Art. 559 is only a presumptive title sufficient to serve as a basis for acquisitive prescription, that the clause immediately following provides that 'one who has lost any movable or has been unlawfully deprived thereof, may recover it from the person in possession of the same'. As stated by the Honorable Justice Jose B. L. Reyes of this Court in *Sotto vs. Enage* (C. A.), 43 Off. Gaz. 5075, Dec. 1947: 'Article 559 in fact assumes that the possessor is as yet not the owner; for it is obvious that where the possessor has come to acquire indefeasible title by, let us say, adverse possession for the necessary period, no proof of loss or illegal deprivation could avail the former owner of the chattel. He would no longer be entitled to recover it under any condition.'"^[9]

The second assigned error is centered on the alleged failure to prove the identity of the diamond ring. Clearly the question raised is one of fact. What the Court of Appeals found is conclusive. Again, petitioner could not demonstrate that in reaching such a conclusion the Court of Appeals acted in an arbitrary manner. As made mention of in the brief for respondents two disinterested witnesses, Mr. Rafael Rebullida as well as Lt. Reynaldo Cementina of the Pasay City Police Department, both of whom could not be accused of being biased in favor of respondent Angelina D. Guevara, did testify as to the identity of the ring.

The third assigned error of petitioners would find fault with respondent Court relying "on the weakness of the title or evidence" of petitioner Consuelo S. de Garcia. It is true, in the decision under review, mention was made of petitioner Consuelo S. de Garcia making no comment when in her presence Rebullida, after examining the ring

and the stock card, told respondent Angelina D. Guevara that that was her ring, nor did petitioner answer a letter of the latter asserting ownership. It was likewise stated in such decision that there were extra-judicial admissions in the original and first amended answers of petitioner. In the appraisal of her testimony, respondent Court likewise spoke of her giving a rather dubious source of her ring, the person from whom she allegedly bought it turning out "to be a mysterious and ephemeral figure." As a matter of fact, as set forth a few pages back, respondent Court did enumerate the flaws in the version given by petitioner. From the weakness of the testimony offered which, as thus made clear, petitioner, did not even seek to refute, she would raise the legal question that respondent Court relied on the "weakness of [her] title or evidence" rather than on the proof justifying respondent Angelina D. Guevara's claim of ownership. Petitioner here would ignore the finding of fact of respondent Court that such ownership on her part "has been abundantly established" by her evidence. Again here, in essence, the question raised is one of fact, and there is no justification for us to reverse respondent Court.

The legal question raised in the fourth assignment of error is that the matter of the substitution of the diamond on the ring was a question raised for the first time on appeal as it was never put in issue by the pleadings nor the subject of reception of evidence by both parties and not touched upon in the decision of the lower court. Why no such question could be raised in the pleadings of respondent Angelina D. Guevara was clarified by the fact that the substitution came after it was brought for examination to Mr. Rebullida. After the knowledge of such substitution was gained, however, the issue was raised at the trial according to the said respondent resulting in that portion of the decision where the lower court reached a negative conclusion. As a result, in the motion for reconsideration, one of the points raised as to such decision being contrary to the evidence is the finding that there was no substitution. It is not necessary to state that respondent Court, exercising its appellate power reversed the lower court. What was held by it is controlling. What is clear is that there is no factual basis for the legal arguments on which the fourth assigned error is predicated.

What is said takes care of the fifth assigned error that respondent Court was mistaken in its finding that there was such a substitution. Again petitioner would have us pass on a question of credibility which is left to respondent Court of Appeals. The sixth assigned error would complain against the reversal of the lower court judgment as well as petitioner Consuelo S. de Garcia being made to pay respondent Angelina D. Guevara exemplary damages, attorney's fees and costs. The reversal is called for in the light of the appraisal of the evidence of record as meticulously weighed by respondent Court. As to the attorney's fees and exemplary damages, this is what respondent Court said in the decision under review: "Likewise, plaintiff is entitled to recover reasonable attorney's fees in the sum of P1, 000, it being just and equitable under the circumstances, and another P1, 000 as exemplary damages for the public good to discourage litigants from resorting to fraudulent devices to frustrate the ends of justice, as defendant herein tried to substitute the ring, Exhibit 1, for plaintiff's ring." [10] Considering the circumstances, the cursory discussion of the sixth assigned error on the matter by petitioner fails to demonstrate that respondent Court's actuation is blemished by legal defects.

WHEREFORE, the decision of respondent Court of Appeals of August 6, 1962 is hereby affirmed. With costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Castro, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.
Reyes, J.B.L., J., concur in the result, art. 85 of the Code of Commerce not being applicable.

[1] Decision, Appendix A, Brief for the Petitioners, pp. I to II.

[2] Ibid, p. II.

[3] Ibid, pp. II-III.

[4] Ibid, pp. IV-V.

[5] Ibid, pp. V-VI.

[6] 98 Phil. 788 (1956).

[7] L-18536, March 31, 1965, 13 SCRA 486.

[8] Ibid, p. 493.

[9] Refutation of the First Assignment of Error, Brief for Respondents-Appellees, pp. 8-10.

[10] Decision, Appendix A, Brief for the Petitioners, p. VII.

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