

AIDA ROBLES, ACCOMPANIED BY HER HUSBAND RAFAEL PENOLIO, PETITIONERS, VS. COURT OF APPEALS,[] ANICETO B. PARREÑO AND THE REGISTER OF DEEDS OF NEGROS OCCIDENTAL, RESPONDENTS.*G.R. No. L-47494. May 15, 1978*

Ponente: TEEHANKEE, J.

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The Court sets aside respondent court's decision which would require petitioner to implead certain parties and remands the appeal for determination on its merits. The vendors-coheirs of petitioner are not indispensable parties in the action brought by her for cancellation of the vendee's titles insofar as they were issued for the whole of the properties sold to the exclusion of petitioner's share notwithstanding that she was not a party to the sale and for legal redemption as a coheir of the properties thus sold to respondent vendee under Article 1088 of the Civil Code.

As found by the Court of Appeals, petitioner Aida Robles is the granddaughter of the deceased Eligio A. Robles (being the child of Eligio's deceased son Jose). In his lifetime, Eligio registered his title to Lot No. 1304 with an area of 4.2038 hectares of the Escalante Cadastre and the certificate of title thereto was issued in his name and that of his wife Melania Cuaycong. Eligio had also started registration proceedings for another lot, No. 1305-A with an area of 5.8685 hectares and after his death, title thereto was issued in the name of his surviving spouse and in the name of "the heirs of Eligio Robles". These two properties pertaining to the conjugal estate of Eligio and Melania constitute the disputed properties at bar.

On June 20, 1957, Melania as surviving spouse and nine other children besides Eva Robles, another granddaughter of the deceased Eligio (sister of petitioner Aida), who were the deceased's heirs to the extent of 43/44 executed a general power of attorney in favor of Francisco (a son) to alienate and encumber the disputed properties, reciting therein that the signatories are the owners of the properties, although they were not joined by petitioner Aida who is also an heir of the deceased's estate to the extent of 1/44.

In October, 1960, Francisco by virtue of the power of attorney executed a private deed of sale of the properties in favor of respondent Aniceto B. Parreño and later executed on January 20, 1965 a notarized deed of sale of the properties in favor of said respondent for the price of P4,300.00.

The power of attorney was registered in the office of the respondent Register of Deeds of Negros Occidental and was apparently treated as a Declaration of Heirship and thereafter new transfer titles to the whole of said properties were issued in favor of the vendee Parreño.

On September 18, 1967, petitioner Aida Robles as plaintiff filed a complaint in the Negros Occidental court of first instance against respondents Parreño and Register of Deeds praying for cancellation of the titles issued in respondent Parreño's name and that she be allowed, as a 1/44 coheir and co-owner of the properties to redeem the same from said respondent vendee.

The lower court dismissed the complaint and on appeal respondent court held that the sellers (the other coheirs) were indispensable parties and should have been impleaded and rendered its decision that "the judgment of the LOWER COURT is hereby set aside and let this case be, as it is, hereby ordered remanded to the LOWER COURT so that plaintiff can be required to implead the indispensable and necessary parties in the case and for subsequent hearing for the issuance of a new judgment."

Respondent appellate court held that "(T)here is a procedural error in the CASE BELOW. Since plaintiff was suing defendant for cancellation of his ownership of the DISPUTED PROPERTY sold to him by the SELLERS, the latter were indispensable parties and should have been impleaded. They had a right to justify the legality of their sale of the DISPUTED PROPERTY to defendant in order to free themselves from damages in favor of defendant if the sale should be adjudged invalid. Moreover, they should be given the chance to justify the sale if only to avoid possible criminal responsibility for estafa based on false allegation of ownership (Art. 315, 2(a), Revised Penal Code)," and added that "The general rule is that if an indispensable party is not impleaded, the case should be dismissed. x x x Rather than affirm the decision dismissing plaintiff's complaint, which will not definitely settle the controversy between the plaintiff and the other parties, this case should be remanded to the LOWER COURT x x x."

Petitioner's motion for reconsideration stressing that her action is one for legal redemption against respondent as vendee (against whom precisely the right of redemption is exercised) was denied by respondent court which ruled that "the SELLERS would not be indispensable parties if what they had sold to defendant was only their respective participations in the DISPUTED PROPERTY. But what was sold was the entirety of the DISPUTED PROPERTY, with the SELLERS claiming full ownership over the same. The SELLERS took the position that plaintiff was not a co-owner of the DISPUTED PROPERTY. As a matter of fact, in the 'NOTICE OF DECLARATION OF HEIRSHIP', the SELLERS excluded plaintiff as an heir of ELIGIO and therefore not a co-owner of the DISPUTED PROPERTY. If plaintiff is held entitled to redeem and the redemption is held binding on the SELLERS, defendant will have causes of action, civil and criminal, against the SELLERS for having sold to him, as all the owners thereof, the entirety of the DISPUTED PROPERTY. Without the SELLERS being made parties in the CASE BELOW, the redemption should not be allowed."

Hence, this petition which asserts that petitioner's coheirs who sold the properties to respondent Parreño are not indispensable parties but that her suit could be completely adjudicated without them, much more so with regard to her action as coheir for legal redemption of the properties from said respondent-vendee under Article 1088 of the Civil Code.

We find merit in the petition.

Petitioner's action for cancellation of titles was in reality not one "for cancellation of (respondent's) ownership of the disputed property sold to him by the sellers" as perceived by respondent court but rather one questioning the validity of respondent Register of Deeds' issuing the titles to the whole of the properties in disregard of petitioner's 1/44 share therein and against existing laws and regulations. As stated in the petition,[1] respondent Register of Deeds was impleaded "because, by his obvious negligence or act of indiscretion, he unduly accommodated respondent Parreño to cure a legal defect or legal deficiency of the documents covering the sale, via a short-cut method, by allowing the General Power of Attorney to be registered as a 'Declaration of Heirship' (which, in effect, left out the petitioner and transferred ownership of the disputed property in 'totality' to respondent Parreño) instead of requiring the presentation of a separate and true 'Declaration of Heirship' executed by all the heirs. This requirement is all the more necessary, if it is noted that the General Power of Attorney presented was no longer the original copy, but only a certified true copy from the Notary Public, and was executed by the vendor co-heirs on June 20, 1957, or nearly eight (8) years prior to the date of its registration on

February 23, 1965. Furthermore, the Register of Deeds did not require the presentation of a 'written notice to all possible redemptioners'. All these faults, which fall squarely on the shoulders of respondents Parreño and the Register of Deeds, resulted in the irregular issuance of titles which are now sought to be cancelled."

The vendors-coheirs of petitioner are not indispensable parties insofar as this phase of the action against the Register of Deeds is concerned. The fact cited by respondent court that they have a right to justify the legality of their sale to respondent to avoid being held liable for damages or possible criminal responsibility if the sale should be adjudged invalid does not make them indispensable parties without whom petitioner's action cannot be completely adjudicated. Respondent Parreño could have called them as witnesses on his behalf or impleaded them as third-party defendants in a third-party complaint to justify the sale of the properties or else answer to him by way of damages (but it is too late now for such a third-party complaint); at any rate, said respondent still has the right of filing a separate action against the vendors-coheirs by way of enforcing the warranty made by them as vendors of the properties.

The imprecision of petitioner's complaint has caused some confusion. But it appears evident that the action for cancellation of titles impleading the Register of Deeds is one assailing his acts as wrongful and without authority in law, but that petitioner's "action for cancellation of titles, issued in favor of respondent Parreño, pertains only to her own rights and interests and does not affect the true rights and interests of the vendors-coheirs. Against respondent Parreño, the action instituted is based on the premise that he did not acquire all the rights and interests on the property, subject of sale. His acquisition is limited only to the rights and interests of the vendors-coheirs who signed the General Power of Attorney and does not include the rights and interests of a co-heir, herein petitioner, Aida Robles, who did not sign," as is clearly stated in the petition.[2]

Such action for cancellation is really secondary and is but a means of enforcing petitioner's claim as a coheir and undivided co-owner of 1/44 of the properties as a granddaughter of the deceased Eligio Robles, which has been found as a fact by respondent court as well as by the trial court which held that "The court accepts as a sufficiently established fact that plaintiff being the daughter of Jose Robles and therefore one of the granddaughters of Eligio Robles, is one among the latter's heirs, in the same manner as plaintiff's sister, Eva Robles. The court also takes note that plaintiff was not a signatory to the general power of attorney, Exh. 'A' pursuant to which conveyance to the defendant of said lots were made by Francisco Robles."[3]

Petitioner's principal action is really therefore one for legal redemption under Article 1088 of the Civil Code.[4] Insofar as the exercise of such right of redemption is concerned, petitioner as a coheir and respondent Parreño as the buyer are the only indispensable parties to the exclusion of the sellers-coheirs. This was expressly so ruled by the Court in *Castillo vs. Samonte*,[5] where we held that "the trial court had no obligation to order the inclusion of the vendor either as a party plaintiff or party defendant in the case, because while he may be a necessary party, still he is not indispensable in the sense that the matter before it could not be completely adjudicated without him. The deed of sale in favor of appellant clearly states that what is being sold is an undivided 1/5 portion of the land jointly owned by the vendor and his brothers and nephew. The vendee-appellant is, therefore, conclusively presumed to know the law that under such circumstances, the co-heirs are entitled to redeem the portion being sold within 30 days from notice in writing of the sale, under Article 1088 of the New Civil Code. In effect, he is a vendee with notice of the right of redemption by the vendor's coheirs," and that "moreover, if vendee-appellant believed he had a claim against the vendor by reason of the warranty, it was his duty to have filed a third-party complaint against the latter x x x."

Respondent court should therefore have adjudged the appeal on its merits, and if the facts be as they are indicated in its decision, to wit, that petitioner is indeed a coheir and co-owner of 1/44 of the properties and that her co-owners-coheirs had sold the same or their hereditary rights thereto without notice to her, petitioner's action for

redemption of the properties must be sustained.

ACCORDINGLY, the judgment of respondent court is hereby set aside and the case is remanded to it for determination of the merits of the appeal, in consonance with the Court's observations in this decision. No costs.

Makasiar, Santos, Fernandez, and Guerrero, JJ., concur.

[*] Third Division composed of San Diego, Busran and Agrava, ponente, JJ.

[1] Rollo, at p. 32.

[2] Rollo, at page 31.

[3] Rec. on Appeal, p. 37, as quoted in petition, p. 39.

[4] The text thereof reads: "Should any of the heirs sell his hereditary rights to a stranger before the partition, any or all of the co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the price of the sale, provided they do so within the period of one month from the time they were notified in writing of the sale by the vendor."

[5] 106 Phil. 1023, 1026 (1960), emphasis supplied; See also *Butte vs. Manuel Uy & Sons, Inc.*, 4 SCRA 964.

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