

CONCESO DIAZ, PETITIONER, VS. COURT OF APPEALS AND TOMAS DE GUZMAN, RESPONDENTS.

G.R. No. L-42180. November 10, 1986

Ponente: PARAS, J.

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PARAS, J.:

Petition for certiorari to nullify the Resolution of respondent Court of Appeals dated October 10, 1975 in CA-G.R. No. 51356-R affirming in toto the Order of the Court of First Instance of Isabela granting private respondent Tomas de Guzman's petition for the surrender of owner's duplicate certificate of title.

The records of the case reveal the following pertinent facts:

The late Teodulo Diaz, who died intestate before the last World War, was the registered owner of a tract of land located at the Capitol Site, Ilagan, Isabela under Original Certificate of Title No. 3139 of the Register of Deeds of Isabela. He was survived by his wife Maria Espejo (now also deceased) and five (5) children, one of whom is the herein petitioner Conceso Diaz. On June 9, 1947, the widow, Maria Espejo sold a portion of this land consisting of 2,157 square meters, to herein private respondent Tomas de Guzman. The transaction was evidenced by a Deed of Sale (Exh. "A"). The deed was duly registered in the Registry of Deeds of Isabela and annotated at the back of the original certificate of title under Entry No. 1918 (Exh. "A-1") on October 1, 1947.

Private respondent Tomas de Guzman declared the land he purchased for taxation purposes beginning with the year 1960 (Exh. "B") and he has been paying the taxes thereon from 1960 up to the present (Exhs. "C" and "C-1"). On August 13, 1964 he had the land surveyed by one Rufino S. Roque, a private land surveyor. As a result, the plan (Exh. "D") and the corresponding technical description (Exh. "E") were prepared.

In a letter dated September 22, 1971 (Exh. "F") private respondent requested the Register of Deeds of Isabela to issue the corresponding transfer certificate of title of the land conveyed under Exhibit "A". The Register of Deeds in turn in a letter dated October 26, 1971 (Exh. "G") wrote petitioner Conceso Diaz to surrender the owner's duplicate certificate of title in order that the deed of sale could be properly annotated. Due to the refusal of petitioner to surrender the owner's duplicate certificate of title, private respondent de Guzman had to file on April 5, 1972, in the Court of First Instance of Isabela, a petition for the surrender of the owner's duplicate of Original Certificate of Title No. 3139 in the name of the late Teodulo Diaz, under Section 111 of Art No. 496, otherwise known as the Land Registration Act. The petition contained a prayer that petitioner Conceso Diaz (respondent in the lower court) as administrator of the intestate estate of the late Teodulo Diaz and Maria Espejo, be ordered to immediately surrender the owner's duplicate of Original Certificate of Title No. 3139 and that upon receipt of the same the Clerk of Court be ordered to forward the said title to the Register of Deeds of Isabela who shall annotate at the reverse side thereof the corresponding technical description (Exh. "D") and forthwith issue the corresponding transfer certificate of title in favor of the vendee Tomas de Guzman.

Petitioner Conceso Diaz (as respondent in the lower court) opposed the petition on the following grounds -

- a) the subject matter of the said instrument of sale formed part of the intestate estate of Teodulo Diaz and the vendor Maria Espejo Vda.de Diaz had no authority to sell the same, hence, the alleged sale is void ab initio; that furthermore the vendor never received the purchase price due from the vendee;
- b) the Deed of Sale is fatally defective because the identity of the land is not therein clearly expressed and established;
- c) the petitioner's cause of action is already barred by prescription and laches.

Upon the foregoing allegations raising opposition and objection, herein petitioner Diaz raised the question of jurisdiction of the lower court to entertain the said petition, arguing that in its capacity as a land registration court, it has but limited and special jurisdiction and is powerless to act on the said controverted petition. Its duty is to dismiss the same in order that the substantial or controversial issues therein involved could be ventilated and/or threshed out in an ordinary action in a regular court of first instance.

A hearing was conducted on this issue of jurisdiction and on June 22, 1973, the lower court issued an Order holding that -

"x x x it has jurisdiction to determine whether or not the petitioner has a valid, subsisting and registrable claim to which he is entitled for relief or registration under said Section 111 of Art No. 496.

The petition is hereby set for hearing on July 17, 1972, at 8:30 a.m."

At this scheduled hearing on July 17, 1972, Conceso Diaz then respondent and his counsel failed to appear despite notice. Upon motion, Tomas de Guzman, then petitioner, was allowed to present his evidence ex-parte and on July 18, 1972, the lower court issued an Order, the pertinent portion of which reads -

"From the foregoing facts duly established by the petitioner, the court holds that the petitioner has a valid, effective, subsisting and registrable claim which is subject to registration pursuant to Section 111 of the Land Registration Act.

WHEREFORE, respondent Conceso Diaz is hereby ordered to surrender the owner's duplicate certificate of title No. 3139 to the Register of Deeds of Isabela within ten (10) days from receipt hereof, for the proper registration of petitioner's registrable claim and the issuance of the appropriate transfer certificate of title.

SO ORDERED."

From the aforesaid Order, Conceso Diaz appealed to the Court of Appeals under CA-G.R. No. 51356-R. In his brief before the said Court he contends that the lower court erred (1) in holding that as a land registration court it has jurisdiction to take cognizance of the petition notwithstanding serious objection or opposition thereto and (2) in not dismissing for lack of competence and jurisdiction the petition and in giving due course to the same.

On June 30, 1975, the respondent Court of Appeals rendered a decision certifying the case to this Court for appropriate action in the light of Section 17 of the Judiciary Act of 1948 as amended in conjunction with Section 3, Rule 50 of the Revised Rules of Court.

However, acting on a Motion for Reconsideration filed by Tomas de Guzman, respondent Court of Appeals rendered its now assailed Resolution dated October 10, 1975 reversing its previous decision to certify this case to this Court and instead affirming in toto the Order of the lower court dated July 18, 1972 ordering Conceso Diaz to surrender the owner's duplicate certificate of title No. 3139 to the Register of Deeds for proper registration and the issuance of transfer certificate of title.

Hence, this petition for certiorari, petitioner Conceso Diaz contending that respondent Court of Appeals erred -

- in holding that the Court of First Instance of Isabela, sitting as a land registration court, acted with jurisdiction in hearing and determining the merits of Tomas de Guzman's Petition for the Surrender of owner's duplicate of Certificate of Title No. 3139 and the "Opposition" interposed thereto by Conceso Diaz;
- in affirming in toto the final order rendered by the lower court; and
- in not certifying to this Hon. Supreme Court the appeal of the petitioner from the Court of First Instance of Isabela on the ground that said appeal involved only the jurisdiction of the lower court.

The petition is devoid of merit.

When the Court of First Instance of Isabela ordered petitioner Conceso Diaz to surrender the owner's duplicate certificate of title No. 3139 to the Register of Deeds of Isabela for the registration of respondent's registrable claim and the issuance of the appropriate transfer certificate of title, said court acted in accordance with the provisions of Section 112 of Act 496. Said section provides as follows:

"SEC. 112. No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that at new interests have arisen or been created which do not appear the certificate, or that any error, omission or mistake was made in entering a certificate or any memorandum, thereon, or on any duplicate certificate; or that the name of any person on the certificate has been changed; or that the registered owner has been married; or, if registered as married, that the marriage has been terminated; or that a corporation which owned registered land and has been dissolved has not conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, of his heirs or assigns, without his or their written consent.

Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered." (Italics supplied)

Petitioner, however, contends that the aforesaid section would not apply in the present case because relief under this section "can only be granted if there is unanimity among the parties, or there is no adverse claim or serious objections on the part of any party in interest x x x."

This contention has no application in the present case. In the case of Felipe Enriquez et al vs. Vicente E. Atienza et al., G.R. No. L-9986, March 29, 1957 (cited in *Almirañez vs. Devera*, 13 SCRA 343) this court referring to the phrase "unanimity among the parties" held:

"A review of all the decisions dealing with the application of Section 112 reveals that by "unanimity among the parties" is meant the absence of serious controversy between the parties in interest as to the title of the party seeking relief under said section xxx." (underscoring supplied)

Then too, in the case of the *Government of the Philippine Islands vs. Serafica*, 61 Phil. 93, it was held:

"The first question that arises is whether or not the petition falls within the scope of section 112 x x x. According to the said provisions, "x x x any registered owner or other person in interest may at any time apply

by petition to the court, upon the ground that registered interest of any description, whether vested, contingent, expectant, or inchoate, have terminated and cease; or that new interests have arisen or been created which do not appear upon the certificate; x x x " The provision is so extensive and clear in its scope that this court does not hesitate to answer in the affirmative the question raised. Upon the death of Aniceto and Gregoria Abalos, who were the registered coowners thereof, their rights and all their interest and participation in the registered land in question were, by operation of law, transmitted to their coheir Jose Abalos from whom the Serafica appellants derived their title, and to the coheirs of Gregoria Abalos, and consequently, the rights of the said original co-owners were extinguished giving rise to new ones belonging to the said Serafica spouses and the coheirs of Gregoria Abalos. These two cases of extinguishment of rights and birth of new ones are precisely among those provided for in the section above quoted and do not appear upon the original certificate of title which is sought to be cancelled, whence this court does not see any good reason to justify the conclusion that the petition in question is not entirely within the scope of the provisions of the aforesaid section 112. In the case of Castillo vs. Valdez (53 Phil. 120 et seq.) wherein Zambrano had filed a petition for the registration of his right acquired through purchase of the land registered in the name of Francisca Valdez, and the issuance of another certificate of title in his name, upon cancellation of the original certificate of title, this court correctly held that such petition had been filed in accordance with the provisions of section 112." (61 Phil. 94-96; underscoring supplied).

In the case now before Us, petitioner's opposition is anchored on the contentions that the property sold is part of the intestate estate of the late Teodulo Diaz; that Maria Espejo Vda.de Diaz did not have any judicial authority to sell the portion of the lot in question; and that she never received the purchase price; that the Deed of Sale is fatally defective and that respondent's, causes of action are already barred by prescription and by laches.

Upon a consideration of the established facts, We are of the opinion that the opposition is baseless. It is never disputed that the title was registered in the name of "Teodulo Diaz, married to Maria Espejo", which only shows that the property was acquired during the existence of the conjugal partnership. It is a settled rule that adjudication of real property to one of the spouses only, does not necessarily mean that it is his or her exclusive property, if said land was acquired during the marriage. Thus, the land covered by Original Certificate of Title No. 3139 was a conjugal property. Upon the death of Teodulo Diaz, the land was divided into two, one-half became the conjugal share of Maria Espejo and the other half became the hereditary share of the heirs of Teodulo Diaz by operation of law. When Maria Espejo Vda. de Diaz sold the lot in question to respondent in 1947, she did not sell the same as an administratrix of the estate of her deceased husband or of the other half which was inherited by her children (without prejudice to her own hereditary rights therein) from him but that she sold the lot in question as owner of the other half. There was, therefor, no need for any judicial authority for her to sell her own property or share in the conjugal partnership.[1]

As to the alleged failure to pay the consideration, the deed of sale is self-explanatory, as the vendor in said document acknowledged to have received the consideration. Considering that the document is notarized, the same is evidence of high character and to overcome its recital, it is incumbent upon the party challenging it to prove his claim with clear and convincing evidence. This, the petitioner failed to do.

As to petitioner's claim that the Deed of Sale is fatally defective because the identity of the land is not therein expressed, the same is without merit. The deed of sale contains the boundaries[2] of the lot sold, its dimensions and area, from which data, the specific location could be ascertained and the survey plan prepared, as in fact the survey plan (Exh. "D") was accordingly prepared, with the technical description certified correct by the Bureau of Lands (Exh. "E").

With reference to prescription and laches, suffice it to say that the deed of sale was duly annotated on the back of the original of the certificate of title as of October 1, 1947.

As herein earlier stated, the petitioner in the case at bar was given a day in court to disprove or controvert the claim of private respondent and to prove also that the grounds of his opposition are serious enough to throw the case out of the jurisdiction of the lower court as a land registration court. This opportunity he did not avail of.

The proceedings contemplated in Section 112 of Act 496 are intended to grant relief to parties whose title to property that is covered by a certificate of title is clearly established, as in the case of the private respondent.

WHEREFORE, the assailed decision is hereby AFFIRMED, with costs against petitioner.

SO ORDERED.

Feria, (Chairman) Fernan, Alampay, and Gutierrez, Jr., JJ., concur.

[1] Without prejudice to the right of her co-heirs, to question the specification of boundaries made, from what a co-owner can sell is her ideal or metaphysical share.

[2] The specification of boundaries cannot be considered a fatal defect for in the eventual partition of the properties, the portion sold may be assigned to the vendor.

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