

LEONCIA FRANCISCO, PETITIONER, VS. SPOUSES LAMBERTO B. MAGBITANG AND NICETAS SANCHEZ, AND COURT OF APPEALS, RESPONDENTS.*G.R. No. L-48132. May 15, 1989*

Ponente: FERNAN, C.J.

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The center of controversy in this petition for review on certiorari is the 470-square meter portion of Lot 113 of the cadastre of San Leonardo, Nueva Ecija. Petitioner seeks a reversal of the decision of the Court of Appeals in CA-G.R. No. 46909-R entitled "Leoncia Francisco, Plaintiff-Appellee v. Lamberto Magbitang, et al., Defendants-Appellants" which reversed the decision of the trial court, Court of First instance, in Civil Case No. 348, an action for recovery of a parcel of land which declared Leoncia Francisco as owner of the land in question.

The record shows that Lot 113 was originally part of a 1,891-square meter land which Mariano Fajardo declared as his own.[1] In 1919, Mariano Fajardo died without issue, survived by his sisters Gliceria and Teodora. As Gliceria also died without issue, the property was eventually inherited by the children of Teodora, namely, Gregorio Fajardo, Leoncia Francisco and Cristina Francisco.[2]

Gregorio and his half-sisters, Leoncia and Cristina divided the unsurveyed and unregistered land equally among themselves. Thus, each of them had a lot with a ten-meter frontage (width) and sixty-meter length or approximately 610 square meters.

Cristina sold her share to Leoncia through a "kasulatang bilihan" dated July 3, 1947[3] and a "kasulatang pagbibilihan" dated March 7, 1950.[4] The later document was actually in favor of Teodora, Ignacia and Francisco Balajadia, the children of Leoncia, but it was the latter who paid the contract price of P300.[5] These two agreements were acknowledged after Cristina's death by her husband, Antonio Atayde, and only surviving child, Clara, in a joint affidavit of quitclaim executed on July 27, 1968.[6]

While Gregorio was still alive or on March 6, 1951, his daughter, Celestina, sold a 180-square meter portion of his share to Leoncia.[7] After Celestina's death, her husband, Sancho Cauzon, executed an affidavit of quitclaim dated May 28, 1955, recognizing said sale.[8] One of the witnesses to the execution of said affidavit was Gregorio Fajardo himself.

It appears, however, that even before said sale or on February 27, 1951, Gregorio had sold 500 square meters of his share to the spouses Candido Candelaria and Leonila Mendoza.[9] Less than two months later or on April 14, 1951, the Candelaria spouses parted with said property in favor of the spouses Martin and Rosa Gonzales.[10] During that same year, or on September 6, 1951, the Gonzaleses sold said 500 square meters of land to Pedro Erce and Rosario Erce.[11]

In 1956, through tax declaration No. 7949, the Erce spouses claimed ownership over a residential lot containing 360 square meters and a cornland containing .0720 hectares or at 720 square meters[12] of a total area of 1,080

square meters. Said tax declaration contains a note stating:

"Transferred as per Deed of Sale executed by Spouses Martin Gonzales and Rosa Gonzales, Hospicio Fajardo, Gregorio Fajardo, et al. in favor of the declarants and ratified by Notary Public Sabino Aguilar on September 6, 1951, etc. The succession of ownership and the right to inherit with sale is hereto attached. Tax for 1955 paid under O/R No. 1593978 dated May 28, 1955."

On April 22, 1958, the Erce spouses executed a deed of absolute sale of an unregistered parcel of land in favor of Atty. Lamberto B. Magbitang and his wife, Nicetas Sanchez.[13] The subject matter of the sale is described in said document as follows:

"A parcel of land located at San Leonardo, Nueva Ecija, with Tax Dec. No. 7949 (a portion being cornland and a portion being residential land), the portion being classified as cornland with an area of seven hundred twenty (720) square meters more or less with an assessed value of P21.60 and the portion classified as residential land with an area of three hundred sixty (360) square meters more or less and with an assessed value of P216.00. Bounded on the North by Roman Pestaño; on the South by Teodora Balajadia, et al; on the East by Rizal Street and on the West by Jose Manson. The boundaries of this land could be determined by the fences surrounding the same and trees on its fences (sic). Its permanent improvements are bamboo grooves and a chico tree and we are the ones in possession of the same."

After taking possession of the parcel of land, Magbitang paid real estate taxes thereon, built a fence around the area, and introduced improvements including his house. The land with an area of 946 square meters later became known as Lot 113 after the cadastral survey was conducted in San Leonardo. The remainder of the lot originally owned by Mariano Fajardo known as Lot 112 had an area of 780 square meters and, therefore, Mariano Fajardo's land was found to contain 1,726 square meters and not 1,891 square meters as he had previously declared for tax purposes.

On October 19, 1965, Leoncia Francisco was issued Original Certificate of Title No. P-4126 covering Lot 112 after her free patent application[14] therefor was granted.[15] Sometime in 1968, she discovered at the provincial assessor's office that Lot 113 has a bigger area than Lot 112. Hence, Leoncia filed a complaint against the Magbitang spouses in the Court of First Instance of Nueva Ecija for the recovery of three hundred seventy (370) square meters of Lot 113.[16]

In her complaint, Leoncia averred that since the actual area of the parcel of land declared as his own by Mariano Fajardo was determined by the cadastral survey to be 1,726 square meters, and since she was entitled to two-thirds of that area or 1,150 square meters although she obtained title over only 780 square meters thereof, the remaining 370 square meters should be recovered from Lot 113 in the possession of the Magbitang spouses.

The lower court ruled in favor of Leoncia. In its decision, the lower court concluded that the Magbitang spouses could not have purchased an area more than 500 square meters from the Erce spouses because the latter acquired only 500 square meters from the Gonzales spouses. It observed that being a lawyer, Lamberto Magbitang should have realized that he was dealing with an unregistered parcel of land whose ownership was vague and hence, he could not have missed the annotation on tax declaration No. 7949 herein aforequoted. The lower court remarked that Magbitang could not have known that the Erce spouses bought only 500 square meters from the Gonzales spouses. It also overturned Magbitang's contention that he was a possessor in good faith of the entire 1,080 or 946 square meters. Magbitang must have realized that he was occupying a portion of Leoncia's lot when, in fulfilling the requirements for his loan application with the Development Bank of the Philippines, he presented the affidavits of only three of the boundary owners surrounding Lot 113 but failed to secure that of Leoncia.

The lower court declared Leoncia to be the owner of 470 square meters (instead of 370 square meters as prayed

for by Leoncia) of Lot 113 and ordered its segregation therefrom.

On appeal, the Court of Appeals reversed the lower court on the basis of its finding that Leoncia's claim over a portion of Lot 113 "is based on mere estimates and the exact and correct figures were ascertained at the cadastral survey -- to which the appellee not only did not object, but she proceeded to obtain a patent and a title to exactly 780 square meters of land." [17]

In its resolution denying Leoncia's motion for reconsideration of its decision, the appellate court ruled that it could not grant said motion because of the facts that while "the complaint claims encroachment by the appellants of 470 sq. m. (sic), (but now) the appellee asks for affirmance of the trial court's finding of an encroachment of only 370 sq. m." (sic); that the missing 470 square meters could be contained in any of the various lots covered by OCT P-4126; and that Leoncia candidly testified that she lacked personal knowledge as to the exact area of Lot 112.

Hence, Leoncia Francisco interposed the instant petition for review on certiorari.

The pivotal issue in this case is who is the real owner of the excess area in question.

What comes across as a glaring point in this case is the fact that the area of the land acquired by Magbitang from Erce appears to be much bigger than the area of the land actually acquired by Erce from his predecessor-in-interest, Gonzales. As there are no proofs that other lots adjacent to the 500 square meters were acquired and later transmitted by Gonzales to Magbitang, the inevitable inference is that either Erce or Magbitang enlarged the area of the lot purchased by the latter from the former.

It is a well-settled principle that the findings of fact of the Court of Appeals are conclusive on the parties and on this Court, subject to certain exceptions, among which are: the judgment is based on misapprehension of facts; the inference made is manifestly mistaken and the findings of fact of the Court of Appeals are contrary to those of the trial court. [18]

We hold that the evidence on hand reveals that Magbitang can lay claim to no more than 500 square meters of Lot 113. In the first place, the area of 500 square meters had been specified throughout the series of transfers of the land in question. Verily it is beyond comprehension how the portion of 500 square meters, since the time of the first transfer made by Gregorio Fajardo and eventually to Magbitang, had increased and added to it another portion of 580 square meters enabling them to possess and occupy a bigger portion. Thus, while it is true that tax declaration No. 7949 indicates that the total area involved is 1,080 square meters, the same document shows the source of the property -- the Gonzales spouses. In the absence of proof therefore, that Hospicio and Gregorio Fajardo whose names appear in said tax declaration, also sold some properties to Erce who in turn sold the same to Magbitang, the actual area involved can be no more than 500 square meters. After all, as the saying goes, the spring cannot rise higher than its source.

Secondly, Magbitang failed to explain why, when he drafted the deed of sale, he did not refer to the lot as Lot 113 with a definitive statement of its area and boundary limits. Instead, it appears that the series of transfers of this portion of 500 square meters which was a part of the share of Gregorio Fajardo in the inheritance were all effected in 1951 when the land in question was still one parcel of land and before the cadastral survey of San Leonardo, Nueva Ecija. [19] But the sale made by the Erce spouses in favor of Leonardo B. Magbitang, et al. which appears to have taken place on April 22, 1958, was after the said cadastral survey. [20] In effect, therefore, there is reason to believe that Magbitang wanted the deed of sale to show that he acquired 1,080 square meters of land.

Thirdly, in identifying the land he purchased, Magbitang has always referred to boundary owners and not the actual metes and bounds of the property. While natural boundaries like rivers and streams may be relied upon in

determining the limits of a piece of land,[21] the same may not be said of boundary owners because, as what happened in this case, the boundary owners may have changed and a corresponding change in the limits of the property may have occurred.

Lastly, it appears that as a lawyer (he was a municipal judge when he testified in this case), Magbitang left so much to be desired as to his actuations in his alleged investigation of the "four corners" of the property he was buying. All he did was to confer with his would-be neighbors and be satisfied with the "information and statements" of the Erce spouses. He did not even bother to measure the property.[22] He relied upon "the face of the title" or on tax declaration No. 7949.[23] Had he examined thoroughly said tax declaration, he could have noticed the annotation thereon indicating that "the succession of ownership and the right to inherit with sale is hereto attached" and he could have learned from the deed of sale attached thereto that Erce acquired only 500 square meters from Gonzales.

From the foregoing, it is apparent that Magbitang is not a purchaser in good faith of the 1,080 or 946 square meters of land. Consequently, he may not be considered a possessor in good faith of 446 square meters of Lot 113 as it appears that he was aware that there was in his title or mode of acquisition of said lot, a flaw which invalidates his possession.[24]

Although we are unprepared to impute fraudulent intent on the part of Magbitang, there is certainly a negligence in his acquisition of 446 square meters of Lot 113. Pursuant to Article 1456 of the Civil Code, he is by law considered a trustee of an implied trust for the benefit of the true owner of the property. That being the case, Magbitang may not successfully set up prescription as a defense with respect to the area he has been holding in trust.[25]

We are convinced that Leoncia or her heirs (she was an octogenarian when she testified and she died during the pendency of this case) are the true owners of 446 square meters of Lot 113. The private documents evidencing ownership, pertaining as they are to be unregistered parcel of land, validly transmitted ownership rights in favor of Leoncia most especially because the vendors' successors-in-interest acknowledged such transmission of rights in public instruments.

WHEREFORE, the decision of the Court of Appeals is hereby reversed and set aside. Private respondents are ordered to segregate four hundred forty-six (446) square meters of Lot 113 and to deliver the same to petitioner or her legal heirs who shall shoulder the expenses of the survey thereof. Costs against private respondents.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Exhibit A.

[2] Decision in CA-G.R. No. 42226-R, p. 1; Rollo, p. 127.

[3] Exhibit H.

[4] Exhibit G.

[5] TSN, May 21, 1969, p. 25.

[6] Exhibit I.

[7] Exhibit J; TSN, *supra*, pp. 13-18.

[8] Exhibits F & F-1.

[9] Exhibit Y.

[10] Exhibit Z.

[11] Exhibit AA.

[12] Exhibit 1.

[13] Exhibit 2.

[14] The propriety of Leoncia's free patent application was put in issue in the ejectment case she filed against Sancho Cauzon, Melquiades Fajardo and Hospicio Fajardo. In its decision of May 4, 1975, the Court of Appeals ruled that inasmuch as there was no evidence as to the nature of the acquisition of the land by Mariano Fajardo, there is a presumption that Lot 112 belonged to the public domain as in fact the Secretary of Agriculture and Natural Resources approved of the issuance of the free patent in favor of Leoncia [CA-G.R. No. 42226-R; Rollo, pp. 127-139].

[15] Exhibit B.

[16] Civil Case No. 348.

[17] Rafael C. Climaco, J., ponente; Crisolito Pascual and Mariano V. Agcaoili, JJ., concurring.

[18] *Sacay v. Sandiganbayan*, 142 SCRA 609 (1986); *Manlapaz v. C.A.*, 147 SCRA 238-239 (1987).

[19] Exhibit 8.

[20] Brief for Appellee, C.A. pp. 4-5.

[21] *Erico v. Chigas*, L-28064, July 16, 1980, 98 SCRA 575.

[22] TSN, June 11, 1969, pp. 21-32; 37.

[23] TSN, *supra*, p. 40.

[24] Article 526, Civil Code.

[25] *Government of the Philippines v. Abadilla*, 46 Phil. 643.

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