

JOSEFINA VALDEZ, JAIME VALDEZ, ROGELIO ALMONTE, RAQUEL ALMONTE AND RAUL ALMONTE, THE LATTER TWO MINORS, REPRESENTED IN THIS ACTION BY THEIR FATHER, FRANCISCO ALMONTE, PLAINTIFFS...

G.R. No. L-22571. May 25, 1973

Ponente: MAKALINTAL, ACTING CJ.

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MAKALINTAL, ACTING CJ.:

The present appeal was taken by the defendants directly to this Court by record on appeal filed way back in 1964. The case, however, was submitted for decision only on September 4, 1970. In a motion dated April 25, 1973, the defendants-appellants prayed that decision herein be expedited.

A reading of the brief of the appellants shows that most of the arguments advanced therein challenge the findings of fact made by the court a quo. As pointed out by the plaintiffs-appellees, such findings are no longer reviewable by this Court, its jurisdiction being limited to deciding purely legal questions.

The following facts as stated in the decision appealed from may therefore be considered established:

"This is an action for partition filed by the living children and grandchildren of the late spouses Federico Valdez, Sr. and Juanita Batul against the heir and widow of Federico Valdez, Jr. The action concerns Lot No. 18, of Puerto Princesa Cadastre, covered by T.C.T. No. T-94 in the name of Federico Valdez, Jr.

"Federico Valdez, Sr. died in Manila in the year 1931 and his wife, Juanita Batul, died in 1939. The spouses left the following children as their heirs: (1) Avelina V. Olorga, who died in 1941, leaving as her heir co-defendant Renato Olorga; (2) Elisa Valdez-Almonte, who died in 1947, leaving Rogelio, Raquel and Raul, all surnamed Almonte, as her heirs; (3) the plaintiff Josefina Valdez; (4) Federico Valdez, Jr., who died in September, 1960, leaving as his heirs defendants Teofila Olorga, his wife, and Carmen Valdez, his daughter; and (5) Jaime Valdez, co-plaintiff herein. In 1924, the spouses Federico Valdez, Sr. and Juanita Batul, bought Lot No. 18, the property now in dispute, from Dolores M. de Gutierrez for P500.00. In 1930, the old Valdez family, as vendees, occupied and lived in the premises of Lot No. 18. After the death of Federico Valdez, Sr., Juanita Batul, in the year 1936, executed a contract of lease over a portion of Lot No. 18 in favor of the protestant church of Puerto Princesa, Exhibit "A". The same Juanita Batul leased in 1939 a portion of Lot No. 18 to Mr. Gregorio Quicho.

"The transfer of the lot in the name of Federico, Sr., was never done because the owner's original certificate of title was lost.

"Josefina Valdez and Federico Valdez, Jr. commissioned their cousin, Concepcion Castro, to negotiate with the Gutierrez family (Exhibit "C") in 1948 in order that the property in question may be transferred to them. It turned out that the Gutierrez family was asking for an additional amount of P2,500.00 (Exh. "D").

"Mrs. Castro came back to Puerto Princesa without having realized her mission. In the same year she went back to Manila with Federico Valdez, Jr., and Mr. Gregorio Quicho. The deed was executed for the amount of

P2,200.00 which was given by Mr. Gregorio Quicho, as payment for back rentals and payment for the purchase of that portion of Lot No. 18 which he was renting and occupying. In executing the deed of sale, Exhibit "I", the name of Federico Valdez, Jr. appeared as the only vendee. This was done pursuant to the wishes of Mr. Quicho who advanced the money, in order that he could facilitate the deed of sale between him and the Valdezes, with the understanding that Federico Valdez, Jr. will hold the same in trust for his other brother and sisters (Testimony of Mrs. Castro).

"When Federico Valdez, Jr. was still living, he never attempted to exclude the herein plaintiffs from ownership of the land in question. Said plaintiffs have been in open continuous and uninterrupted possession of the premises they are occupying inside the lot in question long before the execution of the deed of sale (Exh. "I"). It was only after the death of Federico Valdez, Jr. that the widow, Teofila Olorga tried to eject the plaintiffs.

"As clearly stated in the memorandum for the plaintiffs the following facts are undisputed:

- (1) That the land in question Lot No. 18 of the Puerto Princesa Cadastre, was originally purchased by the spouses Federico, Sr. and Juanita Batul from Dolores M. de Gutierrez for P500.00;
- (2) That the parties herein, plaintiffs and defendants alike, are all successors-in-interest of the spouses Federico Valdez, Sr., and Juanita Batul, either as forced or compulsory heirs or in representation thereof;
- (3) That the above-named spouses had been in open, public, peaceful and uninterrupted occupation and possession of Lot No. 18, the property in question, since the year 1930 or 1933;
- (4) That in 1939, Mr. Gregorio Quicho rented a portion of the lot in question from Juanita Batul;
- (5) That Mr. Quicho advanced the amount of P2,200.00 partly as purchase price of the portion purchased by him, in the final execution of the deed of sale, Exhibit "I"; and
- (6) That a part of the property in question, Lot 18-B, is still registered in the name of Federico Valdez, Jr., under T.C.T. No. T-634, cancelling T.C.T. No. 75.

"The following facts, although not admitted by the defendants, were not disputed:

- (1) That the Valdez Family, in 1930 or 1933, entered into, possessed and occupied Lot 18, the property in question;
- (2) That Juanita Batul, in 1936, entered into a contract of lease (Exh. "A") with the Baptist Church of Puerto Princesa over a portion of Lot 18;
- (3) That in 1947, upon discovering that the land in question had not been transferred in the name of their parents, Josefina Valdez made efforts to have the said land transferred to them, and commissioned Mrs. Castro, together with Federico Valdez, Jr., to negotiate with the Gutierrez family for the purpose, which culminated in the execution of the deed of sale, Exhibit "1";
- (4) That in the course of said negotiation undertaken by Mrs. Castro, Federico Valdez, Jr., was brought to Manila where the deed of sale was finally placed in his name alone, with the express understanding that he will hold the same in trust for his other brother and sisters;
- (5) That the placing of the deed of sale in the name of Federico Valdez, Jr. alone, instead of the 'Heirs of Federico Valdez, Sr.' or 'Heirs of Juanita Batul' was done through the suggestion of Mr. Quicho who wanted to facilitate his own deed of sale over the portion that he purchased;
- (6) That at the time of the execution of the deed of sale (Exh. "1"), Valdez, Jr. was barely 21 years old, a sophomore student in the high school, and he, together with his wife, were without any lucrative trade or calling;

(7) That Josefina Valdez and her co-plaintiffs had been in continuous, public, peaceful and uninterrupted possession and occupation of the premises in question long before the death of Valdez, Jr.;

(8) That Valdez, Jr. never asserted, nor attempted to assert, during his lifetime, sole and exclusive ownership of the premises in question, against the herein plaintiffs; and

(9) That during the lifetime of Valdez, Jr. he sold a portion of the land in question and leased other portions thereof to private parties, but he did so with the consent and approval of her elder sister, Josefina Valdez.

"In this connection we have to consider also the offer of evidence by the plaintiffs as matters to be testified by Mr. Gregorio Quicho were he present and able to testify and which were admitted by the defendants, such that the presentation of Mr. Quicho was waived by the plaintiffs. The testimony of Mr. Quicho which would have been given by him if he were presented and which were admitted by the defendants are as follows:

(1) That a deed of sale for a consideration of P500.00 was executed by the spouses Gutierrez in favor of the spouses Federico Valdez, Sr. and Juanita Batul, over Lot 18 of Puerto Princesa Cadastre, the very lot in question, in the year 1924;

(2) That Mr. Quicho rented and occupied since 1939, a portion of Lot 18, the lot in question, from Juanita Batul;

(3) That the amount of P2,200.00 which was paid to Dolores M. Gutierrez for the execution of the deed of sale, Exhibit "I", was delivered by Mr. Gregorio Quicho, for payment of unpaid back rentals and as advances for the purchase of the portion of Lot 18 which he finally acquired;

(4) That Mr. Quicho was instrumental in having the deed of sale executed in the name of Federico Valdez, Jr. the portion which he wanted to acquire."

The legal point raised by the appellants is that since the land in question was sold to the late Federico Valdez, Jr. in 1948 and the Transfer Certificate of Title, so he alleges, was issued in his name in 1950, the action had already prescribed when it was filed more than ten (10) years thereafter, or in 1962; and that, furthermore, from the date of the sale up to the time of his death in 1960 he exercised exclusive ownership of the land. In other words the appellants claim both extinctive and acquisitive prescription.

Both claims are belied by the facts as found by the court a quo, which held: (1) that when the deed of sale was executed and the name of Federico Valdez, Jr. was made to appear therein as the only vendee, "this was done pursuant to the wishes of Mr. Quicho who advanced the money, in order that he could facilitate the deed of sale between him and the Valdezes, with the understanding that Federico Valdez, Jr. will hold the same in trust for his other brother and sisters;" and (2) that when Federico Valdez, Jr. was still living, "he never attempted to exclude the herein plaintiffs from ownership of the land in question, (and) said plaintiffs have been in continuous and uninterrupted possession of the premises they are occupying inside the lot in question long before the execution of the deed of sale (Exh. "I"), (and) it was only after the death of Federico Valdez, Jr. (in 1960) that the widow, Teofila Olorga, tried to eject the plaintiffs."

Given the antecedents of the property and the fact that its acquisition by Federico Valdez, Jr. was for the benefit not of himself alone but also of his brother and sisters, although for purposes of convenience he was made to appear as the sole vendee, the juridical relation that arose among them was one of co-ownership, with the plaintiffs-appellees actually in possession of a portion of the property. Under Article 494 of the Civil Code, "No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership." Insofar as the aspect of extinctive prescription referred to in this article is concerned, it is but a restatement of Article 1965 of the Spanish Civil Code, which provides: "As between co-heirs, co-owners, or proprietors of adjacent estates, the action to demand the partition of the

inheritance or of the thing held in common, or the survey of the adjacent properties, does not prescribe." And from the standpoint of acquisitive prescription, or prescription of ownership, this Court has held in numerous decisions involving fiduciary relations such as those occupied by a trustee with respect to the cestui que trust that as a general rule the former's possession is not adverse and therefore cannot ripen into a title by prescription. Adverse possession in such a case requires the concurrence of the following circumstances: (a) that the trustee has performed unequivocal acts of repudiation amounting to an ouster of the cestui que trust; (b) that such positive acts of repudiation have been made known to the cestui que trust; and (c) that the evidence thereon should be clear and conclusive.[*] These circumstances are not present in this case.

In view of the foregoing considerations the judgment appealed from is hereby affirmed. With costs.

Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, Antonio, and Esguerra, JJ., concur.

[*] Laguna vs. Levantina, 71 Phil. 566; Bargayo vs. Camumot, 40 Phil. 857; Osorio, et al. vs. Osorio, et al., 85 Phil. 209; Sumira vs. Vistan, 74 Phil. 138.

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