

FRANCISCO DE LA ROSA, PETITIONER, VS. ALEJANDRO ESPIRITU, FEDERICO ESPIRITU, DOLORES ESPIRITU, MARGARITA STA. TERESA, TOMAS STA. TERESA AND THE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-35171. June 24, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

A Petition for review on Certiorari of the Decision of the then Court of Appeals, and of its Resolution denying petitioner's Motion for Reconsideration, in CA-G.R. No. 33233-R, which was an appeal from the judgment of the Court of First Instance of Rizal in Civil Case No. 342-R entitled *Alejandro Espiritu, et al. vs. Tomas Sta. Teresa and Francisco de la Rosa*.

Involved is a 1.6198 hectare of agricultural land at Kalabaw Bato, La Huerta, Parañaque, Rizal, originally owned by Remigio Sta. Teresa (Exhibits "A" to "A-2"). His children, namely Vicente, Gliceria and TOMAS survived him. Vicente died and was survived by his daughter Margarita Sta. Teresa, one of the private respondents. Gliceria was succeeded by her children Alejandro, Federico and Dolores all surnamed Espiritu, all private respondents. TOMAS is also a private respondent. It appears that all the private respondents continued possessing the land after the death of their respective predecessors-in-interest, with TOMAS, taking charge of working and planting the same to palay and the co-owners dividing the harvests among themselves.[1]

On June 17, 1929, TOMAS sold the entirety of said land with pacto de retro to the spouses Prudencio Buenaventura and Fabiana Quiogue for the amount of P450.00 (Exhibit "3") redeemable in three (3) years. That sale was predicated on the claim of TOMAS that he was the sole owner by inheritance of the property. Thus, the document read:

"Yo, TOMAS SANTA TERESA, de años de edad, casado con Teodorica Clemente, vecino y residente del barrio de Bagongbayan, Tagig, Rizal, libre y espontaneamente hago constar:

1. Que, soy dueño y poseedor en pleno y absoluto dominio de una parcela de terreno palayero, ubicado en el sitio de Parangparañgan, comprehension del Municipio de Parañaque, Rizal, la cual he adquirido por herencia de mi difunto padre Remigio Sta. Teresa, x x x " (Italics ours)

TOMAS failed to repurchase the land within the agreed period and the Vendees a retro executed an affidavit of consolidation of ownership on June 8, 1935 (Exhibit "4"), which document was registered under Act No. 3344 (providing for the recording of instruments relating to unregistered lands) on June 12, 1935. Subsequently, on August 12, 1935, the Buenaventura spouses sold the land to petitioner Francisco de la Rosa for P600.00. Thereafter, the latter's encargado worked on the land.

The records show that petitioner filed an action for forcible entry against TOMAS for depriving the former of possession of the property on August 15, 1935 through threats and intimidation, thereby forcing petitioner's

encargado to abandon the land. On appeal, the Court of First Instance of Rizal (Civil Case No. 6357) rendered judgment on January 9, 1937 ordering TOMAS to vacate the controverted property (Exhibit "6" or Exhibit "B"). No appeal seem to have been taken from the judgment which then became final and executory. It should be noted that in the forcible entry case TOMAS never disclosed the matter of co-ownership, which can be construed as a confirmation of TOMAS' claim when he sold the property to the Buenaventuras that he was the sole owner by inheritance of the entire land.

In 1951, petitioner was able to take possession of the controverted land from TOMAS. On August 16, 1955, a portion of the land was taken by the government for the Alabang-Muntinlupa Highway for which petitioner was paid P1,340.80 (Exhibit "5").

On March 18, 1958, petitioner filed an application for registration of three (3) parcels of land, one of which is the land herein, before the Court of First Instance of Rizal, docketed as Land Registration Case No. N-1818, Record No. R-14989. After the required publication and posting, an Order of General Default was entered, and on October 27, 1958, the Land Court rendered a partial decision ordering the registration in petitioner's name of the two (2) parcels of land which are not the subject matter of this case, and excluding, for the meantime, the land in question.

On July 16, 1959, four of the five private respondents, excepting TOMAS, moved to lift the Order of General Default and to hold in abeyance the re-registration proceeding until Civil Case No. 224-R (the nature of this case is not disclosed) should have been decided. This was denied. It likewise appears that said respondents filed a Petition for Relief, which was also denied by the Land Court for having been filed out of time. Those resolutions were never questioned before a higher Court.

On June 21, 1961, Alejandro Espiritu, Federico Espiritu, Dolores Espiritu and Margarita Sta. Teresa, four of the five respondents herein, filed the case below (Civil Case No. 342-R) with the Court of First Instance of Rizal against TOMAS and petitioner Francisco de la Rosa, seeking to annul the pacto de retro sale executed by TOMAS in favor of the Buenaventura spouses, as well as the subsequent sale by said spouses in favor of the petitioner, claiming that TOMAS was unauthorized to sell their interests. TOMAS filed a cross-claim against his co-defendant, petitioner Francisco de la Rosa, in an attempt to reform the pacto de retro sale he had executed into one of loan with equitable mortgage. On August 20, 1963, the Trial Court dismissed the cross-claim and rendered judgment with the following decretal portion:

"WHEREFORE, Margarita Sta. Teresa is hereby declared owner of one-third undivided portion of the remainder of the property in question; Alejandro, Federico, and Dolores, all surnamed Espiritu, owner of one-third undivided portion; and Francisco de la Rosa, owner of the other one-third undivided portion; defendant Francisco de la Rosa shall pay the plaintiffs their two-thirds share in the harvest worth P133.30 a year from 1951 up to the present, plus the sum of P893.32, with legal interests from the date of the filing of the complaint. The defendants, Francisco de la Rosa and Tomas Sta. Teresa, shall pay the costs."

Both petitioner and TOMAS appealed to the Court of Appeals (CA-G.R. No. 33233-R). During the pendency of the appeal, the Land Court rendered judgment on January 5, 1965 declaring petitioner and his wife as owners of the litigated property. A decree of registration was issued on February 22, 1965, followed by Original Certificate of Title No. 4411 in their names.

On May 1, 1965, petitioner, in his Brief in CA-G.R. No. 33233-R, prayed for the dismissal of the case for having become moot and academic. On August 21, 1972, respondent Court affirmed in toto the judgment of the lower Court ruling that the issue of conclusiveness of the decree of registration cannot be considered because the same was not raised in the Court below and because "a brief is not the place where issues of fact may be plead-ed for

the first time."

Hence, this petition for review of the judgment of the Court of Appeals filed by petitioner.

Upon the facts, petitioner's rights to the property in question should be upheld. The pacto de retro sale executed in 1929 in favor of petitioner's predecessors-vendors, the consolidation of title in their favor in 1935, as well as the subsequent sale they made to petitioner in the same year have all been duly proven. The action, seeking to nullify said pacto de retro sale and the sale in petitioner's favor, was filed only in 1961, or after 32 years from the pacto de retro sale and 26 years after the sale to petitioner. This lapse of time constitutes laches, which should not be allowed to impair the rights of a third party, petitioner herein, who had acquired rights in the property subject of litigation in due course and without bad faith.[2]

That TOMAS may have been able to wrest possession from 1935 up to 1951 cannot obliterate the fact that the forcible entry case filed by petitioner in 1935 against TOMAS for recovery of possession was decided in 1937 in petitioner's favor when the case was appealed to the Court of First Instance. Thus, to all intents and purposes, possession legally belonged to petitioner. That judgment on the issue of possession was no longer elevated to a still higher Court so that it had become final.

The subsequent issue of original Certificate of Title No. 4411 on January 5, 1965 over the land in question in petitioner's favor confirms his title. A Torrens Title issued after the necessary judicial proceeding possesses an absolute and conclusive character.[3] Private respondents were aware of the land registration proceedings, having moved to lift the Order Of General Default, which was denied, and having filed a Petition for Relief therein, which was also denied for having been filed out of time. Private respondents did not appeal from the Order of the Land Court denying their Petition for Relief or to set aside the order of default. Instead, they litigated in another Court for annulment of the two sales, an issue which should have been threshed out in the original registration proceedings.

Under the circumstances, it would be highly unfair to deprive petitioner of his rights of ownership on the basis of a procedural technicality that he had not raised the matter of the pendency of the registration proceedings before the Trial Court and, therefore, could not raise it for the first time on appeal. Besides the fact that the error or omission did not prejudice private respondents who had intervened in and had knowledge of the land registration proceedings, the in rem character of land registration proceedings and the conclusiveness, indefeasibility and incontestability of the title issued as a result thereof, offset any error or omission that may have been committed by petitioner and retrieve it of any fatal consequence.

WHEREFORE, the judgment appealed from is hereby reversed, and another one entered adjudicating the entirety of the land in question to petitioner Francisco de la Rosa.

No costs.

SO ORDERED.

Teehankee, (Chairman), Plana, Relova, and Gutierrez, Jr., JJ., concur.
Vasquez, J., reserves his vote.

[1] Decision, Court of Appeals, p. 5.

[2] Heirs of Juan Sindiong vs. Committee on Burnt Areas & Improvement of Cebu, 10 SCRA 715 (1964); Vda. de Delima vs. Tio, 32 SCRA 516 (1970); Ramos vs. Ramos, 61 SCRA 287 (1974); Magtira vs. Court of Appeals, 96 SCRA 680 (1980).

[3] Melgar vs. Pagayon, 21 SCRA 841 (1967); Benin vs. Tuason, 57 SCRA 531 (1974).

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