

LEONARDO ABUYO, PLAINTIFFS-APPELLANTS, VS. CONCEPCION B. DE SUAZO, DEFENDANT-APPELLEE.*G. R. No. L-21202. October 29, 1966*

Ponente: SANCHEZ, J.

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Suit [1] to recover a 3-hectare portion of an almost 10-hectare land in Lanote, Isabela, Basilan City. The judgment below went for defendant. Plaintiffs appealed.

Original owner of the entire land of almost 10 hectares, covered by Original Certificate of Title No. 814 [2] in his name, was Ambrosio Abuyo, plaintiffs' father. On May 8, 1939, Ambrosio Abuyo (who later died on May 28, 1946) sold the disputed 3-hectare portion of that land to Gregorio Suazo, husband of defendant Concepcion B. de Suazo. Promptly, defendant and her husband, now deceased, took possession of the 3-hectare piece. They fenced the same to segregate it from the rest, paid the taxes thereon. Defendant's possession continues up to the present. She enjoys the fruits thereof.

1. Plaintiffs, in their brief, question, amongst others, the lower court's finding that the deed of sale of May 8, 1939 is indubitable evidence that Ambrosio Abuyo sold the 3-hectare portion to Gregorio Suazo. They now urge this Court to review the evidence and thereafter to make a finding that said document is not genuine. This cannot be done.

For, plaintiffs had chosen to appeal direct to this Court. Their notice of appeal says so. [3] And, in their Record on Appeal, they prayed that the record of this case be elevated to this Court. [4] A direct appeal from the Court of First Instance to this Court binds appellant to the findings of fact of the trial court. Because he is deemed to have accepted the facts as found by the lower court. He may only raise questions of law. Accordingly, the findings of fact of the court below in this case are final. They are not now open to question. [5]

2. We now address ourselves to the legal issue. The core of plaintiffs' case is that the unrecorded deed of sale of May 8, 1939 covering the 3-hectare disputed piece of land is not binding upon them. Reliance they place on Section 50, Land Registration Act, which provides that a deed shall not "take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the clerk or register of deeds to make registration". By that same legal precept, "[T]he act of registration shall be the operative act to convey and affect the land". Interpreting Section 50 aforesaid, this Court has ruled that an unrecorded deed of sale between the vendor and the vendee, is binding between them. [6] Because actual notice is equivalent to registration. As binding is that contract to the vendor's privies. Reason therefor is that the purpose of registration is to give notice to third persons. And, privies are not third persons. The vendor's heirs are his privies. Against them, failure to register will not vitiate or annul the vendee's right of ownership conferred by such unregistered deed of sale. [7]

Plaintiffs therefore are bound by the deed executed by their father, Ambrosio Abuyo. They are no longer owners of the disputed portion of land. They cannot recover ownership and possession thereof from defendant.

We vote to affirm the judgment under review. Costs against plaintiffs - appellants.

SO ORDERED.

Concepcion, C.J., Reyes, J. B. L., Dizon, Regala, Makalintal, Bengzon, J. P., Zaldivar Ruiz and Ruiz Castro, JJ., concur.

Barrera, J., on leave.

[1] Civil Case No. 374, Court of First Instance of Basilan City.

[2] Due to the transfer of records from the Province of Zamboanga to the City of Zamboanga, Original Certificate of Title No. 814 was cancelled and in lieu thereof Transfer Certificate of Title No. 664 (0-814) still in the name of Ambrosio Abuyo was issued. R. A., pp. 2, 18.

[3] See Notice of Appeal, R. A., p. 24.

[4] R. A., p. 25.

[5] Aballe vs. Santiago, G.R. No. L-16307, April 30, 1963; Cabrera, et al., vs. Tiano, G.R. No. L-17299, July 31, 1963; Development Bank of the Philippines vs. Ozarraga, etc., L-16631, July 20, 1965.

[6] Evangelista vs. Montaña, et al., 93 Phil. 275, 282.

[7] Carillos. Salak de Paz, et al., 91 Phil. 265, 269; Sanchez, et al., vs. de la Cruz, et al., 55 O.G. No. 29, pp. 5573, 5577-5578, citing cases.

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