

SPOUSES FRANCISCO B. SINFUEGO, JR. AND JESUSISIMA B. SINFUEGO, PLAINTIFFS-APPELLEES, VS. SPOUSES EDUARDO I. CHAN AND ROSELILY CHAN, ESTATE OF MARIA VDA. DE CORDERO, GODOLFO R. G...

Ponente: BATO, JR., J.

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BATO, JR., J.:

This is an appeal from the Decision[1] dated September 13, 2012 of the Regional Trial Court of Pasig City (stationed in Taguig City), Branch 153, in Civil Case No. 69627, the dispositive portion of which reads:

WHEREFORE, the foregoing premises considered, defendants are ordered to:

- Reconvey to plaintiffs the 27.06 sq. m. portion of the subject property previously covered by TCT No. 18551 registered in the name of Ma. Vda. de Cordero and now by TCT No. 40244, registered in the names of defendants spouses;
- Pay plaintiffs the following:
 - Twenty Thousand Pesos (P20,000.00) as moral damages;
 - Twenty Thousand Pesos (P20,000.00) as attorney's fees; and
 - Costs of suit.

Defendants' counter claims, for lack of merit, are dismissed.

SO ORDERED.

The facts are borne out by the records.

On March 21, 1998, plaintiffs-appellees Spouses Francisco and Jesusisima Sinfuego (hereinafter “Sinfuegos”) and the late Maria Vda. de Cordero (hereinafter “Cordero”) entered into a Kasulatan ng Bilihang Lampasan (Deed of Absolute Sale)[2] wherein Cordero sold to the Sinfuegos 27.06 square meters (out of 237 square meters) of her real property located in Zone 6, Upper Bicutan, Taguig City and covered by Transfer Certificate of Title (TCT) No. 18551, for a consideration of P65,000.00.

Almost two months later, or on May 19, 1998, Cordero mortgaged her entire 237 square meter real property, covered by TCT No. 18551, to the defendants-appellants Spouses Eduardo and Roselily Chan (hereinafter “Chans”) to secure the payment of a loan in the amount of P60,000.00. The Real Estate Mortgage[3] dated May 19, 1998 was annotated on TCT No. 18551 on May 20, 1998 as Entry No. 8729.

Meanwhile, the Sinfuegos repeatedly demanded from Cordero to deliver to them the owner's duplicate copy of TCT No. 18551 so that the Sinfuegos can register in their name the portion which they purchased from Cordero. But, Cordero told them that the title was in the possession of a third person. It was only in February 2000 that the Sinfuegos got a photocopy of TCT No. 18551. To their surprise, Cordero's entire property—including that which

the Sinfuegos had purchased—had been mortgaged to the Chans. On February 18, 2000, the Sinfuegos filed an Affidavit of Adverse Claim^[4] which was annotated on TCT No. 18551 as Entry No. 6424.

Cordero failed to pay her obligation to the Chans. As a result, the Chans foreclosed the mortgaged property and, during the auction sale, the Chans were the highest bidder. After the expiration of the redemption period, the Chans consolidated ownership of the property. TCT No. 18551 was then cancelled and, on September 12, 2002, TCT No. 40244 was issued in the name of the Chans.

At the instance of the Chans, a writ of possession was issued on August 27, 2003 ordering the removal of all occupants of the real property covered by TCT No. 18551, now TCT No. 40244, including the Sinfuegos who, since acquiring the 27.06 portion thereof, had put up a house and a beauty parlor.

Claiming that they have a better right to the 27.06 square meters which they acquired from Cordero, the Sinfuegos filed on September 16, 2003 a Petition^[5] for Reconveyance against the Chans, the estate of Cordero, the Register of Deeds of Rizal and the Treasurer of the Philippines. The Sinfuegos prayed that TCT No. 40244 be cancelled and a new TCT be issued in the name of the Sinfuegos covering the 27.06 square meter portion of the real property, that the mortgage between Cordero and the Chans—and the subsequent proceedings taken thereon—be declared null and void, and that the Chans be ordered to pay the Sinfuegos moral damages and attorney's fees.

In their Answer with Compulsory Counterclaim,^[6] the Chans claimed that they were not aware of the Deed of Absolute Sale between the Sinfuegos and Cordero, that the said sale did not bind third persons because it was not registered, that the Adverse Claim filed by the Sinfuegos was annotated after the recording of the Real Estate Mortgage, and that the law on foreclosure of mortgages was faithfully observed by the Chans.

During the pre-trial conference on August 5, 2008, the parties jointly stipulated as follows:

- They knew Maria Vda. de Cordero (now deceased);
- Maria Vda. de Cordero is the registered owner of a parcel of land covered by Transfer Certificate of Title No. 18551 with an area of 237 square meters;
- The parcel of land covered by TCT No. 18551 is the subject of the present controversy;
- That TCT No. 18551 in the name of Maria Vda. de Cordero was cancelled and a new TCT No. 40244 was issued in the name of Eduardo I. Chan;
- That there was a petition for Writ of Possession involving the subject property filed before RTC Branch 152 and which petition was granted by the said Court on August 27, 2003; and
- That the instant Petition for Reconveyance filed on September 16, 2003 was filed after the Writ of Possession was issued by RTC Branch 152 on August 27, 2003.^[7]

The parties also agreed on the following issues:

- Whether defendant Eduardo Chan, as claimed by plaintiffs, is a mortgagee in bad faith and therefore a buyer in bad faith;
- Whether the sale by Maria Vda. de Cordero consisting of 27.06 square meters, a portion of her property in favor of Sps. Sinfuego, can bind third parties; and
- Whether both parties are entitled to their respective claims.^[8]

During the trial, both the Sinfuegos testified and presented Melchor Baera, their construction worker. On the other hand, only Eduardo Chan testified for the defense.

On September 13, 2012, the court a quo issued its now assailed Decision which ordered the Chans to reconvey the 27.06 square meter portion of the 237 square meter property covered by TCT No. 40244 to the Sinfuegos and to pay P20,000.00 as moral damages and P20,000.00 as attorney's fees. According to the trial court, the Chans were buyers in bad faith because, at the time of the foreclosure sale sometime in June 2000, they already had constructive notice of the adverse claim filed by the Sinfuegos, which adverse claim was inscripted on February 18, 2000.

Not satisfied with the court a quo's Decision, the Chans are now before this Court, on ordinary appeal, alleging that:

First Assignment of Error

THE LOWER COURT ERRED IN FINDING THAT THE DEFENDANTS-APPELLANTS WERE BUYERS IN BAD FAITH.

Second Assignment of Error

THE LOWER COURT ERRED IN ORDERING THE RECONVEYANCE OF THE 27.06 SQ. M. PORTION OF THE SUBJECT LOT X X X AND IN AWARDING DAMAGES TO THE PLAINTIFFS-APPELLEES.

Third Assignment of Error

THE LOWER COURT ERRED IN NOT GRANTING THE COUNTERCLAIM OF DEFENDANTS-APPELLANTS.[9]

The Sinfuegos oppose the appeal, claiming that the appealed decision is supported by the evidence and the law; that the defendants-appellants were, in fact, buyers in bad faith.

Thus, the issue in this appeal is whether or not the court a quo committed reversible error in ordering the Chans to reconvey to the Sinfuegos the 27.06 square meter portion of the 237 square meter real property now covered by TCT No. 40244, which the Sinfuegos purchased from Cordero.

The appeal is bereft of merit.

We agree with the trial court's ruling that the Chans were not purchasers in good faith. Based on the records, the adverse claim filed by the Sinfuegos was recorded earlier than the auction sale of the subject real property. Because the adverse claim was recorded and annotated on TCT No. 18551, the Chans are presumed to have constructive notice thereof. By ignoring or refusing to investigate the matter—when they should have—the Chans are deemed buyers in bad faith. As explained in *Spouses Pudadera vs. Magallanes*:^[10]

One is considered a purchaser in good faith if he buys the property without notice that some other person has a right to or interest in such property and pays its fair price before he has notice of the adverse claims and interest of another person in the same property. Well-settled is the rule that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property. “However, this rule shall not apply when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of the title of the property in litigation.” “His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title will not make him an innocent purchaser for value if it later develops that the title was in fact defective, and it appears that he had such notice of the defect had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation.” (Emphasis supplied)

In the case at bar, not only was the adverse claim of the Sinfuegos recorded on February 18, 2000, or about four (4) months before the auction sale, the Sinfuegos were also in actual possession of the 27.06 square meter portion of the mortgaged property. They had erected thereon a house with a beauty parlor. Thus, against the evidence on record, there is no truth to the Chans' allegation that "[Eduardo Chan] exercised due diligence and saw to it that there was nothing that would arouse his suspicion on the ownership of Maria Vda. de Cordero of the subject lot." [11] The house and beauty parlor which the Sinfuegos constructed on the portion which they purchased from Cordero was too obvious not to be noticed. Had the Chans investigated the interest of the Sinfuegos over the portion of the lot which they were in possession of, the Chans would have known that the Sinfuegos have a valid prior right, having purchased the same from the mortgagor Cordero. Thus, by deliberately failing to do so, the Chans were in bad faith.

The rule that the buyer who first registers his sale in good faith shall be preferred is based on the second paragraph of Article 1544 of the Civil Code which provides:

Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property. (Emphasis supplied)

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Moreover, knowledge by the second buyer of the first sale defeats his rights even if he is first to register, according to *Spouses Santiago vs. Court of Appeals*, [12] thus:

The governing principle is *prius tempore, potior jure* (first in time, stronger in right). Knowledge by the first buyer of the second sale cannot defeat the first buyer's rights except when the second buyer first registers in good faith the second sale (*Olivares vs. Gonzales*, 159 SCRA 33). Conversely, knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register, since such knowledge taints his registration with bad faith (see also *Astorga vs. Court of Appeals*, G.R. No. 58530, 26 December 1984). In *Cruz vs. Cabana* (G.R. No. 56232, 22 June 1984; 129 SCRA 656), it was held that it is essential, to merit the protection of Art. 1544, second paragraph, that the second realty buyer must act in good faith in registering his deed of sale (citing *Carbonell vs. Court of Appeals*, 69 SCRA 99, *Crisostomo vs. CA*, G.R. 95843, 02 September 1992). (Emphasis supplied)

Thus, the Court agrees with the court a quo that, because they were not purchasers in good faith, the Chans do not have a valid right to the 27.06 square meter portion of the real property covered by TCT No. 18551 (now TCT No. 40244). The registration of the entire property in their name does not afford them protection. Registration has never been a mode of acquiring ownership over immovable property, because it does not create or vest title, but merely confirms one already created or vested. [13] Registration does not give holders any better title than what they actually have, and land erroneously included in the certificate of title of another must be reconveyed in favor of its true and actual owner. [14]

Another reason why the Chans ought to reconvey the 27.06 square meter portion of the subject property is the fact that, at the time Cordero mortgaged that real property covered by TCT No. 18551 to the Chans, Cordero was no longer the owner of the said 27.06 square meter portion, having sold and delivered the same to the Sinfuegos.

In the law on sales, the ownership of the thing sold is transferred to the vendee upon the actual or constructive delivery thereof. [15] The execution of a public instrument like the *Kasulatan ng Bilihang Lampasan* (Deed of Absolute Sale) which Cordero and the Sinfuegos executed on March 21, 1998 is equivalent to the delivery of the

thing.[16] Since the 27.06 square meter portion of the subject property had already been delivered to the Sinfuegos on March 21, 1998, Cordero had no more right to mortgage the same to secure the P60,000.00 loan which she obtained from the Chans. One of the essential requisites of a mortgage contract is that the mortgagor must be the absolute owner of the thing mortgaged.[17] A mortgage is, thus, invalid if the mortgagor is not the property owner.[18]

Furthermore, following the Latin maxim *Nemo dat quod non habet*—"no one can give what one does not have"—when the mortgaged property was foreclosed and sold on public auction, the Chans could not have legally acquired the subject 27.06 square meter portion because the mortgagor (Cordero), at the time of the foreclosure sale, no longer had a right to transfer the ownership thereof. The Supreme Court explained in *Cavite Development Bank vs. Court of Appeals*,[19] that:

A foreclosure sale, though essentially a "forced sale," is still a sale in accordance with Art. 1458 of the Civil Code, under which the mortgagor in default, the forced seller, becomes obliged to transfer the ownership of the thing sold to the highest bidder who, in turn, is obliged to pay therefor the bid price in money or its equivalent. Being a sale, the rule that the seller must be the owner of the thing sold also applies in a foreclosure sale. This is the reason Art. 2085 of the Civil Code, in providing for the essential requisites of the contract of mortgage and pledge, requires, among other things, that the mortgagor or pledgor be the absolute owner of the thing pledged or mortgaged, in anticipation of a possible foreclosure sale should the mortgagor default in the payment of the loan.

Clearly, considering that Cordero was no longer the owner of the 27.06 square meter portion of the mortgaged property covered by TCT No. 18551, the same should be deemed excluded from the real estate mortgage executed between Cordero and the Chans. The right thing to do now, considering that it was improperly included as security for the loan of Cordero and that it was illegally sold to the Chans during the auction sale, is for the Chans to reconvey the same to the Sinfuegos. An action for reconveyance is, after all, a legal remedy granted to a landowner whose property has been wrongfully or erroneously registered in another's name.[20]

As for the award of moral damages and attorney's fees, this Court sustains the justification thereof by the court a quo. We quote with approval the trial court's disquisition:

Anent the third issue, in view of this court's finding that defendant Eduardo had acted in bad faith in buying the subject property and registering the certificate of sale, being the immediate and proximate cause of plaintiff's injury, the latter are entitled to damages.

Moral damages may be awarded in a breach of contract when defendant acted fraudulently or in bad faith x x x. (*Bankard vs. Feliciano*, 497 SCRA 52). Applying this case, by way of analogy, to the instant case, defendants are liable to plaintiffs for moral damages.

Plaintiffs are also entitled to the award of attorney's fees against defendants because they were compelled to litigate with third persons or to incur expenses to protect their interest, under Article 2208 (2) of the Civil Code and to the costs of suit.[21]

WHEREFORE, in view of the defendants-appellants' failure to demonstrate that the Regional Trial Court of Pasig City (stationed in Taguig City), Branch 153, committed reversible error, the instant appeal is DISMISSED and the Decision dated September 13, 2012 issued in Civil Case No. 69627 is AFFIRMED IN TOTO.

SO ORDERED.

Zalameda, and Paredes,[*] JJ., concur.

[*] Acting Junior Member vice J. Diy per Office Order No. 520-14-ABR dated December 9, 2014.

[1] Rollo, pp. 39-45.

[2] Exhibit "A".

[3] Exhibit "1".

[4] Record, p. 11.

[5] Record, p. 2.

[6] Record, p. 37.

[7] Decision, p. 3; Rollo, p. 41.

[8] Ibid.

[9] Appellant's Brief, p. 8; Rollo, p. 32.

[10] G.R. No. 170073, October 18, 2010.

[11] Appellant's Brief, p. 9; Rollo, p. 33.

[12] G.R. No. 117014, August 14, 1995.

[13] Vda. de Mistica vs. Naguiat, G.R. No. 137909, December 11, 2003.

[14] Ibid.

[15] Art. 1477, Civil Code.

[16] Art. 1498, Civil Code.

[17] Ereña vs. Querrer-Kauffman, G.R. No. 165853, June 22, 2006.

[18] Ibid.

[19] G.R. No. 131679, February 1, 2000.

[20] Declaro vs. Court of Appeals, G.R. No. 119747, November 27, 2000.

[21] Decision, p. 7; Rollo, p. 45.

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