

ROMEO PAYLAGO AND ROSARIO DIMAANDAL, PETITIONERS, VS. INES PASTRANA JARABE AND THE HONORABLE COURT OF APPEALS, RESPONDENTS.

G.R. No. L-20046. March 27, 1968

Ponente: REYES, J. B. L., Acting C.J.

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REYES, J. B. L., Acting C.J.:

This is an appeal by certiorari from the decision of the Court of Appeals affirming the lower court's decision in the case of Romeo Paylago, et al. vs. Ines Pastrana Jarabe, CA-G.R. No. 25031-R, promulgated on June 6, 1962. (Civil Case No. R-709 of the Court of First Instance of Oriental Mindoro).

The entire lot involved in this suit was originally covered by Homestead Patent issued on June 7, 1920 under Act No. 926 and later under OCT No. 251 of the Registry of Deeds of Mindoro, issued on June 22, 1920 in the name of Anselmo Lacatan. On May 17, 1948, after the death of Anselmo Lacatan, TCT No. T-728 (which cancelled OCT No. 251) was issued in the name of his two sons and heirs, Vidal and Florentino Lacatan. Vidal Lacatan died on August 27, 1950.

On March 23, 1953, Vidal Lacatan's heirs, namely, Maximo, Tomas and Lucia Lacatan, executed a deed of sale (Exh. C) in favor of the spouses Romeo Paylago and Rosario Dimaandal, plaintiffs-petitioners herein, over a portion of the entire lot under TCT No. T-728, which portion is described as follows:

North - Provincial Road;

East - Property of Romeo Paylago;

South - Property of Florentino Lacatan;

West - Provincial Road (Nabuslot-Batingan);

containing an area of 3.9500 hectares.

On October 6, 1953, Florentino Lacatan also died, leaving as his heirs, his widow and three children, Felipe, Rosita and Florencia Lacatan. On December 31, 1953, the said children of Florentino Lacatan likewise executed a deed of sale (Exh. D) in favor of the same vendees over another portion of the same lot described as follows:

North - Provincial Road (Calapan-Pinamalayan);

East - Heirs of Sotero Mongo;

South - Aniceta Lolong;

West - Heirs of Vidal Lacatan;

with an area of 2.8408 hectares.

On March 2, 1954, by virtue of the registration of the two deeds of sale (Exhs. C and D), a new TCT No. T-4208 covering the total area of 6.7908 hectares was issued in favor of plaintiffs-petitioners, the Paylago spouses. A subsequent subdivision survey for the purpose of segregating the two aforementioned portions of land described in the deeds (Exhs. C and D) as well as in the new TCT No. T-4208, however, disclosed that a portion (one half hectare) of the total area purchased by plaintiffs-petitioners and indicated in the sketch Exh. B at a point marked Exh. B-1 was being occupied by defendant-respondent. Hence, the action to recover possession and ownership of the said portion.

Vis-a-vis the foregoing undisputed facts, the trial court and the Court of Appeals found that a portion of land in question which is described as follows:

North - Provincial Road;
East - Apolonio Lacatan;
South - Anselmo Lacatan;
West - Valentin Lastica;

and with an area of one half hectare is indicated in the sketch of subdivision plan marked Exh. B-1 of Exh. B; that on November 27, 1938, the said portion of land was purchased by Hilario Jarabe, late husband of defendant-respondent, from one Apolonio Lacatan, which sale is evidenced by an unregistered deed of sale (Exh. 6); that Apolonio Lacatan, in turn, bought the same in 1936 from Anselmo Lacatan, the original registered owner in whose favor OCT No. 251 and later TCT No.

T-4208 were issued; that the first deed of sale, also unregistered, executed by Anselmo Lacatan in favor of Apolonio Lacatan was lost during the Japanese occupation; that the herein defendant-respon-dent has been in possession of the said portion continuously, pub-licly, peacefully and adversely as owner thereof from 1938 up to the present; and, that the herein plaintiffs-petitioners knew, nay, admitted in a deed of lease, paragraph 3 (Exh. 4), that defendant-respondent has been in possession of the premises since 1945.

After trial, the lower court held that plaintiffs-petitioners were not purchasers in good faith and, accordingly, rendered judgment in favor of defendant-respondent, declaring the latter as owner of the land in question with the right to retain possession of the same. The decision was affirmed in toto by the Court of Appeals.

From the evidence adduced by the parties evolved the issue: Who has a better right in case of double sale of real property, the registered buyer or the prior but unregistered purchaser?

This Court has formulated in no uncertain terms the general principle governing the matter: as between two purchasers, the one who has registered the sale in his favor, in good faith, has a preferred right over the other who has not registered his title, even if the latter is in the actual possession of the immovable property (*Mendiola v. Pacalda*, 10 Phil. 705; *Veguillas v. Jaucian*, 25 Phil. 315; *Po Sun Tun v. Price*, 54 Phil. 192). Indeed, the fore-going principle finds concrete bases in the pertinent provisions of the New Civil Code, Article 1544, providing that if the same innovable property should have been sold to different vendees, "the ownership shall belong to the person acquiring it who in good faith first recorded it in the registry of property."

There is no question that the sales made in favor of plaintiffs-petitioners were registered while the alleged sale executed in favor of defendant-respondent was not. Applying the foregoing principle of law to the instant case, it is now contended by plaintiffs-peti-tioners that their certificate of title must prevail over defendant-respondent, and that the courts below correspondingly committed error in deciding the case to the contrary.

But there is more than meets the eye in the case at bar. While plaintiffs-petitioners have a registered title, it cannot

be - denied that their acquisition and subsequent registration were tainted with the vitiating element of bad faith. It was so found by both the Court of First Instance and the Court of Appeals, and their finding is conclusive upon us. Thus, in *Evangelista vs. Montaña*, 93 Phil. 275, 279, this Court ruled:

"Both the Court of First Instance and the Court of Appeals absolved the defendants, having found and declared after weighing the evidence that the plaintiff was not a purchaser in good faith. That this conclusion is a finding of fact and, being a finding of fact, not subject to review, is too plain to admit of argument."

Both Courts below found that petitioners knew beforehand that the parcel of land in question was owned by defendant-respondent.

In its decision the Court of Appeals declared that "plaintiffs herein were aware of that peaceful, continuous and adverse possession of defendant since 1945, because this fact is admitted by said plaintiffs in a deed of lease, paragraph 3 (Exhibit 4) covering a portion of the entire lot, and situated just across the road from the land in question." (Dec., C. App., p. 4).

Considering that the boundaries of the lands that the petitioners Paylago purchased in 1953 and 1954 were well defined, they must have known that the portion occupied by defendant-respondent under claim of ownership and leased to them by the latter was included in the description, And coupled with their knowledge that defendant-respondent purchased the same from Apolonio Lacatan, plaintiffs-petitioners should have inquired and made an investigation as to the possible defects of the title of the Lacatan heirs over the entire lot sold to them, granting that the latter's certificate of title was clear. This, they failed to do. They cannot now claim complete ignorance of defendant-respondent's claim over the property. As was well stated in one case, "a purchaser who has knowledge of facts which should put him upon inquiry and investigation as to possible defects of the title of the vendor and fails to make such inquiry and investigation, cannot claim that he is a purchaser in good faith and had acquired a valid title thereto." (*Sampilo v. Court of Appeals*, 55 O. G. No. 30, p. 5772). To the same effect is the following doctrine laid down by the Supreme Court in the case of *Leung Yee v. F. L. Strong Machinery Co. & Williamson*, 37 Phil. 644. Said the Court:

"One who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith, as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects of the title of his vendor. A purchaser can-not close his eyes to facts which should put a reasonable man upon his guard and then claims that he acted in good faith under the belief that there was no defect in the title of the vendor. 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 afterwards develops that the title was defective, and it appears that he had such notice of the defect as would have led to its discovery had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation."

The fundamental premise of the preferential rights established by Article 1544 of the New Civil Code is good faith (*Bernas v. Bolo*, 81 Phil. 16). To be entitled to the priority, the second vendee must not only show prior recording of his deed of conveyance or possession of the property sold, but must, above all, have acted in good faith, that is to say, without knowledge of the existence of another alienation by his vendor to a stranger (*Obras Pias v. Ignacio*, 17 Phil. 45; *Leung Yee v. F. L. Strong Machinery Co., et al.*, op cit.; *Emas v. De Zuzuarregui, et al.*, 53 Phil. 197). Short of this qualifying circumstance, the mantle of legal protection and the consequential guarantee of indefeasibility of title to the registered property will not in any way shelter the recording purchaser against known and just claims of a prior though unregistered buyer. Verily, it is now settled jurisprudence that knowledge of a prior transfer of a registered property by a subsequent purchaser makes him a purchaser in bad

faith and his knowledge of such transfer vitiates his title acquired by virtue of the later instrument of conveyance which was registered in the Registry of Deeds (*Ignacio v. Chua Hong*, 52 Phil. 940; *Gustilo, et al. v. Maravilla*, 48 Phil. 442; *Ramos, et al. v. Dueno, et al.*, 50 Phil. 786). The registration of the later instrument creates no right as against the first purchaser. For the rights secured under the provisions of Article 1544 of the New Civil Code to the one of the two purchasers of the same real estate, who has secured and inscribed his title thereto in the Registry of Deeds, do not accrue, as already mentioned, unless such inscription is done in good faith (*Leung Yee v. F. L. Strong Machinery Co., et al.*, *op cit.*). To hold otherwise would reduce the Torrens system to a shield for the commission of fraud (*Gustilo, et al. v. Maravilla, op cit.*).

Plaintiffs-petitioners cited the case of *Bacolod-Murcia Milling Co., Inc. v. De la Rama, et al.*, G. R. No. L-4526, September 1959, to disprove bad faith ascribed to them. But the citation does not fit with the facts of the present case. It is to be noted that the second purchaser in the *De la Rama* case had no knowledge of the previous sale and possession of the first purchaser at the time he (second purchaser) acquired the property involved therein. "(T)here is nothing in the complaint which may in any way indicate that he knew such possession and encumbrance when he bought the property from its owner." Plain-tiffs-petitioners in the instant case, however, had knowledge of defendant-respondent's claim of ownership over the land in question long before they purchased the same from the Lacatan heirs. They were even told, as previously intimated, that defendant-respondent bought the land from Apolonio Lacatan. Thus, it could easily be distinguished that the second purchaser in the *De la Rama* case acted with good faith, i.e., without knowledge of the anterior sale and claim of ownership of the first vendee, whereas, plaintiffs-petitioners herein acted with manifest bad faith in buying the land in question, all the while knowing that defendant-respondent owns the same. Such knowledge of defendant-respondent's ownership of the land is more than enough to overthrow the presumption of good faith created by law in favor of plaintiffs-petitioners. This being the case, we cannot just close our eyes and blindly stamp our approval on the argument of plaintiffs-petitioners that they have the better right simply because their title is registered and as such is indefeasible.

Plaintiffs-petitioners also contend that the identity of the land in question has not been established. Again, we disagree. Evidence of record, both oral and documentary, unequivocally show that the said portion of land can be identified and segregated, and has been in fact identified and segregated (Exh. B-1), from the entire lot covered by TCT No. T-4208 (Exh. A) issued in the names of plaintiffs-petitioners. The boundaries of the same have been clearly indicated as that planted by madre cacao trees. Even the surveyor hired by plaintiffs-petitioners was able to fix the said boundaries in such a manner as to definitely and accurately segregate the pre-mises from the adjoining property. How could plaintiffs-petitioners now argue that the land has not been identified when the Supreme Court itself says that what really defines a piece of land is not the area mentioned in the description but the boundaries (*Sanchez v. Director of Lands*, 63 Phil. 378; *Buizer v. Cabrera, etc.*, 81 Phil. 669; *Bayot v. Director of Lands*, 98 Phil. 935)? Besides, the area has been also established as one-half hectare.

Another collateral question raised by plaintiffs-petitioners is the admission by the courts a quo of secondary evidence to establish the contents of the first unregistered deed of sale executed by Anselmo Lacatan in favor of Apolonio Lacatan when the loss or destruction of the original document, according to them, has not been established. Again, the findings of the Court of Appeals destroy this assertion of petitioners (Dec., p. 5):

"Undeniably the alleged unregistered document could no longer be examined by the parties in court, because it was lost - but its original, however, upon the trial court's findings which we have no reason to question - has been sufficiently proved as having existed."

As observed by this Supreme Court, "the destruction of the instrument may be proved by any person knowing the fact. The loss may be shown by any person who knew the fact of its loss, or by any one who has made, in the

judgment of the court, a sufficient examination of the place or places where the document or papers of similar character are kept by the person in whose custody the document lost was, and has been unable to find it; or has made any other investigation which is sufficient to satisfy the court that the instrument is indeed lost." (Michael & Co. v. Enriquez, 33 Phil. 87). And "it is not even necessary to prove its loss beyond all possibility of mistake. A reasonable probability of its loss is sufficient, and this may be shown by a bona fide and diligent search, fruitlessly made, for it in places where it is likely to be found." (Government of P. I. v. Martinez, 44 Phil. 817). And after proving the due execution and delivery of the document, to-gether with the fact that the same has been lost or destroyed, its contents may be proved, among others, by the recollection of wit-nesses (Vaguillas v. Jaucian, 25 Phil. 315).

Finding that the facts and the law support the same, it is our opinion, and so hold, that the appealed decision should be, as it is hereby affirmed. Costs against petitioners spouses Paylago and Dimaandal.

Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

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