

CATALINO LEABRES, PETITIONER, VS. COURT OF APPEALS AND MANOTOK REALTY, INC., RESPONDENTS.

G.R. No. L-41847. December 12, 1986

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a Petition for Certiorari to review the decision of the Court of Appeals which is quoted hereunder:

In Civil Case No. 64434, the Court of First Instance of Manila made the following quoted decision:

"(1) Upon defendant's counterclaim, ordering plaintiff Catalino Leabres to vacate and/or surrender possession to defendant Manotok Realty, Inc. the parcel of land subject matter of the complaint described in paragraph 3 thereof and described in the Bill of Particulars dated March 4, 1966;

(2) To pay defendant the sum of P81.00 per month from March 20, 1959, up to the time he actually vacates and/or surrenders possession of the said parcel of land to the defendant Manotok Realty, Inc., and

(3) To pay attorney's fees to the defendant in the amount of P700.00 and pay the costs." (Decision, R.A., pp. 54-55).

The facts of this case may be briefly stated as follows:

"Clara Tambunting de Legarda died testate on April 22, 1950. Among the properties left by the deceased is the "Legarda Tambunting Subdivision" located on Rizal Avenue Extension, City of Manila, containing an area of 80,238.90 sq. m., covered by Transfer Certificates of Title No. 62042; 45142; 45149; 49578; 40957 and 59585. Shortly after the death of said deceased, plaintiff Catalino Leabres bought, on a partial payment of P1,000.00 a portion (No. VIII, Lot No. 1) of the Subdivision from surviving husband Vicente J. Legarda who acted as special administrator, the deed or receipt of said sale appearing to be dated May 2, 1950 (Annex "A"). Upon petition of Vicente L. Legarda, who later was appointed a regular administrator together with Pacifica Price and Augusto Tambunting on August 28, 1950, the Probate Court of Manila in the Special Proceedings No. 10808) over the testate estate of said Clara Tambunting, authorized through its order of November 21, 1951 the sale of the property.

In the meantime, Vicente L. Legarda was relieved as a regular administrator and the Philippine Trust Co. which took over as such administrator advertised the sale of the subdivision which includes the lot subject matter herein, in the issues of August 26 and 27, September 2 and 3, and 15 and 17, 1956 of the Manila Times and Daily Mirror. In the aforesaid Special Proceedings No. 10808, no adverse claim or interest over the subdivision or any portion thereof was ever presented by any person, and in the sale that followed, the Manotok Realty, Inc. emerged the successful bidder at the price of P840,000.00. By order of the Probate Court, the Philippine Trust Co. executed the Deed of Absolute Sale of the subdivision dated January 7, 1959 in favor of the Manotok Realty, INC. which deed was judicially approved on March 20, 1959, and recorded immediately in the proper Register of Deeds which issued the corresponding Certificates of Title to the Manotok Realty Inc., the defendant-appellee herein.

A complaint dated February 8, 1966, was filed by herein plaintiff, which seeks, among other things, for the quieting of title over the lot subject matter herein, for continuing possession thereof, and for damages. In the scheduled hearing of the case, plaintiff Catalino Leabres failed to appear although he was duly notified, and so the trial Court, in its order dated September 14, 1967, dismissed the complaint (Annex "E"). In another order of dismissal was amended as to make the same refer only to plaintiff's complaint and the counter claim of the defendant was reinstated and as the evidence thereof was already adduced when defendant presented its evidence in three other cases pending in the same Court, said counterclaim was also considered submitted for resolution. The motion for reconsideration dated January 22, 1968 (Annex "I"); was filed by plaintiff, and an opposition thereto dated January 25, 1968, was likewise filed by defendant but the Court a quo dismissed said motion in its order dated January 12, 1970 (Annex "K"), "for lack of merits" (pp. 71-72, Record on Appeal).

Appealing the decision of the lower Court, plaintiff-appellant advances the following assignment of errors:

I

THE LOWER COURT ERRED IN DENYING THE MOTION FOR RECONSIDERATION, DATED OCTOBER 9, 1967, THUS DEPRIVING THE PLAINTIFF-APPELLANT HIS DAY IN COURT.

II

THE LOWER COURT ERRED IN ORDERING THE PLAINTIFF-APPELLANT CATALINO LEABRES TO VACATE AND/OR SURRENDER THE POSSESSION OF THE LOT SUBJECT MATTER OF THE COMPLAINT TO DEFENDANT-APPELLEE.

III

THE LOWER COURT ERRED IN ORDERING THE PLAINTIFF-APPELLANT TO PAY DEFENDANT-APPELLEE THE SUM OF P81.00 PER MONTH FROM MARCH 20, 1969, UP TO THE TIME HE ACTUALLY VACATES THE PARCEL OF LAND. (Appellant's Brief, p. 7)

In the First Assigned Error, it is contended that the denial of his Motion for Reconsideration dated October 9, 1967, the plaintiff-appellant was not accorded his day in Court.

The rule governing dismissal of actions for failure to prosecute is provided for in Section 3, Rule 17 of the Rules of Court, as follows:

"If the plaintiff fails to appear at the time of the trial, or to prosecute his action for an unreasonable length of time, or to comply Court, the action may be dismissed upon motion of the defendant or upon the Court's own motion. This dismissal shall have the effect of an adjudication upon the merits, unless otherwise provided by the Court."

Under the afore-cited section, it is discretionary on the part of the Court to dismiss an action for failure to prosecute, and its action will not be reversed upon appeal in the absence of abuse. The burden of showing abuse of this discretion is upon the appellant since every presumption is toward the correctness of the Court's action (Smith, Bell & Co., e al vs. American Pres. Lines, Ltd., and Manila Terminal Co., No. L-5304, April 30, 1954; Adorable vs. Bonifacio, G.R. No. L-10698, April 22, 1959; Flores vs. Phil. Alien Property Administration, G.R. No. L-12741, April 27, 1960). By the doctrine laid down in these cases, and by the provisions of Section 5, Rules 131 of the Rules of Court, particularly paragraph (m) and (o) which respectively presume the regularity of official performance and the passing upon by the Court over all issues within a case, it matters not if the Court dismissing the action for failure to prosecute assigns any special reason for its action or not. We take note of the fact that the Order declaring appellant in default was handed down on September 14, 1967. Appellant took no steps to have this Order set aside. It was only on January 22, 1968, after he was furnished a copy of the Court's decision dated December 9, 1967 or about four months later that he attached this Order and the decision of the Court. Appel-lant

slept on his rights - if he had any. He had a chance to have his day in Court but he passed it off. Four months later he alleges that sudden illness had prevented him. We feel appellant took a long time - too long in fact - to inform the Court of his sudden illness. This sudden illness that according to him prevented him from coming to Court, and the time it took him to tell the Court about it, is familiar to the forum as an oft repeated excuse to justify indifference on the part of litigants or out-right negligence of those who represent them which subserves the interests of justice. In the instant case, not only did the appellant wantonly pass off his chance to have a day in Court but he has also failed to give a convincing, just and valid reason for the new hearing he seeks. The trial Court found it so; We find it so. The trial court in refusing to give appellant a new trial does not appear to have abused his discretion as to justify our intervention.

The Second and Third Assignment of Error are hereby jointly treated in our discussion since the third is but a consequence of the second.

It is argued that had the trial Court reconsidered its order dated September 14, 1967 dismissing the complaint for failure to prosecute, plaintiff-appellant might have proved that he owns the lot subject-matter of the case, citing the receipt (Annex "A") issued in his favor; that he has introduced improvements and erected a house thereon made of strong materials; that appellee's adverse interest over the property was secured in bad faith since he had prior knowledge and notice of appellant's physical possession or acquisition of the same; that due to said bad faith appellant has suffered damages, and that for all the foregoing, the judgment should be reversed and equitable relief be given in his favor.

As above stated, the Legarda-Tambunting Subdivision which includes the lot subject matter of the instant case, is covered by Torrens Certificates of Title. Appellant anchors his claim on the receipt (Annex "A") dated May 2, 1950, which he claims as evidence of the sale of said lot in his favor. Admittedly, however, Catalino Leabres has not registered his supposed interest over the lot in the records of the Register of Deeds, nor did he present his claim for probate in the testate proceedings over the estate of the owner of said subdivision, in spite of the notices advertised in the papers. (*Saldaña vs. Phil. Trust Co., et al.; Manotok Realty, Inc., supra*).

On the other hand, defendant-appellee, Manotok Realty, Inc., bought the whole subdivision which includes the subject matter herein by order and with approval of the Probate Court and upon said approval, the Deed of Absolute Sale in favor of appellee was immediately registered with the proper Register of Deeds. Manotok Realty, Inc. has therefore the better right over the lot in question because in cases of lands registered under the Torrens Law, adverse interests not therein annotated which are without the previous knowledge by third parties do not bind the latter. As to the improvement which appellant claims to have introduced on the lot, purchase of registered lands for value and in good faith hold the same free from all liens and encumbrances except those noted on the titles of said land and those burdens imposed by law. (Sec. 39, Act. 496). An occupant of a land, or a purchaser thereof from a person other than the registered owner, cannot claim good faith so as to be entitled to retention of the parcels occupied by him until reimbursement of the value of the improvements he introduced thereon, because he is charged with notice of the existence of the owner's certificate of title (*J.M. Tuason & Co. vs. Lecardo, et al., CA-G.R. No. 25477-R, July 24, 1962; J.M. Tuason & Co., Inc. vs. Manuel Abundo, CA-G.R. No. 29701-R, November 18, 1968*).

Appellant has not convinced the trial Court that appellee acted in bad faith in the acquisition of the property due to the latter's knowledge of a previous acquisition by the former, and neither are we impressed by the claim. The purchaser of a registered land has to rely on the certificate of title thereof. The good faith of appellee coming from the knowledge that the certificate of title covering the entire subdivision contain no notation as to appellant's interest, and the fact that the records of these cases like Probate Proceedings Case No. 10808, do not show the existence of appellant's claim, strongly support the correctness of the lower Court's decision.

WHEREFORE, in view of the foregoing, we find no reason to amend or set aside the decision appealed from, as regards to plaintiff-appellant Catalino Leabres. We therefore affirm the same, with costs against appellant. (pp.33-38, Rollo)

Petitioner now comes to Us with the following issues:

(1)

Whether or not the petitioner was denied his day in court and deprived of due process of law.

(2)

Whether or not the petitioner had to submit his receipt to the probate court in order that his right over the parcel of land in dispute could be recognized valid and binding and conclusive against the Manotok Realty, Inc.

(3)

Whether or not the petitioner could be considered as a possessor in good faith and in the concept of owner. (p. 11, Rollo)

Petitioner's contention that he was denied his day in court holds no water. Petitioner does not deny the fact that he failed to appear on the date set for hearing on September 14, 1967 and as a consequence of his non-appearance, the order of dismissal was issued, as provided for by Section 3, Rule 17 of the Revised Rules of Court.

Moreover, as pointed out by private respondent in its brief, the hearing on June 11, 1967 was not ex parte. Petitioner was represented by his counsel on said date, and therefore, petitioner was given his day in Court.

The main objection of the petition in the lower court's proceeding is the reception of respondent's evidence without declaring petitioner in default. We find that there was no necessity to declare petitioner in default since he had filed his answer to the counter-claim of respondent.

Petitioner anchors his main arguments on the receipt (Exh. 1) dated May 2, 1950, as a basis of a valid sale. An examination of the receipt reveals that the same can neither be regarded as a contract of sale or a promise to sell. There was merely an acknowledgment of the sum of One Thousand Pesos (P1,000.00). There was no agreement as to the total purchase price of the land nor to the monthly installment to be paid by the petitioner. The requisites of a valid Contract of Sale namely 1) consent or meeting of the minds of the parties; 2) determinate subject matter; 3) price certain in money or its equivalent - are lacking in said receipt and therefore the "sale" is not valid nor enforceable. Furthermore, it is a fact that Doña Clara Tambunting died on April 22, 1950. Her estate was there-after under custodia legis of the Probate Court which appointed Don Vicente Legarda as Special Administrator on August 28, 1950. Don Vicente Legarda entered into said sale in his own personal-capacity and without court approval, consequently, said sale cannot bind the estate of Clara Tambunting. Petitioner should have submitted the receipt of alleged sale to the Probate Court for its approval of the transactions. Thus, the respondent Court did not err in holding that the petitioner should have submitted his receipt to the probate court in order that his right over the subject land could be recognized - assuming of course that the receipt could be regarded as sufficient proof.

Anent his possession of the land, petitioner cannot be deemed a possessor in good faith in view of the registration of the ownership of the land. To consider petitioner in good faith would be to put a premium on his own gross negligence.

The Court resolved to DENY the petition for lack of merit and to AFFIRM the assailed judgment.

Feria, (Chairman), Fernan, Alampay, and Gutierrez, Jr., JJ., concur

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