

ESTATE OF THE LATE BEATO G. ECLE, REPRESENTED BY HIS SON, WILLIAM A. ECLE, PETITIONER, VS. THE HONORABLE REGIONAL TRIAL COURT, BRANCH 66, MAKATI CITY, AND ELIZABETH ROBEDELLO PA...

CA-G.R. SP NO. 105106, June 29, 2010

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Court of Appeals

Assailed in the instant petition filed under Rule 42 of the 1997 Rules of Civil Procedure is the Decision (Rollo, pp. 19-21) dated August 8, 2008 of the Regional Trial Court of Makati City, Branch 66 in Civil Case No. 08-249 which affirmed the Decision dated January 30, 2008 of the Metropolitan Trial Court of Makati City, Branch 64, (Rollo, pp. 22-24) in Civil Case No. 91369. The dispositive portion of the RTC decision states:

"WHEREFORE, premises considered, the Decision of the Metropolitan Trial Court is hereby Affirmed in Toto.

SO ORDERED." (Rollo, p. 21)

The facts are as follows:

Petitioner alleged that Beato G. Ecle (Beato) was a member of the Philippine Army. Sometime in 1950, the lot in dispute located at 359 Chico Street, Cembo, Makati City with an area of 266 square meters was awarded to him by the Armed Forces of the Philippines. The lot forms part of the vast military reservation known as Fort Bonifacio. Beato constructed a two-storey family home on the said lot and resided therein until he died on September 2, 1987.

Petitioner claimed that prior to the death of Beato, while he was confined at the hospital, respondent Elizabeth Robedello Pagarigan entered the subject premises and renovated the house on the pretext that the three (3) rooms of the house and the ground floor were sold to respondent by the late Beato Ecle for the sum of One Hundred Ten Thousand Pesos (P110,000.00) as evidenced by a Deed of Sale dated February 19, 1986. The subject matter of the Deed of Sale was only for three (3) room extension on the ground floor and not the entire area of 266 square meters.

Demands were made for the respondents to vacate but to no avail. Hence the filing of unlawful detainer case.

On the other hand, private respondent alleged that the Estate of the Late Beato Ecle has no legal personality and/or capacity to sue. Assuming without conceding that the Estate of Beato G. Ecle is permitted by law to be a party to a suit, the court a quo has no jurisdiction over the issue raised in the complaint which is one for the declaration of nullity of a contract and not an ejectment. Considering that the reason advanced by the petitioner to evict private respondent over the subject premises is a deed of sale, which was executed more than 20 years ago by and between Beato Ecle and Elizabeth Robedello Pagarigan, it must be annulled first in order to eject defendant.

On June 29, 2006, the Municipal Trial Court rendered its decision in favor of the private respondent, thus:

"WHEREFORE, above premises considered, the complaint and the counterclaim of the defendant is hereby ordered Dismissed. No costs.

SO ORDERED." (Rollo, p. 24)

Petitioner appealed. The RTC issued the appealed Decision dated August 8, 2008.

Hence, this petition with the following issues presented by petitioner.

I.

WHETHER OR NOT THE DEED OF SALE, DATED FEBRUARY 19, 1986, BETWEEN HEREIN PRIVATE RESPONDENT AND THE LATE BEATO G. ECLE INVOLVING THREE (3) ROOM EXTENSIONS GROUND FLOOR ONLY, HAS CEDED AND TRANSFERRED TO SAID PRIVATE RESPONDENT THE WHOLE AREA OF 266 SQUARE METERS AND THE ENTIRE BUILDING THEREON.

II.

WHETHER OR NOT THE OCCUPATION AND POSSESSION OF THE WHOLE AREA OF 266 SQUARE METERS AND THE ENTIRE BUILDING BY PRIVATE RESPONDENT IS UNLAWFUL AND ILLEGAL, CONSIDERING THE ONLY THREE (3) ROOM EXTENSIONS WERE ALLEGEDLY SOLD TO HER.

III.

WHETHER OR NOT THE HONORABLE PRESIDING JUDGE OF METROPOLITAN TRIAL COURT, BRANCH 64, MAKATI CITY, VIOLATED SOME PROVISION OF A.M. NO. 04-5-19-SC, PROMULGATED BY THE SUPREME COURT, IN HIS RENDITION OF THE DECISION ON JANUARY 30, 2008.

IV.

WHETHER OR NOT PRIVATE RESPONDENT IS LIABLE TO PAY PETITIONER DAMAGES FOR HER ILLEGAL AND UNLAWFUL USE, OCCUPATION, AND POSSESSION OF SAID REAL PROPERTY. (Rollo, p. 9)

Petitioner contends that the deed of sale between the late Beato G. Ecle and Elizabeth Robedello Pagarigan was for the three-room extension on the ground floor and not the whole area of 266 square meters. Thus, private respondent illegally possessed and occupied the entire building and the lot, introducing some improvements which she leased to some persons, deriving income therefrom to the prejudice of the petitioner. (Rollo, pp. 9-10) The prima facie presumption of due execution and authenticity of the deed of sale is controverted by the failure of the Notary Public to submit notarial reports of the said deed of sale to the Office of the Clerk of Court. (Rollo, p. 11) Petitioner further claimed that pursuant to A.M. No. 04-5-19 S.C. Circular, the transferred judge shall return the records of the case to the former branch with the decision that the new judge shall promulgate in his stead. (Rollo, p. 13)

The petition is without merit.

It must be remembered that petitioner filed a complaint for unlawful detainer and in ejectment suits the issue to be resolved is merely the physical possession over the property. (Ayson vs. Paragas, 557 SCRA 50 [2008]). Thus, a party who can prove prior possession can recover such possession even against the owner himself. Whatever may be the character of his possession, if he has in his favor prior possession in time, he has the security that entitles him to remain on the property until a person with a better right lawfully ejects him. To repeat, the only issue that the court has to settle in an ejectment suit is the right to physical possession. (Sudaria v. Quiambao, 537 SCRA

689, 697-698 [2002])

The evidence at hand disclosed that the private respondent took possession of the subject premises upon the execution of the sale on February 19, 1986 and have been in occupancy thereof since then up to the present. Under the law, possession is transferred to the vendee by virtue of the notarized deed of conveyance. Under Article 1498 of the New Civil Code of the Philippines, "when the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the object of the contract, if from the deed the contrary does not appear or cannot clearly be inferred." (Ong Ching Po, et al. vs. Court of Appeals, 239 SCRA 341 [1994]) In the same vein, Article 531 of the New Civil Code is explicit, thus: "Possession is acquired by the material occupation of a thing or the exercise of a right, or by the fact that it is subject to the action of our will or by the proper acts or legal formalities established for acquiring such right." Private respondent having prior physical possession is entitled to the possession of the subject property.

Petitioner likewise challenged the validity of the sale between the late Beato G. Ecle and Elizabeth Robedello Pagarigan. The sale transpired on February 19, 1986. Petitioner admitted that private respondent occupied the subject premises before Beato's death. If petitioner truly believed that the Deed of Sale is void, they should have filed an action to annul the same, but they did not. Petitioner questioned the validity of the Deed of Sale only when they filed the forcible entry case.

Furthermore, petitioner claimed that the Deed of Sale was fictitious. However, the said issue cannot properly be addressed in the present action. This issue can only be resolved in a separate action specifically for the annulment of the Deed of Sale. Resolution of this issue, in turn, will determine who between the parties is entitled to its possession. Petitioner cannot properly challenge the validity of the Deed of Sale in the ejectment case because ejectment cases proceed independently of any claim of ownership. (Spouses Diu v. Ibajan, 379 Phil. 482 [2000]).

Moreover, the non-recording of the Deed of Absolute Sale does not render the deed legally defective. It must be borne in mind that the act of registering or recording a document is never necessary to give the conveyance legal effect as between the parties (Spouses Lim vs. Chuatoco, 453 SCRA 308 [2005]) and the vendor's heirs. The failure of the Notary Public to send the entries in his notarial registry to the Clerk of Court of the RTC does not affect the validity of the document because the recording pertains only to the obligations and duties of a notary public under the Notarial Law.

With regard to the claim of the petitioner that pursuant to A.M. No. 04-5-19 S.C. Circular the transferred judge shall return the records of the case to the former branch with the decision and that the new judge shall promulgate in his stead is without merit. (Rollo, p. 13)

SC Circular A.M. No. 04-5-19 provides:

"2. Except as herein provided, all cases shall remain in the branch to which these have been raffled and assigned. Only cases that have been submitted for decision or those past the trial stage, i.e., where all the parties have finished presenting their evidence, prior to the transfer or promotion to the judge to which these are raffled/assigned shall be resolved or disposed by him/her in accordance with the guidelines herein set forth."

It is clear from the above-quoted provision that cases which were submitted for decision prior to the transfer or promotion are the only cases which the promoted or transferred judge will decide. In the case at bench, this case was only submitted for decision under the newly appointed judge. Hence, the newly appointed judge has the authority to decide the case and not the transferred judge.

WHEREFORE, in view of the foregoing, the Decision dated August 8, 2008 of the Regional Trial Court of

Makati City, Branch 66 in Civil Case No. 08-249 is AFFIRMED in toto.

SO ORDERED

Villamor and Ybanez[*] JJ., concur.

[*] Acting Junior Member per Office Order No. 144-10-ABR dated June 08, 2010.

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