

INOCENCIA CEMENTINA, ARTURO CEMENTINA, EMILIA CEMENTINA, REYNALDO CEMENTINA AND ROSAURO CEMENTINA, PETITIONERS, VS. TRIBUNAL DE APELACION, PABLO B. CONCEPCION Y EL REGISTRADOR D...

G.R. No. L-4295. June 26, 1952

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an appeal by certiorari from a decision of the Court of Appeals which affirms the decision of the court a quo dismissing the complaint filed by the plaintiffs, with costs.

Inocencia, Arturo, Emilia, Reynaldo and Rosauro Cementina seek to annul the sale of the property described in Transfer Certificate of Title No. 8744 of the register of deeds for the province of Rizal made by their father Irineo Cementina in favor of Pablo B. Concepcion on October 24, 1943, with regard to the one-half portion belonging to their late mother Isabel Cervantes on the ground that the property is conjugal in nature and as such he (their father) can only dispose of the share belonging to him, praying at the same time that Pablo B. Concepcion be ordered to pay the rentals he had collected and those that he may collect later and the costs of action.

The facts as found by the Court of Appeals are: The property in question is covered by Transfer Certificate of Title No. 8244 of the office of the register of deeds for the province of Rizal and appears issued in the name of Irineo Cementina married to Isabel Cervantes. The latter died on December 3, 1941, leaving as heirs her children Inocencia, Arturo, Emilia, Reynaldo and Rosauro had with her husband Irineo. Irineo and his children were all living in this property which was then encumbered. Desiring to free it from the encumbrance, Irineo Offered to sell it to Pablo B. Concepcion. After inspecting it, and having been assured by Irineo that he was its exclusive owner so much so that its title appears in his name although with the addition "casado con Isabel Cervantes", Concepcion agreed to buy it and thereupon they discussed the terms of the sale. After having reached an understanding as to the conditions of the sale, Irineo, accompanied by his daughter Inocencia, went with Concepcion to Navotas, Rizal, to pay his indebtedness to the mortgagees of the property who, having received its full payment, executed on October 19, 1943, the corresponding release. Thereafter, Irineo executed a deed of sale in favor of Concepcion which was ratified before a notary public. After the sale, Irineo and his children transferred to another house, surrendering the possession of the property to Concepcion, and to complete the transfer, Concepcion secured from the register of deeds the issuance of a new transfer certificate of title in his name. On May 22, 1945, Irineo died, and three years thereafter, or on August 5, 1948, his children initiated this action contending that their father had no right to sell the whole property because, being conjugal, one-half thereof belonged to their mother Isabel Cervantes.

Pablo B. Concepcion set up the following defenses: (a) that Irineo Cementina sold the property to free it from the encumbrance existing thereon in favor of one Yoingco; (b) that with the proceeds of the sale Irineo Cementina bought a lot in Culi-culi, Makati, Rizal, for the sum of P2,500, which lot he sold later on realizing a net gain of

P6,000; (c) that the action of the plaintiffs has already prescribed; (d) that he is a purchaser in good faith; and (e) that as a result of the sale, a new transfer certificate of title was issued in his name.

These defenses of Concepcion were found proven both by the lower court and the Court of Appeals. They found that Concepcion bought the property in good faith and in the belief that it belonged exclusively to Irineo Cementina, not only because its title appears issued in his name, but because his children did nothing to prevent the sale. They also found that Inocencia, the eldest of the children, is a public school teacher and cooperated in every way with her father in the negotiations leading to the cancellation of the mortgage and the eventual sale of the property and that, right after the sale, they all surrendered the possession of the property, without any protest, to the purchaser and went to live in another house. They also found that Inocencia helped her father in acquiring a new lot for the sum of P2,500, which they later sold at a price which yielded them a net profit of P6,000.

These facts, which have been duly established, and which we cannot now dispute, justify the sale made by Irineo Cementina of the property in question. And, whether it be considered conjugal or otherwise, it had to be disposed of to pay the encumbrance existing thereon which had become demandable. There is nothing shown that the encumbrance could be satisfied without sacrificing the property. The contrary is true, for it appears that the property had to be sold to save it from an impending foreclosure. And apparently the transaction was carried out to the satisfaction of all the children because none of them lifted a finger to prevent it. The sale moreover redounded to the benefit of all, father and children alike, because it netted them a handsome profit of P6,000. After having sanctioned the sale with their acquiescence and their silence for more than three years, it is now unfair to allow the children to dispute it and set it at naught under the flimsy pretense that their father did not have the power and authority to dispose of the whole property because it is conjugal in nature. Whether under the principle of estoppel, or under the principle of fairness and equity, this claim cannot stand.

Wherefore, the decision appealed from is affirmed, with costs.

Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Labrador, JJ., concur.

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