

JUAN BEATRIZ, ET AL., PLAINTIFFS AND APPELLEES, VS. MARTIN CEDERIA, ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. L-17703. February 28, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from orders denying a motion for relief of judgment and a motion for relief of order.

The facts and the issue disposed of by the lower court are set forth in the decision thereof, dated August 24, 1956, which we quote in full:

"This is an action for partition of real property with damages.

"Described correctly in paragraph 2 of the amended complaint the land sought to be partitioned was originally owned by Fausta Alvaro. She sold it in 1935 to Cecilio Babia (Exhibit 2) who also sold it on February 15, 1937 to Isaac Papa (Exhibit 1). In turn Isaac Papa sold it to the plaintiffs and their sister, Maria Beatriz, on April 19, 1937 (Exhibit A).

"Maria Beatriz was the late wife of the defendant Martin Cederia. The other defendants are their children.

"After the sale the three vendees jointly possessed the land and enjoyed its products in common. Their possession has continued to the present time, but in 1945 they ceased to receive the fruits of the coconut trees because Martin Cederia, with the consent and knowledge of the plaintiffs, mortgaged the trees (sangra) to a Chinese from whom he borrowed a sum of money to defray the burial expenses of Maria Beatriz upon her death.

"Sometime in the early part of this year the plaintiffs demanded partition of the land, but the defendants refused, and still refuse, alleging exclusive ownership of the property.

"To support their claim, the defendants presented Exhibit 3 in which it appears that Isaac Papa sold the land to Martin Cederia, on November 4, 1947 (Exhibit 3). Martin Cederia, however, testified that the sale actually took place in 1937, although Isaac Papa did not execute the deed of sale until 1947. He declared that Isaac Papa merely delivered to him the old documents of purchase, Exhibits 1 and 2, but he claimed that since 1937 he has been possessing the land exclusively as owner.

"The preponderance of the evidence does not support the theory of the defendants. Explaining how Exhibit 3 was executed, Isaac Papa testified that one day Martin Cederia informed him that Exhibits A, 1 and 2 were lost and expressed fear that his brothers-in-law, the herein plaintiffs, might deny his wife's share in the property. To avoid that eventuality, Martin Cederia asked him to sign Exhibit 3 assuring him that it conveyed only one-third of the common property. Believing these representations, he willingly signed Exhibit 3. In addition he denied having received from Martin Cederia the alleged purchase price mentioned in the said document.

On the other hand, Isaac Papa confirmed having sold the land to the plaintiffs and Maria Beatriz. He also revealed that Martin Cederia had knowledge of the sale, because he accompanied Maria Beatriz and in fact it was he who paid to him her 1/3 share of the price.

"The foregoing testimony of Isaac Papa is worthy of full belief. As vendor of the property, he knows to whom he really sold it. As a disinterested party, his testimony carries truthfulness and sincerity. Moreover, he was corroborated by Martin Cederia himself who admitted before the barrio lieutenant of San Isidro that the land was in fact the common property of the plaintiffs and his deceased wife and that he had not paid Isaac Papa the purchase price appearing in Exhibit 3.

"It is thus clear that the land in question belongs in common to the plaintiffs and defendants the latter as heirs of Maria Beatriz, In the proportion of 1/3 each. As co-owners the plaintiffs have the right to demand partition of the said property.

"The demand for damages is not, however, justified. The plaintiffs admitted that the land has always been jointly produced by the co-owners until 1945 when the coconut trees were mortgaged (sangra) by Martin Cederia. The mortgage was made with their knowledge and conformity.

"Partition of the land in question, is therefore, hereby ordered In the proportion of 1/3 each for each of the above named co-owners, who are directed to make the partition among themselves within thirty (30) days from their receipt of this order. The defendants shall pay the costs."

No appeal having been taken from this decision, despite the fact that copy thereof had been served upon defendants' counsel on September 13, 1956, plaintiffs filed on October 30, 1956 a motion for execution and approval of bill of costs, which was granted on November 3, 1956. On the same date, defendants, thru another counsel, filed a motion captioned "relief of judgment", stating that they had repeatedly intimated to their former counsel, long before the termination of the case, that the same should be appealed to the Court of Appeals should they lose it in the court of first instance; that, this notwithstanding, their aforementioned counsel, thru fraud, collusion, accident, mistake and excusable negligence, failed to inform them that a decision adverse to them had been rendered by said court and consistently told them that no decision had been promulgated as yet; that thru their new counsel, defendants learned, on or about October 15, 1956, that the case had been decided and that the decision had already become final; that defendants had thus been "deprived of their day in appeal without fault of their own"; that they have a meritorious case for appeal; and that there is a probability that the aforesaid decision be "altered" should the defendants be given the privilege to appeal. Defendants prayed, therefore, that said decision be set aside and that the case be declared re-opened for new trial or, at least, that they be allowed to file a motion for reconsideration and, thereafter, to appeal.

This motion was denied and, a petition for reconsideration of the order of denial having had the same result, defendants gave notice of appeal, and filed a record on appeal and a motion praying that they be allowed to appeal as paupers. The last motion was, likewise, denied and so was a motion for reconsideration of the order to such effect. Thereafter, defendants moved for approval of their appeal bond, which was not granted, said bond not having been filed within the reglementary period.

Defendants applied for relief from the order to this effect, dated March 2, 1957, which application was denied in an order dated March 9, 1957. Defendants appealed from this order to the Court of Appeals and amended their record on appeal already filed by them. Upon the submission of defendants' brief as appellants and the expiration of the period for the filing of the brief for plaintiffs herein, the records of this case were certified by the Court of Appeals to the Supreme Court, only questions of law being raised in the appeal.

Defendants maintain that the lower court erred: (1) in denying the motion for relief of judgment filed on November 29, 1956; (2) in declaring that their appeal bond had been filed beyond the reglementary period; and (3) in denying their motion for relief of order dated March 2, 1957. Upon a review of the records we find no merit in defendants' pretense.

Defendants' motion for relief of judgment was clearly untenable. The allegation, made in said motion, of fraud, collusion, accident, mistake and excusable negligence on the part of defendants' former counsel is but a mere conclusion of the defendants, without any fact to substantiate it. Moreover, it appears from plaintiffs' verified opposition to said motion, that counsel for the plaintiffs met defendant Martin Cederia about ten (10) days after receipt of copy of the decision of August 24, 1956, and informed him of the rendition of said decision and that said counsel would go to the residence of said defendant for the purpose of effecting the partition ordered in said decision. In any event, it is well settled that a party is bound by the acts of his counsel, even if the latter had been negligent in the discharge of his duties (*Garganta, et al. vs. Court of Appeals, et al.*, 105 Phil., 412; 56 Off. Gaz., [26] 4323).

Again, the affidavit of merits attached to the motion for relief of judgment relies upon the evidence already before the lower court and considered by the same in its decision, as well as correctly found therein to be insufficient to outweigh that of plaintiffs. Indeed, the parties stipulated, at a pre-trial held in the lower court, that "Isaac Papa, on April 17, 1937, sold" the land in dispute "to Maria Beatriz, Juan Beatriz and Manuel Beatriz", and that the corresponding deed of sale (Exhibit A) was registered in the office of the register of deeds. These uncontroverted facts, were confirmed by Isaac Papa, who explained that his signature on Exhibit 3 was secured by Martin Cederia on November 4, 1947, upon the misrepresentation, on the part of the latter, that Exhibits 1 and 2 had been lost; that plaintiffs might deny, therefore, the participation of Cederia's deceased wife (Maria Beatriz) in the land in question; and that Exhibit 3 referred only to her share in said property.

Lastly, considering that, apart from having been executed over ten (10) years and a half earlier, Exhibit A was recorded in the Office of the Register of Deeds, whereas Exhibit 3 has not been filed with said office, and that plaintiffs' good faith in registering the former instrument is not disputed, it is obvious that plaintiffs' claim must be upheld, upon the authority of Article 1544 of the Civil Code of the Philippines, reading;

"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, if 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.

"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."

In view of the foregoing, it is unnecessary, to discuss the other assignments of error made by defendants herein, and the orders appealed from are, accordingly, affirmed. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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