

FELIPA GARBIN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FORMER TENTH DIVISION) AND SPOUSES ANTONIO JULIAN AND CASIMIRA GARBIN, RESPONDENTS.

G.R. No. 107653. February 05, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals reversing the Regional Trial Court of Tarlac, Tarlac which had earlier dismissed the complaint for annulment of sale filed by private respondents.

The facts are the following:

Pablo Garbin and Leoncia Garbin are the parents of petitioner Felipa Garbin (Felipa) and private respondent Casimira Garbin (Casimira) married to private respondent Antonio Julian. Pablo Garbin is the original owner of Lot 12712, Camiling, Tarlac Cadastre with an area of 25,681 square meters, title thereto being evidenced by Original Certificate of Title No. 33251.

On October 31, 1955, Pablo Garbin and his wife Leoncia executed a "Deed of Absolute Sale of Real Estate" purportedly conveying to private respondent Casimira Garbin the undivided northern half of the said lot. Casimira then registered an adverse claim over the property.

On May 24, 1970, Pablo Garbin sold the entire Lot 12712, including the northern portion, to petitioner Felipa by virtue of a Deed of Sale. Consequently, Transfer Certificate of Title No. 88932 was issued in favor of Felipa. On July 29, 1974, Felipa and Pablo Garbin filed an ejectment case against private respondent spouses. In that case, the Municipal Trial Court of Camiling, Tarlac decided against private respondents. They appealed the case to the Regional Trial Court of Tarlac which affirmed the questioned decision. Private respondents then filed a petition for review with the Court of Appeals, but said petition was dismissed. They questioned the dismissal in this Court docketed as G.R. No. 59817 but the petition was denied due course.

On March 1, 1982, before judgment could become final in the ejectment case, private respondents filed a complaint for annulment of sale, partition and damages with the Regional Trial Court of Tarlac. The issue presented therein was whether or not private respondents, as the alleged first vendees in a double sale, (who annotated the same as an adverse claim on the covering title) have a superior right over petitioner, the subsequent vendee (who received a transfer certificate of title for the entire lot despite prior inscription of the adverse claim).

The RTC ruled in favor of petitioner and dismissed the complaint. Aggrieved, private respondents went to the Court of Appeals which reversed and set aside the decision of the trial court.

The appellate court said:

"x x x it is Our view, and so We hold, that, at the very least, the inscription of the adverse claim of

plaintiffs-appellants on vendor Pablo Garbin's OCT No. 33251 did constitute a sufficient notice to the whole world, defendant-appellee Felipa Garbin included, - that the northern half of subject Lot 12712 was deeded out by the registered owner to plaintiffs-appellants. Therefore, defendant-appellee is a buyer in bad faith, with full awareness of the prior sale of the northern half of Lot 12712 to her sister Casimira Garbin, and consequently, the registration of the sale in favor of defendant-appellee did not cleanse her bad faith and the legal consequences thereof, and did not vest in her (appellee) the ownership over the northern half of Lot 12712, as against the first buyer thereof, plaintiff-appellant Casimira Garbin.

It is well-settled that in a double sale of real property, ownership thereof "shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property" (2nd paragraph, Article 1544, New Civil Code of the Philippines). Under this applicable provision of law, mere registration of the sale of real or immovable property is not enough. The good faith of the buyer registering the sale must concur. In the case of defendant-appellee she cannot be considered in good faith, within legal contemplation, and her profession of innocence or lack of knowledge of the prior sale is incredible and unworthy of belief. To be sure, the annotation of plaintiffs-appellants' adverse claim on the title of vendor Pablo Garbin made defendant-appellee fully aware of such earlier sale.

As regards the defense of prescription or laches invoked by defendant-appellee to defeat the claim of plaintiffs-appellants over the portion of land in question:

We find the same equally undeserving of serious consideration. Considering that before instituting this action on March 2, 1982, plaintiffs-appellants were pre-occupied with the ejectment proceedings commenced against them by defendant-appellee on July 29, 1970; it cannot be said, then, that plaintiffs-appellants slumbered on their rights and had failed to assert their claim seasonably. As a matter of fact, even during the pendency of the ejectment case they did find time to initiate this case under consideration. Plaintiffs-appellants having been busy defending themselves in said ejectment case against them; their inability to file the present action sooner is understandable. It should be borne in mind that the running of the period of prescription is capable of interruption. And, to repeat; during the pendency of the ejectment case aforementioned; We believe that the running of the period of prescription of plaintiffs-appellants' cause of action had been interrupted.

As regards the equitable principle of laches, the attendant facts and circumstances come to the fore. Whether or not laches set in depends on the surrounding facts and circumstances. Here, We believe that plaintiffs-appellants have not faltered or failed for an unreasonable length of time to assert their claim of ownership.

With respect to the southern half of Lot 12712; plaintiffs-appellants' stance is also meritorious. When the wife of Pablo Garbin died, her estate was transmitted by operation of the law on intestate succession to plaintiff-appellant Casimira Garbin, defendant-appellee Felipa Garbin, and surviving spouse Pablo Garbin. So, when Pablo Garbin executed the deed of sale in favor of defendant-appellee, he could only convey to the latter his undivided share therein, which was $\frac{4}{6}$ of the southern portion of Lot 12712 because as hereinabove pointed out, the northern half of the said lot was effectively conveyed to plaintiffs-appellants, so that he could only dispose of $\frac{4}{6}$ of the southern portion. Plaintiff-appellant Casimira Garbin inherited $\frac{1}{6}$, and the remaining $\frac{1}{6}$ of the southern portion went to defendant-appellee as her inheritance from their mother. Therefore, plaintiffs-appellants own $\frac{7}{12}$ of Lot 12712 while defendant-appellee owns $\frac{5}{12}$; the northern half being equivalent to $\frac{6}{12}$, and out of the other $\frac{6}{12}$, Pablo Garbin conveyed $\frac{4}{12}$ to appellee Felipa Garbin, who inherited $\frac{1}{12}$ in her own right. Plaintiff-appellant Casimira Garbin also inherited $\frac{1}{12}$ which portion added to what appellants bought from Pablo Garbin, made appellant's area $\frac{7}{12}$ of Lot 12712.

WHEREFORE, the decision appealed from is hereby SET ASIDE; the sale by Pablo Garbin to defendant-appellee Felipa Garbin of the entire Lot 12712, Camiling, Tarlac Cadastre (Exh. "B") is hereby declared null and void and without force and effect, and the resulting TCT No. T-88932 of the latter (Exh. "C") is ordered canceled; plaintiffs-appellants are adjudged the owners pro-indiviso of seven-twelfth ($\frac{7}{12}$),

including the northern half, of the said lot, with defendant-appellee as the owner of the remaining five-twelfth (5/12) southern portion thereof.

To avoid multiplicity of suits; the plaintiffs-appellants and defendant-appellee are hereby given thirty (30) days from finality of this disposition, to submit to the trial court of origin a scheme of partition for subject lot on the basis of their undivided co-ownership of seven-twelfth (7/12) and five-twelfth (5/12), respectively; otherwise, pursuant to Rule 69, Revised Rules of Court, the lower court shall by order appoint not more than three (3) competent and disinterested commissioners to effect the partition in accordance herewith. Costs against defendant-appellee.

SO ORDERED."

Petitioner, before this Court, now questions the appellate court's decision stating that:

1. No evidence has been presented by private respondents to prove the validity of the "Deed of Absolute sale of Real Estate" executed in their favor by Pablo Garbin.
2. The annotation on the title of the adverse claim is not sufficient to prove validity of the said claim.
3. Pablo Garbin himself repudiated the alleged sale to private respondent spouses in testimony before the trial court in the ejectment case, denying knowledge of the sale of subject property to them.
4. Pablo Garbin solely owned the subject lot, as shown by the Original Certificate of Title, and thus the property could not be considered conjugal.
5. Private respondents' cause of action had already prescribed.

We find the petition meritorious.

The central issue to be resolved here is: does the registration of the said adverse claim by private respondents prevail over the title of petitioner which was registered subsequent to the adverse claim?

Considering the circumstances peculiar to the present case, we must rule in the negative.

Sec. 110 of Act No. 496 (otherwise known as the Land Registration Act) states:

"whoever claims any right or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in the Land Registration Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed. The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be canceled. If in any case the court after notice and hearing finds that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion." (Italics supplied)

The purpose of the annotation of an adverse claim is to protect the interest of a person over a piece of real property where the registration of such interest or right is not otherwise provided for by the Land Registration Act, and serve as a notice and warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than the registered owner.[1]

It is undisputed that the adverse claim of private respondents was registered pursuant to Sec. 110 of Act No. 496,

the same having been accomplished by the filing of a sworn statement with the Register of Deeds of the province where the property was located. However, what was registered was merely the adverse claim and not the Deed of Sale, which supposedly conveyed the northern half portion of the subject property. Therefore, there is still need to resolve the validity of the adverse claim in separate proceedings, as there is an absence of registration of the actual conveyance of the portion of land herein claimed by private respondents.

From the provisions of the law, it is clear that mere registration of an adverse claim does not make such claim valid, nor is it permanent in character. More importantly, such registration does not confer instant title of ownership since judicial determination on the issue of the ownership is still necessary.[2]

Regarding the alleged Deed of Sale by Pablo Garbin in favor of private respondents, the trial court correctly observed:

"On the assumption that the deed in favor of the plaintiffs was presented for registration as claimed, it should, however, be underscored that the entry in the day book is but a preliminary step of registration, the actual annotation of the memorandum or the issuance of a new certificate of title being the final step to accomplish registration."

In *Pilapil v. CA*,[3] we said:

"To affect the land sold, the presentation of the Deed of Sale and its entry in the day book must be done with the surrender of the owner's duplicate of the certificate of title."

Considering further that Pablo Garbin himself denied the sale of the subject property, it is evident that the sale never transpired.

In view of the above, the entry in the day book automatically loses force and effect. Thus, it is the Deed of Sale that petitioner registered in her favor and the Transfer Certificate of Title subsequently obtained over the property, which has a superior right thereon.

As regards the issue of the ownership by Pablo Garbin of the property, the Original Certificate of Title clearly states that he is the sole owner thereof. There is no basis, therefore, for the ruling of the appellate court that said property is conjugal in character and also for its computation of the shares that Pablo Garbin could dispose of when he executed the Deed of Sale on May 24, 1970 to Felipa.

Lastly, on the issue of prescription, we agree with the trial court which found that the action for annulment of sale had already prescribed.

"x x x the title of the defendant must be upheld for failure or the neglect of the plaintiffs for an unreasonable and unexplained length of time of more than fifteen (15) years since they registered their adverse claim, or for a period of more than three (3) decades since the execution of the deed of sale in their favor upon which their adverse claim is based, to do that which, by exercising diligence, could or should have been done earlier. For it is this negligence or omission to assert a right within reasonable time that is construed that plaintiffs had abandoned their right to claim ownership under the deed of sale, or declined to assert it. Thus, when a person slept in his rights for 28 years from the time of the transaction, before filing the action amounts to laches which cannot be excused even by ignorance resulting from unexcusable negligence (*Vda. de Lima vs. Tiu*, 52 SCRA 516 [1970])."

Private respondents, having waited for 36 long years before flung an action to annul the sale to Felipa in the trial court we hold that this constitutes laches.

"The unexplained interval of 29 years that the plaintiffs allowed to elapse before making any claim or instituting action constitutes laches that places them in estoppel to question the validity of the probate court's order and of

the sale executed in pursuant thereof."[4]

WHEREFORE, the decision of the Court of Appeals is hereby SET ASIDE and that of the Regional Trial Court REINSTATED. Private respondents' complaint for annulment of sale is hereby DISMISSED.

SO ORDERED.

Regalado (Chairman), Puno and Mendoza, JJ, concur.

[1] Ty Sin Tei v. Lee Dy Piao, 103 Phil. 858.

[2] Gabriel v. Register of Deeds of Rizal, SCRA 136 (1963).

[3] G.R. No. 55134, December 4, 1995 (citing Barretto v. Arevalo, 99 Phil. 771 [1956] and Levin v. Bass, 91 Phil. 420 [1952]).

[4] Laurel-Manila v. Galvan, 20 SCRA 198(1967).

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