

CLARA M. BALATBAT, PETITIONER, VS. COURT OF APPEALS AND SPOUSES JOSE REPUYAN AND AURORA REPUYAN, RESPONDENTS.

G.R. No. 109410. August 28, 1996

Ponente: TORRES, JR., J.

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TORRES, JR., J.:

Petitioner Clara M. Balatbat instituted this petition for review pursuant to Rule 45 of the Revised Rules of Court seeking to set aside the decision dated August 12, 1992 of the respondent Court of Appeals in CA-G.R. CV No. 29994 entitled "Alejandro Balatbat and Clara Balatbat, plaintiffs-appellants, versus Jose Repuyan and Aurora Repuyan, defendants-appellees," the dispositive portion of which reads:[1]

"WHEREFORE, the judgment appealed from is affirmed with the modification that the awards of P10,000.00 for attorney's fees and P5,000.00 as costs of litigation are deleted.

SO ORDERED."

The records show the following factual antecedents:

It appears that on June 15, 1977, Aurelio A. Roque filed a complaint for partition docketed as Civil Case No. 109032 against Corazon Roque, Alberto de los Santos, Feliciano Roque, Severa Roque and Osmundo Roque before the then Court of First Instance of Manila, Branch IX.[2] Defendants therein were declared in default and plaintiff presented evidence ex-parte. On March 29, 1979, the trial court rendered a decision in favor of plaintiff Aurelio A. Roque, the pertinent portion of which reads:[3]

"From the evidence, it has been clearly established that the lot in question covered by Transfer Certificate of Title No. 51330 was acquired by plaintiff Aurelio Roque and Maria Mesina during their conjugal union and the house constructed thereon was likewise built during their marital union. Out of their union, plaintiff and Maria Mesina had four children, who are the defendants in this case. When Maria Mesina died on August 28, 1966, the only conjugal properties left are the house and lot above stated of which plaintiff herein, as the legal spouse, is entitled to one-half share pro-indiviso thereof. With respect to the one-half share pro-indiviso now forming the estate of Maria Mesina, plaintiff and the four children, the defendants here, are each entitled to one-fifth (1/5) share pro-indiviso. The deceased wife left no debt.

Wherefore, judgment is hereby rendered ordering the partition of the properties, subject matter of this case consisting of the house and lot, in the following manner:

1. Of the house and lot forming the conjugal properties, plaintiff is entitled to one-half share pro-indiviso thereof while the other half forms the estate of the deceased Maria Mesina;
2. Of the Estate of deceased Maria Mesina, the same is to be divided into five (5) shares and plaintiff and his four children are entitled each to one-fifth share thereof pro-indiviso.

Plaintiff claim for moral, exemplary and actual damages and attorney's fees not having been established to the satisfaction of the Court, the same is hereby denied.

Without pronouncement as to costs.

SO ORDERED."

On June 2, 1979, the decision became final and executory. The corresponding entry of judgment was made on March 29, 1979.[4]

On October 5, 1979, the Register of Deeds of Manila issued a Transfer Certificate of Title No. 135671 in the name of the following persons in the following proportions:[5]

Aurelio A. Roque 6/10 share
Severina M. Roque 1/10 share
Osmundo M. Roque 1/10 share
Feliciano M. Roque 1/10 share
Corazon M. Roque 1/10 share

On April 1, 1980, Aurelio A. Roque sold his 6/10 share in T.C.T. No. 135671 to spouses Aurora Tuazon-Repuyan and Jose Repuyan as evidenced by a "Deed of Absolute Sale." [6]

On July 21, 1980, Aurora Tuazon Repuyan caused the annotation of her affidavit of adverse claim [7] on the Transfer Certificate of Title No. 135671, [8] to wit:

"Entry No. 5627/T-135671 - NOTICE OF ADVERSE CLAIM - Filed by Aurora Tuazon Repuyan, married, claiming among others that she bought 6/10 portion of the property herein described from Aurelio Roque for the amount of P50,000.00 with a down payment of P5,000.00 and the balance of P45,000.00 to be paid after the partition and subdivision of the property herein described, other claims set forth in Doc. No. 954, page 18, Book 94 of _____ 64 _____ PEDRO DE CASTRO, Notary Public of Manila.

Date of instrument - July 21, 1980

Date of inscription- July 21, 1980 at 3:35 p.m.

TERESITA H. NOBLEJAS
Acting Register of Deeds

By:

RAMON D. MACARICAN
Acting Second Deputy"

On August 20, 1980, Aurelio A. Roque filed a complaint for "Rescission of Contract" docketed as Civil Case No. 134131 against spouses Aurora Tuazon-Repuyan and Jose Repuyan before Branch IV of the then Court of First Instance of Manila. The complaint is grounded on spouses Repuyan's failure to pay the balance of P45,000.00 of the purchase price.[9] On September 5, 1980, spouses Repuyan filed their answer with counterclaim.[10]

In the meantime, the trial court issued an order in Civil Case No. 109032 (Partition case) dated February 2, 1982, to wit:[11]

"In view of all the foregoing and finding that the amount of P100,000.00 as purchase price for the sale of the parcel of land covered by TCT No. 51330 of the Registry of Deeds of Manila consisting of 84 square meters situated in Callejon Sulu, District of Santa Cruz, Manila, to be reasonable and fair, and considering the opportunities given defendants to sign the deed of absolute sale voluntarily, the Court has no alternative but to order, as it hereby orders, the Deputy Clerk of this Court to sign the deed of absolute sale for and in behalf of defendants pursuant to Sec. 10, Rule 39 of the Rules of Court, in order to effect the partition of the property involved in this case.

SO ORDERED."

A deed of absolute sale was executed on February 4, 1982 between Aurelio S. Roque, Corazon Roque, Feliciano Roque, Severa Roque and Osmundo Roque and Clara Balatbat, married to Alejandro Balatbat.[12] On April 14, 1982, Clara Balatbat filed a motion for the issuance of a writ of possession which was granted by the trial court on September 14, 1982 "subject, however, to valid rights and interest of third persons over the same portion thereof, other than vendor or any other person or persons privy to or claiming any rights or interest under it." The corresponding writ of possession was issued on September 20, 1982.[13]

On May 20, 1982, petitioner Clara Balatbat filed a motion to intervene in Civil Case No. 134131[14] which was granted as per court's resolution of October 21, 1982.[15] However, Clara Balatbat failed to file her complaint in intervention.[16] On April 15, 1986, the trial court rendered a decision dismissing the complaint, the pertinent portion of which reads:[17]

"The rescission of contracts are provided for in the laws and nowhere in the provision of the Civil Code under the title Rescissible Contracts does the circumstances in the case at bar appear to have occurred, hence, the prayer for rescission is outside the ambit for which rescissible [sic] could be granted.

"The Intervenor - Plaintiff, Clara Balatbat, although allowed to intervene, did not file her complaint in intervention.

"Consequently, the plaintiff having failed to prove with sufficient preponderance his action, the relief prayed for had to be denied. The contract of sale denominated as "Deed of Absolute Sale" (Exh. 7 and sub-markings) being valid and enforceable, the same pursuant to the provisions of Art. 1159 of the Civil Code which says:

"Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith."

has the effect of being the law between the parties and should be complied with. The obligation of the plaintiff under the contract being to have the land covered by TCT No. 135671 partitioned and subdivided, and title issued in the name of the defendant buyer (see page 2 par. C of Exh. 7-A) plaintiff had to comply thereto to give effect to the contract.

"WHEREFORE, judgment is rendered against the plaintiff, Aurelio A. Roque, and the plaintiff in intervention, Clara Balatbat, and in favor of the defendants, dismissing the complaint for lack of merit, and declaring the Deed of Absolute Sale dated April 1, 1980 as valid and enforceable and the plaintiff is, as he is hereby ordered, to partition and subdivide the land covered by T.C.T. No. 135671, and to aggregate therefrom a portion equivalent to 6/10 thereof, and cause the same to be titled in the name of the defendants, and after which, the defendants to pay the plaintiff the sum of P45,000.00. Considering further that the defendants suffered damages since they were forced to litigate unnecessarily, by way of their counterclaim, plaintiff is hereby ordered to pay defendants the sum of P15,000.00 as moral damages, attorney's fees in the amount of P5,000.00.

Costs against plaintiff.

SO ORDERED."

On March 3, 1987, petitioner Balatbat filed a notice of lis pendens in Civil Case No. 109032 before the Register of Deeds of Manila.[18]

On December 9, 1988, petitioner Clara Balatbat and her husband, Alejandro Balatbat filed the instant complaint for delivery of the owner's duplicate copy of T.C.T. No. 135671 docketed as Civil Case No. 88-47176 before Branch 24 of the Regional Trial Court of Manila against private respondents Jose Repuyan and Aurora

Repuyan.[19]

On January 27, 1989, private respondents filed their answer with affirmative defenses and compulsory counterclaim.[20]

On November 13, 1989, private respondents filed their memorandum[21] while petitioners filed their memorandum on November 23, 1989.[22]

On August 2, 1990, the Regional Trial Court of Manila, Branch 24, rendered a decision dismissing the complaint, the dispositive portion of which reads:[23]

"Considering all the foregoing, this Court finds that the plaintiffs have not been able to establish their cause of action against the defendants and have no right to the reliefs demanded in the complaint and the complaint of the plaintiff against the defendants is hereby DISMISSED. On the counterclaim, the plaintiff are ordered to pay defendants the amount of Ten Thousand Pesos by way of attorney's fees, Five Thousand Pesos as costs of litigation and further to pay the costs of the suit.

SO ORDERED."

Dissatisfied, petitioner Balatbat filed on appeal before the respondent Court of Appeals which rendered the assailed decision on August 12, 1992, to wit:[24]

"WHEREFORE, the judgment appealed from is affirmed with the modification that the awards of P10,000.00 for attorney's fees and P5,000.00 as costs of litigation are deleted.

SO ORDERED."

On March 22, 1993, the respondent Court of Appeals denied petitioner's motion for reconsideration.[25]

Hence, this petition for review.

Petitioner raised the following issues for this Court's resolution:

I

WHETHER OR NOT THE ALLEGED SALE TO THE PRIVATE RESPONDENTS WAS MERELY EXECUTORY AND NOT A CONSUMMATED TRANSACTION?

II

WHETHER OR NOT THERE WAS A DOUBLE SALE AS CONTEMPLATED UNDER ART. 1544 OF THE CIVIL CODE?

III

WHETHER OR NOT PETITIONER WAS A BUYER IN GOOD FAITH AND FOR VALUE?

IV

WHETHER OR NOT THE COURT OF APPEALS ERRED IN GIVING WEIGHT AND CONSIDERATION TO THE EVIDENCE OF THE PRIVATE RESPONDENTS WHICH WERE NOT OFFERED?

Petitioner asseverates that the respondent Court of Appeals committed grave abuse of discretion tantamount to lack or excess of jurisdiction in affirming the appealed judgment considering (1) that the alleged sale in favor of the private respondents Repuyan was merely executory; (2) that there is no double sale; (3) that petitioner is a buyer in good faith and for value; and (4) that private respondents did not offer their evidence during the trial.

Contrary to petitioner's contention that the sale dated April 1, 1980 in favor of private respondents Repuyan was merely executory for the reason that there was no delivery of the subject property and that consideration/price was

not fully paid, we find the sale as consummated, hence, valid and enforceable. In a decision dated April 15, 1986 of the Regional Trial Court of Manila, Branch IV in Civil Case No. 134131, the Court dismissed vendor's Aurelio Roque complaint for rescission of the deed of sale and declared that the sale dated April 1, 1980, as valid and enforceable. No appeal having been made, the decision became final and executory. It must be noted that herein petitioner Balatbat filed a motion for intervention in that case but did not file her complaint in intervention. In that case wherein Aurelio Roque sought to rescind the April 1, 1980 deed of sale in favor of the private respondents for non-payment of the P45,000.00 balance, the trial court dismissed the complaint for rescission. Examining the terms and conditions of the "Deed of Sale" dated April 1, 1980, the P45,000.00 balance is payable only "after the property covered by T.C.T. No. 135671 has been partitioned and subdivided, and title issued in the name of the BUYER" hence, vendor Roque cannot demand payment of the balance unless and until the property has been subdivided and titled in the name of the private respondents. Devoid of any stipulation that "ownership in the thing shall not pass to the purchaser until he has fully paid the price,"[26] ownership in the thing shall pass from the vendor to the vendee upon actual or constructive delivery of the thing sold even if the purchase price has not yet been fully paid. The failure of the buyer to make good the price does not, in law, cause the ownership to revert to the seller unless the bilateral contract of sale is first rescinded or resolved pursuant to Article 1191 of the New Civil Code.[27] Non-payment only creates a right to demand the fulfillment of the obligation or to rescind the contract.

With respect to the non-delivery of the possession of the subject property to the private respondent, suffice it to say that ownership of the thing sold is acquired only from the time of delivery thereof, either actual or constructive.[28] Article 1498 of the Civil Code provides that - when the sale is made through a public instrument, the execution thereof shall be equivalent to the delivery of the thing which is the object of the contract, if from the deed the contrary does not appear or cannot be inferred.[29] The execution of the public instrument, without actual delivery of the thing, transfers the ownership from the vendor to the vendee, who may thereafter exercise the rights of an owner over the same.[30] In the instant case, vendor Roque delivered the owner's certificate of title to herein private respondent. It is not necessary that vendee be physically present at every square inch of the land bought by him, possession of the public instrument of the land is sufficient to accord him the rights of ownership. Thus, delivery of a parcel of land may be done by placing the vendee in control and possession of the land (real) or by embodying the sale in a public instrument (constructive). The provision of Article 1358 on the necessity of a public document is only for convenience, not for validity or enforceability. It is not a requirement for the validity of a contract of sale of a parcel of land that this be embodied in a public instrument.[31]

A contract of sale being consensual, it is perfected by the mere consent of the parties.[32] Delivery of the thing brought or payment of the price is not necessary for the perfection of the contract; and failure of the vendee to pay the price after the execution of the contract does not make the sale null and void for lack of consideration but results at most in default on the part of the vendee, for which the vendor may exercise his legal remedies.[33]

Article 1544 of the New Civil Code provides:

"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 movable 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 present the oldest title, provided there is good faith."

Article 1544 of the Civil Code provides that in case of double sale of an immovable property, ownership shall be transferred (1) to the person acquiring it who in good faith first recorded it in the Registry of Property; (2) in default thereof, to the person who in good faith was first in possession; and (3) in default thereof, to the person who presents the oldest title, provided there is good faith.[34]

In the case at bar, vendor Aurelio Roque sold 6/10 portion of his share in TCT No. 135671 to private respondents Repuyan on April 1, 1980. Subsequently, the same lot was sold again by vendor Aurelio Roque (6/10) and his children (4/10), represented by the Clerk of Court pursuant to Section 10, Rule 39 of the Rules of Court, on February 4, 1982. Undoubtedly, this is a case of double sale contemplated under Article 1544 of the New Civil Code.

This is an instance of a double sale of an immovable property hence, the ownership shall vests in the person acquiring it who in good faith first recorded it in the Registry of Property. Evidently, private respondents Repuyan's caused the annotation of an adverse claim on the title of the subject property denominated as Entry No. 5627/T-135671 on July 21, 1980.[35] The annotation of the adverse claim on TCT No. 135671 in the Registry of Property is sufficient compliance as mandated by law and serves notice to the whole world.

On the other hand, petitioner filed a notice of lis pendens only on February 2, 1982. Accordingly, private respondents who first caused the annotation of the adverse claim in good faith shall have a better right over herein petitioner. Moreover, the physical possession of herein petitioners by virtue of a writ of possession issued by the trial court on September 20, 1982 is "subject to the valid rights and interest of third persons over the same portion thereof, other than vendor or any other person or persons privy to or claiming any rights to interest under it." [36] As between two purchasers, the one who has registered the sale in his favor, has a preferred right over the other who has not registered his title even if the latter is in actual possession of the immovable property.[37] Further, even in default of the first registrant or first in possession, private respondents have presented the oldest title.[38] Thus, private respondents who acquired the subject property in good faith and for valuable consideration established a superior right as against the petitioner.

Evidently, petitioner cannot be considered as a buyer in good faith. In the complaint for rescission filed by vendor Aurelio Roque on August 20, 1980, herein petitioner filed a motion for intervention on May 20, 1982 but did not file her complaint in intervention, hence, the decision was rendered adversely against her. If petitioner did investigate before buying the land on February 4, 1982, she should have known that there was a pending case and an annotation of adverse claim was made in the title of the property before the Register of Deeds and she could have discovered that the subject property was already sold to the private respondents. It is incumbent upon the vendee of the property to ask for the delivery of the owner's duplicate copy of the title from the vendor. A purchaser of a valued piece of property cannot just close his eyes to facts which should put a reasonable man upon his guard and then claim that he acted in good faith and under the belief that there were no defect in the title of the vendor.[39] One who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor. Good faith, or the want of it is not a visible, tangible fact that can be seen or touched, but rather a state or condition of mind which can only be judged of by actual or fancied tokens or signs.[40]

In fine, petitioner had nobody to blame but herself in dealing with the disputed property for failure to inquire or discover a flaw in the title to the property, thus, it is axiomatic that - culpa lata dolo aequiparatur - gross negligence is equivalent to intentional wrong.

IN VIEW OF THE FOREGOING PREMISES, this petition for review is hereby DISMISSED for lack of merit. No pronouncement as to costs.

IT IS SO ORDERED.

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

[1] Decision, Rollo, pp. 47-58; Penned by Justice Minerva Gonzaga-Reyes, concurred by Justice Nathanael de Pano, Jr., Consuelo Ynares-Santiago.

[2] Complaint, Original Records, pp. 14-18.

[3] Decision, Original Records, pp. 19-22.

[4] Entry of Judgment, Original Records, p. 23.

[5] Transfer Certificate of Title, Original Records, pp. 152-154.

[6] Exhibit 1 for the Defendants; Deed of Absolute Sale, Original Records, pp. 156-159.

[7] Affidavit of Adverse Claim, Original Records, pp. 155.

[8] T.C.T. No. 135671, Original Records, pp. 152-

[9] Complaint, Original Records, pp. 129-132.

[10] Answer, Original Records, pp. 133-139.

[11] Order, Original Records, pp. 24-27.

[12] Deed of Absolute Sale dated February 4, 1982, Original Records, pp. 28-31.

[13] Writ of Possession, Original Records, p. 32.

[14] Motion for Intervention, Original Records, p. 160.

[15] Order, Original Records, p. 161.

[16] Order, Original Records, p. 162.

[17] Decision in Civil Case No. 134131, Original Records, pp. 163-166.

[18] Notice of Lis Pendens, Original Records, p. 33.

[19] Complaint, Original Records, pp. 3-12.

[20] Answer, Original Records, pp. 42-47.

[21] Memorandum, Original Records, pp. 144-151.

[22] Memorandum, Original Records, pp. 169-193.

[23] Complaint, Original Records, pp. 208-218.

[24] Decision, Rollo, pp. 48-58.

[25] Resolution, Rollo, pp. 60-62.

[26] Article 1478, New Civil Code.

[27] Chua Hai vs. Hon. Kapunan, 104 Phil. 110; No. L-11108, June 30, 1958.

"Art. 1191 the power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him. The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

"The Court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

"This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 of the Mortgage Law.

[28] Obaña vs. Court of Appeals, 135 SCRA 557; G.R. No. L-36249, March 29, 1985, Edca Publishing & Distributing Corps. vs. Santos, 184 SCRA 614, G.R. No. 80298, April 26, 1990.

[29] Dy vs. Court of Appeals, G.R. 92989, July 8, 1991.

[30] Puato vs. Mendoza, 64 Phil. 457, No. 44169, July 16, 1937.

[31] Dalion vs. Court of Appeals, G.R. 78903, February 28, 1990.

[32] Aspi vs. Court of Appeals, 236 SCRA 94; G.R. No. 83527, September 1, 1994.

[33] Sorongon vs. Parreñas, 54 Official Gazette 1860.

[34] Radiowealth Finance Co. vs. Palileo, G.R. 83432, May 20, 1991.

[35] Adverse Claim, Original Records, pp. 152-154; Valdez vs. Court of Appeals, G. R. No. 85082, February 25, 1991.

[36] Writ of Possession, Original Records, p. 32.

[37] Gonzaga vs. Javellana, 23 Phil. 125; No. 6843, September 3, 1912.

[38] Deed of Absolute Sale, dated April 1, 1980, Original Records, pp. 156-159.

[39] De la Cruz vs. Intermediate Appellate Court, G.R. 72981, January 29, 1988.

[40] Bautista vs. Court of Appeals, G.R. 106042, February 28, 1994.

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