

**ALEJANDRO AGASEN AND FORTUNATA CALONGE-AGASEN,
PETITIONERS, VS. THE HON. COURT OF APPEALS AND PETRA BILOG,
ASSISTED BY HER HUSBAND FELIPE BILOG, RESPONDENTS.**

G.R. No. 115508. February 15, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On April 7, 1980, private respondent Petra Bilog, assisted by her husband Felipe Bilog, filed a complaint for Recovery of Possession and Ownership^[1] with the Regional Trial Court of Agoo, La Union, involving an Eight Thousand Four Hundred Seventy Four (8,474) square meter parcel of land registered in her name under Transfer Certificate of Title No. T-16109 of the Registry of Deeds of La Union. She alleged that sometime in 1964 or 1965, petitioners took possession and assumed ownership of the said property, appropriating the fruits therefrom. She alleged that despite demands on them to vacate the land, petitioners refused to do so and even filed a case for Annulment of TCT and/or Reconveyance with Damages before the same court, which case was, however, dismissed on February 12, 1980. Thus, in her complaint, private respondent prayed that she be declared the true and absolute owner of the subject land and petitioners be ordered to turn over possession thereof to her. Additionally, private respondent prayed for P300,000.00 as attorney's fees, P2,000.00 as expenses of litigation as well as P60,000.00 representing the value of the land's produce from 1965 to the time of the filing of the case and P4,000.00 annually until the case is terminated.

In their Answer,^[2] petitioners Alejandro Agasen and Fortunata Calonge-Agasen asserted that the subject land used to form part of Lot No. 2192, a forty two thousand three hundred seventy two (42,372) square meter parcel of land owned in common by the five (5) Bilog siblings, private respondent Petra Bilog being one of them. Petitioners claimed that they became the owners of the portion of the subject land which belonged to private respondent as her share therein, by virtue of: (1) the sale in their favor of 1,785 square meters thereof by Leonora Calonge, sister of Fortunata Calonge-Agasen, and (2) the sale in their favor by private respondent of the remaining 6,717.50 square meters on June 24, 1968, by virtue of a notarized Partition with Sale. Petitioners also affirmed that they had been in possession of the subject land since the time of the above-mentioned sale transactions, with a house of strong materials built thereon. By way of counterclaim, petitioners charged private respondent with having fraudulently caused title to the subject land to be issued in her name, following the subdivision of the original land between her and her co-heirs/owners, in violation of their (petitioners') rights over the subject land. Thus, petitioners prayed for the annulment of title in private respondent's name and for the dismissal of the complaint, as well as for the award of P10,000.00 as exemplary damages, P25,000.00 as moral damages, P5,000.00 as litigation expenses and P7,000.00 as attorney's fees and costs.

On November 19, 1984, the Regional Trial Court of Agoo, La Union, Branch 3, rendered judgment in favor of petitioners, dismissing the complaint and declaring Transfer Certificate of Title No. 16109 in the name of private respondent null and void.^[3]

On appeal, the Court of Appeals reversed the decision of the lower court and private respondent was declared the true and absolute owner of the subject land.[4] Accordingly, petitioners were ordered to turn over the subject land to private respondent.

With the denial of petitioners' Motion for Reconsideration on May 20, 1994,[5] the instant Petition was filed, anchored upon the following grounds—

- THE DECISION (ANNEX A) ERRED IN DECLARING THE DEED OF PARTITION WITH SALE (EXH. 1) AND THE DEED OF ABSOLUTE SALE (EXH. 2) NOT AUTHENTIC AND VALID;
- THE DECISION ERRED IN HOLDING THAT DEFENDANTS FAILED TO SUBSTANTIATE THEIR CLAIM OF OWNERSHIP AND IN GIVING MORE CREDENCE TO PLAINTIFF'S TESTIMONIAL EVIDENCE AND TAX DECLARATION NO. 21460 (EXH. B) AND CERTIFICATION OF TAX PAYMENTS (EXH. C);
- THE DECISION ERRED IN FINDING/HOLDING THAT THE NON-REGISTRATION OF THE DEED OF PARTITION WITH SALE AND THE DEED OF ABSOLUTE SALE WITH THE REGISTER OF DEEDS MADE THE PURCHASES THEREUNDER "DENTED" AND DID NOT AUTOMATICALLY VEST TITLE OR OWNERSHIP OVER THE SUBJECT PROPERTY TO THE BUYERS;
- THE DECISION ERRED IN HOLDING THAT THE DAILY NOTEBOOK (EXH. 3) CONTAINING THE MEMORANDUM OF INSTALLMENT SALE BY LEONORA CALONGE TO DEFENDANT-APPELLEE FORTUNATA AGASEN (EXH. 3-a TO 3-c) OVER THE PARCEL OF LAND DESCRIBED IN EXH. 2 WAS NOT A VALID OR CREDIBLE DOCUMENT OF TRANSFER;
- THE DECISION GRAVELY ERRED IN HOLDING THAT TCT NO. 16109 (EXH. A) CANNOT BE COLLATERALLY ATTACKED ON THE GROUND THAT IT IS BARRED BY THE RULE ON INDEFEASIBILITY OF A TORRENS TITLE AFTER THE LAPSE OF ONE YEAR FROM THE DECREE OF REGISTRATION.[6]

Although the instant case is a petition for review under Rule 45 which, as a general rule, is limited to reviewing errors of law, findings of fact being conclusive as a matter of general principle, however, considering the conflict between the factual findings of the trial court and the respondent Court of Appeals, there is a need to review the factual issues as an exception to the general rule.[7]

As correctly stated by the lower court, the crucial question in the instant controversy is whether or not the two (2) documents, relied upon by petitioners as basis for their claim of ownership, are valid. Overthrowing the lower court's finding of validity, the Court of Appeals ruled that private respondent's testimonial and documentary evidence "junked" petitioners' documents (Exhibits "1" and "2").

We disagree.

To begin with, it is not denied that the two subject documents are notarized documents and, as such, are considered public documents which enjoy the presumption of validity as to authenticity and due execution.[8] One of the documents, the Deed of Absolute Sale, was identified by Assistant Provincial Fiscal Maximo Quero, the administering officer who had notarized it. The legal presumption of validity of petitioners' duly notarized public documents has not been overcome by preponderant evidence by private respondent, upon whom the burden of proof rests, having alleged the contrary.[9]

The subject documents were also attached by petitioners to their Answer where they were alleged as part of the counterclaim. As such, private respondent should have specifically denied under oath their genuineness and due execution.[10] After all, a counterclaim is considered a complaint, only this time, it is the original defendant who

becomes the plaintiff. It stands on the same footing and is to be tested by the same rules as if it were an independent action.[11] Having failed to specifically deny under oath the genuineness and due execution of the said documents, private respondent is deemed to have admitted the same.

And while private respondent denied having signed any document selling the subject parcels of land, the trial court found her signature on the subject documents to be genuine, after a comparison thereof with her own documentary evidence on record (Exh. "B"). Indeed, it has been held that where a comparison is permissible, it may be made by the court, with or without the aid of expert witnesses;[12] and evidence respecting handwriting may be given by a comparison made by the court with writings admitted or treated as genuine by the party against whom the evidence is offered.[13] In the case at bar, the lower court compared private respondent's signatures on the subject documents with that appearing on her own evidence (Exh. "B") and found the same identical.

The following circumstances all indicate the genuineness and due execution of the subject documents: (1) The subject documents were duly notarized public documents; (2) The documents enjoy the legal presumption of validity; (3) Their genuineness and due execution were not specifically denied under oath by private respondent; (4) Private respondent's signature thereon were found genuine by the lower court upon a comparison of her signature thereon with that in her own documentary evidence; (5) The actual identification and positive testimony of petitioner; and (6) The testimony of the lawyer who had notarized one of the subject documents. Private respondent's bare denial of the same cannot, by any measure, overcome the above-mentioned evidence and legal presumptions in petitioners' favor.

As for the sale in petitioners' favor by the original vendee thereof, Leonora Calonge, the Court of Appeals accepted private respondent's charges that there was no valid document of transfer and that the notebook with memorandum of sale and record of installment payments, relied upon by petitioners, was worse than the two subject documents.

Again, we disagree. The memorandum of sale appearing in Exhibit "3" is sufficient to prove the sale between petitioner Fortunata Calonge Agasen and her late sister, the previous vendee of the land subject of the Deed of Absolute Sale from private respondent. After all, contracts are obligatory in whatever form they may have been entered into provided all essential requisites are present.[14] 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.[15]

It was likewise error for the Court of Appeals to rule that the transactions were "dented by the failure to register/annotate the same with the Register of Deeds" and that due to such failure, the documents "did not automatically bind the subject property." First, one of the subject documents, the Deed of Absolute Sale, was in fact registered. Second, as elucidated in *Fule vs. Court of Appeals*[16] –

"The Civil Code provides that contracts are perfected by mere consent. From this moment, the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law. A contract of sale is perfected at the moment there is a meeting of the minds upon the thing which is the object of the contract and upon the price. Being consensual, a contract of sale has the force of law between the contracting parties and they are expected to abide in good faith by their respective contractual commitments. Article 1358 of the Civil Code which requires the embodiment of certain contracts in a public instrument, is only for convenience, and registration of the instrument only adversely affects third parties. Formal requirements are, therefore, for the benefit of third parties. Non-compliance therewith does not adversely affect the validity of the contract nor the contractual rights and obligations of the parties thereunder."

In the light of the foregoing, we reverse the Court of Appeals's ruling that the failure of petitioners to register the

Partition with Sale was fatal.

The Court of Appeals also found petitioners' claim of ownership to be unsubstantiated, in contrast to that of private respondent who presented tax declarations and certification of tax payments in her favor. As pointed out by petitioners, however, the tax declarations in the name of private respondent for the year 1978 were issued only in 1977, and only after she had secured title to the property in her name. Such a belated declaration has been held to be indicative of an absence of a real claim of ownership over the subject land prior to the declaration.[17] On the other hand, the real estate tax payments certified as paid by the Municipal Treasurer refers to the entire mother Lot No. 2192 before it was subdivided or partitioned into five (5) equal lots. Private respondent cannot be said to have paid taxes on the subject property during the period when petitioners claimed that the property had already been sold to them.

We also note that, far from being unsubstantiated, petitioners' claim of ownership is backed by their long years of possession of the subject parcels of land. There is no dispute that petitioners had occupied the subject land since the sale in their favor, i.e., since 1964 in the case of the Deed of Absolute Sale and since 1968 in the case of the Partition with Sale. They have also built a concrete house which has long been standing thereon.

Then, too, petitioners have adequately explained why they have not pursued their action for annulment of title against private respondent, which the Court of Appeals viewed as having "further darkened the cloud of suspicion which hovered over the questioned documents." Private respondent herself admits that petitioners were the first to assert their right, by filing an action for annulment of title and/or for reconveyance with damages against private respondent[18] which complaint was, however, dismissed without prejudice.[19] On the other hand, the complaint of private respondent was filed two months after the dismissal of their complaint, prompting them to merely interpose their cause of action as a compulsory counterclaim in the lower court.

Finally, the Court of Appeals is likewise in error in holding that private respondent's title was "vested with the garment of indefeasibility." The rule on indefeasibility of torrens title --- i.e., that torrens title can be attacked only for fraud, within one year after the date of the issuance of the decree of registration --- applies only to original titles and not to subsequent registration. An action for annulment of title and/or reconveyance which was previously filed by petitioners and interposed in their counterclaim is an action open to them to attack private respondent's fraudulently acquired title. Neither may the compulsory counterclaim of petitioners challenging the title of private respondent be brushed aside as merely a collateral attack which would bar a ruling on the validity of the said title.[20]

WHEREFORE, premises considered, the instant Petition for Review is GRANTED. The Decision of the Court of Appeals dated January 11, 1994 in CA-G.R. CV No. 10309 is SET ASIDE. The decision of the Regional Trial Court of Agoo, La Union, Branch 32, dismissing Civil Case No. A-713, annulling Transfer Certificate of Title No. 16109 in the name of private respondent and finding petitioners to be the lawful owners of the land covered by the same, is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., Puno, Kapunan, and Pardo, JJ., concur.

[1] Records, pp. 1-7.

[2] Id., pp. 16-22.

[3] See Note 2.

- [4] See Note 1.
- [5] See Resolution, CA-G.R. CV No. 19309, Records, Court of Appeals, p. 106.
- [6] Petition for Review, pp. 7-8; Rollo, pp. 16-17.
- [7] Spouses Rosario vs. Court of Appeals, July 19, 1999, G.R. No. 127005, De la Cruz vs. Court of Appeals, December 4, 1996, G.R. No. 105213.
- [8] Sanchez vs. Court of Appeals, G.R. No. 108947, 279 SCRA 647, 687 [1997].
- [9] Cacho vs. Court of Appeals, G.R. No. 123361, 269 SCRA 159, 172 [1997].
- [10] Sec. 8, Rule 9, Rules of Court.
- [11] A. Francisco Realty and Development Corporation vs. Court of Appeals, G.R. No. 125055, 298 SCRA 349, 358, [1998], citing Valisno vs. Plan, 143 SCRA 502 and Vivas vs. Vivas, 8 SCRA 847.
- [12] People vs. Pagpaguitan, G.R. No. 116599, Sept. 27, 1999.
- [13] De Guzman vs. Court of Appeals, G.R. No. 110122, 260 SCRA 389, 395 [1996], citing Court Administrator vs. Villanueva, 223 SCRA 41.
- [14] Tan vs. Lim, G.R. No. 128004, 296 SCRA 455, 472 [1998].
- [15] Balatbat vs. Court of Appeals, G.R. No. 109410, 261 SCRA 128, 140 [1996].
- [16] G.R. No. 112212, 286 SCRA 698, 712-713 [1998]; italics provided.
- [17] Vda. de Raz vs. Court of Appeals, 9 September 1999, G.R. No. 120066.
- [18] See paragraph 6, Complaint, Civil Case No. A-713, per Note 3.
- [19] See Annex "C", Complaint, Civil Case No. A-713; Records, pp. 8-9.
- [20] A. Francisco Realty and Development Corporation vs. Court of Appeals, *supra*, at p. 358.

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