

**SPS. HONORIO SANTIAGO AND ESTRELITA SANTIAGO, PETITIONERS,  
VS. THE COURT OF APPEALS (FIFTEENTH DIVISION), THE REGIONAL  
TRIAL COURT, BRANCH 134, MAKATI, METRO MANILA, AQUILINO  
AR...**

*G.R. No. 117014. August 14, 1995*

Ponente: MELO, J.

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**MELO, J.:**

The issue in the petition before us is who has the superior right to a parcel of land sold to 2 different buyers at different times by its former owners.

The parties herein involved have filed 3 cases against each other in the Regional Trial Court of Makati. Herein respondent Aquilino Arevalo filed on December 28, 1983 a complaint for specific performance, cancellation of title, and damages against: (a) Evelyn Mercado and her brothers and sisters - Julieta, Virgilio, Rogelio, Alicia, and Melita - who were the original co-owners of the 100 square-meter lot in question, and (b) herein petitioners, the spouses Honorio and Estrelita Santiago, who were the first buyers of the disputed property. The case was docketed as Civil Case No. 6019 of herein respondent Branch 134 of the Makati Regional Trial Court.

Honorio Santiago and his wife, in turn, filed Civil Case No. 6082 for quieting of title against Aquilino Arevalo and Civil Case No. 7360 for damages also against Aquilino Arevalo. The 3 cases involving the same issues were consolidated by the trial court.

The records show that petitioners, the Santiago spouses, bought 2 parcels of land from Evelyn Mercado, with the latter acting as attorney-in-fact of her brothers and sisters. The first parcel, purchased on November 18, 1977, is not involved in the case at bench. Adjoining said lot is the disputed 100 square-meter lot which was offered to petitioners for P100,000 shortly after the sale of the first lot. On January 31, 1978, the initial amount of P2,700.00 was paid as earnest money with the balance to be paid in installments.

On July 30, 1979, petitioners who had already made several payments met Evelyn Mercado at the Office of the Register of Deeds in Makati where an Absolute Deed of Sale was executed. Vendor Evelyn Mercado asked for several more payments. After receiving them, she turned over the owner's copy of the Torrens title to petitioners.

A new title could not at that time be issued to petitioners because Evelyn Mercado had the power of attorney only from one sister Melita. She assured petitioners that she had full authority from her brothers and sisters to sell the lot and promised to contact them.

Because of various problems in securing the powers of attorney from the other brothers and sisters, it was not until April 16, 1982 that the deed of sale was finally registered, but during all this time, the Mercado owner's duplicate of the title was held by and in the possession of petitioners. Thus, TCT No. S--12785 was cancelled and in lieu thereof TCT No. 113462 was issued in the names of petitioners.

Two months before the registration of the deed of sale or on February 11, 1982, Evelyn Mercado, for and in behalf of all the owners, sold the same parcel of land for the same amount of P100,000 to respondent Aquilino Arevalo. No attempt to register the deed was made by respondent Arevalo. It was only more than 5 months after the sale to Arevalo, or on July 27, 1983, that petitioners were advised by the Register of Deeds of Makati that respondent Arevalo had filed an affidavit of adverse claim. On December 28, 1983, Arevalo filed the action for specific performance, cancellation of title, and damages. Petitioners in turn filed the two other cases which were consolidated with the case filed by respondent Arevalo. The original owners, the Mercado brothers and sisters did not bother to file any answer.

On August 30, 1990, the trial court ruled in favor of respondent Arevalo. It directed Evelyn Mercado and her brothers and sisters to surrender the disputed lot to respondent Arevalo. Petitioners, on the other hand, were ordered to surrender TCT No. 113462 to the Register of Deeds of Makati for cancellation and the issuance of a new one to Arevalo. Attorney's fees in the amount of P10,000.00 and costs were awarded to respondent Arevalo. Civil Cases No. 7360 and No. 6082 were dismissed.

On appeal, the Court of Appeals affirmed, except for the deletion of the award of P10,000 for attorney's fees. Following the denial of a motion for reconsideration, the instant petition was filed.

In the main, petitioners rely on the circumstance that they were the first to buy and also the first, and indeed the only, party to register the sale, resulting in the issuance of a new title in their names. Petitioners assail the conclusions of respondent court as glaringly erroneous, grounded on misapprehension of facts, citing *Moran Jr. vs. Court of Appeals* (133 SCRA 88 [1984]), *Castillo vs. Court of Appeals*, 124 SCRA 808 [1983], and *Bunag vs. Court of Appeals*, 158 SCRA 299 [1988]) as authorities. They also state that the conclusions, not findings of fact, it must be observed, of respondent court are based on speculations, surmises, and conjectures (*Dichoso vs. Court of Appeals*, 192 SCRA 169 [1990]; *Salas vs. Court of Appeals*, 191 SCRA 526 [1990]; and *State Investment House vs. Court of Appeals*, 206 SCRA 348 [1992]) with inferences manifestly absurd or wrong (*De Luna vs. Linatoc*, 74 Phil. 15 [1942]). The conclusions are said to be contrary to the credible evidence on record.

There is no question from the records that petitioners were the first buyers of the disputed lot from Evelyn Mercado and her brothers and sisters, the original owners. Contrary to the conclusion arrived at by the Court of Appeals, we believe that petitioners' purchase was made in good faith. There is nothing to remotely suggest that the purchase of the lot was characterized by anything other than good faith. Respondent Arevalo was still out of the picture when the meeting of the minds of petitioners and Evelyn Mercado et al. on the sale took place. It appears that nobody else was interested in the lot at that time. There is furthermore no issue over the fact that petitioners were first to register their purchase of the lot. In fact, the second buyer, herein respondent, has not been able to have his deed of sale registered at all, up to the present time.

Thus, based on the facts on record and the applicable laws and jurisprudence, we are constrained to reverse the decision under review.

The applicable provision of law is Article 1544 of the Civil Code which reads:

ART 1544. 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.

There is no need to enter into a discussion of who between petitioners and respondent Arevalo first recorded the sale in their favor. Unfortunately, for respondents, petitioners are the only registrants - as indeed up to the present time Arevalo has not recorded the sale in his favor. Too, petitioners have been issued a new certificate of title in their names.

What appears pivotal to us is the issue of whether petitioners were in good faith both at the time of the acquisition or sale of the property and also at the time of the recording or registration of the same. Good faith on petitioners' part was not found by respondent court, thus its decision adverse to them. It is in this regard where we find reversible error.

It is axiomatic that good faith is always presumed. There being absent any direct evidence of bad faith, there is need to examine what respondent Court of Appeals said are indices of bad faith on the part of petitioners.

Even though on the date of the execution of deed of sale on July 30, 1979, in favor of petitioners, respondent Arevalo was still a complete stranger to the transaction, Arevalo having purchased the property only on September 13, 1982, respondent court found it "most irregular" that the no copy of document of sale in favor of petitioners was filed with The Records Management and Archives Division in Manila, and that while said deed of sale is dated July (mistakenly stated by respondent court as June) 30, 1979, the notarial commission of the attesting notary public was stated as expiring on December 31, 1982, or more than 2 years from the date of notarization of the document.

The due execution of the deed of sale, it must be emphasized, is not disputed. The sellers are not repudiating the sale. Respondent court in examining the deed just expressed its misgivings on the lack of a copy thereof with the Records Management and Archives Division, and on the commission of the notary extending to more than the usual 2 years, and thereupon took the same as badges of bad faith. But how could there be bad faith when at that time petitioners were the only buyers. There were not even talks or negotiations for the sale of the property to respondent Arevalo, as indeed he did not enter the picture until 1982 or some 3 years after the execution of the deed in favor of petitioners or for a longer period if we reckon the sale from 1978 when the offer to sell of Evelyn Mercado was accepted by petitioners.

And surely, the parties to a notarized document are not the persons obligated to furnish a copy thereof to the Records Management and Archives Division, such task being that of the notary. The failure of the notary public to so furnish a copy of the deed to the proper office is a ground for disciplining him, but certainly not for invalidating the document or for setting aside the transaction therein involved.

A clear typographical error concerning the expiry year of the notary's commission cannot be made a basis to destroy the presumption of good faith and hold petitioners in bad faith. They were not responsible for such minor and innocuous error. But more importantly, it is to be noted that neither Arevalo nor respondent court questions the fact that the notary was duly and legally commissioned as such at time he notarized the deed of sale in favor of petitioners.

The Court of Appeals would also count against petitioners the circumstance that the deed of sale of July 30, 1979 was executed before the respective special powers of attorney of the other co-owners were executed. The inference of bad faith based the above circumstance is misplaced. None of the co-owners has repudiated the sale, or for that matter, their respective powers of attorney. At that time, as has been herein repeatedly emphasized, respondent Arevalo was yet an ingredient to be factored into the picture some 3 years hence. There could thus have been no design or intent to defraud him, a completely unknown entity as he was at that time. We believe that petitioners cannot be said to be in bad faith simply because they had the deed of sale executed even if not all the co-owners had executed their respective special powers of attorney. Consider thus the following: (a) petitioners

were holding on to and had in their possession the certificate of title of the sellers; (b) petitioners had the sellers' general powers of attorney - which of course were unavailing to transfer ownership over realty; (c) petitioners waited until all the necessary special powers of attorney were obtained before they registered the sale.

In fine, whatever defects there may have been in the deed of sale are improper bases for respondent court to draw the conclusion that petitioners are in bad faith. If any co-owner had questioned the deed before the registration, the assumption of bad faith may be correct, but such inference cannot be claimed by respondent Arevalo, a person who was not yet a buyer at that time and who was a complete stranger to the first transaction. How could petitioners even attempt to defraud a future buyer whom they did not know as a possible buyer at the time the deed of sale was executed.

Respondent court stated that the payments made by petitioners to Evelyn Mercado did not tally with the purchase price. There is no explanation on how respondent court arrived at this conclusion. Evidence was introduced in the trial court to show that petitioners were able to produce receipts of installment payments totalling only P36,700.00, but there were many more payments where the receipts were lost in course of the more than 3 years it took the parties to complete everything. In any event the variance in recorded payments and the agreed upon purchase price was again taken against petitioners by respondent court. We believe that this is improper. What is important is that the vendors acknowledged having received full payment for the property sold. Apart from stating that she received full payment, Evelyn Mercado also acted accordingly. She secured all the special powers of attorney of her brothers and sisters as promised. She turned over the owner's copy of the Torrens title to petitioners. And as emphasized by petitioners, Evelyn Mercado stopped visiting them after the completion of the installment payments. She also did not do anything to disturb petitioners' peaceful possession and acts of ownership over the lot. All the acts of the vendors, especially by and through Evelyn Mercado, indicate that they received the full consideration for the sale of the land. The finding of bad faith based on the mode of payment has thus no factual or legal basis.

It is also said that the registration of the deed of sale was characterized by "feverish haste", but again, this conclusion seems to have been taken from thin air. What appears in the records is that a deed of sale executed on July 20, 1979 was registered only on April 14, 1982. It took Evelyn Mercado that long to convert the verbal or other form of assent of her brothers and sisters to formal special powers of attorney. There was verily a delay of almost 3 years in the registration but not certainly feverish haste.

It bears repeated emphasis that the vendors did not disturb the peaceful possession and full ownership of petitioners over the lot. Not only did petitioners buy the lot ahead of respondent Arevalo but they also took possession of the property and have remained in possession up to the present time. They had their deed of sale registered. They now are the title holders of the property. It is inconceivable how a second buyer who never asked to look, much more to take possession of the title of his alleged vendors and who never registered his deed of sale and never entered into possession of the property should be declared owner. The disputed lot was adjacent to another lot which petitioners had previously purchased from the same vendors only two and a half months before they paid the earnest money on the second lot. Obviously, petitioners wanted the two adjacent lots to form one integrated whole.

The records do not show the extent to which respondent Arevalo conducted ocular inspections of the lot subject of the double sale. If he limited himself to an examination of the Torrens title kept by the Register of Deeds, he is guilty of negligence in not asking for the owner's duplicate copy of the said title, which of course could not be given to him as the same had been turned over to petitioners a long time before Arevalo purchased the lot. Evelyn Mercado had no owner's copy of the title to give to Arevalo.

We ruled in *De Guzman, Jr. vs. Court of Appeals* (156 SCRA 701 1[987]):

The failure of appellees to take the ordinary precautions which a prudent man would have taken under the circumstances, specially in buying a piece of land in the actual, visible and public possession of another person, other than the vendor, constitutes gross negligence amounting to bad faith.

"In this connection, it has been held that where, as in this case, the land sold is in the possession of a person other than the vendor, the purchaser is required to go beyond the certificate of title and ma[k]e inquiries concerning the rights of the actual possessor. Failure to do so would make him a purchaser in bad faith. (*Incala vs. Mendoza*, CA-G.R. No. 13677-R, November 9, 1965; *De Jesus vs. Revilla*, CA-G.R. No. 13562-R, October 5, 1965; *Martelino vs. Manikan*, CA-G.R. No. 32792-R, June 22, 1956)

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One who purchases real property which is in the actual possession of another should, at least make some inquiry concerning the right of those in possession. The actual possession by other than the vendor should, at least put the purchaser upon inquiry. He can scarcely, in the absence of such inquiry, be regarded as a bona fide purchaser as against such possessors" (*Conspecto vs. Fruto*, 31 Phil. 144)."

Appellant has been and continues to be in actual possession of the property, and her deed of pacto de retro sale dates back to 1957 while the deed of sale in favor of appellees was executed in 1970; and there is no showing that appellant's possession and her pacto de retro sale were done in bad faith.

If the second buyer in a double sale of real property does not insist in obtaining possession of the owner's copy of the Torrens title, does not inspect the property in the absence of said copy to ascertain who is in possession, and does not try to have the deed of sale registered until after he learns that there was a buyer of the same lot ahead of him, his rights cannot prevail over the first buyer who did all these things.

In any event, even if petitioners had known of the second sale, they still have the superior right, absent as there is prior registration in good faith by respondent Arevalo of the second sale in his favor.

Most enlightening in this regard are the words of a noted civilist, a colleague in this Division, to the effect:

The governing principle is *prius tempore, potior jure* (first in time, stronger in right). Knowledge by the first buyer of the second sale cannot defeat the first buyer's rights except when the second buyer first registers in good faith the second sale (*Olivares vs. Gonzales*, 159 SCRA 33). Conversely, knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register, since such knowledge taints his registration with bad faith (see also *Astorga vs. Court of Appeals*, G.R. No. 58530, 26 December 1984). In *Cruz vs. Cabana* (G.R. No. 56232, 22 June 1984; 129 SCRA 656), it was held that it is essential, to merit the protection of Art. 1544, second paragraph, that the second realty buyer must act in good faith in registering his deed of sale (citing *Carbonell vs. Court of Appeals*, 69 SCRA 99, *Crisostomo vs. CA*, G.R. 95843, 02 September 1992).

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Registration of the second buyer under Act 3344, providing for the registration of all instruments on land neither covered by the Spanish Mortgage Law nor the Torrens System (Act 496), cannot improve his standing since Act 3344 itself expresses that registration thereunder would not prejudice prior rights in good faith (see *Carumba vs. Court of Appeals*, 31 SCRA 558). Registration, however, by the first buyer under Act 3344 can have the effect of constructive notice to the second buyer that can defeat his right as such buyer in good faith (see Arts. 708-709,

Civil Code; see also *Revilla vs. Galindez*, 107 Phil. 480; *Taguba vs. Peralta*, 132 SCRA 700). Art. 1544 has been held to be inapplicable to execution sales of unregistered land, since the purchaser merely steps into the shoes of the debtor and acquires the latter's interest as of the time the property is sold (*Carumba vs. Court of Appeals*, 31 SCRA 558; see also *Fabian vs. Smith, Bell & Co.*, 8 Phil. 496) or when there is only one sale (*Remalante vs. Tibe*, 158 SCRA 138).

(J.C. Vitug, *Compendium of Civil Law and Jurisprudence*, pp. 604-605)

The three complaints consolidated in these cases are not the only cases arising from the two sales. The records show that respondent Arevalo filed a complaint for estafa against Evelyn Mercado, stating therein that Mercado sold a parcel of land to him which had already been sold by her to the herein spouses Santiago. Arevalo also filed criminal complaints against petitioner Honorio Santiago and two others for falsification of public documents. The complaint for alleged falsification of the July 30, 1979 deed of sale and the power of attorney of Melita Mercado were dismissed by the Provincial Fiscal, which action was later affirmed by the Department of Justice. The claim of falsification once again raised in these consolidated cases has, therefore, already been declared unmeritorious by responsible and high-ranking officials specifically charged with the task of looking into the possible commission of said offense.

The records show that petitioners are the first buyers of the disputed land. They are the only party to obtain and take hold of the owner's copy of the Torrens title. They are the only party to thereupon take possession of the property. They are the only registrants of the sale for which they have been issued a certificate of title in their names. All these circumstances and acts can only be indicative of good faith. It follows that their title to the land should be upheld and remain undisturbed.

WHEREFORE, the decision dated May 16, 1994 and the resolution dated September 12, 1994 promulgated by respondent Court of Appeals are hereby reversed and set aside. Petitioners Honorio and Estrellita Santiago are hereby declared owners in fee simple of the disputed property whose Transfer Certificate of Title No. 113462 is recognized and upheld as indefeasible.

No special pronouncement is made as to costs.

**SO ORDERED.**

Feliciano, (Chairman), Romero, and Vitug, JJ., concur.

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