

EXPECTACION DECLARO, CONSOLACION DEGALA, DIONISIO DELLOMOS, PRENIAS DELLOMOS, APOLINARIO DELLOMOS, LUDOVICO DEGALA, ORTENCIA COMORRO DANGDANG, ROSALIA COMORRO, FORTUNATO DEGALA,...

G.R. No. 119747. November 27, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a petition for review seeking to set aside the decision[1] of the Court of Appeals on March 31, 1995, which reversed and set aside the judgment[2] of the Regional Trial Court, Branch 18 of Roxas City, dated April 30, 1991, in favor of petitioners.

The antecedent facts, culled from the records, are as follows:

Luciano Comorro of Maayon, Capiz, was married to Dominga Dordas. Luciano and Dominga had seven children, Irene, Margarita, Faustina, Catalina, Sabas, Nicolas and Enrique, all surnamed Comorro. After the death of Dominga, Luciano married Matea Diaz. They had three children, herein defendants Felomino, Altesima and Brigida. Luciano and Matea owned a 972 sq. m. parcel of land described as Lot No. 1470 of Cadastral Survey of Ponteoverda (now Maayon Cadastre). In 1949, Luciano died intestate. In 1959, Matea also died intestate. On January 5, 1960, Felomino and Altesima executed a "Confirmation of a Deed of Absolute Sale" in favor of Enrique and Gregoria Diaz, the deceased parents of the other defendants. The Deed stated that in 1934 Luciano sold Lot No. 1470 to Enrique and Gregoria. But the deed of sale executed by the parties was lost. Pursuant to the deed, Original Certificate of Title No. RO-4075 (13103) covering Lot No. 1470 was cancelled and in lieu thereof Transfer Certificate of Title No. 5374 was issued in the name of Gregoria married to Enrique. In 1990, plaintiffs as heirs of Luciano filed a civil complaint before the Regional Trial Court against defendants for the reconveyance of the property.[3]

After hearing, the trial court disposed as follows:

"WHEREFORE, judgment is hereby rendered:

1. Declaring the plaintiffs co-owners of Lot 1470, Maayon Cadastre;
2. Declaring the Deeds of Confirmation of Absolute Sale (Exhs. B, B-1; Exh. 2) as null and void;
3. Ordering the Register of Deeds of Capiz to cancel TCT No. T-5374 issued in the name of Gregoria Diaz, married to Enrique Comorro, covering Lot 1470 of Maayon Cadastre and to reinstate OCT No. RO-4075 (13103) (Exh. 1) issued in the names of Luciano Comorro and Matea Diaz;
4. Ordering the partition of subject lot among the following heirs of Luciano Comorro and Matea Diaz in the following manner:

On the 1/2 share of Luciano Comorro on the subject conjugal lot:

- a. Plaintiffs Ulpiano Comorro and Expectacion Comorro (representing their mother, Irene Comorro)- - - - -
----- 1/11;
- b. Plaintiffs Consolacion Degala and Ludovico Degala (representing their mother, Margarita Degala)- - - - -
----- 1/11;
- c. Plaintiffs Dionisio Dellomos, Prenias Dellomos, and Apolinario Dellomos (representing their mother, Faustina Dellomos) - - - - - 1/11;
- d. Plaintiff Rosalia Comorro (representing her father Nicolas Comorro)- - - - - 1/11;
- e. Plaintiffs Olympia Degala and Fortunato Degala (representing their mother Catalina Comorro Degala) - - - -
----- 1/11;
- f. Plaintiff Ortencia C. Dangdang (representing her father Sabas Comorro) - - - - 1/11;
- g. Defendants Conchita Comorro, Manuel Comorro, Luzvismina Comorro, and Ceferino Comorro (representing their father, Enrique Comorro) - - - - - 1/11;
- h. Defendants Rosita Comorro, Monina C. Patricio, Bertile D. Comorro, Rowena C. Araneta, Ildefonso D. Comorro, Carmen C. Champion, and Arnaldo D. Comorro (representing their deceased father, Felomino Comorro) - - - - - 1/11;
- i. Defendant Altesima Comorro - - - - - 1/11;
- j. Defendants Rosita Comor[r]o, Monina C. Patricio, Bertile D. Comorro, Rowena C. Araneta, Ildefonso D. Comorro, Carmen C. Champion, and Arnaldo D. Comorro (representing their deceased grandmother, Matea Diaz) - - - - - 1/2 of 1/11;
- k. Defendant Altesima Comorro (representing her mother Matea Diaz)- - - 1/2 of 1/11;

On the 1/2 share of Matea Diaz in the subject conjugal lot:

- a. Defendants Rosita Comorro, Monina C. Patricio, Bertile D. Comorro, Rowena C. Araneta, Ildefonso D. Comorro, Carmen C. Champion, and Arnaldo D. Comorro (representing their deceased father, Felomino Comorro) - - - - - 1/2;
- b. Defendant Altesima Comorro - - - - - 1/2.

- 5. Ordering the defendants to deliver to the plaintiffs the latter's aforementioned shares on the lot in question;
- 6. Ordering defendants to pay plaintiffs jointly and severally the sum of ten thousand pesos (P10,000.00) as attorney's fees;
- 7. Ordering defendants to pay plaintiffs jointly and severally the costs of the suit.

SO ORDERED."[4]

In its decision, the trial court concluded that for purposes of transferring title over the subject property to Enrique Comorro and Gregoria Diaz, the "Confirmation of a Deed of Absolute Sale" executed by Felomino Comorro and Altesima Comorro was null and void. It said that there was no evidence showing that the property was indeed sold by Luciano and Matea to Gregoria. The court also stated that prescription and laches could not run against the petitioners, as "the action or defense for the declaration of the inexistence of a contract does not prescribe" and "mere lapse of time cannot give efficacy to contracts that are null and void." [5]

On appeal, the appellate court reversed the trial court's judgment, thus:

"WHEREFORE, foregoing considered, the appealed decision is hereby REVERSED and SET ASIDE. A new one is entered DISMISSING the complaint for reconveyance filed by plaintiffs-appellees for lack of merit.

Costs against plaintiffs-appellees.

SO ORDERED."[6]

The appellate court found that the "Confirmation of a Deed of Absolute Sale" was valid for purposes of attesting to the sale. It declared that a notarized instrument was a public document and had in its favor the presumption of regularity. It concluded that private respondents had shown they had been in open, continuous and exclusive possession of the property in question and proved their claim over it.[7]

Petitioners now assail the decision of the Court of Appeals and allege it had committed the following error:

"THAT THE HONORABLE COURT OF APPEALS THIRD DIVISION ERRED IN SETTING ASIDE THE DECISION OF THE TRIAL COURT AND ERRED IN ORDERING THE DISMISSAL OF THE COMPLAINT OF PLAINTIFFS-APPELLEES."[8]

Petitioners argue that the decision of the trial court should be upheld, because the existence of any instrument evincing the sale of the subject property was never established, such that the transfer of the property to Gregoria Diaz was invalid. Respondents, on the other hand, contend that the "Confirmation of a Deed of Absolute Sale" proved the sale of the property to Diaz.

At issue is whether there was a valid transfer of the property to Gregoria Diaz, and if petitioners' action is barred by laches.

The records reveal that the land was initially covered by Original Certificate of Title No. RO-4075 (13103) in the name of Luciano and Matea;[9] that an instrument entitled "Confirmation of a Deed of Absolute Sale" was executed on January 4, 1960, by Filomeno and Altesima, stating that Luciano and Matea sold the subject property to Gregoria Diaz in 1934;[10] that the statement of confirmation also stated that the document evincing the sale to Gregoria Diaz was lost and/or destroyed during the Second World War;[11] and that said instrument was registered in the Registry of Deeds of Capiz on May 23, 1960,[12] on the strength of which OCT No. RO-4075 (13103) in the name of Luciano and Matea was cancelled, and TCT No. T-5374 in the name of Gregoria was issued on the same day.[13]

While it is true that no transfer shall be registered unless the owner's certificate of title is produced along with the instrument of transfer,[14] and the registration of the deed of conveyance serves as the operative act to convey the land registered under the Torrens system,[15] in this case, we find that the Court of Appeals was correct in ruling that the "Confirmation of a Deed of Absolute Sale" was a valid instrument attesting that Luciano and Matea sold the land to Gregoria.[16] As a public document, the "Confirmation" has the presumption of regularity, which was not convincingly rebutted during trial. Significantly, the "Confirmation" was an admission by its authors, Filomeno and Altesima, which worked against their interest. If they had not confirmed said sale, their hereditary shares would have been more. This declaration against their self-interest must be taken as favoring the truthfulness of the contents of the "Confirmation".

Noteworthy, from the time of registration of the "Confirmation of a Deed of Absolute Sale" in 1960, and the subsequent issuance of the transfer certificate of title covering the subject property in the name of Gregoria Diaz in the same year, up to the filing of the complaint with the trial court in 1990, the petitioners allowed a total of 30 years to elapse. An action for reconveyance, however, is a legal remedy granted to a landowner whose property has been wrongfully or erroneously registered in another's name, but then the action must be filed within ten years from the issuance of the title since such issuance operates as a constructive notice.[17] In our view, an action for

reconveyance is no longer available to petitioners by reason of the long lapse of time.

Clearly, petitioners did not do that which by exercising due diligence could or should have been done earlier.[18] They allowed 30 years to pass without justifiable reason. Laches has already set in.

Expectacion Declaro testified that she learned from Gregoria Diaz of the execution of the "Confirmation of a Deed of Absolute Sale" as early as 1968.[19] She also stated that it was in the same year that her co-plaintiffs learned about the existence of said document.[20] Petitioner Ludovico Degala testified that he and the other petitioners even asked for their share in the subject property from Gregoria immediately after the war, indicating that he and the other petitioners were aware of Gregoria's claim over the property early on.[21] He alleged, however, that Gregoria told them that "it is their property." [22] He also testified that he went to the respondents to demand his share in the property only in the years "1988 or 1989." [23] Ludovico also testified that he and the other petitioners have never been in possession of the subject property and that it was Gregoria and her children who had been in full possession thereof from 1949 up to the filing of the complaint with the trial court in 1990.[24] In addition, petitioner Expectacion Declaro also testified that two houses have been erected by the respondents on the property in question.[25] It is apparent to us that the petitioners have neglected to assert their rights over the property in question for an unreasonably long period. They are thus estopped now from questioning the validity of respondents' title to the property.[26]

In sum, the registration of the "Confirmation of a Deed of Absolute Sale" on May 23, 1960, which resulted in the issuance of the transfer certificate of title in the name of Gregoria Diaz, was constructive notice to the whole world of the fact of such transfer. The petitioners' complaint to recover the title and possession of the property was filed only on May 7, 1990,[27] thirty (30) years after the registration of the alleged sale to Gregoria Diaz. The petitioners had unjustifiably slept on their rights when they failed and neglected for an unreasonably long period of time to assert their right to the subject property.

WHEREFORE, the petition is DENIED. The assailed decision of the Court of Appeals dated March 31, 1995, is AFFIRMED. Costs against petitioners.

SO ORDERED.

Mendoza, and De Leon, Jr., JJ., concur. Bellosillo, and Buena, JJ., no part.

[1] Rollo, pp. 29-42.

[2] Id. at 20-27.

[3] Id. at 32-33.

[4] Id. at 25-27.

[5] Id. at 23-24.

[6] Id. at 41.

[7] Id. at 34-36, 41.

[8] Id. at 9.

[9] Records, p. 9.

[10] Id. at 12.

[11] Ibid.

[12] Id. at 10.

[13] Id. at 14.

[14] Tenio-Obsequio vs. Court of Appeals, 230 SCRA 550, 560 (1994).

[15] Calalang v. Register of Deeds of Quezon City, 231 SCRA 88, 103 (1994), citing Quilisadio v. Court of Appeals, 182 SCRA 401, 408 (1990); De la Calzada-Cierras v. Court of Appeals, 212 SCRA 390, 395 (1992).

[16] Rollo, p. 34.

[17] Tenio-Obsequio vs. Court of Appeals, 230 SCRA 550, 561 (1994).

[18] Lim Tay v. Court of Appeals, 293 SCRA 634, 659 (1998).

[19] TSN, March 1, 1991, p. 8.

[20] Id. at 13.

[21] TSN, February 22, 1991, p. 18.

[22] Ibid.

[23] Id. at 13.

[24] Id. at 10, 15.

[25] Supra, note 19 at 11.

[26] De la Calzada-Cierras v. Court of Appeals, 212 SCRA 390, 395-396 (1992).

[27] Records, p. 1.

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