

**HON. DOMINADOR F. CARILLO, PRESIDING JUDGE, R.T.C. XI-19
DIGOS, DAVAO DEL SUR, BONIFACIO J. GUYOT, CLERK OF COURT
AND PROVINCIAL SHERIFF OF DAVAO DEL SUR, ALFREDO C. SENOY,
DEPU...**

G.R. NO. 121165. September 26, 2006

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review on certiorari is the Decision[1] dated February 22, 1995 of the Court of Appeals in CA-G.R. SP No. 23687, which annulled and set aside the judgment and orders of the Regional Trial Court (RTC) of Digos, Davao del Sur, Branch 19, in Civil Case No. 2647, Maria Gonzales v. Priscilla Manio and Jose Manio.

The facts as culled from the records are as follows:

On April 2, 1990, petitioner Maria Gonzales filed a complaint against the spouses Priscilla and Jose Manio with the RTC of Digos, Davao del Sur, Branch 19. Gonzales sought the execution of the deed of sale in her favor for the property she bought from Priscilla Manio. She also asked for damages and attorney's fees.

Gonzales alleged that on April 26, 1988, she paid P10,000 to Priscilla as downpayment on the P400,000 purchase price of the lot with improvements, since Priscilla had a special power of attorney from her son, Aristotle, the owner of the land. They also agreed that the balance would be paid within three months after the execution of the deed of sale. Yet, after the lapse of the period and despite repeated demands, Priscilla did not execute the deed of sale. Thus, Gonzales filed an action for specific performance against the spouses Priscilla and Jose Manio.

For failure to file an Answer, the Manios were declared in default and Gonzales was allowed to present evidence *ex parte*.

After trial, the court rendered judgment in favor of Gonzales, which we quote verbatim:

WHEREFORE, premises considered, it is hereby ordered that judgment is rendered in favor of plaintiff and against defendants, ordering defendants:

- 1) To execute the final deed of sale and transfer of the property mentioned in paragraph 4 above to plaintiff, or should the defendant refuse to execute the deed of sale, the Clerk of Court be directed to execute the same upon plaintiff's depositing of the sum of P390,000.00 with the Clerk of Court as complete and valid payment thereof to defendant Priscilla Manio;
- 2) To pay plaintiff the sum of P100,000.00 for moral damages and P50,000.00 for exemplary damages;
- 3) To pay plaintiff the sum of P50,000.00 for attorney's fees plus P700.00 per appearances of plaintiff's counsel before this Honorable Court as appearance fees;
- 4) To pay plaintiff the sum of P5,000.00 as litigation expenses.

SO ORDERED.[2]

Gonzales deposited with the Clerk of Court the P390,000 balance of the price and filed a motion for execution.[3] She later withdrew the motion because the trial court's decision was not properly served on the defendants. After numerous delays, the sheriff finally personally served a copy of the decision on Priscilla on August 4, 1990, at the ungodly hour of 12:00 midnight at Sitio Wilderness, Barangay Mount Carmel, Bayugan, Agusan del Sur.[4]

Since there was no appeal, the trial court's decision became final and executory. But the writ of execution was not served upon the defendants, since according to the Sheriff's Return, the defendants could not be located. The sheriff, likewise, informed the trial court that the money judgment could be readily satisfied by the petitioner's cash deposit should the trial court grant the motion to release the cash deposit filed by Gonzales.[5]

Subsequently, Gonzales filed a motion asking that the Clerk of Court be directed to be the one to execute a deed of conveyance. Gonzales also filed a motion to withdraw the cash deposit for the balance of the price to offset the award of damages. The trial court granted both motions but later modified the amount to P207,800.

On October 29, 1990, Gonzales filed a petition for the nullification of the Owner's Duplicate Certificate of Title No. 16658 and asked that a new certificate be issued in her name to give effect to the deed of conveyance since Priscilla refused to relinquish the owner's duplicate copy.

Consequently, the trial court declared the owner's duplicate copy of TCT No. 16658 void, and directed the City Civil Registrar to issue a new certificate of title in favor of Gonzales. The orders were reiterated in subsequent orders and TCT No. T-23690 was issued under the name of Gonzales.

On December 14, 1990, herein respondents Maria Paz Dabon and Rosalina Dabon, claiming to have bought the aforementioned lot from Aristotle Manio filed before the Court of Appeals a petition for annulment of judgment and orders of the RTC in Civil Case No. 2647. The case was docketed as CA G.R. SP No. 23687, entitled "Maria Paz Dabon and Rosalina Dabon v. Hon. Dominador F. Carillo, Presiding Judge, RTC Branch 19, Digos, Davao del Sur; Bonifacio J. Guyot, Clerk of Court and Provincial Sheriff of Davao del Sur; Alfredo C. Senoy, Deputy Prov. Sheriff assigned to RTC Br. 19, Digos, Davao del Sur; Marcos D. Risonar, Jr., Registrar of Deeds of Davao del Sur; and Maria Gonzales." The Dabons alleged therein that the judgment of the trial court was void ab initio because of lack of jurisdiction over their persons, as the real parties in interest, and that they were fraudulently deprived of their right to due process. They also prayed for a Temporary Restraining Order and for Preliminary Prohibitory Injunction against Gonzales. They gave the trial court a notice of their action for the annulment of the judgment and subsequent orders in Civil Case No. 2647.[6]

Meanwhile, Gonzales filed before the trial court a motion for the issuance of a writ of possession. The Dabons filed an opposition on the following grounds: (1) The writ of possession cannot be enforced because the defendants named in the writ, the Manios, were no longer in possession of the property; (2) They had bought the lot with the improvements therein and had taken possession, although they had not yet registered their ownership with the Register of Deeds; and (3) The court did not acquire jurisdiction over them as the real parties in interest.

On December 17, 1990, the Court of Appeals, without giving due course to the petition, issued a resolution restraining the trial court from implementing its Decision dated June 19, 1990[7] and its subsequent orders thereto in Civil Case No. 2647 until further notice from the Court of Appeals. It also required Gonzales to file her Comment.[8]

The Court of Appeals in a resolution denied the application for preliminary injunction and appointed a commissioner to receive evidence of the parties.[9]

Following the Commissioner's report, the Court of Appeals found that (1) the contract of sale between Gonzales

and Priscilla was unenforceable because the sale was evidenced by a handwritten note which was vague as to the amount and which was not notarized; (2) the trial court did not acquire jurisdiction over the indispensable parties; and (3) the proceedings were attended with fraud. The Court of Appeals nullified the judgment of the RTC in Civil Case No. 2647 and cancelled TCT No. T-23690. The dispositive portion of said judgment reads as follows:

WHEREFORE, premises considered, the questioned decision, dated June 19, 1990 (and all orders arising therefrom), of the Regional Trial Court (Branch 19) in Digos, Davao del Sur is hereby ANNULLED and SET ASIDE-and the Transfer Certificate of Title No. T-23690 which was issued thereafter declared null and void and ordered canceled. Costs against the private respondent.

SO ORDERED.[10]

On July 17, 1995, Gonzales' Motion for Reconsideration was denied. Hence, the instant petition, assigning the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING THAT THE PURCHASE OF THE DISPUTED PROPERTY BY PETITIONER MARIA GONZALES FROM ARISTOTLE MANIO THRU THE LATTER'S MOTHER AND ATTORNEY-IN-FACT WAS A VALID CONTRACT AS BETWEEN THE CONTRACTING PARTIES.

II

THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING THAT PETITIONER MARIA GONZALES WAS IN GOOD FAITH IN BUYING THE DISPUTED PROPERTY FROM ARISTOTLE MANIO THRU THE LATTER'S MOTHER AND ATTORNEY-IN-FACT.

III

THE HONORABLE COURT OF APPEALS ERRED IN NOT APPLYING IN THE INSTANT CASE THE DOCTRINE IN DOUBLE SALE UNDER ARTICLE 1544 OF THE CIVIL CODE OF THE PHILIPPINES.

IV

THE HONORABLE COURT OF APPEALS GRAVELY FAILED TO APPRECIATE THE FACT THAT PRIVATE RESPONDENTS' [PETITIONERS BELOW] CLAIM IS HIGHLY INCREDIBLE, IMPROBABLE, AND FRAUDULENT.

V

THE HONORABLE COURT OF APPEALS ERRED IN NOT HOLDING THAT PRIVATE RESPONDENTS MARIA PAZ DABON AND ROSALINA DABON HAVE NO RIGHT TO BRING THE INSTANT SUIT.

VI

COROLLARILY, THE HONORABLE COURT OF APPEALS ERRED IN NOT SUSTAINING PETITIONER MARIA GONZALES' [PRIVATE RESPONDENT BELOW] CLAIM FOR DAMAGES AGAINST THE PRIVATE RESPONDENTS [PETITIONERS BELOW].[11]Simply, the threshold issues in this petition are: (1) whether the Court of Appeals erred in declaring the sale of the land to Gonzales by Priscilla invalid; (2) whether there was basis to annul the judgment of the RTC; and (3) whether the Dabons could file the action for annulment

of judgment.

We shall discuss the issues jointly.

Prefatorily, we note that named as petitioners are Presiding Judge Dominador Carillo; Bonifacio Guyot, Alfredo Senoy, Clerk of Court and Deputy Sheriff of the same court, respectively; Marcos D. Risonar, Registrar of Deeds of Davao del Sur; and Maria Gonzales. In our view, petitioner Gonzales apparently had impleaded Judge Carillo, Guyot, Senoy and Risonar in this petition by merely reversing the designation of said public officers among the respondents below in the Court of Appeals, as now among the petitioners herein. Since they are not interested parties and would not benefit from any of the affirmative reliefs sought, only Maria Gonzales remains as the genuine party-petitioner in the instant case.

We now come to the main issues: (1) Was there sufficient basis to annul the judgment in Civil Case No. 2647? (2) Are the Dabons proper parties to file the petition for annulment of judgment?

Petitioner Gonzales contends that the respondents do not have standing before the Court of Appeals to file a petition for annulment of the judgment in Civil Case No. 2647 because respondents were not parties therein. Petitioner maintains that respondents have no right that could be adversely affected by the judgment because they are not the owners of the property. Petitioner claims that the Court of Appeals should have applied the doctrine of double sale to settle the issue of ownership and declare her the true owner of the property. Petitioner concludes that respondents - not being the owners and are not real parties in interest in the complaint for specific performance - have no right to bring the action for annulment of the judgment. According to petitioner Gonzales, she did not implead Aristotle as defendant in Civil Case No. 2647 since a decision against Priscilla, Aristotle's attorney-in-fact, would bind Aristotle also.

Respondents (Maria Paz and Rosalina Dabon) now insist that they are parties in interest as buyers, owners and possessors of the contested land and that they had been fraudulently deprived of their day in court during the proceedings in the trial court in Civil Case No. 2647. They have no remedy in law other than to file a case for the annulment of judgment of the trial court in said case.

Petitioner Gonzales should be reminded of Section 3 of Rule 3 of the Rules on Civil Procedure which explicitly states that an action should be brought against the real party in interest,[12] and in case the action is brought against the agent, the action must be brought against an agent acting in his own name and for the benefit of an undisclosed principal without joining the principal, except when the contract involves things belonging to the principal.[13] The real party in interest is the party who would be benefited or injured by the judgment or is the party entitled to the avails of the suit. We have held that in such a situation, an attorney-in-fact is not a real party in interest and that there is no law permitting an action to be brought by and against an attorney-in-fact.[14]

Worth stressing, the action filed by Gonzales before the RTC is for specific performance to compel Priscilla to execute a deed of sale, involving real property which, however, does not belong to Priscilla but to Aristotle Manio, the son of Priscilla. The complaint only named as defendant Priscilla, joined by her spouse, yet Priscilla had no interest on the lot and can have no interest whatever in any judgment rendered. She was not acting in her own name, nor was she acting for the benefit of an undisclosed principal. The joinder of all indispensable parties is a condition sine qua non of the exercise of judicial powers, and the absence of indispensable party renders all subsequent actions of the court null and void for want of authority to act, not only as to the absent parties but even as to those present.[15] Accordingly, the failure to implead Aristotle Manio as defendant renders all proceedings in the Civil Case No. 2647, including the order granting the cancellation of TCT No. 16658 and issuance of a new title, null and void.

It is settled that a person need not be a party to the judgment sought to be annulled.[16] What is essential is that he can prove his allegation that the judgment was obtained by fraud or collusion and he would be adversely affected thereby,[17] because if fully substantiated by preponderance of evidence, those allegations could be the basis for annulment of the assailed judgment.

In the present case, even if respondents were not parties to the specific performance case, any finding that there was extrinsic fraud in the institution of the complaint, i.e. exclusion of the real party in interest, and collusion between petitioner and Sheriff Senoy, would adversely affect the respondents' ownership and thus, could be their basis for annulment of the judgment.

Pertinently, Section 2 of Rule 47 of the Rules on Civil Procedure explicitly provides the two grounds for annulment of judgment, namely: extrinsic fraud and lack of jurisdiction.[18]

There is extrinsic fraud when a party has been prevented by fraud or deception from presenting his case. Fraud is extrinsic where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured. The overriding consideration when extrinsic fraud is alleged is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court.[19] It must be distinguished from intrinsic fraud which refers to acts of a party at a trial which prevented a fair and just determination of the case, and which could have been litigated and determined at the trial or adjudication of the case.[20]

In its Decision dated February 22, 1995, the Court of Appeals found that indices of fraud attended the case before the trial court: First, the plaintiff deliberately excluded the Dabons as party to the case despite knowledge that the Dabons had alleged that they had bought the land from Aristotle. Second, the Sheriff's Return was suspiciously served on a Saturday, at midnight, on August 4, 1990. Third, the trial court ordered the plaintiff to deposit the full payment of property, but subsequently ordered its withdrawal. Lastly, there was no notice given to the person named in the certificate of title which Gonzales wanted to be annulled.

Of the indices of fraud cited by the Court of Appeals, the failure to comply with the notification requirement in the petition for the cancellation of title amounts to extrinsic fraud. Under the Property Registration Decree, all parties in interest shall be given notice.[21] There is nothing in the records that show Gonzales notified the actual occupants or lessees of the property. Further, the records show that Gonzales had known of the sale of the land by Aristotle to the Dabons and despite her knowledge, the former did not include the Dabons in her petition for the annulment of title. Deliberately failing to notify a party entitled to notice also constitutes extrinsic fraud.[22] This fact is sufficient ground to annul the order allowing the cancellation of title in the name of Gonzales.

Likewise, under Rule 47, a judgment is void for lack of jurisdiction over the persons of the real parties in interest, i.e., Aristotle Manio and the Dabons.

Lastly, petitioner insists that the contract of sale between her and Priscilla was valid and enforceable because under the provision on double sale,[23] she owned the land because she bought the lot on April 26, 1988, while the same was allegedly sold to the Dabons on October 19, 1989. In our view, the doctrine on double sale holds no relevance in this case. The pertinent article of the Civil Code provides:

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 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 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

possession; and in the absence thereof; to the person who presents the oldest title, provided there is good faith.

Otherwise stated, where it is immovable property that is the subject of a double sale, 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. The requirement of the law is two-fold: acquisition in good faith and registration in good faith.[24]

At this juncture, we must emphasize that the action for annulment of judgment under Rule 47 of the Rules of Court does not involve the merits of the final order of the trial court.[25] The issue of whether before us is a case of double sale is outside the scope of the present petition for review. The appellate court only allowed the reception of extraneous evidence to determine extrinsic fraud. To determine which sale was valid, review of evidence is necessary. This we cannot do in this petition. An action for annulment of judgment is independent of the case where the judgment sought to be annulled is rendered[26] and is not an appeal of the judgment therein.[27]

The extraneous evidence presented to the appellate court cannot be used to supplant the evidence in the records of the specific performance case because the extraneous evidence was not part of the records on the merits of the case. Again, the extraneous evidence was only allowed merely to prove the allegations of extrinsic fraud. Accordingly, we hold that the issue of ownership of the subject real property cannot be addressed in this petition for review.

Annulment of judgment is not a relief to be granted indiscriminately by the courts. It is a recourse equitable in character and allowed only in exceptional cases as where there is no available or other adequate remedy.[28] This case falls under said exception. In this case, where it was found that the trial court did not have jurisdiction over the real parties in interest, and that notices were deliberately not given, amount to extrinsic fraud. The Court of Appeals did not err in granting the annulment of the judgment in Civil Case No. 2647 and the orders subsequent thereto, for lack of jurisdiction and extrinsic fraud.

WHEREFORE, the petition is DENIED for lack of merit. The assailed Decision dated February 22, 1995 of the Court of Appeals in CA-G.R. SP No. 23687, is AFFIRMED. Costs against petitioner Maria Gonzales.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 67-86. Penned by Associate Justice Ramon Mabutas, Jr., with Presiding Justice Nathanael P. De Pano, Jr., and Associate Justice Artemon D. Luna concurring.

[2] Rollo, pp. 162-163. Dated June 19, 1990.

[3] Records, pp. 90-91.

[4] Id. at 96.

[5] Id. at 102.

[6] Id. at 128-129.

[7] Rollo, pp. 152-163.

[8] CA rollo, p. 58.

[9] Id. at 197-198.

[10] Rollo, p. 86.

[11] Id. at 26, 29, 45, 46, 49, 51.

[12] Rules on Civil Procedure, Rule 3, SEC. 2. Parties in interest. - A real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit. Unless otherwise authorized by law or these Rules, every action must be prosecuted or defended in the name of the real party in interest.

[13] Id. at SEC. 3. Representatives as parties. - Where the action is allowed to be prosecuted or defended by a representative or someone acting in a fiduciary capacity, the beneficiary shall be included in the title of the case and shall be deemed to be the real party in interest. A representative may be a trustee of an express trust, a guardian, an executor or administrator, or a party authorized by law or these Rules. An agent acting in his own name and for the benefit of an undisclosed principal may sue or be sued without joining the principal except when the contract involves things belonging to the principal.

[14] *Filipinas Industrial Corporation v. San Diego*, L-22347, May 27, 1968, 23 SCRA 706, 710.

[15] *Orbeta v. Sendiong*, G.R. No. 155236, July 8, 2005, 463 SCRA 180, 192.

[16] *Republic v. Court of Appeals*, G.R. No. 122269, September 30, 1999, 315 SCRA 600, 608.

[17] *Alaban v. Court of Appeals*, G.R. No. 156021, September 23, 2005, 470 SCRA 697, 707-708, citing *Islamic Da'Wah Council of the Philippines v. Court of Appeals*, G.R. No. 80892, September 29, 1989, 178 SCRA 178, 184.

[18] SEC. 2. Grounds for annulment. - The annulment may be based only on the grounds of extrinsic fraud and lack of jurisdiction.

Extrinsic fraud shall not be a valid ground if it was availed of, or could have been availed of, in a motion for new trial or petition for relief.

[19] *Tolentino v. Leviste*, G.R. No. 156118, November 19, 2004, 443 SCRA 274, 282.

[20] *Ybañez v. Court of Appeals*, G.R. No. 117499, February 9, 1996, 253 SCRA 540, 551.

[21] Presidential Decree No. 1529, Chapter X (Petitions and Actions After Original Registration) Sec. 108 in relation to Sec. 107.

[22] *Stilianopulos v. City of Legaspi*, G.R. No. 133913, October 12, 1999, 316 SCRA 523, 534.

[23] Civil Code, Art. 1544.

[24] *Gabriel v. Mabanta*, G.R. No. 142403, March 26, 2003, 399 SCRA 573, 580-581.

[25] *Ancheta v. Ancheta*, G.R. No. 145370, March 4, 2004, 424 SCRA 725, 737.

[26] *Galang v. Court of Appeals*, G.R. No. 139448, October 11, 2005, 472 SCRA 259, 269.

[27] *Republic v. Heirs of Sancho Magdato*, G.R. No. 137857, September 11, 2000, 340 SCRA 115, 124.

[28] *Orbeta v. Sendiong*, *supra* note 15.

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