

ENRICA QUEVADA[]

G.R. No. 121270. August 27, 1998

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

One-half (1/2) of a parcel of land containing an area of 827 square meters, located in Sariaya, Quezon, is the object of this family dispute.

The root of the controversy, as narrated by the trial court, dates back more than seventy (70) years ago when Antonio Cerrudo, who acquire the land during his marriage to Pomposa Glorioso, applied for its registration in his name under the Torrens System through Cadastral Case No. 10, G.L.R.O. No 386-Sariaya, Quezon. On December 19, 1923, Antonio died intestate[1] leaving as his heirs his wife Pompasa and son Pablo.

On August 1, 1925, after Antonio's death, the parcel of land was registered in his name under Original Certificate of Title (OCT) No. 8204.[2] The land is more particularly bounded and described in said OCT as follows:

A parcel of land (Lot No. 3667 of the Cadastral Survey of Sariaya), with improvements thereon, situated in the Municipality of Sariaya, bounded on the NE., by Lot 3668 and Lot No. 4978 of the Sariaya Cadastre, B.L. Case No. 2; on the SE., by Lot 3666; on the SW. by Lots Nos. 3673, 3671 and 3669; and on the W. by Lots containing an area of eight hundred and twenty-seven square meters (827) more or less., xxx xxx xxx.

Sometime in 1934, Antonio's son Pablo purportedly executed a public instrument[3] ceding ½ of the property described above to his aunt, Gregoria Cerrudo, his father's only sibling. Its contents are reproduced below:

Akong Pablo Cerrudo, filipino, casado sa kay Roberta Nañez, nasakatampatang gulang at nananahan sa sakop ng municipio ng Sariaya, Tayabas, Islas Filipinas, sinasaysay ko sa kasulatang ito and mga sumusunod:

Na ako ang siyang anak lamang ng namatay kong ama na Antonio Cerrudo, asawa ni Pomposa Glorioso na ina kong tunay at buhay pa ngayon, itong naulit kong ama ay mayroong naiwanang isang solar dito sa bayan ng Sariaya, Tayabas, na and descripcion technica ay itong sumusunod:

x x x

Itong solar na nasabi na ang may ari ng kalahati ay ang aking inain na Gregoria Cerrudo, kahit na hindi nalalagay sa titutlo [sic] ang kanyang pangalan, kaya ang guinawa ko ang kasulatang ito upang mayroong hawacang katibayan itong nasabi kong inain na Gregoria Cerrudo. Ang solar na ito ay ayon sa titulo ay ako ang maykarapatan ng magmayari sa lahat sapagkat ako ang anak ng nama [sic] na Antonio Cerrudo at ako ang tunay na herederos, datapat sa malinis kong pagiisip at naliliwanagan ko naman na ang kalahati nga ay sa aking inain na Gregoria Cerrudo kaya naman guinawa ko ang pagpapatunay na ito. Pinagkasunduan naming mag-inain na yaong paka sungki ng solar na ito na nasa bandang silangan ay ipasulo na sa aking Pedro Cerrudo sapagkat kami naman ang gumastos sa kamatayan ng aming ina na Potenciano Villaria.

Said instrument appears to have been signed by Pablo, his mother Pomposa Glorioso, his aunt Gregoria and two (2) witnesses, and acknowledged before a Notary Public on November 14, 1931.

Pablo died years later or on November 19, 1934. He was survived by his wife Roberta Nañez, his three (3) children, Estilito, Manolito, and Adorado Cerrudo, and his mother, Pomposa Glorioso.

Almost fourteen (14) years after the death of Pablo, his aunt Gregoria filed a “Petition for Inscription”[4] dated June 2, 1948 in Cadastral Case No. 10, G.L.R.O. No. 386-Sariaya, Quezon before the now defunct Court of First Instance (CFI).[5] Gregoria prayed that the court issue an order authorizing the Register of Deeds to annotate at the back of OCT No. 8204 the contents of the public instrument allegedly executed by Pablo.

At the end of said petition was a “Joint Affidavit” signed by Pablo’s wife Roberta Nañez and thumbmarked by his mother Pomposa Glorioso. The Joint Affidavit states:

That we, Roberta Nañez, Filipino, of age and widow of the deceased Pablo Cerrudo also resident of Sariaya, Quezon, with Res. Cert. No. A 2818290, issued at Lucena, Quezon, on June 2, 1948, and Pomposa Glorioso, also of legal age, Filipino, resident of Sariaya, Quezon, mother of the deceased Pablo Cerrudo, after having been duly sworn to according to law depose and say:

That I Roberta Nañez, could truly certify and do hereby certify that during the life time of my husband Pablo Cerrudo, he executed a public document Exh. A, acknowledging that due to error in the registration of the property above described the name of the petitioner Gregoria Cerrudo the true and full blood sister of Antonio Cerrudo, has been overlook. That inasmuch as the said property has been inherited by Antonio Cerrudo and her sister Gregoria Cerrudo from their parents, in justice to her sister and petitioner herein, he executed a document Exh. A, ceding one (1/2) half of the said property on the western side thereof; that as a matter of fact, the petitioner herein has long been in possession of said one half of the same, paying taxes therefor.

That I conform this petition and raise no objection to the inscription of said instrument.

That I Pomposa Glorioso, Filipino, widow of Antonio Cerrudo and mother of Pablo Cerrudo, resident also of Sariaya, Quezon, also declare and affirm in whole of the statement of my daughter-in-law and could still be more competent to stand to the correctness of her statement. That the document Exh. A, was the free and voluntary act of my son during his life time. That I assume all responsibility of this petition.

I have no objection to the petition and inscription in the back of the title of this property.

The affidavit was notarized on June 2, 1948, the same date as the petition.

On June 5, 1948, a Resolution[6] was issued by the Court of First Instance granting the “petition for inscription.” On June 9, 1948, the Register of Deeds of Quezon, in compliance with the directive of the court as embodied in said resolution, inscribed the following entries at the back of OCT No. 2804:

ENTRY NO. 9146 Acknowledgment –

EXECUTED IN FAVOR OF: Gregorio Cerrudo;

CONDITIONS: where by the affiant, Pablo Cerrudo as the sole and only heir of his deceased father, Antonio Cerrudo, acknowledged and admitted although the name of Gregorio Cerrudo, his aunt, does not in this title as co-owner with his father, but in fact and in reality, the undivided ½ of the lot in this title, belongs to said Gregoria Cerrudo, as per Inst. No. 363, p. 16, Bk. 8, s. of 1931 of Mr. Miguel Racelis, Not. Pub. of Sariaya, Quezon, File No. C-8204.

(SGD) Register of Deeds

Ex-Officio Reg. Of Deeds pt.

ENTRY NO. 9147: KIND: Court Order-

Gregoria Cerrudo

EXECUTED IN FAVOR OF: Gregoria Cerrudo

CONDITIONS: Issued in Cad. Case No. 10, Lot No. 3667, G.L.R.O Cad. Rec. No. 336, ordering to annotate in this title that by virtue of recedings [sic] 'Acknoeedgment [sic.] Doc. No. 9146, Gregoria Cerrudo claims ½ of the Lot in this title (western part), File No. C-8204

DATE OF INSTRUMENT: Jan. 5 1948

DATE OF INSCRIPTIONS: June 9, 1948 at 9:00 A.M.

(SGD) Register of Deeds

Ex-Officio Reg. Of Deeds pt.

Almost thirty (30) years later, or on June 4, 1978, Gregoria Cerrudo conveyed in favor of her children Enrica and Cirilo Quevada, and the latter's wife Angelina, by means of a Deed of Sale,[7] her undivided portion of the above described property. On November 16, 1978, Gregoria Cerrudo died after a lingering illness.

When the Quevadas tried to have the property subdivided in accordance with the inscription made in OCT No. 8204, the Cerrudos refused. On March 30, 1979, the Cerrudos instituted an action before the Lucena Regional Trial Court against the Quevadas to declare the nullity of the affidavit purportedly executed by Pablo and Pomposa and the Deed of Sale executed by Gregoria in favor of the Quevadas on June 4, 1948; to annul the Order of the now defunct Court of First Instance of Quezon dated June 5, 1948 for having been issued in excess of or want of jurisdiction; to order the cancellation of Entry Nos. 9146 and 9147 at the back of OCT No. 8204, Entry Nos. 2716868 and 368627 made in the Registry Book of the Register of Deeds of Quezon on October 20, 1978; and finally, to require the Quevadas to pay, jointly and severally, monthly rentals on the land in suit and to restore possession of the premises to them, as well as moral, nominal and exemplary damages, attorney's fees and the expenses of litigation.

In their Answer, the Quevadas interposed the defenses of lack of cause of action, laches, res adjudicata, and that no earnest efforts were exerted to settle their differences with each other, the parties being members of one family. By way of counterclaim, the Quevadas set up amounts representing actual, moral and exemplary damages, attorney's fees and litigation expenses.

After hearing, the trial court[8] rendered a decision[9] in favor of the Cerrudos. The dispositive portion of said decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

- Declaring as null and void the Order dated June 5, 1948 rendered in Cadastral Case No. 10, G.L.R.O. Cad. Rec. No. 386, Lot No. 3667, Sariaya Cadastre for having been issued in excess of or want of jurisdiction by the now defunct Court of First Instance of Quezon and directing, as a consequence, the Register of Deeds of Quezon to cancel Entry Nos. 9146 and 9147 inscribed or annotated at the back of Original Certificate of Title No. 8204;
- Declaring as void and of no legal force and effect the Deed of Sale executed by the late Gregoria Cerrudo in favor of the defendants on June 4, 1978 and directing the Register of Deeds of Quezon to likewise cancel Entry Nos. 2716868 and 368627 made in its Registry Book;
- Ordering the defendants to immediately vacate the premises of the land in litigation being occupied by them and restore possession thereof to plaintiffs, and to pay compensation, as rentals, for their use and occupancy, the amount of P200.00 per month from June 1978 until they finally vacate the same;

- Ordering the defendants to pay plaintiff the sum of P6,000.00 as and by way of attorney's fees, plus expenses of litigation and costs of the suit.

SO ORDERED.[10]

Upon appeal by the Quevadas, the Court of Appeals modified the decision of the trial court insofar as it directed the Registered of Deeds, who was not impleaded in the action before the lower court, to cancel Entry Nos. 2716868 and 368627 in its Registry Book. The trial court's decision was, however, affirmed in all other respects, thus:

1) declaring as null and void the Order dated June 5, 1948 rendered in Cadastral Case No. 10, G.L.R.O., Cad. Rec. No. 386, Lot No. 3667, Sariaya Cadastre, granting the Petition for Inscription of Gregoria Cerrudo of a public document purportedly executed by Pablo Cerrudo on November 14, 1931, ceding 1/2 undivided portion of the property described under OCT 8204 western portion in favor of Gregoria Cerrudo which was entered and annotated at the back of the said Original Certificate of Title No. 8204 of the Registry of Deeds of Quezon, under Entry Nos. 9146 and 9147, for having been issued in excess or want of jurisdiction by the now defunct Court of First Instance of Quezon;

2) declaring as void and of no legal force and effect the Deed of Sale executed by the late Gregoria Cerrudo in favor of the defendants on June 4, 1978;

3) ordering the defendants to immediately vacate the premises of the land in litigation being occupied by them and restore possession thereof to plaintiffs by delivering to plaintiffs possession of the parcel of land covered by Original Certificate of Title No. 8204, and to pay compensation; as rentals, for their use and occupancy, in the amount of P200.00 per month from June 1978 until they finally vacate the same;

4) ordering the defendants to pay plaintiffs the sum of P6,000.00 as and by way of attorney's fees, plus expenses of litigation and costs of the suit.

However, it goes without saying that this case does not bar appellee from having entries No. 9146 and 9147 inscribed or annotated at the back of OCT No. 8204 cancelled, in an appropriate proceeding.

IT IS SO ORDERED.[11]

Petitioners now seek relief from this Court, raising the following issues:

I

WHETHER OR NOT PETITIONERS ARE BARRED BY PRESCRIPTION, LACHES OR ANY OTHER GROUND TO INITIATE STEPS LEADING TO QUIET TITLE OVER THE PROPERTY IN QUESTION EVEN AFTER THE CUSTOMARY ONE-YEAR PERIOD AND/OR BEYOND THE TEN YEAR PRESCRIPTIVE PERIOD.

II

WHETHER OR NOT A CONTRACT OF SALE MAY BE ANNULLED AT THE INSTANCE OF A THIRD PARTY NOT OTHERWISE A PARTY NOR PRIVY TO SAID CONTRACT.

III

WHETHER OR NOT THE RESPONDENT COURT OF APPEALS WAS CORRECT OR HAD BASIS IN AFFIRMING THE REASONABLE COMPENSATION FOR THE USE AND OCCUPATION OF THE DISPUTED PORTION OF THE PROPERTY IN QUESTION.[12]

The first issue posed by petitioners is intended to rebut the pronouncement by the Court of Appeals that the

“petition for inscription” filed by Gregoria Cerrudo was an improper remedy, an action for reconveyance being more appropriate. The Court of Appeals, however, held that the latter action had already prescribed. At any rate, the appellate court ruled, the petition for inscription filed by Gregoria Cerrudo was barred by laches since some twenty-three (23) years had elapsed from the time OCT No. 8204 was registered in Antonio’s name until the filing of said petition in 1948.

Petitioners argue otherwise, invoking this Court’s ruling in *Faja vs. Court of Appeals*,^[13] which, it is claimed, involved similar facts as the one at bar. Petitioners add that private respondents are barred by laches to question the order of the Court of First Instance granting the petition for inscription since more than thirty (30) years had already elapsed before private respondents filed the action below.

Petitioners’ reliance on the *Faja* case is misplaced. In *Faja*, we held that the action for reconveyance by petitioner therein “in effect seeks to quiet her title to the property” in her possession, and consequently, such action was imprescriptible. Gregoria Cerrudo’s “petition for inscription,” however, is neither an action for reconveyance nor an action to quiet title.

In any event, the issue of prescription as regards the filing of the “petition for inscription” is immaterial. It is evident from the Joint Affidavit executed by Roberta Nañez and Pomposa Glorioso that Gregoria’s petition was grounded on the claim that she and her brother Antonio inherited the land from their parents, and that Gregoria’s name as co-owner thereof was allegedly omitted in OCT No. 8204. Thus, the resolution of the CFI granting the petition states:

De las pruebas practicadas por la mocionante, se desprende lo siguiente: Que la mocionante y su hermano Antonio Cerrudo, casado con Pomposa Glorioso, heredaron de sus padres el terreno mencionado y descrito en el certificado original de titulo aqui mencionado, conocido como Lote No. 3667 de la mendicion catastral del municipio de Sariaya de esta provincia; que, debido a una equivocacion, dicho lote se registro a nombre de Antonio Cerrudo solamente, aunque la verdad es que dicho terreno no es propiedad exclusiva de Antonio Cerrudo; que Antonio Cerrudo se ha muerto, dehandando como sus unicos y exclusivos herederos a su viuda Pomposa Gloriosa y su unico hijo Pablo Cerrudo que tambien fallecio en o hacia el 14 de noviembre 1931; que Pablo Cerrudo, para poner las cosas en su debido lugar; otorgo el documento Exhibit A a favor su tia Gregoria Cerrudo traspasando a este la mitad hacia el Oeste del terreno aqui mencionado.^[14]

Clearly, Gregoria’s claim of ownership could not have been settled by filing a mere “petition for inscription” which is actually a proceeding under Section 112 of the Land Registration Act.^[15] Said section reads:

Sec. 112 No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same by the clerk or any register of deeds, except by order of the court. Any registered owner or other person in interest may at any time apply by petition to the court, upon the ground that registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; or that new interests have arisen or been created which do not appear upon the certificate; or that any error, omission, or mistake was made in entering a certificate or any memorandum thereon, or on any duplicate certificate; or that the registered owner has been married; or if registered as married; that the marriage has been terminated or that a corporation which owned registered land and has been dissolved has not yet conveyed the same within three years after its dissolution; or upon any other reasonable ground; and the court shall have jurisdiction to hear and determine the petition after notice to all parties in interest, and may order the entry of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant any other relief upon such terms and conditions, requiring security if necessary, as it may deem proper: Provided, however, That this section shall not be construed to give the court authority to open the original decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs or assigns, without his or their written consent.

Any petition filed under this section and all petitions and motions filed under the provisions of this Act after original registration shall be filed and entitled in the original case in which the decree of registration was entered. (Underscoring supplied.)

The proceedings under the aforequoted section are inadequate to settle the issue of ownership over the disputed portion. Matters described in Section 112 are non-controversial in nature.[16] They are limited to issues so patently insubstantial as not to be genuine issues.[17] These proceedings are summary in nature, contemplating insertions of mistakes which are only clerical, but certainly not controversial issues.[18]

While summary relief under Section 112 can be granted if there is unanimity among the parties,[19] i.e., the absence of serious controversy between the parties-in-interest as to the title of the party seeking relief under said section,[20] there is no showing in this case that the Cerrudo brothers – as heirs of their father Pablo Cerrudo and no doubt parties-in-interest – were represented (the brothers then being minors) in the proceedings for the petition for inscription, much less informed thereof. The “Joint Affidavit” executed by Pomposa Glorioso and Roberta Nañez does not state that the two were acting in the brothers' behalf. The resolution of the CFI fails to even mention the brothers as Pablo's heirs. Thus, the Cerrudo brothers, either by themselves or through their representative acting for them, could not have consented to, nor raised any objection to such proceedings. The absence of any representation in behalf of the Cerrudo brothers, therefore, precludes any “unanimity among the parties,” and the issues raised in the petition for inscription should have been threshed out in more appropriate proceeding.

Contrary to petitioners' claim, the action instituted by private respondents to question the proceedings in 1948 and to recover the portion of the land in petitioners' possession has not been barred by laches. It appears that the possession by petitioners of the disputed portion was merely tolerated by private respondents who were compelled to file the action below when petitioners sought to partition the whole property:

xxx

Q. Is it not a fact that defendant Quevada at present are actually possessing a portion of the property Mr. Witness?

A. At present they are residing there and the property is owned by Anotonio Cerrudo sir.

Q. Did you not say earlier that the Quevadas had been there since 1939?

A. Yes, sir, I said that.

Q. They have been residing there since 1939 up to the present, is that what you mean to say?

A. They were residing there since 1939 up to the present, sir.

Q. At any time from 1939 up to the present did you collect any rent from anyone of then?

A. We did not collect any rent from relatives, sir, (kasamahan).

Q. So there was never an instance that you ever attempt to collect or claim or demand rent from any of the defendants from 1939 up to the present?

A. No, sir because they were considered squatters.

Q. As squatters, did you at any time prior to the filing of this case, did you file any case for ejectment against them because according to you they were just squatter?

A. Our relationship was good but they are acting underground, sir.

Q. So, it is very clear from your answer that as squatters as you claimed, you never filed any case against them?

A. At present there is already, sir.

Q. But prior to the filing of this instant case, you have never filed a case against any of the defendant for squatting from 1939 up to 1978?

A. We cannot file any case against them because they are not doing any bad things and besides we have not yet secure the document 363, sir.

Q. The truth is that in 1978 the Quevadas were asking for the subdivision of the property in a portion which they are about to file in Court, is not?

A. Yes, sir.

Q. When a petition for subdivision was filed it was the time when you consulted a lawyer and one Atty. Abela and Garcia told you that instead of acquiescing this subdivision, you file this instant case against the Quevadas, is that correct?

A. We did not file any case yet because we did not read anything in the document, they are asking us to sign the same but we cannot see and read anything in the document, sir.

xxx.[21]

In Bishop vs. Court of Appeals,[22] we held that:

x x x the lawful owners have a right to demand the return of their property any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.

Petitioners further contend that private respondents cannot demand the annulment of the contract of sale between petitioners and Gregoria Cerrudo, and her children Enrica and Cirilo Quevada and the latter's wife, private respondents not being parties to said contract. being owners of the subject of the contract of sale, however, private respondents certainly have the right to institute the action below.

Finally, while private respondents did not present any evidence regarding the proper amount of rent, equity demands that petitioners pay such reasonable amount of rent. Article 549 of the Civil Code states that "the possessor in bad faith shall reimburse the fruits received and those which the legitimate possessor could have received." A possessor is deemed in bad faith when he is aware of the existence of a flaw in their title that invalidates it.[23] In this case, it appears that petitioners were made aware of the flaw in their title, at the latest, when private respondents refused to agree to a partition drawn up by petitioners. The date of such refusal, however, is not clear from the records. Accordingly, we sustain the trial court's order directing petitioners to pay rent from June 1978, the month they filed a "Petition for Approval of Subdivision Plan." The award of P200.00 per month as rent from June 1978 until petitioners vacate is not unreasonable, and is likewise, sustained.

WHEREFORE, the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Narvasa, CJ. (Chairman), Romero and Purisima, JJ., concur.

[*]Enrica Quevada died February 8, 1982 (Rollo, p. 56), and is substituted herein by her heirs, namely, Josefina, Remedios, Reynaldo, Belen, Redemcion and Carolina, all surnamed Mendiola (Id., at 92-93).

[**] Angelina Quevada died on May 27, 1992 (Id., at 57) and is substituted by her heirs, namely, Angelito Q. Abril, Pastro Quevada, Romeo Quevada, Teodoro Quevada, Lilibeth Q. Prado and Edgardo Quevada (Id., at 92).

[1] Exhibit “A.”

[2] Exhibit “J.”

[3] Exhibit “N.”

[4] Exhibit “U.”

[5] Then presided by Judge Vicente Santiago.

[6] Exhibit “V”.

[7] Exhibit “7”.

[8] Branch 55.

[9] Penned by Judge Eleuterio F. Guerrero.

[10] Rollo, p. 122.

[11] Id., at 30-31.

[12] Id., at 13-14.

[13] 75 SCRA 441 (1977).

[14] Exhibit “5”, Underscoring supplied.

[15] Now Section 108 of Presidential Decree No. 1529 (The Property Registration Decree).

[16] Hu Chon Sunpongco vs. Heirs of Nicolas Ronquillo, 36 SCRA 395 (1970).

[17] Enriquez, et al vs. Atienza and Villabos, 100 Phil. 1072 (1957).

[18] Republic vs. CFI of Baguio-Benguet, 199 SCRA 405 (1982).

[19] Fojas vs. De Grey, 132 SCRA 77 (1984); Santos vs. Cruz, 52 SCRA 330 (1973); Gov’t of the Republic of the Phils. vs. Laperal, 108 Phil. 860 (1960).

[20] See note 17, supra.

[21] TSN, 10 May 1985, pp. 8-12. Underscoring supplied.

[22] 208 SCRA 636 (1992).

[23] Article 526, Civil Code.

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