

ALFONSO QUIJADA, CRESENTE QUIJADA, REYNELDA QUIJADA, DEMETRIO QUIJADA, ELIUTERIA QUIJADA, EULALIO QUIJADA, AND WARLITO QUIJADA, PETITIONERS, VS. COURT OF APPEALS, REGALADO MOND...*G.R. No. 126444. December 04, 1998*

Ponente: MARTINEZ, J.

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Petitioners, as heirs of the late Trinidad Quijada, filed a complaint against private respondents for quieting of title, recovery of possession and ownership of parcels of land with claim for attorney's fees and damages. The suit was premised on the following facts found by the Court of Appeals, which is materially the same as that found by the trial court:

"Plaintiffs-appellees (petitioners) are the children of the late Trinidad Corvera Vda. de Quijada. Trinidad was one of the heirs of the late Pedro Corvera and inherited from the latter the two-hectare parcel of land subject of the case, situated in the barrio of San Agustin, Talacogon, Agusan del Sur. On April 5, 1956, Trinidad Quijada together with her sisters Leonila Corvera Vda. de Sequeña and Paz Corvera Cabiltes and brother Epapiadito Corvera executed a conditional deed of donation (Exh. C) of the two-hectare parcel of land subject of the case in favor of the Municipality of Talacogon, the condition being that the parcel of land shall be used solely and exclusively as part of the campus of the proposed provincial high school in Talacogon. Apparently, Trinidad remained in possession of the parcel of land despite the donation. On July 29, 1962, Trinidad sold one (1) hectare of the subject parcel of land to defendant-appellant Regalado Mondejar (Exh. 1). Subsequently, Trinidad verbally sold the remaining one (1) hectare to defendant-appellant (respondent) Regalado Mondejar without the benefit of a written deed of sale and evidenced solely by receipts of payment. In 1980, the heirs of Trinidad, who at that time was already dead, filed a complaint for forcible entry (Exh. E) against defendant-appellant (respondent) Regalado Mondejar, which complaint was, however, dismissed for failure to prosecute (Exh. F). In 1987, the proposed provincial high school having failed to materialize, the Sangguniang Bayan of the municipality of Talacogon enacted a resolution reverting the two (2) hectares of land donated back to the donors (Exh. D). In the meantime, defendant-appellant (respondent) Regalado Mondejar sold portions of the land to defendants-appellants (respondents) Fernando Bautista (Exh. 5), Rodolfo Goloran (Exh. 6), Efren Guden (Exh. 7) and Ernesto Goloran (Exh. 8).

"On July 5, 1988, plaintiffs-appellees (petitioners) filed this action against defendants-appellants (respondents). In the complaint, plaintiffs-appellees (petitioners) alleged that their deceased mother never sold, conveyed, transferred or disposed of the property in question to any person or entity much less to Regalado Mondejar save the donation made to the Municipality of Talacogon in 1956; that at the time of the alleged sale to Regalado Mondejar by Trinidad Quijada, the land still belongs to the Municipality of Talacogon, hence, the supposed sale is null and void.

"Defendants-appellants (respondents), on the other hand, in their answer claimed that the land in dispute was sold to Regalado Mondejar, the one (1) hectare on July 29, 1962, and the remaining one (1) hectare on

installment basis until fully paid. As affirmative and/or special defense, defendants-appellants (respondents) alleged that plaintiffs' action is barred by laches or has prescribed.

"The court a quo rendered judgment in favor of plaintiffs-appellees (petitioners): firstly because 'Trinidad Quijada had no legal title or right to sell the land to defendant Mondejar in 1962, 1966, 1967 and 1968, the same not being hers to dispose of because ownership belongs to the Municipality of Talacogon' (Decision, p. 4; Rollo, p. 39) and, secondly, that the deed of sale executed by Trinidad Quijada in favor of Mondejar did not carry with it the conformity and acquiescence of her children, more so that she was already 63 years old at the time, and a widow (Decision, p. 6; Rollo, p. 41)."[1]

The dispositive portion of the trial court's decision reads:

"WHEREFORE, viewed from the above perceptions, the scale of justice having tilted in favor of the plaintiffs, judgment is, as it is hereby rendered:

- 1) ordering the Defendants to return and vacate the two (2) hectares of land to Plaintiffs as described in Tax Declaration No. 1209 in the name of Trinidad Quijada;
- 2) ordering any person acting in Defendants' behalf to vacate and restore the peaceful possession of the land in question to Plaintiffs;
- 3) ordering the cancellation of the Deed of Sale executed by the late Trinidad Quijada in favor of Defendant Regalado Mondejar as well as the Deeds of Sale/Relinquishments executed by Mondejar in favor of the other Defendants;
- 4) ordering Defendants to remove their improvements constructed on the questioned lot;
- 5) ordering the Defendants to pay Plaintiffs, jointly and severally, the amount of P10,000.00 representing attorney's fees;
- 6) ordering Defendants to pay the amount of P8,000.00 as expenses of litigation; and
- 7) ordering Defendants to pay the sum of P30,000.00 representing moral damages.

SO ORDERED."[2]

On appeal, the Court of Appeals reversed and set aside the judgment a quo[3] ruling that the sale made by Trinidad Quijada to respondent Mondejar was valid as the4 former retained an inchoate interest on the lots by virtue of the automatic reversion clause in the deed of donation.[4] Thereafter, petitioners filed a motion for reconsideration. When the CA denied their motion,[5] petitioners instituted a petition for review to this Court arguing principally that the sale of the subject property made by Trinidad Quijada to respondent Mondejar is void, considering that at that time, ownership was already transferred to the Municipality of Talacogon. On the contrary, private respondents contend that the sale was valid, that they are buyers in good faith, and that petitioners' case is barred by laches.[6]

We affirm the decision of the respondent court.

The donation made on April 5, 1956 by Trinidad Quijada and her brother and sisters[7] was subject to the condition that the donated property shall be "used solely and exclusively as a part of the campus of the proposed Provincial High School in Talacogon." [8] The donation further provides that should "the proposed Provincial High School be discontinued or if the same shall be opened but for some reason or another, the same may in the future be closed" the donated property shall automatically revert to the donor.[9] Such condition, not being contrary to law, morals, good customs, public order or public policy was validly imposed in the donation.[10]

When the Municipality's acceptance of the donation was made known to the donor, the former became the new owner of the donated property -- donation being a mode of acquiring and transmitting ownership^[11] - notwithstanding the condition imposed by the donee. The donation is perfected once the acceptance by the donee is made known to the donor.^[12] Accordingly, ownership is immediately transferred to the latter and that ownership will only revert to the donor if the resolutive condition is not fulfilled.

In this case, that resolutive condition is the construction of the school. It has been ruled that when a person donates land to another on the condition that the latter would build upon the land a school, the condition imposed is not a condition precedent or a suspensive condition but a resolutive one.^[13] Thus, at the time of the sales made in 1962 towards 1968, the alleged seller (Trinidad) could not have sold the lots since she had earlier transferred ownership thereof by virtue of the deed of donation. So long as the resolutive condition subsists and is capable of fulfillment, the donation remains effective and the donee continues to be the owner subject only to the rights of the donor or his successors-in-interest under the deed of donation. Since no period was imposed by the donor on when must the donee comply with the condition, the latter remains the owner so long as he has tried to comply with the condition within a reasonable period. Such period, however, became irrelevant herein when the donee-Municipality manifested through a resolution that it cannot comply with the condition of building a school and the same was made known to the donor. Only then - when the non-fulfillment of the resolutive condition was brought to the donor's knowledge - that ownership of the donated property reverted to the donor as provided in the automatic reversion clause of the deed of donation.

The donor may have an inchoate interest in the donated property during the time that ownership of the land has not reverted to her. Such inchoate interest may be the subject of contracts including a contract of sale. In this case, however, what the donor sold was the land itself which she no longer owns. It would have been different if the donor-seller sold her interests over the property under the deed of donation which is subject to the possibility of reversion of ownership arising from the non-fulfillment of the resolutive condition.

As to laches, petitioners' action is not yet barred thereby. Laches presupposes failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier;^[14] "it is negligence or omission to assert a right within a reasonable time, thus, giving rise to a presumption that the party entitled to assert it either has abandoned or declined to assert it."^[15] Its essential elements of:

- a) Conduct on the part of the defendant, or of one under whom he claims, giving rise to the situation complained of;
- b) Delay in asserting complainant's right after he had knowledge of the defendant's conduct and after he has an opportunity to sue;
- c) Lack of knowledge or notice on the part of the defendant that the complainant would assert the right on which he bases his suit; and,
- d) Injury or prejudice to the defendant in the event relief is accorded to the complainant."^[16]

are absent in this case. Petitioners' cause of action to quiet title commenced only when the property reverted to the donor and/or his successors-in-interest in 1987. Certainly, when the suit was initiated the following year, it cannot be said that petitioners had slept on their rights for a long time. The 1960's sales made by Trinidad Quijada cannot be the reckoning point as to when petitioners' cause of action arose. They had no interest over the property at that time except under the deed of donation to which private respondents were not privy. Moreover, petitioners had previously filed an ejectment suit against private respondents only that it did not prosper on a technicality.

Be that at it may, there is one thing which militates against the claim of petitioners. Sale, being a consensual contract, is perfected by mere consent, which is manifested the moment there is a meeting of the minds^[17] as to the offer and acceptance thereof on three (3) elements: subject matter, price and terms of payment of the price.^[18] ownership by the seller on the thing sold at the time of the perfection of the contract of sale is not an element for its perfection. What the law requires is that the seller has the right to transfer ownership at the time the thing sold is delivered.^[19] Perfection per se does not transfer ownership which occurs upon the actual or constructive delivery of the thing sold.^[20] A perfected contract of sale cannot be challenged on the ground of non-ownership on the part of the seller at the time of its perfection; hence, the sale is still valid.

The consummation, however, of the perfected contract is another matter. It occurs upon the constructive or actual delivery of the subject matter to the buyer when the seller or her successors-in-interest subsequently acquires ownership thereof. Such circumstance happened in this case when petitioners -- who are Trinidad Quijada's heirs and successors-in-interest -- became the owners of the subject property upon the reversion of the ownership of the land to them. Consequently, ownership is transferred to respondent Mondejar and those who claim their right from him. Article 1434 of the New Civil Code supports the ruling that the seller's "title passes by operation of law to the buyer."^[21] This rule applies not only when the subject matter of the contract of sale is goods,^[22] but also to other kinds of property, including real property.^[23]

There is also no merit in petitioners' contention that since the lots were owned by the municipality at the time of the sale, they were outside the commerce of men under Article 1409 (4) of the NCC;^[24] thus, the contract involving the same is inexistent and void from the beginning. However, nowhere in Article 1409 (4) is it provided that the properties of a municipality, whether it be those for public use or its patrimonial property^[25] are outside the commerce of men. Besides, the lots in this case were conditionally owned by the municipality. To rule that the donated properties are outside the commerce of men would render nugatory the unchallenged reasonableness and justness of the condition which the donor has the right to impose as owner thereof. Moreover, the objects referred to as outside the commerce of man are those which cannot be appropriated, such as the open seas and the heavenly bodies.

With respect to the trial court's award of attorney's fees, litigation expenses and moral damages, there is neither factual nor legal basis thereof. Attorney's fees and expenses of litigation cannot, following the general rule in Article 2208 of the New Civil Code, be recovered in this case, there being no stipulation to that effect and the case does not fall under any of the exceptions.^[26] It cannot be said that private respondents had compelled petitioners to litigate with third persons. Neither can it be ruled that the former acted in "gross and evident bad faith" in refusing to satisfy the latter's claims considering that private respondents were under an honest belief that they have a legal right over the property by virtue of the deed of sale. Moral damages cannot likewise be justified as none of the circumstances enumerated under Articles 2219^[27] and 2220^[28] of the New Civil Code concur in this case.

WHEREFORE, by virtue of the foregoing, the assailed decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Melo (Acting Chairman), Puno, and Mendoza, JJ., concur.

[1] Decision of Court of Appeals in CA-G.R. CV No. 44016 promulgated on May 31, 1996, pp. 2-5; Rollo, pp. 41-44.

[2] Regional Trial Court (Bayugan, Agusan del Sur) Decision dated July 16, 1993 penned by Judge Zenaida

Placer, p. 6; Annex "A" of Petition; Rollo, p. 21.

[3] The decretal portion of the CA's decision states: "WHEREFORE, premises considered, the decision appealed from is hereby REVERSED and SET ASIDE, and judgment rendered declaring the defendants-appellants as the rightful and lawful owners and possessors of the subject land. There is no pronouncement as to costs."

[4] CA Decision, pp. 6-7; Rollo, pp. 45-46.

[5] CA Resolution promulgated August 26, 1996; Rollo, p. 55.

[6] Comment of Private Respondents, pp. 7-8; Rollo, pp. 67-68.

[7] Her sisters were Leonila Corvera Vda. de Sequeña and Paz Corvera Cabiltes and the brother was Epapiadito Corvera.

[8] RTC Decision, p. 1; Rollo, p. 16.

[9] CA Decision, pp. 5-6; Rollo, pp. 44-45.

[10] *City of Angeles v. CA*, 261 SCRA 90.

[11] Article 712, New Civil Code provides: "Ownership is acquired by occupation and by intellectual creation.

"Ownership and other real rights over property are acquired and transmitted by law, by donation, by testate and intestate succession, and in consequence of certain contracts, by tradition.

"They may also be acquired by means of prescription." (Italics supplied).

[12] Article 734, New Civil Code (NCC) reads: "The donation is perfected from the moment the donor knows of the acceptance by the donee."

[13] *Central Philippine University v. CA*, 246 SCRA 511.

[14] *Reyes v. CA*, 264 SCRA 35; *Republic v. Sandiganbayan*, 255 SCRA 438; *PAL Employees Savings & Loan Association, Inc. v. NLRC*, 260 SCRA 758.

[15] *Catholic Bishop of Balanga v. CA*, 264 SCRA 181; *Chavez v. Bonto-Perez*, 242 SCRA 73; *Rivera v. CA*, 244 SCRA 218; *Cormero v. CA*, 317 Phil. 348.

[16] *Santiago v. CA*, 278 SCRA 98 (1997); *Catholic Bishop of Balanga v. CA*, 264 SCRA 181; *Claveria v. Quingco*, 207 SCRA 66 (1992); *Perez v. Ong Cho*, 116 SCRA 732 (1982); *Yusingco v. Ong Hing Lian*, 42 SCRA 589 (1971); *I.E. Lotho, Inc. v. Ice and Cold Storage Industries, Inc.*, 3 SCRA 744; *Go Chi Gun, et. al. v. Co Cho, et. al.*, 96 Phil. 622.

[17] Article 1475, New Civil Code (NCC). "The 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. x x x."

[18] *Leabres v. CA*, 146 SCRA 158 (1986); See also *Navarro v. Sugar Producer's Corporation*, 1 SCRA 1180.

[19] Article 1459, NCC - "The thing must be licit and the vendor must have a right to transfer the ownership thereof at the time it is delivered."

[20] Article 712, NCC. "x x x. Ownership and other real rights over property are acquired and transmitted x x x in consequence of certain contracts, by tradition."

[21] Article 1434, NCC provides: "When a person who is not the owner of a thing sells or alienates and delivers

it, and later the seller or grantor acquires title thereto, such title passes by operation of law to the buyer or grantee."

[22] Article 1505 of the NCC provides: "Subject to the provisions of this Title, where goods are sold by a person who is not the owner thereof, and who does not sell them under authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had, unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell.

"x x x x x x x x." (Emphasis supplied).

Other exceptions to the foregoing includes: (a) when the contrary is provided in recording laws, (b) sales made under statutory power of sale or pursuant to a valid order from a court of competent jurisdiction, and (c) sales made in a merchant's store in accordance with the Code of commerce and special laws.

[23] See Article 1434, NCC, *supra*.; *Estoque v. Pajimula*, 133 Phil. 55; 24 SCRA 59 (1968); *Bucton v. Gabar*, 55 SCRA 499.

[24] Article 1409 (4), NCC: "The following contracts are inexistent and void from the beginning:

x x x x x x x x

(4) Those whose object is outside the commerce of men;

x x x x x x x x."

[25] Article 423, NCC: "The properties of provinces, cities and municipalities, is divided into property for public use and patrimonial property."

Article 424 provides: "Property for public use, in the provinces, cities and municipalities, consist of the provincial roads, city streets, municipal streets, the squares, fountains, public waters, promenades, and public works for public service paid for by said provinces, cities, or municipalities.

"All other property possessed by any of them is patrimonial and shall be governed by this Code, without prejudice to the provisions of special laws."

[26] "In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered except:

x x x x x x x x

(2) when the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest.

x x x x x x x x

(5) where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim.

x x x x x x x x."

[27] Moral damages may be recovered in the following and analogous cases:

- (1) a criminal offense resulting in physical injuries;
- (2) quasi-delicts causing physical injuries;
- (3) seduction, abduction, rape or other lascivious acts;

- (4) adultery or concubinage;
- (5) illegal or arbitrary detention or arrests;
- (6) illegal search;
- (7) libel, slander or any other form of defamation;
- (8) malicious prosecution;
- (9) acts mentioned in Article 309;
- (10) acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34 and 35.

The parents of the female seduced, abducted, raped or abused referred to in No. 3 of this Article, may also recover moral damages.

The spouse, ascendants, descendants and brothers and sisters may bring the action mentioned in No. 9 of this Article, in the order named.

[28] Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contracts where the defendant acted fraudulently or in bad faith.

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