ALEJANDRO MILLENA, PETITIONER, VS. COURT OF APPEALS AND FELISA JACOB, REPRESENTED HEREIN BY HER ATTORNEY-IN-FACT JAIME LLAGUNO, RESPONDENTS.

G.R. No. 127797. January 31, 2000

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

This case involves a 3,934-square meter parcel of land in far-flung Bgy. Balinad, Daraga, Albay. It was originally a part of Lot 1874, a 14,284-square meter land that was subject of a cadastral proceeding during the 1920's before the Court of First Instance of Albay. Among the claimants in the cadastral case were Gregoria Listana and her sister-in-law Potenciana Maramba, together with the latter's seven (7) children, namely, Felix, Marcela, Ruperta, Emeteria, Florencio, Gaspar and Nicomedes, all surnamed Listana.

On 17 August 1926 the claimants reached a compromise agreement to divide Lot 1874 among themselves. Approximately one-fourth (1/4) of the lot went to Gregoria Listana while the remaining three-fourths (3/4) portion, to Potenciana Maramba and her seven (7) children.[1] The compromise agreement was submitted to the cadastral court on 17 August 1926 and on even date adjudication was rendered in accordance with the terms of the agreement.[2] Thus the northern portion of Lot 1874 with an area of approximately 3,934 square meters was awarded to Gregoria Listana.

Gregoria Listana was at that time seriously ill of tuberculosis. To her death was inevitable. Gregoria executed on 9 October 1926 a power of attorney in favor of her cousin Antonio Lipato which authorized the attorney-in-fact to sell the portion of Lot 1874 belonging to his principal. Conformably with Gregoria's instruction, the proceeds of the sale would be used for her interment.

On 23 October 1926 Antonio Lipato in his capacity as attorney-in-fact sold the portion of Gregoria Listana to Gaudencio Jacob. Incidentally, Gregoria died on the same day the land was sold. Thereafter Gaudencio entered the portion of Lot 1874 that was sold to him and started harvesting the coconuts found therein. When Potenciana Maramba learned about Gaudencio's entering the land and harvesting the coconuts she confronted him. But Gaudencio explained that he had every right to do whatever he pleased with the land since he had lawfully bought it from Gregoria Listana.

Potenciana Maramba filed an ejectment case against Gaudencio Jacob before the Justice of the Peace in Legazpi, Albay. However, on 31 December 1926 the court ruled that Gaudencio entered the land in question without force and intimidation since he had with him a document of sale over the land which authorized him to take possession thereof.[3] Thus, the Justice of the Peace dismissed the case.

After the dismissal of the case, Gaudencio Jacob continued with his possession of the one-fourth (1/4) portion of Lot 1874. His continuous, actual and peaceful possession lasted for almost forty (40) years until 4 April 1966, when he and his children executed an extrajudicial settlement of the estate of his deceased wife Brigida Jacob. The extrajudicial settlement adjudicated to respondent Felisa Jacob, daughter of Gaudencio Jacob, the

3,934-square meter portion of Lot 1874.[4] Thereafter, respondent Felisa Jacob had the land annually declared as her property and paid the corresponding real property taxes.

However, sometime in November 1981 respondent Felisa Jacob discovered that Florencio Listana, son of Potenciana Maramba, acquired from the Bureau of Lands in Legazpi City Free Patent Certificate of Title No. VH-23536 dated 28 August 1980 covering the entire 14,284-square meter area of Lot 1874 which included the portion adjudicated to Felisa Jacob in 1966.[5]

On 6 November 1981 respondent Felisa Jacob immediately filed a protest before the Bureau of Lands in Legazpi City alleging that she was the absolute owner of a one-fourth (1/4) portion of Lot 1874 having acquired it through an extrajudicial partition in 1966, and that through misrepresentation and deceit Florencio Listana was able to secure title for the whole of Lot 1874. Felisa Jacob prayed that an investigation be conducted and that the Free Patent issued in the name of Florencio Listana covering Lot 1874 be annulled and set aside.

After the death of Florencio Listana and notwithstanding the protest filed by Felisa Jacob, the heirs of Florencio Listana sold the entire Lot 1874 including the portion sold by Gregoria Listana to Gaudencio Jacob to petitioner Alejandro Millena on 30 September 1986 for P6,000.00. Alejandro Millena, a nephew of Florencio Listana and grandson of Potenciana Maramba, was eventually issued Transfer Certificate of Title No. T-71657 covering the whole of Lot 1874.

Thus on 17 March 1992 respondent Felisa Jacob through her attorney-in-fact Jaime Llaguno filed a complaint against petitioner Alejandro Millena for annulment of title with preliminary injunction and damages before the Regional Trial Court of Legazpi City which she subsequently amended on 19 March 1992 by including a claim for reconveyance with preliminary injunction and damages. She prayed for judgment (a) declaring her the lawful and absolute owner of the one-fourth (1/4) northern portion of Lot 1874; (b) ordering Alejandro Millena to reconvey the aforesaid portion of Lot 1874 to her; (c) enjoining the construction of a house on said lot by Alejandro Millena and, after trial, making the injunction permanent; and, (d) ordering Alejandro Millena to pay damages in the amount of P50,000.00.

On 3 October 1994 Judge Wenceslao R. Villanueva Jr. of the Regional Trial Court of Legazpi City, Br. 3, rendered a decision ordering petitioner Alejandro Millena to reconvey by proper document the portion of 3,934 square meters in question from Lot 1874 to respondent Felisa Jacob and awarded to her P10,000.00 for attorney’s fees.

Petitioner Alejandro Millena appealed to the Court of Appeals which on 12 August 1996 affirmed the trial court but deleted the award of P10,000.00 for attorney’s fees.[6] After the appellate court denied petitioner's motion for reconsideration, he filed with this Court a Petition for Review on Certiorari under Rule 45 of the Rules of Court.

Petitioner raises the following issues: (a) whether prescription has now barred the action for reconveyance; (b) whether the documents and pieces of evidence used by respondent Court of Appeals as basis in its assailed Decision were duly authenticated and proved by private respondent, Felisa Jacob; and, (c) whether respondent appellate court correctly affirmed the order of reconveyance by the trial court.

We resolve.

First. An action for reconveyance can indeed be barred by prescription. When an action for reconveyance is based on fraud, it must be filed within four (4) years from discovery of the fraud, and such discovery is deemed to have taken place from the issuance of the original certificate of title.[7] On the other hand, an action for reconveyance based on an implied or constructive trust prescribes in ten (10) years from the date of the issuance of the original certificate of title or transfer certificate of title. For the rule is that the registration of an instrument in the Office of

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the Register of Deeds constitutes constructive notice to the whole world and therefore the discovery of the fraud is deemed to have taken place at the time of registration.[8]

In his petition Alejandro Millena argues that both the Regional Trial Court and the Court of Appeals failed to pass upon the issue of prescription. According to him, the issue of prescription is pivotal considering that title to the property was procured in 1980 while the action for reconveyance was filed only in 1992. This interim period, he submits, had a span of more than twelve (12) years; thus, the action for reconveyance had clearly prescribed.

But, nonetheless, it must be stressed that prescription cannot be invoked in an action for reconveyance when the plaintiff is in possession of the land to be reconveyed.[9] In view of this, can it be said that Felisa Jacob was in possession of the contested portion of Lot 1874? Article 523 of the Civil Code states that possession is the holding of a thing or the enjoyment of a right. In order to possess, one must first have control of the thing and, second, a deliberate intention to possess it. These are the elements of possession.

The records of the case show that respondent Felisa Jacob had exercised dominion over the contested parcel of land. Immediately after acquiring the property through an extrajudicial settlement in 1966, she instructed her nephew Jaime Llaguno to continue working as caretaker of the land. Felisa made improvements on the land and paid its property taxes. In fact the municipal treasurer of Daraga, Albay, issued a certification dated 10 March 1992 that respondent Felisa Jacob was the declared owner of Lot 1874-P - the litigated portion - and that she had been paying its real property taxes since 1967.[10]

Apparently Felisa Jacob met the requisite elements of possession. She exercised control over the parcel of land in litigation through her caretaker, her nephew, Jaime Llaguno. Moreover, her declaration that the land was her property and the payment of real property taxes manifested clearly that she was in possession of the land. Consequently, petitioner may not validly invoke prescription as defense against respondent Feliza Jacob.

Second. Petitioner Alejandro Millena questioned the very existence and authenticity of several documents which according to him the Court of Appeals used as basis for its assailed Decision. These documents were (a) the compromise agreement dated 17 August 1926 between Gregoria Listana and Potenciana Maramba over Lot 1874; (b) the Justice of the Peace decision dated 31 December 1926 dismissing the ejectment suit filed by Potenciana Maramba against Gaudencio Jacob; (c) the power of attorney executed by Gregoria Listana authorizing her cousin Antonio Lipato to sell her one-fourth portion of Lot 1874; and, (d) the deed of sale executed by Antonio Lipato in favor of Gaudencio Jacob.

Alejandro Millena assailed the authenticity and even the existence of the decision of the Justice of the Peace of Legazpi dated 31 December 1926 in which the court dismissed the suit filed by Potenciana Maramba against Gaudencio Jacob, predecessor-in-interest of Felisa Jacob. The court decided in favor of Gaudencio Jacob and held that he had the right to possess the contested one-fourth (1/4) portion of Lot 1874.

Likewise, Alejandro Millena questioned the genuineness of the compromise agreement dated 17 August 1926 among the claimants of Lot 1874. Petitioner Millena averred that the alleged compromise agreement did not bear the signatures of the contracting parties except for the thumb mark of Gregoria Listana from whom Gaudencio Jacob bought the property.

As to the special power of attorney and the deed of sale, Alejandro Millena insisted that respondent Felisa Jacob never proved the existence of these documents. Thus, according to petitioner, the Court of Appeals erred in assuming their existence and using them to support its assailed Decision.

Questions of authenticity of documents being one of fact, this Court will not ordinarily disturb the conclusions of the Court of Appeals on this matter.[11] However for the sake of substantial justice we shall thoroughly discuss

the points raised by petitioner.

The focal issue that needs to be answered and which would ultimately resolve the other issues raised by petitioner is the genuineness of the decision of the Justice of the Peace dated 31 December 1926. Being a public document the decision is admissible in evidence without further proof of its due execution or genuineness. Such decision may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record or by his deputy.[12]

We have examined the copy of the decision and found it to be genuine.[13] The decision, which was penned in Spanish, was duly signed by Justice of the Peace Manuel M. Calleja. It also bore the seal of the court and an attestation that such was a true copy.[14] Moreover, petitioner Alejandro Millena failed to adduce any evidence demonstrating the spurious character of the decision.

Having resolved the issue of genuineness, it can therefore be said that the facts enumerated by the Justice of the Peace in its decision are likewise correct. This is because a judgment is conclusive as to the facts admitted by the pleadings or assumed by the decision, where they were essential to the judgment, and were such that the judgment could not legally have been rendered without them.[15] The Justice of the Peace found that -

> [Plaintiff Potenciana Maramba and Gregoria Listana x x x were co-owners [of Lot 1874]. The land [subject matter of this suit for unlawful detainer] was claimed by one and the other, finally they arrived at a compromise agreement whereby Potenciana Maramba ceded to Gregoria Listana one-fourth (1/4) portion of the land referred to. This compromise agreement was submitted to the Cadastral Court x x x and an adjudication was rendered in accordance with the tenor of the compromise agreement x x x x [T]he land was surveyed and x x x the northern portion equivalent to one-fourth part was delivered to Gregoria Listana. The latter was seriously sick of tuberculosis. And foreseeing that someday she would die x x x she executed a power-of-attorney (Exh "1") in favor of her cousin Antonio Lipato in order that in case of her death he would sell the land and the proceeds thereof be paid for the expenses of her interment x x x x In fact on October 23, 1926 on which date Gregoria Listana died, Antonio Lipato executed a document of sale over the land in favor of defendant herein [Gaudencio Jacob].[16]

The foregoing pronouncements of the Justice of the Peace confirmed the existence of the compromise agreement, the power of attorney and the deed of sale. And since no appeal was made, the 31 December 1926 decision of the Justice of the Peace had long become final and the findings of fact therein conclusive.

Third. The basic rule is that after the lapse of one (1) year from entry, a decree of registration is no longer open for review or attack, even though the issuance thereof may have been attended by fraud and that the title may be inherently defective. The law nevertheless safeguards the rightful party’s or the aggrieved party’s interest in the titled land from fraud and improper technicalities by allowing such party to bring an action for reconveyance to him of whatever he has been deprived as long as the property has not been transferred or conveyed to an innocent purchaser for value. The action, while respecting the decree as incontrovertible, seeks to transfer or reconvey the land from the registered owner to the rightful owner.

In an action for reconveyance the issue involved is one of ownership, and for this purpose, evidence of title may be introduced. In fact, respondent Felisa Jacob had submitted evidence showing a strong claim of ownership over the contested parcel of land. She testified before the trial court that she had been in actual possession of the land since 1966. Moreover, proof was adduced showing that her predecessor-in-interest, her father Gaudencio Jacob, had lawfully possessed the property from 1926. She likewise offered as evidence a certification from the municipal treasurer that she had been declaring the land as her property for tax purposes since 1967.

The evidence on record without doubt tilts in favor of respondent Felisa Jacob. Although petitioner Alejandro

Millena holds a certificate of title covering the contested parcel of land, such possession of a certificate of title alone does not necessarily make the holder thereof the true owner of all the property described therein. Land registration proceedings cannot be made a shield for fraud or for enriching a person at the expense of another. The inclusion of an area in a certificate of title which the registered owner or successful applicant has placed no claim on and has never asserted any right of ownership thereof is void and of no effect.[17] Thus, the incorporation of the 3,934-square meter northern portion of Lot 1874 in the Free Patent Certificate Title issued to Florencio Listana on 28 August 1980 was clearly erroneous and irregular.

Petitioner also avers that he is an innocent purchaser for value and that an action for reconveyance cannot prosper against him. He argues that the finding of respondent appellate court of bad faith was not supported by evidence. A purchaser in good faith is one who buys property of another, without notice that some other person has a right to, or interest in, such property at the time of such purchase, or before he has notice of the claim or interest of some other persons in the property. Good faith, or the lack of it, is in the final analysis a question of intention; but in ascertaining the intention by which one is actuated on a given occasion, we are necessarily controlled by the evidence as to the conduct and outward acts by which alone the inward motive may, with safety, be determined. Truly, good faith is not a visible, tangible fact that can be seen or touched, but rather a state or condition of mind which can only be judged by actual or fancied tokens or signs. Otherwise stated, good faith is the opposite of fraud and it refers to the state of mind which is manifested by the acts of the individual concerned.[18]

Certain pieces of evidence when put together would prove that petitioner Alejandro Millena had actual knowledge of facts that would have made an ordinary prudent purchaser of land go beyond what appears on the face of the certificate of title and inquire into its genuineness. The first evidence to be considered is the 3 October 1994 decision of the Regional Trial Court of Legazpi City wherein it ruled –

> [D]uring the ocular inspection conducted by this court, it was noted that only a portion of the defendant's [Alejandro Millena's] kitchen encroached a small portion of the lot in question and his house merely occupied an abandoned road adjoining the lot in question which cast doubt to the defendant's claim of possession and ownership of the property in question.[19]

Prescinding from this pronouncement we can conclude that petitioner Alejandro Millena lived right beside the contested portion of Lot 1874. And since he himself insisted that his house was constructed in 1980,[20] it would have been difficult, if not impossible, for him not to have noticed Felisa Jacob's nephew and caretaker Jaime Llaguno planting and harvesting crops in the disputed land.

In fact Bgy. Secretary Lucio Londonio, who is also a brother-in-law of petitioner Alejandro Millena, testified in court that he has been living near the contested parcel of land for thirty-seven (37) years. Londonio told the court that the land was originally owned by Gaudencio Jacob and that ownership hereof was later transferred to Felisa Jacob. He further testified that he would often see Jaime Llaguno, the caretaker of the land, planting banana and coconut trees on the land.[21]

We are hard-pressed to believe the claim of petitioner that he purchased Lot 1874 in good faith. Having lived adjacent to the contested lot six (6) years prior to his purchase of Lot 1874 in 1986, petitioner Alejandro Millena would have seen and noticed the crops and fruit trees planted by Jaime Llaguno on the land. Thus, contrary to his asseverations, petitioner was not a purchaser in good faith since there were circumstances sufficient to arouse his curiosity and prod him to inquire into the real status of his sellers' title.

Finally, a perusal of the records reveals that petitioner Alejandro Millena prior to his purchase of the land in 1986 had knowledge of the protest filed by Feliza Jacob before the Bureau of Lands against Florencio Listana in 1981. This he admitted during his cross-examination on 7 February 1994 -

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> Atty. Ludovico:
> Are you aware of the protest that was filed by Felisa Jacob x x x before the Bureau of Lands at Legazpi City in connection with Lot No. 1874, the lot in question?

Alejandro Millena: Yes, sir.

WHEREFORE, the petition is DENIED. The assailed Decision of the Court of Appeals dated 12 August 1996 as well as its Resolution of 6 December 1996 denying petitioner Alejandro Millena's motion for reconsideration is AFFIRMED. Consequently, petitioner is ORDERED to reconvey within thirty (30) days from the finality of this Decision that northern portion in question of Lot 1874 consisting of 3,934 square meters as shown in the location map (Exhs. "L" and "L-1") in favor of private respondent Felisa Jacob, represented herein by her attorney-in-fact Jaime Llaguno, with costs against petitioner.

SO ORDERED.

Mendoza, Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] RTC Records, Folder III, pp. 12-13.[2] Id., p. 17.[3] Id., pp. 18-19.[4] Id., pp. 6-11.[5] Id., p. 22.[6] Decision penned by Associate Justice Bernardo Ll. Salas, concurred in by Associate Justice Gloria C. Paras and Associate Justice Conchita Carpio-Morales, Court of Appeals Special Fourth Division, CA-G.R. CV No. 47551, 12 August 1996; Rollo, pp. 14-27.[7] Amerol v. Bagumbaran, No. L-33261, 30 September 1987, 154 SCRA 396.[8] Villagonzalo v. IAC, G.R. No. 71110, 22 November 1988, 167 SCRA 535.[9] Almarza v. Arquelles, No. L-49250, 21 December 1987, 156 SCRA 718; Caragay-Layno v. CA, G.R. No. 52064, 26 December 1984, 133 SCRA 718.[10] RTC Records, Folder III, p. 21.[11] Egao v. Court of Appeals, G.R. No. 79787, 29 June 1989, 174 SCRA 484.[12] Sec. 24, Rule 132, Rules of Court.[13] Rollo, p. 54.[14] RTC Records, Folder III, p. 19.[15] 50 C.J.S § 733.[16] RTC Records, Folder III, pp. 17-18.[17] See Vda. de Recinto v. Inciong, No. L-26083, 31 May 1977, 77 SCRA 196.[18] Legarda v. CA, G.R. No. 94457, 16 October 1997, 280 SCRA 642.[19] RTC Records, Folder I, p. 117.[20] TSN, 12 November 1993, p. 22.[21] TSN, 30 September 1993, pp. 8-11.

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