

**BENIGNA SECUYA, MIGUEL SECUYA, MARCELINO SECUYA,
CORAZON SECUYA, RUFINA SECUYA, BERNARDINO SECUYA,
NATIVIDAD SECUYA, GLICERIA SECUYA AND PURITA SECUYA,
PETITIONERS, VS. GERARDA ...**

G.R. No. 136021. February 22, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In an action for quieting of title, the plaintiffs must show not only that there is a cloud or contrary interest over the subject real property, but that they have a valid title to it. In the present case, the action must fail, because petitioners failed to show the requisite title.

The Case

Before us is a Petition for Review seeking to set aside the July 30, 1998 Decision of the Court of Appeals (CA) in CA-G.R. CV No. 38580,[1] which affirmed the judgment[2] of the Regional Trial Court (RTC) of Cebu City. The CA ruled:

"WHEREFORE, [there being] no error in the appealed decision, the same is hereby AFFIRMED in toto."[3]

The decretal portion of the trial court Decision reads as follows:

"WHEREFORE, in view of all the foregoing [evidence] and considerations, this court hereby finds the preponderance of evidence to be in favor of the defendant Gerarda Selma as judgment is rendered:

"1. Dismissing this Complaint for Quieting of Title, Cancellation of Certificate of Title of Gerarda vda. de Selma and damages;

"2. Ordering the plaintiffs to vacate the premises in question and turn over the possession of the same to the defendant Gerarda Selma;

"3. Requiring the plaintiffs to pay defendant the sum of P20,000 as moral damages, according to Art. 2217, attorney's fees of P15,000.00, litigation expenses of P5,000.00 pursuant to Art. 2208 No. 11 and to pay the costs of this suit.

"SO ORDERED."[4]

Likewise challenged is the October 14, 1998 CA Resolution which denied petitioners' Motion for Reconsideration.[5]

The Facts

The present Petition is rooted in an action for quieting of title filed before the RTC by Benigna, Miguel, Marcelino, Corazon, Rufina, Bernardino, Natividad, Gliceria and Purita -- all surnamed Secuya -- against Gerarda

M. vda. de Selma. Petitioners asserted ownership over the disputed parcel of land, alleging the following facts:

"xxx xxx xxx

"8. The parcel of land subject of this case is a PORTION of Lot 5679 of the Talisay-Minglanilla Friar Lands Estate, referred to and covered [o]n Page 279, Friar Lands Sale Certificate Register of the Bureau of Lands (Exh. "K"). The property was originally sold, and the covering patent issued, to Maxima Caballero Vda. de Cariño (Exhs. "K-1"; "K-2). Lot 5679 has an area of 12,750 square meters, more or less;

"9. During the lifetime of Maxima Caballero, vendee and patentee of Lot 5679, she entered into that AGREEMENT OF PARTITION dated January 5, 1938 with Paciencia Sabellona, whereby the former bound herself and parted [with] one-third (1/3) portion of Lot 5679 in favor of the latter (Exh. "D"). Among others, it was stipulated in said agreement of partition that the said portion of one-third so ceded will be located adjoining the municipal road (par. 5, Exh. "D");

"10. Paciencia Sabellona took possession and occupation of that one-third portion of Lot 5679 adjudicated to her. Later, she sold the three thousand square meter portion thereof to Dalmacio Secuya on October 20, 1953, for a consideration of ONE THOUSAND EIGHT HUNDRED FIFTY PESOS (P1,850.00), by means of a private document which was lost (p. 8, ts. 8/8/89-Calzada). Such sale was admitted and confirmed by Ramon Sabellona, only heir of Paciencia Sabellona, per that instrument denominated CONFIRMATION OF SALE OF UNDIVIDED SHARES, dated September 28, 1976 (Exh. "B");

"11. Ramon Sabellona was the only [or] sole voluntary heir of Paciencia Sabellona, per that KATAPUSAN NGA KABUT-ON UG PANUGON NI PACIENCIA SABELLONA (Last Will and Testament of Paciencia Sabellona), dated July 9, 1954, executed and acknowledged before Notary Public Teodoro P. Villarmina (Exh. "C"). Pursuant to such will, Ramon Sabellona inherited all the properties left by Paciencia Sabellona;

"12. After the purchase [by] Dalmacio Secuya, predecessor-in-interest of plaintiffs, of the property in litigation on October 20, 1953, Dalmacio, together with his brothers and sisters - he being single - took physical possession of the land and cultivated the same. In 1967, Edilberto Superales married Rufina Secuya, niece of Dalmacio Secuya. With the permission and tolerance of the Secuyas, Edilberto Superales constructed his house on the lot in question in January 1974 and lived thereon continuously up to the present (p. 8., ts. 7/25/88 - Daclan). Said house is inside Lot 5679-C-12-B, along lines 18-19-20 of said lot, per Certification dated August 10, 1985, by Geodetic Engineer Celestino R. Orozco (Exh. "F");

"13. Dalmacio Secuya died on November 20, 1961. Thus his heirs - brothers, sisters, nephews and nieces - are the plaintiffs in Civil Case No. CEB-4247 and now the petitioners;

"14. In 1972, defendant-respondent Gerarda Selma bought a 1,000 square-meter portion of Lot 5679, evidenced by Exhibit "P". Then on February 19, 1975, she bought the bigger bulk of Lot 5679, consisting of 9,302 square meters, evidenced by that deed of absolute sale, marked as Exhibit "5". The land in question, a 3,000-square meter portion of Lot 5679, is embraced and included within the boundary of the later acquisition by respondent Selma;

"15. Defendant-respondent Gerarda Selma lodged a complaint, and had the plaintiffs-petitioners summoned, before the Barangay Captain of the place, and in the confrontation and conciliation proceedings at the Lupong Tagapayapa, defendant-respondent Selma was asserting ownership over the land inherited by plaintiffs-petitioners from Dalmacio Secuya of which they had long been in possession x x x in concept of owner. Such claim of defendant-respondent Selma is a cloud on the title of plaintiffs-petitioners, hence, their complaint (Annex "C")."[6]

Respondent Selma's version of the facts, on the other hand, was summarized by the appellate court as follows:

"She is the registered owner of Lot 5679-C-120 consisting of 9,302 square meters as evidenced by TCT No.

T-35678 (Exhibit "6", Record, p. 324), having bought the same sometime in February 1975 from Cesaria Caballero as evidenced by a notarized Deed of Sale (Exhibit "5", Record, p. 323) and ha[ve] been in possession of the same since then. Cesaria Caballero was the widow of Silvestre Aro, registered owner of the mother lot, Lot. No. 5679 with an area of 12,750 square meters of the Talisay-Minglanilla Friar Lands Estate, as shown by Transfer Certificate of Title No. 4752 (Exhibit "10", Record, p. 340). Upon Silvestre Aro's demise, his heirs executed an "Extrajudicial Partition and Deed of Absolute Sale" (Exhibit "11", Record, p. 341) wherein one-half plus one-fifth of Lot No. 5679 was adjudicated to the widow, Cesaria Caballero, from whom defendant-appellee derives her title." [7]

The CA Ruling

In affirming the trial court's ruling, the appellate court debunked petitioners' claim of ownership of the land and upheld Respondent Selma's title thereto. It held that respondent's title can be traced to a valid TCT. On the other hand, it ruled that petitioners anchor their claim on an "Agreement of Partition" which is void for being violative of the Public Land Act. The CA noted that the said law prohibited the alienation or encumbrance of land acquired under a free patent or homestead patent, for a period of five years from the issuance of the said patent.

Hence, this Petition. [8]

The Issues

In their Memorandum, petitioners urge the Court to resolve the following questions:

"1. Whether or not there was a valid transfer or conveyance of one-third (1/3) portion of Lot 5679 by Maxima Caballero in favor of Paciencia Sabellona, by virtue of [the] Agreement of Partition dated January 5, 1938[;] and

"2. Whether or not the trial court, as well as the appellate court, committed grave abuse of discretion amounting to lack of jurisdiction in not making a finding that respondent Gerarda M. vda. de Selma [was] a buyer in bad faith with respect to the land, which is a portion of Lot 5679." [9]

For a clearer understanding of the above matters, we will divide the issues into three: first, the implications of the Agreement of Partition; second, the validity of the Deed of Confirmation of Sale executed in favor of the petitioners; and third, the validity of private respondent's title.

The Court's Ruling

The Petition fails to show any reversible error in the assailed Decision.

Preliminary Matter:

The Action for Quieting of Title

In an action to quiet title, the plaintiffs or complainants must demonstrate a legal or an equitable title to, or an interest in, the subject real property. [10] Likewise, they must show that the deed, claim, encumbrance or proceeding that purportedly casts a cloud on their title is in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy. [11] This point is clear from Article 476 of the Civil Code, which reads:

"Whenever there is cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet title.

"An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein."

In the case at bar, petitioners allege that TCT No. 5679-C-120, issued in the name of Private Respondent Selma, is a cloud on their title as owners and possessors of the subject property, which is a 3,000--square-meter portion of Lot No. 5679-C-120 covered by the TCT. But the underlying question is, do petitioners have the requisite title that would enable them to avail themselves of the remedy of quieting of title?

Petitioners anchor their claim of ownership on two documents: the Agreement of Partition executed by Maxima Caballero and Paciencia Sabellona and the Deed of Confirmation of Sale executed by Ramon Sabellona. We will now examine these two documents.

First Issue:

The Real Nature of the "Agreement of Partition"

The duly notarized Agreement of Partition dated January 5, 1938, is worded as follows:

"AGREEMENT OF PARTITION

"I, MAXIMA CABALLERO, Filipina, of legal age, married to Rafael Cariño, now residing and with postal address in the Municipality of Dumaguete, Oriental Negros, depose the following and say:

"1. That I am the applicant of vacant lot No. 5679 of the Talisay-Minglanilla Estate and the said application has already been indorsed by the District Land Officer, Talisay, Cebu, for private sale in my favor;

"2. That the said Lot 5679 was formerly registered in the name of Felix Abad y Caballero and the sale certificate of which has already been cancelled by the Hon. Secretary of Agriculture and Commerce; Lex-juris

"3. That for and in representation of my brother, Luis Caballero, who is now the actual occupant of said lot I deem it wise to have the said lot paid by me, as Luis Caballero has no means o[r] any way to pay the government;

"4. That as soon as the application is approved by the Director of Lands, Manila, in my favor, I hereby bind myself to transfer the one-third (1/3) portion of the above mentioned lot in favor of my aunt, Paciencia Sabellana y Caballero, of legal age, single, residing and with postal address in Tungkop, Minglanilla, Cebu. Said portion of one-third (1/3) will be subdivided after the approval of said application and the same will be paid by her to the government [for] the corresponding portion.

"5. That the said portion of one-third (1/3) will be located adjoining the municipal road;

"6. I, Paciencia Sabellana y Caballero, hereby accept and take the portion herein adjudicated to me by Mrs. Maxima Caballero of Lot No. 5679 Talisay-Minglanilla Estate and will pay the corresponding portion to the government after the subdivision of the same;

"IN WITNESS WHEREOF, we have hereunto set our hands this 5th day of January, 1988, at Talisay, Cebu."[12]

The Agreement: An Express Trust, Not a Partition

Notwithstanding its purported nomenclature, this Agreement is not one of partition, because there was no property to partition and the parties were not co-owners. Rather, it is in the nature of a trust agreement.

Trust is the right to the beneficial enjoyment of property, the legal title to which is vested in another. It is a fiduciary relationship that obliges the trustee to deal with the property for the benefit of the beneficiary.[13] Trust relations between parties may either be express or implied. An express trust is created by the intention of the trustor or of the parties. An implied trust comes into being by operation of law.[14]

The present Agreement of Partition involves an express trust. Under Article 1444 of the Civil Code, "[n]o

particular words are required for the creation of an express trust, it being sufficient that a trust is clearly intended." That Maxima Caballero bound herself to give one third of Lot No. 5629 to Paciencia Sabellona upon the approval of the former's application is clear from the terms of the Agreement. Likewise, it is evident that Paciencia acquiesced to the covenant and is thus bound to fulfill her obligation therein.

As a result of the Agreement, Maxima Caballero held the portion specified therein as belonging to Paciencia Sabellona when the application was eventually approved and a sale certificate was issued in her name.[15] Thus, she should have transferred the same to the latter, but she never did so during her lifetime. Instead, her heirs sold the entire Lot No. 5679 to Silvestre Aro in 1955.

From 1954 when the sale certificate was issued until 1985 when petitioners filed their Complaint, Paciencia and her successors-in-interest did not do anything to enforce their proprietary rights over the disputed property or to consolidate their ownership over the same. In fact, they did not even register the said Agreement with the Registry of Property or pay the requisite land taxes. While petitioners had been doing nothing, the disputed property, as part of Lot No. 5679, had been the subject of several sales transactions[16] and covered by several transfer certificates of title.

The Repudiation of the Express Trust

While no time limit is imposed for the enforcement of rights under express trusts,[17] prescription may, however, bar a beneficiary's action for recovery, if a repudiation of the trust is proven by clear and convincing evidence and made known to the beneficiary.[18]

There was a repudiation of the express trust when the heirs of Maxima Caballero failed to deliver or transfer the property to Paciencia Sabellona, and instead sold the same to a third person not privy to the Agreement. In the memorandum of incumbrances of TCT No. 3087[19] issued in the name of Maxima, there was no notation of the Agreement between her and Paciencia. Equally important, the Agreement was not registered; thus, it could not bind third persons. Neither was there any allegation that Silvestre Aro, who purchased the property from Maxima's heirs, knew of it. Consequently, the subsequent sales transactions involving the land in dispute and the titles covering it must be upheld, in the absence of proof that the said transactions were fraudulent and irregular.

Second Issue:

The Purported Sale to Dalmacio Secuya

Even granting that the express trust subsists, petitioners have not proven that they are the rightful successors-in-interest of Paciencia Sabellona.

The Absence of the Purported Deed of Sale

Petitioners insist that Paciencia sold the disputed property to Dalmacio Secuya on October 20, 1953, and that the sale was embodied in a private document. However, such document, which would have been the best evidence of the transaction, was never presented in court, allegedly because it had been lost. While a sale of a piece of land appearing in a private deed is binding between the parties, it cannot be considered binding on third persons, if it is not embodied in a public instrument and recorded in the Registry of Property.[20]

Moreover, while petitioners could not present the purported deed evidencing the transaction between Paciencia Sabellona and Dalmacio Secuya, petitioners' immediate predecessor-in-interest, private respondent in contrast has the necessary documents to support her claim to the disputed property.

The Questionable Value of the Deed Executed by Ramon Sabellona

To prove the alleged sale of the disputed property to Dalmacio, petitioners instead presented the testimony of

Miguel Secuya, one of the petitioners; and a Deed[21] confirming the sale executed by Ramon Sabellona, Paciencia's alleged heir. The testimony of Miguel was a bare assertion that the sale had indeed taken place and that the document evidencing it had been destroyed. While the Deed executed by Ramon ratified the transaction, its probative value is doubtful. His status as heir of Paciencia was not affirmatively established. Moreover, he was not presented in court and was thus not quizzed on his knowledge -- or lack thereof -- of the 1953 transaction.

Petitioners' Failure to Exercise Owners' Rights to the Property

Petitioners insist that they had been occupying the disputed property for forty-seven years before they filed their Complaint for quieting of title. However, there is no proof that they had exercised their rights and duties as owners of the same. They argue that they had been gathering the fruits of such property; yet, it would seem that they had been remiss in their duty to pay land taxes. If petitioners really believed that they owned the property, they should have been more vigilant in protecting their rights thereto. As noted earlier, they did nothing to enforce whatever proprietary rights they had over the disputed parcel of land.

Third Issue:

The Validity of Private Respondent's Title

Petitioners debunk Private Respondent Selma's title to the disputed property, alleging that she was aware of their possession of the disputed properties. Thus, they insist that she could not be regarded as a purchaser in good faith who is entitled to the protection of the Torrens system.

Indeed, a party who has actual knowledge of facts and circumstances that would move a reasonably cautious man to make an inquiry will not be protected by the Torrens system. In *Sandoval v. Court of Appeals*,[22] we held:

"It is settled doctrine that one who deals with property registered under the Torrens system need not go beyond the same, but only has to rely on the title. He is charged with notice only of such burdens and claims as are annotated on the title.

"The aforesaid principle admits of an unchallenged exception: that a person dealing with registered land has a right to rely on the Torrens certificate of title and to dispense without the need of inquiring further except when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry, or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of title of the property in litigation. The presence of anything which excites or arouses suspicion should then prompt the vendee to look beyond the certificate and investigate the title of the vendor appearing on the face of the certificate. One who falls within the exception can neither be denominated an innocent purchaser for value nor a purchaser in good faith; and hence does not merit the protection of the law."

Granting arguendo that private respondent knew that petitioners, through Superales and his family, were actually occupying the disputed lot, we must stress that the vendor, Cesaria Caballero, assured her that petitioners were just tenants on the said lot. Private respondent cannot be faulted for believing this representation, considering that petitioners' claim was not noted in the certificate of the title covering Lot No. 5679.

Moreover, the lot, including the disputed portion, had been the subject of several sales transactions. The title thereto had been transferred several times, without any protestation or complaint from the petitioners. In any case, private respondent's title is amply supported by clear evidence, while petitioners' claim is barren of proof.

Clearly, petitioners do not have the requisite title to pursue an action for quieting of title.

WHEREFORE, the Petition is hereby DENIED and the assailed Decision AFFIRMED. Costs against petitioners.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Seventeenth Division, composed of J. Portia Aliño-Hormachuelos (ponente), J. Buenaventura J. Guerrero (chairman) and J. Renato C. Dacudao (member).

[2] Penned by Judge German G. Lee Jr.

[3] Rollo, p. 29.

[4] RTC Decision, p. 13; rollo, p. 54.

[5] Rollo, p. 31.

[6] Petition, pp. 3-6; rollo, pp. 5-8.

[7] CA Decision, p. 3; rollo, p. 27.

[8] This case was deemed submitted for decision on July 29, 1999, upon simultaneous receipt by this Court of the Memoranda of both parties. Petitioners' Memorandum was signed by Atty. Alejandro V. Peregrino; respondent's Memorandum, by Atty. Roberto R. Palmares.

[9] Memorandum for Petitioners, p. 6; rollo, p. 145.

[10] Art. 477, Civil Code. "The plaintiff must have legal or equitable title to, or an interest in the real property which is the subject matter of the action. He need not be in possession of said property."

[11] Tolentino, Civil Code of the Philippines, Vol. II, p. 150.

[12] Records, p. 53.

[13] Rizal Surety & Insurance Company v. CA, 261 SCRA 69, August 28, 1996.

[14] Art. 1441, Civil Code.

[15] Records, p. 6.

[16] Lot No. 5679 was sold to Silvestre Aro in 1955, and TCT No. 4752 was issued in his name in 1959. Upon his death, his heirs inherited the property, and his children sold their shares to Cesaria Caballero, Aro's widow. Cesaria Caballero then entered into several mortgage and sales transactions with several banks and with Francisco Sioson, Edgar Adlawan and Private Respondent Gerarda Selma.

[17] Aquino, Civil Code, Vol. II, p. 557.

[18] See Mindanao Development Authority v. CA, 113 SCRA 429, April 5, 1982.

[19] Dated March 9, 1954.

[20] Article 709, Civil Code.

[21] Records, p. 4.

[22] 260 SCRA 283, August 1, 1996, per Romero, J.

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