

CASTORIO ALVARICO, PETITIONER, VS. AMELITA L. SOLA, RESPONDENT.

G.R. No. 138953. June 06, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for review on certiorari of the decision dated March 23, 1999 of the Court of Appeals in CA-G.R. CV No. 54624, reversing the decision of the Regional Trial Court of Cebu City, Branch 10, for reconveyance. Also sought to be reversed is the CA resolution dated June 8, 1999 denying petitioner's motion for reconsideration.

The facts of this case are as follows:

Petitioner Castorio Alvarico is the natural father of respondent Amelita Sola while Fermina Lopez is petitioner's aunt, and also Amelita's adoptive mother.

On June 17, 1982, the Bureau of Lands approved and granted the Miscellaneous Sales Application (MSA) of Fermina over Lot 5, SGS-3451, with an area of 152 sq. m. at the Waterfront, Cebu City.[1]

On May 28, 1983,[2] Fermina executed a Deed of Self-Adjudication and Transfer of Rights[3] over Lot 5 in favor of Amelita, who agreed to assume all the obligations, duties, and conditions imposed upon Fermina under MSA Application No. V-81066. The document of transfer was filed with the Bureau of Lands.[4] The pertinent portions of the deed provide:

X X X

That I, FERMINA A. LOPEZ, of legal age, Filipino, widow of Pedro C. Lopez and a resident of Port San Pedro, Cebu City, Philippines, am the AWARDEE of Lots Nos. 4, 5, 3-B, 3-C and 6-B, Sgs-3451 And being the winning bidder at the auction sale of these parcels by the Bureau of Lands held on May 12, 1982, at the price of P150.00 per square meter taking a purchase price of P282,900.00 for the tract; That I have made as my partial payment the sum of P28,290.00 evidenced by Official Receipt No. 1357764-B representing ten (10%) per cent of my bid, leaving a balance of P254,610.00 that shall be in not more than ten (10) years at an equal installments of P25,461.00 beginning June 17, 1983 until the full amount is paid.

... the Transferee Mrs. Amelita L. Sola, agrees to assume, all the obligations, duties and conditions imposed upon the Awardee in relation to the MSA Application No. V-81066 entered in their records as Sales Entry No. 20476.

... [I] hereby declare that I accept this Deed of Self-Adjudication and Transfer of Rights and further agree to all conditions provided therein.[5]

Amelita assumed payment of the lot to the Bureau of Lands. She paid a total amount of P282,900.[6]

On April 7, 1989, the Bureau of Lands issued an order approving the transfer of rights and granting the

amendment of the application from Fermina to Amelita.[7] On May 2, 1989, Original Certificate of Title (OCT) No. 3439 was issued in favor of Amelita.[8]

On June 24, 1993,[9] herein petitioner filed Civil Case No. CEB-14191[10] for reconveyance against Amelita. He claimed that on January 4, 1984, Fermina donated the land to him[11] and immediately thereafter, he took possession of the same. He averred that the donation to him had the effect of withdrawing the earlier transfer to Amelita.[12]

For her part, Amelita maintained that the donation to petitioner is void because Fermina was no longer the owner of the property when it was allegedly donated to petitioner, the property having been transferred earlier to her.[13] She added that the donation was void because of lack of approval from the Bureau of Lands, and that she had validly acquired the land as Fermina's rightful heir. She also denied that she is a trustee of the land for petitioner.[14]

After trial, the RTC rendered a decision in favor of petitioner, the decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and against the defendant. Lot 5, Sgs-3451, is hereby declared as lawfully owned by plaintiff and defendant is directed to reconvey the same to the former.

No pronouncement as to damages and attorney's fees, plaintiff having opted to forego such claims.

SO ORDERED.[15]

On appeal, the Court of Appeals in its decision dated March 23, 1999 reversed the RTC. Thus:

WHEREFORE, foregoing considered, the appealed decision is hereby REVERSED and SET ASIDE. The complaint filed by plaintiff-appellee against defendant-appellant is hereby DISMISSED.

Costs against plaintiff-appellee.

SO ORDERED.[16]

Petitioner sought reconsideration, but it was denied by the CA.[17]

Hence, the instant petition for certiorari seasonably filed on the following grounds:

I.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR, REFLECTIVE OF UNMINDFUL RECKLESSNESS WHICH IS THE VERY OPPOSITE OF JUDICIAL CIRCUMSPECTION, IN DECLARING THAT THE DEED OF DONATION DATED JANUARY 4, 1984 (ANNEX "C") IN FAVOR OF PETITIONER WAS EMBODIED ONLY IN A PRIVATE DOCUMENT (Page 6, Decision, Annex "A"), ALTHOUGH, BY A MERE CASUAL LOOK AT THE DOCUMENT, IT CAN BE READILY DISCERNED THAT IT IS NOTARIZED;

II.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN APPLYING ON THE CASE AT BAR THE PRINCIPLE IN LAW THAT IT IS REGISTRATION OF THE SALES PATENT THAT CONSTITUTE THE OPERATIVE ACT THAT WOULD CONVEY OWNERSHIP OF THE LAND TO THE APPLICANT (Pp. 3-6, Decision, Annex "A") BECAUSE THE LEGAL CONTROVERSY BETWEEN PETITIONER AND RESPONDENT DOES NOT INVOLVE CONFLICTING CLAIMS ON SALES PATENT APPLICATIONS;

III.

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION AND COMMITTED SERIOUS ERROR IN MAKING A FINDING THAT RESPONDENT ACQUIRED THE LAND IN QUESTION, IN GOOD FAITH (Page 7, Decision, Annex “A”), ALTHOUGH THERE IS NO BASIS NOR NEED TO MAKE SUCH A FINDING; and

IV.

THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS ERROR IN ENUNCIATING THAT POSSESSION MENTIONED IN ARTICLE 1544 OF THE NEW CIVIL CODE INCLUDE SYMBOLIC POSSESSION, UPON WHICH THE APPELLATE COURT BASED ITS CONCLUSION THAT RESPONDENT WAS FIRST IN POSSESSION BECAUSE THE DEED OF SELF-ADJUDICATION AND TRANSFER OF RIGHTS IN FAVOR OF RESPONDENT DATED MAY 28, 1983 WAS EXECUTED MUCH EARLIER THAN THE DEED OF DONATION IN FAVOR OF PETITIONER DATED JANUARY 4, 1984 (Pages 7-8, Decision, Annex “A”).[18]

The crucial issue to be resolved in an action for reconveyance is: Who between petitioner and respondent has a better claim to the land?

To prove she has a better claim, respondent Amelita Sola submitted a copy of OCT No. 3439 in her name and her husband’s,[19] a Deed of Self-Adjudication and Transfer of Rights[20] over the property dated 1983 executed by Fermina in her favor, and a certification from the municipal treasurer that she had been declaring the land as her and her husband’s property for tax purposes since 1993.[21]

For his part, petitioner Castorio Alvarico presented a Deed of Donation[22] dated January 4, 1984, showing that the lot was given to him by Fermina and according to him, he immediately took possession in 1985 and continues in possession up to the present.[23]

Petitioner further contests the CA ruling that declared as a private document said Deed of Donation dated January 4, 1984, despite the fact that a certified true and correct copy of the same was obtained from the Notarial Records Office, Regional Trial Court, Cebu City on June 11, 1993 and acknowledged before Atty. Numeriano Capangpangan, then Notary Public for Cebu.[24]

Given the circumstances in this case and the contentions of the parties, we find that no reversible error was committed by the appellate court in holding that herein petitioner’s complaint against respondent should be dismissed. The evidence on record and the applicable law indubitably favor respondent.

Petitioner principally relies on Articles 744 and 1544 of the New Civil Code, which provide:

Art. 744. Donations of the same thing to two or more different donees shall be governed by the provisions concerning the sale of the same thing to two or more different persons.

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 taken 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 first 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 the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith. (Emphasis supplied.)

Petitioner claims that respondent was in bad faith when she registered the land in her name and, based on the abovementioned rules, he has a better right over the property because he was first in material possession in good

faith. However, this allegation of bad faith on the part of Amelita Sola in acquiring the title is devoid of evidentiary support. For one, the execution of public documents, as in the case of Affidavits of Adjudication, is entitled to the presumption of regularity, hence convincing evidence is required to assail and controvert them.[25] Second, it is undisputed that OCT No. 3439 was issued in 1989 in the name of Amelita. It requires more than petitioner's bare allegation to defeat the Original Certificate of Title which on its face enjoys the legal presumption of regularity of issuance.[26] A Torrens title, once registered, serves as notice to the whole world. All persons must take notice and no one can plead ignorance of its registration.[27]

Even assuming that respondent Amelita Sola acquired title to the disputed property in bad faith, only the State can institute reversion proceedings under Sec. 101 of the Public Land Act.[28] Thus:

Sec. 101.—All actions for reversion to the Government of lands of the public domain or improvements thereon shall be instituted by the Solicitor General or the officer acting in his stead, in the proper courts, in the name of the Republic of the Philippines.

In other words, a private individual may not bring an action for reversion or any action which would have the effect of canceling a free patent and the corresponding certificate of title issued on the basis thereof, such that the land covered thereby will again form part of the public domain. Only the Solicitor General or the officer acting in his stead may do so.[29] Since Amelita Sola's title originated from a grant by the government, its cancellation is a matter between the grantor and the grantee.[30] Clearly then, petitioner has no standing at all to question the validity of Amelita's title. It follows that he cannot "recover" the property because, to begin with, he has not shown that he is the rightful owner thereof.

Anent petitioner's contention that it was the intention of Fermina for Amelita to hold the property in trust for him, we held that if this was really the intention of Fermina, then this should have been clearly stated in the Deed of Self-Adjudication executed in 1983, in the Deed of Donation executed in 1984, or in a subsequent instrument. Absent any persuasive proof of that intention in any written instrument, we are not prepared to accept petitioner's bare allegation concerning the donor's state of mind.

WHEREFORE, the appealed decision of the Court of Appeals in CA-G.R. CV No. 54624 is hereby AFFIRMED. The complaint filed by herein petitioner against respondent in Civil Case No. CEB-14191 is declared properly DISMISSED. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, De Leon, Jr., and Corona, JJ., concur.

[1] Rollo, p. 24.

[2] May 23, 1983 in the CA decision.

[3] Records, pp. 47-48.

[4] Rollo, p. 24.

[5] Records, p. 47.

[6] Rollo, p. 24.

[7] Ibid.

[8] Ibid.

- [9] June 23, 1993 in the CA decision.
- [10] CEB-15191 in other parts of the records.
- [11] Deed of Donation, Exh. “C”, Records, pp. 180-181.
- [12] Rollo, p. 24.
- [13] Id. at 24-25.
- [14] Id. at 25.
- [15] Id. at 49.
- [16] Id. at 30-31.
- [17] Id. at 32.
- [18] Id. at 9-10.
- [19] Exh. “4”, Records p. 56.
- [20] Exh. “1”, Records, pp. 47-48.
- [21] Exhs. “4-6”, Records, pp. 57-65.
- [22] Exh. “C”, Records, pp. 180-181.
- [23] TSN, July 26, 1993, p. 11.
- [24] Rollo, p. 10.
- [25] Cacho vs. Court of Appeals, G.R. No. 123361, 269 SCRA 159, 172 (1997).
- [26] Chan vs. Court of Appeals (Special Seventh Division), G.R. No. 118516, 298 SCRA 713, 729 (1998).
- [27] Egao vs. Court of Appeals, G.R. No. 79787, 174 SCRA 484, 492 (1989).
- [28] Urquiaga vs. Court of Appeals, G.R. No. 127833, 301 SCRA 738, 745 (1999).
- [29] Supra, note 27 at 492-493.
- [30] De Ocampo vs. Arlos, G.R. No. 135527, 343 SCRA 716, 728 (2000).

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