

RUBEN S. SIA, PETITIONER, VS. HEIRS OF JOSE P. MARIANO (HELEN S. MARIANO, JOSE M.S. MARIANO, DANILO D.S. MARIANO, MA. SOFIA C.S. MARIANO, MA. LEONOR S. MARIANO), TESTATE ESTATE ...*G.R. NO. 143606. June 29, 2005*

Ponente: AUSTRIA-MARTINEZ, J.

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Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Resolution[1] of the Court of Appeals (CA) dated May 19, 2000 in CA-G.R. CV No. 52769 which declared that the Heirs of Jose P. Mariano and Erlinda Mariano-Villanueva have the right to redeem Lot 15-C from petitioner Ruben S. Sia.

The factual background of the case is as follows:

Spouses Macario A. Mariano (Macario) and Irene P. Mariano (Irene) during their lifetime owned the following six parcels of land covered by five titles: Lot 15-A (TCT No. 1962), Lot 15-B (TCT No. 1963), Lot 15-C (TCT No. 1964), Lots 545 and 2348 (TCT No. 259)[2] and Lot 612 (TCT No. 219).

On December 1, 1972, Macario died.[3] On July 21, 1973, the surviving heirs, spouse Irene and the legally adopted children, Jose P. Mariano (Jose) and Erlinda Mariano-Villanueva (Erlinda), executed an “Indenture of Extra-Judicial Settlement of Estate”[4] resulting in the issuance of new titles in their names, to wit: Lot 15-A (TCT No. 6565), Lot 15-B (TCT No. 6566), Lot 15-C (TCT No. 6567); and Lots 545 and 2348 (TCT No. 6562).[5] Lot 612 was exclusively transferred in the name of Irene under TCT No. 7257.[6]

On February 6, 1974, Irene executed an Affidavit of Merger[7] wherein she merged unto her name all the land titles co-owned with Jose and Erlinda, resulting in the issuance of the following titles: TCT No. 7757 for Lot 15-A,[8] TCT No. 7260 for Lot 15-B,[9] TCT No. 7261 for Lot 15-C [10] and TCT No. 7258 for Lots 545 and 2348.[11]

On December 9, 1974, Irene married Rolando S. Relucio (Rolando).[12] Four months later, or on April 15, 1975, Irene executed a Deed of Absolute Sale[13] covering Lot 15-A (TCT No. 7757), Lot 15-B (TCT No. 7260), Lot 15-C (TCT No. 7261), Lots 545 and 2348 (TCT No. 7258) and Lot 612 (TCT No. 7257) to Raul Santos (Raul), Rolando’s first cousin, for a total consideration of P150,000.00.

On June 7, 1979, Irene sold Lot 612 (TCT No. 7257) to Greta Tinga de los Reyes who was issued TCT No. 15342. Reyes later sold the property to Bonifacio Sia, Jr.

On March 10, 1982, Irene executed another Deed of Absolute Sale[14] in favor of Raul covering Lots 545 and 2348 (TCT No. 7258) for a consideration of P129,550.00. When the deed was registered, TCT No. 13402[15] was issued in the name of Raul.

On October 2, 1987, the three remaining lots were transferred in the name of Raul: TCT No. 17747 for Lot 15-A,[16] TCT No. 17746 for Lot 15-B,[17] and TCT No. 17745 for Lot 15-C.[18]

Previously, on November 24, 1986, Lot 15-C (then under TCT No. 7261) was levied upon in favor of Francisco Bautista in Civil Case No. R-570 entitled “Irene P. Mariano, plaintiff, versus Francisco M. Bautista, defendant” before Branch 22 of the Regional Trial Court of Camarines Sur. On December 9, 1988, it was sold at public auction to Ruben Sia who was issued TCT No. 20201.

On June 26, 1988, Irene died.[19] Three weeks later, or on July 18, 1988, Jose and Erlinda filed a complaint[20] against Rolando, Raul and the Register of Deeds of Naga City before the Regional Trial Court of Naga City for annulment of sale with damages, docketed as Civil Case No. 88-1506 and assigned to Branch 21. They sought the annulment of the Deed of Absolute Sale dated April 15, 1975 on grounds of forgery and simulated sale, the reconveyance of the properties, and damages.

When Jose died on December 2, 1989[21] he was substituted by his surviving heirs, namely, spouse Helen S. Mariano and children: Jose, Danilo, Ma. Sofia, Ma. Leonor, Ma. Therese, Irene and Macario, all surnamed Mariano. Likewise, when Rolando died on January 30, 1990, he was substituted by his surviving heirs, namely, spouse Patrocinio S. Relucio and children: Alexander, Cristina, Vicky, Marivic, Josephine, Richard, Raymond, Reynold, and Patricia, all surnamed Relucio.[22]

Meanwhile, on August 9, 1990, Lot 15-A (TCT No. 17747) was transferred to Amado Sanao (Amado) under a Deed of Sale with Real Estate Mortgage[23] which stipulated that Amado bought the property subject to the outcome of several law suits involving said property. Subsequently, TCT No. 20747 was issued in the name of Amado.

On November 27, 1990, the Heirs of Jose and the Testate Estate of Irene filed a complaint[24] before the Regional Trial Court of Naga City against Raul, the Heirs of Rolando and the Register of Deeds of Naga City for annulment of title and deed with damages, docketed as Civil Case No. 90-2218 and raffled to Branch 19. They sought therein the annulment of the Deed of Absolute Sale dated March 10, 1982 covering Lots 545 and 2348 for being fictitious and simulated, the cancellation of TCT No. 13402 in the name of Raul, and damages. The complaint was later amended to include Erlinda as plaintiff.[25]

Subsequently, Civil Case No. 90-2218 before Branch 19 was transferred to and consolidated for joint trial with Civil Case No. 88-1506 before Branch 21.[26]

Following trial on the merits, a Joint Judgment[27] dated July 22, 1994 was rendered by the trial court dismissing the complaints and counterclaims and upholding the validity of the Deeds of Absolute Sale executed by Irene in favor of Raul.

On appeal, the CA held that: only four lots are subject of the case, namely, Lot 15-A previously covered by TCT No. 17747 in the name of Raul and now under TCT No. 20747 in the name of Amado; Lot 15-B under TCT No. 17746 in the name of Raul; and, Lots 545 and 2348 under TCT No. 13402 in the name of Raul; despite the execution of the two Deeds of Absolute Sale in favor of Raul, Irene continued to possess, exercise management and control over the subject properties, i.e., Lots 15-A, 15-B, 545 and 2348; in 1981, Irene constructed with her own funds a two-storey commercial building on Lots 545 and 2348; such acts of dominion demonstrate that the two Deeds of Absolute Sale dated April 15, 1975 and March 10, 1982 executed by Irene in favor of Raul are simulated or fictitious contracts. The dispositive portion of the CA decision reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered declaring the Deeds of Absolute Sale dated 15 April 1975 and 10 March 1982 and the Deed of Sale with Real Estate Mortgage dated 09 August 1990 as null and void. Accordingly, Transfer Certificate of Title Nos. 17746,[28] 17747[29] and 13402[30] issued in the name of Raul Santos and TCT No. 20747[31] in the name of Amado Sanao are ordered cancelled and new

titles corresponding thereto be issued in the name of the heirs of Irene P. Mariano.

Furthermore, defendants-appellees are ordered to pay plaintiffs-appellants the sum of One Hundred Thousand Pesos (P100,000.00) as moral damages and Fifty Thousand Pesos (P50,000.00) as attorney's fees.

Likewise, plaintiff-appellant Erlinda M. Villanueva is ordered to pay Intervenor-appellant Law Firm of San Buenaventura Moraleda Obias and Yambao the amount of Fifty Thousand Pesos (P50,000.00) as attorney's fees.

The counterclaims of defendants-appellees are DISMISSED for lack of merit.

No pronouncement as to costs.

SO ORDERED.[32]

A Motion for Reconsideration was filed by Raul.

The Heirs of Jose and Erlinda M. Mariano filed a Motion for Partial Reconsideration/Clarification alleging that since Lot 15-C covered by TCT No. 17745 was one of those sold by Irene Mariano to Raul in the Deed of Sale dated April 15, 1975 which has been found to be simulated and declared null and void, TCT No. 17745 should likewise be cancelled and the property reverted back to them.

On May 19, 2000, the CA rendered the assailed Resolution, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the Motion for Reconsideration filed separately by defendant-appellee Raul Santos and Intervenor-appellant the law firm of San Buenaventura, Moraleda Obias and Yambao as well as the Motion for Reconsideration/Clarification filed by plaintiffs-appellants Heirs of Jose P. Mariano and Erlinda Mariano Villanueva are hereby DENIED, while the Supplemental Motion to Restore Possession and Administration to Plaintiffs-Appellants is GRANTED. Accordingly, the Heirs of Jose P. Mariano and Erlinda Mariano Villanueva are restored in the possession and administration of Lots 15-A, 15-B, 545 and 2348, together with the improvements thereon.

Finally, plaintiffs-appellants are declared to have the right to redeem Lot 15-C from Ruben Sia.

SO ORDERED.[33] (Emphasis supplied)

Petitioner Sia then filed the present petition for review anchored on a sole error, to wit:

THE MATTER OF REDEMPTION NOT HAVING BEEN RAISED AS AN ISSUE, NOR MADE THE SUBJECT OF AN ASSIGNMENT OF ERROR, NOT CLOSELY RELATED TO ONE, NOR OTHERWISE TREATED IN THE PARTIES' BRIEFS, THE COURT OF APPEALS ERRED IN HAVING DECLARED IN ITS RESOLUTION OF MAY 19, 2000 THAT PLAINTIFFS-APPELLANTS HAVE THE RIGHT TO REDEEM LOT 15-C FROM HEREIN PETITIONER.[34]

Petitioner claims that the CA violated the provisions of Section 8, Rule 51 of the Revised Rules of Court in declaring that respondents have the right to redeem Lot 15-C since the redemption of Lot 15-C was never raised before the trial court and even on appeal but only for the first time in respondents' "Motion for Partial Reconsideration/Clarification" when respondents stated that Ruben Sia "has refused to grant the right of redemption to the Heirs of Irene P. Mariano on the ground that it should be Raul Santos, the titled owner at the time of the auction, who has the right to redeem." Besides, petitioner argues that Lot 15-C was not subject of the appeal as the CA itself found that only four parcels of land were involved in the appeal, namely: Lot 15-A, Lot 15-B, Lot 545 and Lot 2348. Lastly, petitioner submits that the CA cannot make any declaration that may adversely affect his property rights since he was not impleaded as a party in the case and may not therefore be bound or be adversely affected by any judgment that may be rendered in the case.

Respondents contend that the CA correctly declared that they have the right to redeem Lot 15-C from petitioner because this Court has so held in G.R. Nos. 94617[35] and 95281,[36] promulgated on April 12, 2000, thereby rendering the issue in the present petition moot and academic. Moreover, they submit that the matter of redemption, or any issue relative thereto, was raised in the appellee's brief filed by Raul and replied to by them in their reply brief. As to petitioner's claim that he was never impleaded as party in the case, they submit that petitioner has been properly apprised of the pendency of Civil Case No. 88-1506 with the annotation of a notice of lis pendens in TCT No. 17745 of Raul prior to the issuance of TCT No. 20201 in petitioner's name.

Three undisputed facts are prominent in the present petition which have great bearing in the disposition thereof: (1) petitioner is neither a party before the trial court nor in the CA; (2) Lot 15-C is not a subject matter of the case; and (3) our decision in G.R. Nos. 94617 and 95281,[37] wherein herein respondent Erlinda Villanueva and petitioner Sia are parties, had expressly declared that respondents have the right to redeem the lot covered by TCT No. 17745 which refers to Lot 15-C.

There is no question that Lot 15-C is not one of the parcels of land involved in the appeal before the CA. In its decision, it specifically mentioned only Lot 15-A, Lot 15-B, Lot 545 and Lot 2348 as the lots subject of the case. Thus, this fact and the fact that petitioner is not a party to the case, militate against the propriety of declaring in the assailed Resolution that respondents have the right to redeem Lot 15-C.

Finally, there is no longer any actual case or controversy between the parties insofar as the issue of redemption of Lot 15-C is concerned. This is settled by the decision of this Court in G.R. Nos. 94617 and 95281, the dispositive portion of which reads:

WHEREFORE, the Decision of the Court of Appeals in CA-G.R. SP No. 19533 is ANNULLED and SET ASIDE, and a new one entered ORDERING the Provincial Sheriff of Camarines Sur to accept payment of redemption money for the property levied in Civil Case No. R-570 from petitioner Erlinda Mariano, computed as of November 22, 1989, and upon receipt thereof, to execute and deliver to Erlinda Mariano a duly accomplished certificate of redemption of said property. The Definite Deed of Sale issued in favor of private respondent Ruben Sia and the alias writ of execution issued pursuant to the Order of the Regional Trial Court, Branch 22 of Camarines Sur dated August 28, 1990 are NULLIFIED. Costs against private respondent.

SO ORDERED.[38]

It is noted that the said decision was promulgated on April 12, 2000 or a little over a month before herein assailed Resolution was promulgated by the CA on May 19, 2000. It becomes final on October 16, 2000.

WHEREFORE, the petition is GRANTED. The portion, to wit: "Finally, plaintiffs-appellants are declared to have the right to redeem Lot 15-C from Ruben Sia" of the Court of Appeals' Resolution dated May 19, 2000 in CA-G.R. CV No. 52769 is DELETED subject to our final decision in G.R. Nos. 94617 and 95281.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Justice Wenceslao I. Agnir, Jr. (now retired) and concurred in by Justices Hilarion L. Aquino (now retired) and Remedios Salazar-Fernando.

[2] Original Records, Civil Case No. 90-2218, p. 246.

[3] Id., p. 338.

- [4] Id., p. 251.
- [5] Id., p. 233.
- [6] Id., p. 608.
- [7] Id., p. 19.
- [8] Id., p. 606.
- [9] Id., p. 601.
- [10] Id., p. 598.
- [11] Id., p. 603.
- [12] Id., p. 21.
- [13] Id., p. 22.
- [14] Id., p. 25.
- [15] Id., p. 26.
- [16] Original Records, Civil Case No. 88-1506, p. 480.
- [17] Id., p. 478.
- [18] Id., p. 475.
- [19] Id., p. 339.
- [20] Original Records, Civil Case No. 88-1506, p. 1.
- [21] Original Records, Civil Case No. 90-2218, p. 340.
- [22] Id., p. 238.
- [23] Original Records, Civil Case No. 90-2218, p. 611.
- [24] Id., p. 1.
- [25] Id., p. 77.
- [26] Id., p. 55.
- [27] CA Rollo, p. 173.
- [28] Lot 15-B.
- [29] Lot 15-A.
- [30] Lots 546 and 2348.
- [31] Lot 15-A.
- [32] Rollo, pp. 35-36.
- [33] Id., pp. 56-57. In G.R. No. 143325, entitled “Raul Santos by and through his Attorneys-In-Fact Amado Sanao & Atty. Nestor Barbosa, Petitioner, vs. Heirs of Jose P. Mariano & Erlinda Mariano-Villanueva; & The

Law Firm Of San Buenaventura, Moraleda Obias and Yambao, Respondents,” promulgated on October 24, 2000, the Court denied for lack of merit the separate petition for review on certiorari filed by Raul Santos.

[34] Id., p. 19.

[35] Entitled “Erlinda M. Villanueva, herein represented by her Attorney-In-Fact Leopoldo San Buenaventura, Teofila N. Alberto, Harry Asaña, Angel Cheng, Ma. Lourdes Ng, Domingo F. Israel and Catalino Imperial, Jr., petitioners, vs. Hon. Angel S. Malaya, as Judge of RTC of Naga City, Branch XXII, Rosario B. Torrecampo, Anastacio Bongon, Roque Angeles, Register of Deeds of Naga City and Ruben Sia, respondents.”

[36] Entitled “Erlinda M. Villanueva, herein represented by her Attorney-In-Fact Leopoldo E. San Buenaventura, petitioner, vs. Court Of Appeals, Hon. Angel S. Malaya, as Judge RTC of Naga City, Branch XXII, Rosario Torrecampo, Anastacio Bongon, Roque Angeles, Register of Deeds of Naga City and Ruben Sia, respondents.”

[37] Villanueva vs. Malaya, G.R. Nos. 94617 and 95281, April 12, 2000, 330 SCRA 278.

[38] Id., p. 294.

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