

SPOUSES CHARLITO COJA AND ANNIE MESA COJA, PETITIONERS, VS. HON. COURT OF APPEALS AND HEIRS OF FELICIANO AQUILLO, SR., NAMELY: QUINCIANO VICTOR, SR., LORNA A. VICTOR, ANTONIO VIC...

G.R. No. 151153. December 10, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before us is a petition for review on certiorari[1] assailing the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 37583 dated February 5, 2001 and the Resolution[2] dated November 5, 2001 denying petitioners' motion for reconsideration.

The facts of the case are as follows:

Luz Aquillo Victor (hereafter Luz) and Feliciano Aquillo, Jr. (hereafter Feliciano Jr.), both deceased, were the legitimate children of the late spouses Feliciano Aquillo, Sr. (hereafter Feliciano Sr.) and Lorenza Mangarin Aquillo (hereafter Lorenza).[3] During their marriage, Feliciano Sr. and Lorenza acquired a 120-square meter lot located at Poblacion, Mandaon, Masbate, upon which they built their conjugal home.[4] The subject lot was covered by Tax Declaration No. 1151[5] issued in the name of Feliciano Sr.

After the death of Lorenza, Feliciano Sr. cohabited with Paz Lachica and lived at the aforesaid house. However, after Lorenza's death, her heirs failed to partition their hereditary shares in their inheritance.

On February 27, 1960, while Lorenza was cohabiting with Feliciano Sr., Paz Lachica purchased a 192-square meter lot covered by Tax Declaration No. 02115 from the heirs of Juan Rivas.[6] She later sold 40.10 square meters of the property to Isabel L. de Real leaving her with only 151.9 square meters.[7]

On July 7, 1965, or two (2) days before he died, Feliciano Sr. married Paz Lachica.[8] After Feliciano Sr. died, his heirs also failed to partition among themselves their hereditary shares in their inheritance.

Sometime in 1969, Paz Lachica was issued Tax Declaration No. 4424[9] over the remaining 151.9 square meters of the property covered by Tax Declaration No. 02115. The aforesaid Tax Declaration was later cancelled by Tax Declaration No. 3443-Rev.[10] On September 10, 1973, Tax Declaration No. 3514[11] was issued, effectively canceling Tax Declaration No. 3443-Rev. Also, in said Tax Declaration No. 3514, the area originally covered by Tax Declaration No. 3443-Rev was increased from 151.9 square meters to 336 square meters, and it included the 120-square meter property originally covered by Tax Declaration No. 1151. It also contained an annotation at the back stating "Revised as per request of the owner to include the excess area for taxation purposes." [12] Thereafter, Tax Declaration No. 3514 was cancelled by Tax Declaration No. 1558,[13] which was later cancelled by Tax Declaration No. 1946,[14] and later cancelled by Tax Declaration No. 2038.[15]

On December 18, 1986, Paz Lachica and herein petitioners, Spouses Charlito Coja and Annie Mesa Coja,

executed a Deed of Absolute Sale[16] wherein the former sold the 336-square meter parcel of land covered by Tax Declaration No. 2038 to the latter. Consequently, Tax Declaration No. 4946[17] was issued in the name of petitioners, canceling Tax Declaration No. 2038.

Sometime in 1987, Charlito Coja filed an application for the issuance of title with the Regional Trial Court (RTC), Branch 46, Masbate, Masbate (now Masbate City) docketed as LRC No. N-365.[18] Luz, being one of the heirs of Feliciano Sr., opposed the application for registration.[19] Likewise, the Office of the Solicitor General (OSG) opposed the application. The OSG alleged, among other things, that the applicant or his predecessors-in-interest had not been in open, continuous, exclusive, and notorious possession of the subject land within the period required by law; and that the documents attached to or alleged in the application do not constitute competent and sufficient evidence of a bona fide acquisition of the land or of an open, continuous, exclusive, and notorious possession and occupation thereof in the concept of an owner.[20]

During the pendency of the case, Luz died. She was substituted by her spouse, Quinciano Victor, Sr., and her children, Lorna, Antonio, Quinciano Jr., and Susana, all surnamed Victor.

On November 3, 1989, respondents filed an action for recovery of possession and ownership with damages, docketed as Civil Case No. 3904, against the petitioners and Paz Lachica.[21] Respondents claimed that they are the true and lawful heirs of the Spouses Feliciano Sr. and Lorenza; that Paz Lachica refused to deliver the property to its rightful owners despite repeated demands; that Paz Lachica appropriated the subject property to herself and had the tax declaration transferred to her name; that Paz Lachica sold the property to the Spouses Coja; and that the Spouses Coja failed to deliver the subject property to the rightful heirs despite repeated demands.[22]

Upon motion by the plaintiffs, LRC No. N-365 and Civil Case No. 3904 were consolidated.[23]

In their Answer, defendants therein alleged that Paz Lachica acquired the subject property before her marriage to Feliciano Sr. and that she had been in actual and physical possession of the same for more than fifteen (15) years before she sold the property to the Spouses Coja; that they acquired the property by purchasing it from Paz Lachica; that they are buyers in good faith and for value; and that the property in question was the paraphernal property of Paz Lachica and, therefore, plaintiffs therein have no right and interest over the same.[24]

The parties failed to settle their respective differences and a joint trial ensued.

On March 11, 1992, the RTC rendered a decision[25] against the plaintiffs-oppositors and in favor of the defendants-applicants, the decretal portion of which reads:

WHEREFORE, premises considered, decision is hereby rendered in favor of the defendants-applicants, to wit:

- Ordering the dismissal of the complaint in Civil Case No. 3904 with costs against the plaintiffs-oppositors;
- Declaring the defendants-applicants spouses Charlito Coja and Annie Mesa, the absolute owner of the land subject of their application in L.R.C. No. N-365;
- Declaring the title of the applicants, spouses Charlito Coja and Annie Mesa and Sancho Mesa, over the property designated as Psu-05-005736 together with all the improvements thereon, CONFIRMED and REGISTERED pursuant to the provisions of P.D. 1529.

Once this decision becomes final and executory, let the corresponding decree of registration issue.

SO ORDERED.[26]

The RTC opined that since the land in question is registered in the name of Paz Lachica alone, it is assumed that it

is not part of the conjugal partnership properties of Feliciano Sr., and Lorenza, for if it was their conjugal property, it should have been registered in their names. As such, when the Spouses Coja purchased the property from Paz Lachica, they were of the honest belief that the latter was the true and lawful owner. Likewise, on the basis of the evidence adduced, the RTC held that defendants-applicants possess good title proper for registration and confirmation.[27]

Aggrieved, plaintiffs-oppositors appealed from the decision to the CA, assigning the following errors:

[1]

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT THE DEFENDANTS-APPLICANTS, SPOUSES CHARLITO COJA AND ANNIE MESA COJA ARE THE TRUE AND LAWFUL OWNERS OF THE LAND SUBJECT OF THEIR APPLICATION.

[2]

THE TRIAL COURT GRAVELY ERRED IN CONCLUDING THAT THE LAND IN QUESTION IS NOT THE CONJUGAL PARTNERSHIP PROPERTY OF THE COUPLE, THE LATE SPOUSES FELICIANO AQUILLO AND LORENZA MANGARIN

[3]

THE TRIAL COURT GRAVELY ERRED IN HOLDING THAT DEFENDANTS-APPLICANTS POSSESS GOOD TITLE, PROPER FOR REGISTRATION.[28]

On February 5, 2001, the CA rendered a Decision[29] reversing and setting aside the decision of the RTC, the pertinent portion of which reads:

WHEREFORE, premises considered, the decision dated March 11, 1992 is hereby REVERSED and SET ASIDE, and a new one entered, as follows:

- The sale of the property by Paz Lachica to Spouses Charlito Coja and Annie Mesa Coja insofar as the shares of appellants is (sic) concerned is NULLIFIED;
- Appellees-applicants are ordered to deliver possession of the property originally covered by Tax Declaration No. 1151 to appellants, to the extent of 93.3333 square meters;
- Appellee-applicants are ordered to pay appellants P300.00 per month as reasonable rent for the use of the property, from the date of filing of the complaint and until possession thereof is restored to appellants;
- The application for registration of title by Charlito and Annie Coja in L.R.C. No. N-365 is denied; and
- Costs against appellees.

SO ORDERED.[30]

The CA concluded that the property formerly covered by Tax Declaration No. 1151, with an area of 120 square meters, is the conjugal property of Feliciano Sr. and Lorenza having been acquired during their marriage. Under the law, upon the death of Lorenza, one-half of said property, or 60 square meters, was transmitted to her heirs, namely Feliciano Sr., Feliciano Jr., and Luz, at 20 square meters each, while the remaining one-half pertained to Feliciano Sr. alone as his share in the conjugal property. Upon the death of Feliciano Sr., his rights over the property, consisting of his inheritance from his wife and his share in the conjugal partnership, or a total of 80

square meters, were transmitted to his heirs, Feliciano Jr., Luz, and his widow, Paz Lachica. Thus, Paz Lachica is entitled to only 26.6666 square meters and the heirs of Feliciano Jr. and Luz are entitled to the remaining 93.3333 square meters of the subject property. Therefore, Paz Lachica had no authority to sell their portions of the property.

Applicants-appellees therein filed a motion for reconsideration but it was denied in the Resolution[31] dated November 5, 2001.

Hence, this petition, assigning the following errors:

[1]

THE HONORABLE COURT OF APPEALS ERRED IN REVERSING AND SETTING ASIDE THE DECISION OF THE REGIONAL TRIAL COURT, BRANCH 46, AT MASBATE NOW MASBATE CITY (ANNEX "H") AS THE SAME IS IN ACCORDANCE WITH LAW AND JURISPRUDENCE; AND

[2]

THE HONORABLE COURT OF APPEALS ERRED IN DENYING THE APPLICATION FOR LAND REGISTRATION OF TITLE OF THE PETITIONERS OVER THEIR RESIDENTIAL AND COMMERCIAL LAND SITUATED AT POBLACION, MANDAON, MASBATE WHICH SHOULD BE CONFIRMED AND REGISTERED PURSUANT TO LAND REGISTRATION LAW IN RELATION TO PD NO. 1529.

Petitioners argue that respondents failed to establish their case on the basis of the evidence they presented during the trial. Respondents only presented Tax Declaration No. 1151 which had never been updated since 1945 up to Feliciano Sr.'s death. In addition, his alleged successors-in-interest have not caused the revision of the said tax declaration nor paid the taxes to the government up to the present and hence the same cannot be considered proof of ownership. Since Feliciano Sr. is not the owner of the property in question, the same cannot be inherited by the respondents. Moreover, no survey of the property had been made in the name of Feliciano Sr.[32]

Petitioners add that the subject property was the paraphernal property of Paz Lachica since she purchased the property before she married Feliciano Sr. Finally, petitioners maintain that they are purchasers in good faith and for value since the subject property was covered by a tax declaration in Paz Lachica's name when they bought it from her.[33]

The petition lacks merit.

The property subject matter of the contract of sale between the Spouses Coja and Paz Lachica, is a 336-square meter parcel of land covered by Tax Declaration No. 2038.[34] This includes the property bought by Paz Lachica from the heirs of Juan Rivas, some other parcels of land, and the 120-square meter lot purchased by Feliciano Sr. and Lorenza during their marriage.

Article 160 of the Civil Code provides:

Article 160. All property of the marriage is presumed to belong to the conjugal partnership, unless it be proved that it pertains exclusively to the husband or to the wife.

All properties acquired during the marriage are thus disputably presumed to belong to the conjugal partnership. As a condition for the operation of above article, in favor of the conjugal partnership, the party who invokes the presumption must first prove that the property was acquired during the marriage.[35]

The CA declared that the 120-square meter lot belonged to the conjugal partnership of Feliciano Sr. and Lorenza

because the spouses acquired it during the subsistence of their marriage and the property was in fact declared for taxation purposes during the said period. Thus, the statutory presumption set forth in Article 160 of the Civil Code became operative. Having been acquired during the marital union of Feliciano Sr. and Lorenza, the subject 120-square meter portion of the property sold by Paz Lachica to the Spouses Coja is presumed to be the conjugal property of Feliciano Sr. and Lorenza.

The presumption may be rebutted only with strong, clear, categorical and convincing evidence. There must be strict proof of the exclusive ownership of one of the spouses, and the burden of proof rests upon the party asserting it.[36]

Petitioners insist that the property subject of the sale was exclusively owned by Paz Lachica having been purchased prior to her marriage with Feliciano Sr. The argument is not supported by evidence. While it may be correct to argue that the 216-square meter portion of the 336-square meter subject of the sale was exclusively owned by Paz Lachica, the same cannot be sustained as to the 120-square meter portion originally covered by Tax Declaration No. 1151. Paz Lachica claims ownership over the property in question on the basis only of a tax declaration issued in her name. But that is Tax Declaration No. 3514 which was belatedly issued in the name of Paz Lachica to include the 120-square meter lot originally covered by Tax Declaration No. 1151. Revision was done upon Paz Lachica's request after the death of Feliciano Sr. The revision of the tax declaration or the issuance of a new one in her name, did not operate and transfer title of the subject property to her. The property remained as one that formed part of the conjugal property of Feliciano Sr. and Lorenza.

Upon the death of Lorenza, the conjugal partnership was terminated. As a result, one half of the property was automatically reserved in favor of the surviving spouse, Feliciano Sr. as his share in the conjugal partnership. The other half, which is the share of Lorenza, was transmitted to Lorenza's heirs, Feliciano Jr., Luz, and her husband Feliciano Sr., who is entitled to the same share as that of a legitimate child.[37]

The Court agrees in toto with the CA's conclusion:

x x x. Under Article 996 of the Civil Code, upon the death of Lorenza Mangarin, one-half of said property, or 60 square meters, is transmitted to her heirs, namely: Feliciano Aquillo, Sr., Feliciano Aquillo, Jr., and Luz Aquillo, at 20 square meters each, while the remaining one-half is transmitted to Feliciano Aquillo, Sr. Upon the death of Feliciano Aquillo, Sr., his rights over the property, consisting of the 20 square meter-inheritance from his late wife and his 60 square meter-share in the conjugal partnership, or a total of 80 square meters were transmitted to his heirs, namely: Feliciano Aquillo, Jr., Luz Aquillo, and his widow, Paz Lachica. The surviving spouse is entitled to the same share as that of the legitimate children, to the portion of one-third each or 26.6666 square meters each x x x. Thus, as a result of the death of Feliciano Aquillo, Sr., a regime of co-ownership exists among Feliciano, Jr., Luz Aquillo, and Paz Lachica, with respect to the undivided 80 square meters of the property covered by Tax Declaration No. 1151.

The 120 square meters less the hereditary share of Paz Lachica which is 26.6666 square meters, or the 93.3333 square meters of the property covered by Tax Declaration No. 1151, belong to the appellants, being the heirs of the late Feliciano Aquillo, Jr. and Luz Aquillo. x x x.[38]

Considering that Paz Lachica owns only 26.6666 square meters of the 120-square meter property and the remaining 93.3333-square meter portion thereof is owned by the respondents, the former could only validly sell the portion which rightfully belonged to her. However, considering that Paz Lachica, the predecessor-in-interest of the Spouses Coja, was a co-owner of the subject 120-square meter property; and considering further that partition of the property is wanting, this Court is precluded from directing the Spouses Coja to return specific portions of the property to respondents. Noteworthy is the pronouncement on this issue in *De Guia v. Court of Appeals*[39] citing *Hermogena G. Engreso with Spouse Jose Engreso v. Nestoria de la Cruz and Herminio de la*

Cruz:[40]

It is a basic principle in civil law that before a property owned in common is actually partitioned, all that the co-owner has is an ideal or abstract quota or proportionate share in the entire property. A co-owner has no right to demand a concrete, specific or determinate part of the thing owned in common because until division is effected his right over the thing is represented only by an ideal portion.

As such, the only effect of an action brought by a co-owner against a co-owner will be to obtain recognition of the co-ownership; the defendant cannot be excluded from a specific portion of the property because as a co-owner he has a right to possess and the plaintiff cannot recover any material or determinate part of the property. x x x.

A co-owner may file an action for recovery of possession against a co-owner who takes exclusive possession of the entire co-owned property. However, the only effect of such action is a recognition of the co-ownership. The courts cannot proceed with the actual partitioning of the co-owned property.[41] In fine, judicial or extrajudicial partition is necessary to effect physical division of the subject 120-square meter property.

WHEREFORE, the petition is PARTIALLY GRANTED. The Decision of the Court of Appeals dated February 5, 2001 in CA-G.R. CV No. 37583 is AFFIRMED with the MODIFICATION that the portion ordering petitioners to deliver possession to respondents of the property originally covered by Tax Declaration No. 1151 to the extent of 93.3333 square meters is DELETED. In lieu thereof, the co-ownership between the parties over the subject 120-square meter property is recognized, to the extent of undivided shares of 93.3333 square meters for respondents and 26.6666 square meters for petitioners.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Ynares-Santiago,[*] Sandoval-Gutierrez, and Corona, JJ., concur.

[*] Designated to sit as additional Member of the First Division under Special Order No. 474 dated October 19, 2007 issued pursuant to Administrative Circular No. 84-2007.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 27-28.

[3] Records, p. 1.

[4] Rollo, p. 21.

[5] Records, p. 94.

[6] Id. at 21.

[7] Id. at 129.

[8] Rollo, p. 22.

[9] Records, p. 129.

[10] Id. at 128.

[11] Id. at 127.

- [12] Id.
- [13] Id. at 126.
- [14] Id. at 125.
- [15] Id. at 124.
- [16] Id. at 122.
- [17] Id. at 123.
- [18] Rollo, pp. 29-30.
- [19] Id. at 31-32.
- [20] Id. at 33-34.
- [21] Records, pp. 1-6.
- [22] Id. at 1-6.
- [23] Rollo, p. 23.
- [24] Id. at 41-42.
- [25] Id. at 77-83.
- [26] Id. at 82-83.
- [27] Id. at 80-82.
- [28] Id. at 49-50.
- [29] Id. at 20-26.
- [30] Id. at 26.
- [31] Id. at 27-28.
- [32] Id. at 12-16.
- [33] Id.
- [34] Supra note 15.
- [35] Go v. Yamane, G.R. No. 160762, May 3, 2006, 489 SCRA 107, 117.
- [36] Go v. Yamane, id.; Villanueva v. Court of Appeals, G.R. No. 143286, April 14, 2004, 427 SCRA 439, 451.
- [37] Herbon v. Palad, G.R. No. 149542, July 20, 2006, 495 SCRA 544; Cruz v. Leis, G.R. No. 125233, March 9, 2000, 327 SCRA 570.
- [38] Rollo, p. 24.
- [39] G.R. No. 120864, October 8, 2003, 413 SCRA 114, 125.
- [40] G.R. No. 148727, April 9, 2003, 401 SCRA 217, 220.
- [41] De Guia v. Court of Appeals, supra at 127.

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