LUIS S. MISTERIO, GABRIEL S. MISTERIO, FRANCIS S. MISTERIO, THELMA S. MISTERIO AND ESTELLA S. MISTERIO-TAGIMACRUZ, PETITIONERS, VS. CEBU STATE COLLEGE OF SCIENCE AND TECHNOLOGY ...

G.R. NO. 152199. June 23, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari to annul the Decision[1] dated July 31, 2000 of the Court of Appeals (CA) in CA-G.R. CV No. 53592, as well as its Resolution[2] denying the motion for reconsideration. The CA reversed and set aside the Decision[3] of the Regional Trial Court (RTC) of Cebu City, Branch 18, in Civil Case No. CEB-15267.

The Antecedents

Sudlon Agricultural High School (SAHS) was established in Cebu Province on August 2, 1948. The administrative and supervisory control of the school was handled by the Division of Schools of the same province. The original site of the school was in Sudlon, about 33 kilometers from Cebu City via the Tabunak-Talisay Highway.

In 1952, the Provincial Board of Cebu granted the usufruct of 41 parcels of land, covering 104.5441 hectares of the Banilad Friar Lands Estate to the SAHS. Pursuant to Republic Act No. 948, SAHS was nationalized on June 20, 1953.

On December 31, 1956, Asuncion Sadaya-Misterio executed a Deed of Sale of a parcel of land denominated as Lot No. 1064 of the Banilad Friar Lands Estate, in favor of the SAHS. The property had an area of 4,563 square meters and was situated at Lahug, Cebu City, covered by Transfer Certificate of Title (TCT) No. 13086 of the Registry of Deeds of the province of Cebu. The sale was subject to the right of the vendor to repurchase the property after the high school shall have ceased to exist, or shall have transferred its site elsewhere.

Consequently, on May 22, 1957, TCT No. 13086 was cancelled and in lieu thereof, TCT No. 15959 was issued by the Registry of Deeds of Cebu City in the name of SAHS.[4] The right of the vendor to repurchase the property was annotated at the dorsal portion thereof.

On March 18, 1960, the Provincial Board of Cebu, through Resolution No. 491, donated the aforementioned 41 lots to SAHS, subject to two (2) conditions: (1) that if the SAHS ceases to operate, the ownership of the lots would automatically revert to the province, and (2) that the SAHS could not alienate, lease or encumber the properties.

On June 10, 1983, Batas Pambansa (B.P.) Blg. 412, entitled “An Act Converting the Cebu School of Arts and Trades in Cebu City into a Chartered College to be Known as the Cebu State College of Science and Technology,

Expanding its Jurisdiction and Curricular Programs" took effect. The law incorporated and consolidated as one school system certain vocational schools in the province of Cebu, including the SAHS, and which became an extension of the Cebu State College of Science and Technology (CSCST).

In the meantime, the province of Cebu decided to recover the 41 lots it had earlier donated to SAHS on the ground that the said deed was void. The province of Cebu opined that based on the initial report of its provincial attorney, the SAHS had no personality to accept the donation.

In the meantime, Asuncion died intestate. When her heirs learned that the province of Cebu was trying to recover the property it had earlier donated to SAHS, they went to the province of Cebu on August 19, 1998, informing it of their intention to exercise their right to repurchase the property as stipulated in the aforecited deed of sale executed by their predecessor-in-interest.

On February 1, 1989, the province of Cebu (represented by then Governor Emilio M. R. Osmeña), and the CSCST (represented by then DECS Secretary Lourdes R. Quisumbing), entered into a Memorandum of Agreement over the 40 parcels of land, allocating 53 hectares to the province of Cebu, and 51 hectares for the SAHS. The agreement was ratified by the Sangguniang Panlalawigan and the SAHS Board of Trustees.

In a Letter[5] dated March 13, 1990, the heirs of the late Asuncion Sadaya-Misterio, through their counsel, Atty. Ricardo G. Padilla, informed CSCST of the heirs' intention to exercise the option to repurchase Lot No. 1064 granted to them under the deed of sale, as the SAHS had ceased to exist.

In response thereto, Jesus T. Bonilla, as Vocational School Superintendent II of CSCST, wrote Atty. Padilla on March 29, 1990, informing the latter that the SAHS still existed and "[i]n fact, from a purely secondary school it is now offering collegiate courses." He explained that "what has been changed is only the name of the school [to CSCST] which does not imply the loss of its existence."[6]

On December 23, 1993, Luis, Gabriel, Francis, Thelma, all surnamed Misterio, and Estella S. Misterio-Tagimacruz, the legitimate heirs of the late Asuncion Sadaya-Misterio and herein petitioners, filed a Complaint[7] before the RTC of Cebu City, Branch 18, for "Nullity of Sale and/or Redemption." Named party-defendants were the CSCST, Armand Fabella as CSCST Chairman, and Dr. Mussolini C. Barillo as CSCST President, herein respondents. Docketed as Civil Case No. 66-15267, the complaint alleged in part as follows:

FIRST CAUSE OF ACTION

12. Sudlon Agricultural High School at the time of the execution of the contract of sale with the late Asuncion Sadaya sometime on December 31, 1956 had no juridical personality of it's (sic) own. Hence, it cannot acquire and possess any property, including the parcel of land subject of this action.

13. The Contract of Sale executed was, therefore, null and void and therefore non-existent. Thus, the land subject of the sale should be reconveyed to the legitimate heirs of Asuncion Sadaya.

SECOND CAUSE OF ACTION

14. On June 10, 1983, Batas Pambansa Blg. 412 was enacted, abolishing the then Sudlon Agricultural College and converting it to become part of the Cebu State College for Science and Technology (CSCST).

15. The said law also transferred all the personnel, properties, including buildings, sites, and improvements, records, obligations, monies and appropriation of Sudlon to the CSCST.

16. The abolition of Sudhon and it's (sic) merger or consolidation as part of CSCST had rendered operative the condition in the Deed of Sale granting the vendor and her heirs, Asuncion Sadaya, the right to redeem Lot

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No. 1064.

17. By the legislative act of merging or consolidating Sudlon Agricultural College with other colleges, the separate existence of the constituent schools including Sudlon Agricultural College has ceased to exist as a legal consequence of merger or consolidation.

18. CSCST, as transferee of the land subject of sale, is the actual possessor of the land and is the proper party-defendant for redemption.[8]

The petitioners prayed that, after due proceeding, judgment be rendered in their favor, thus –

WHEREFORE, the foregoing premises considered, it is most respectfully prayed of this Honorable Court to render a decision in favor of the plaintiffs to the following effect:

1. Declare the Contract of Sale between the late Asuncion Sadaya and Sudlon Agricultural High School as null and void for the latter has no legal personality and cannot own a real property.

As a consequence, to order the actual possessor of the land CSCST to deliver and reconvey the land to plaintiffs and the latter is willing to return the money received.

2. In the alternative, declare that Sudlon Agricultural High School has ceased to exist and allow the plaintiffs to redeem Lot 1064 in the amount stipulated in the contract.

3. Other reliefs just and equitable under the premises are prayed for.[9]

In their answer to the complaint, the respondents alleged that:

11. Complainants in their complaint failed to state sufficient cause of action which may be considered enough ground to dismiss this instant case;

12. The complainants are estopped from contesting the juridical capacity of Sudlon to own or acquire this property which is the subject of this case, after a long period of silence or inaction from the transfer of the title in favor of Sudlon Agricultural School;

13. The contract of sale having been mutually and freely entered into by the parties is valid and binding between the vendor and the vendee, including their successors-in-interest; hence, reconveyance is not proper;

14. The enactment of B.P. 412, which is the Charter of the College has not caused the abolition of Sudlon Agricultural School. In fact, the school has now grown into a higher status, because it has now admitted collegiate students, in addition to its secondary students;

15. The instruction of the Sudlon Agricultural School is actually carried out right on the same site which complainants claim have ceased to exist not the site of the school transferred somewhere else. Therefore, the conditions in the deed of sale have not rendered operative the right of the vendor to exercise the same.[10]

After the preliminary conference on May 23, 1994, the trial court issued a pre-trial order defining the issues as follows:

... (1) whether Sudlon Agricultural School has still retained its personality as such school or it had ceased to exist, and (2) whether the plaintiffs have the right to exercise the right of redemption over the property.

Upon the order of the RTC, the Clerk of Court conducted an ocular inspection on Lot No. 1064. The court-appointed commissioner submitted his report[11] on June 10, 1994.

On November 29, 1995, the RTC rendered judgment, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing considerations, JUDGMENT is hereby rendered in favor of the

> plaintiffs and against the defendants declaring the Deed of Sale entered into by and between Asuncion Sadaya and Sudlon Agricultural High School as null and void for the latter's lack of juridical personality to acquire real property or to enter into such transaction or having ceased to exist and ordering the Cebu State College of Science and Technology being the actual possessor of the land, Lot 1064, to deliver and reconvey the same to plaintiffs upon payment of the aforementioned purchased price.
>
> No pronouncement as to costs.
>
> SO ORDERED.[12]

The RTC ruled that the donation was void ab initio as the SAHS, in the first place, did not have the personality to be a donee of real property. Moreover, with the enactment of B.P. Blg. 412, the SAHS ceased to exist and to operate as such. The RTC declared that, under the Corporation Code, the constituent corporations (SAHS and CSCST) became one through the merger or consolidation, with CSCST as the surviving entity. Whether Lot No. 1064 was still being used for school purposes was of no moment, and to "say that [SAHS] still exists but is now forming part of CSCST is stretching the interpretation of the contract too far." It concluded that no prescription lay as against an inexistent contract.

The CSCST, through the Office of Solicitor General (OSG), appealed the decision to the CA, and outlined the following assignment of errors:

> **I**
>
> THE TRIAL COURT ERRED IN NOT STICKING TO THE ISSUES DEFINED BY THE PARTIES DURING PRE-TRIAL.
>
> II
> THE TRIAL COURT ERRED IN NOT HOLDING THAT APPELLEES ARE ESTOPPED FROM QUESTIONING THE PERSONALITY OF THE SUDLON AGRICULTURAL HIGH SCHOOL.
>
> III
> THE TRIAL COURT ERRED IN GIVING WEIGHT TO INADMISSIBLE AND SELF-SERVING EVIDENCE.
>
> IV
> THE TRIAL COURT ERRED IN NOT HOLDING THAT APPELLEES' ACTION IS BARRED BY PRESCRIPTION.
>
> V
> THE TRIAL COURT ERRED IN NOT HOLDING THAT THE DEED OF SALE IS A CONSENSUAL CONTRACT FREELY ENTERED INTO BY THE PARTIES AND NOT A CONTRACT OF ADHESION.
>
> VI
> THE TRIAL COURT ERRED IN NOT HOLDING THAT THE DEED OF SALE IS NOT AMBIGUOUS.
>
> VII
> THE TRIAL COURT ERRED IN NOT HOLDING THAT THE LOT SUBJECT OF THE SALE IS STILL BEING USED FOR SCHOOL PURPOSES AS ORIGINALLY INTENDED BY THE PARTIES.
>
> VIII
> THE TRIAL COURT ERRED IN NOT HOLDING THAT B.P. [BLG.] 412 DID NOT DISSOLVE OR EXTINGUISH SUDLON AGRICULTURAL HIGH SCHOOL BUT MERELY SUBJECTED THE SAME TO THE SUPERVISION AND ADMINISTRATION OF CSCST.

> IX
> THE TRIAL COURT ERRED IN NOT HOLDING THAT THE SUDLON AGRICULTURAL HIGH SCHOOL AND/OR CSCST IS/ARE NOT CORPORATIONS GOVERNED BY THE COPORATION CODE.

On October 3, 1997, the CSCST and the province of Cebu executed a Deed for Reversion, in which the CSCST deeded to the province of Cebu the property covered by TCT No. 15959. Based on the said deed, TCT No. 146351 was issued by the Register of Deeds on November 12, 1997 in the name of the province of Cebu.[13] Annotated at the dorsal portion thereof was the notice of the pending cases before the RTC and the CA.

On July 31, 2000, the CA rendered its decision reversing the RTC's decision. The fallo of the decision reads:

> WHEREFORE, the appealed decision is REVERSED and SET ASIDE, and a new one issued, DISMISSING the instant complaint for lack of merit.
>
> SO ORDERED.[14]

The appellate court held that the lower court should have confined itself to the issues defined by the parties during pre-trial, namely, (1) whether Sudlon Agricultural School still retained its personality as such school or was still in existence; and (2) whether the petitioners had the right to exercise the right to repurchase the property. The CA declared that the trial of the case should have been limited to these two issues.

While it affirmed the RTC ruling that the SAHS had ceased to exist when B.P. Blg. 412 took effect, the appellate court ruled that the period for the petitioners to repurchase the property expired on June 1987, four years after the enactment of B.P. Blg. 412. It held that the period within which the property was to be repurchased must be restrictively applied in order to settle ownership and title at the soonest possible time, and not to leave such title to the subject property uncertain.

The petitioners filed a motion for the reconsideration of the decision, which the CA denied in a Resolution dated January 25, 2002.

The petitioners filed the present petition for review on certiorari, contending that the CA erred in (a) resolving the appeal of the respondents based on prescription, although the issue was never raised during the trial; and (b) resolving that their action had already prescribed.

The petition is without merit.

The petitioners fault the CA for holding that their right to repurchase Lot No. 1064 had long since prescribed. Citing Article 1606(3) of the New Civil Code, they argue that "[p]rescription should start to run from the time it is legally feasible for the party to redeem the land, which is the time when the action to redeem has accrued." The petitioners argue that this is so since the issue of whether the SAHS had ceased to exist had still yet to be resolved. The petitioners posit that unless and until judgment would be rendered stating that the SAHS has ceased to exist, the period to repurchase the property would not start to run. It is only from the finality of the said judgment that the right to repurchase the property may be exercised; hence, they still had thirty (30) days from the date of the promulgation of the CA decision within which to repurchase the property. The petitioners further aver that since the lien, their right to repurchase the property, was annotated on the title of the land, the right to exercise the same is imprescriptible. They argue that they had been vigilant of their right to repurchase the property, as far back as 1973. In fact, they made tender of payment in March 1990, well within the ten-year prescriptive period. They point out that the CSCST had abandoned its defense of prescription by contending that the condition for repurchase had not yet become operational.

The OSG, for its part, contends that the petitioners' reliance on Article 1606(3) of the New Civil Code is

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misplaced, because the law applies only to sales where the right to repurchase is not expressly agreed upon by the parties. Here, the right to repurchase is unquestionable. The OSG, likewise, argues that the annotation of the right of redemption has no bearing on the issue of prescription. It posits that the "Torrens System has absolutely nothing to do with the period of prescription of one's right to repurchase, as in the instant case." The OSG concludes that whatever right the petitioners had on the property had already prescribed by the mere lapse of time, by reason of negligence.

Central to the issue is the following provision in the deed of sale executed by Asuncion Sadaya-Misterio in favor of the SAHS:

> That the Vendee herein, the SUDLON AGRICULTURAL HIGH SCHOOL, hereby obligates itself to use the aforementioned Lot No. 1064 for school purposes only, and it is a condition attached to this contract that the aforementioned vendee obligates itself to give the Vendor herein, the right to repurchase the said lot by paying to the Vendee herein the aforementioned consideration of P9,130.00 only, after the aforementioned SUDLON AGRICULTURAL HIGH SCHOOL shall ceased (sic) to exist or shall have transferred its school site elsewhere.[15]

The essence of a pacto de retro sale is that title and ownership of the property sold is immediately rested in the vendee a retro, subject to the restrictive condition of repurchase by the vendor a retro within the period provided in Article 1606 of the New Civil Code, to wit:

> Art. 1606. The right referred to in Article 1601, in the absence of an express agreement, shall last four years from the date of the contract.
>
> Should there be an agreement, the period cannot exceed ten years.
>
> However, the vendor may still exercise the right to repurchase within thirty days from the time final judgment was rendered in a civil action on the basis that the contract was a true sale with right to repurchase.

The failure of the vendee a retro to repurchase the property vests upon the latter by operation of law the absolute title and ownership over the property sold.[16]

Pending the repurchase of the property, the vendee a retro may alienate, mortgage or encumber the same, but such alienation or encumbrance is as revocable as is his right. If the vendor a retro repurchases the property, the right of the vendee a retro is resolved, because he has to return the property free from all damages and encumbrances imposed by him.[17] The vendor a retro may also register his right to repurchase under the Land Registration Act and may be enforced against any person deriving title from the vendee a retro.[18]

In this case, the vendor a retro and the vendee a retro did not agree on any period for the exercise of the right to repurchase the property. Hence, the vendor a retro may extend the said right within four days from the happening of the allocated condition contained in the deed: (a) the cessation of the existence of the SAHS, or (b) the transfer of the school to other site.

We note that, as gleaned from the petitioners' complaint before the trial court, they alleged that the SAHS ceased to exist on June 10, 1983, when B.P. Blg. 412 took effect, abolishing therein the SAHS which, in the meantime, had been converted into the Sudlon Agricultural College. The CA found the position of the petitioners to be correct, and declared that conformably to the condition in the deed of sale, and under Article 1606 of the New Civil Code, the right of the petitioners as successors-in-interest of the vendee a retro commenced to run on June 10, 1983. Hence, they had until June 10, 1987 within which to repurchase the property; however, they failed to do so.

It is true that respondent CSCST, through counsel, was of the view that despite the effectivity of B.P. Blg. 412,

the structure and facilities of the SAHS remained in the property and, as such, it cannot be said that the said school had ceased to exist. It argued that the phrase "SAHS ceased to exist" in the deed meant that the structure and facilities of the school would be destroyed or dismantled, and had no relation whatsoever to the abolition of the school and its integration into the Cebu State College for Science and Technology. However, the CA rejected the position of the respondent CSCST, as well as that of the OSG, and affirmed that of the petitioners.

The four-year period for the petitioners to repurchase the property was not suspended merely and solely because there was a divergence of opinion between the petitioners, on the one hand, and the respondent, on the other, as to the precise meaning of the phrase "after the SAHS shall cease to exist" in the deed of sale. The existence of the petitioners' right to repurchase the property was not dependent upon the prior final interpretation by the court of the said phrase. Indeed, the petitioners specifically alleged in the complaint that:

FIRST CAUSE OF ACTION

> 12. Sudlon Agricultural High School at the time of the execution of the contract of sale with the late Asuncion Sadaya sometime on December 31, 1956 had no juridical personality of its own. Hence, it cannot acquire and possess any property, including the parcel of land subject of this action.
>
> 13. The Contract of Sale executed was therefore null and void and therefore non-existent. Thus, the land subject of sale should be reconveyed to the legitimate heirs of Asuncion Sadaya.
>
> SECOND CAUSE OF ACTION
>
> 14. On June 10, 1983, Batas Pambansa Blg. 412 was enacted abolishing the then Sudlon Agricultural College and converting it to become part of the Cebu State College for Science and Technology (CSCST).
>
> 15. The said law also transferred all the personnel, properties, including buildings, sites, and improvements, records, obligations, monies and appropriations of Sudlon to the CSCST.
>
> 16. The abolition of Sudlon and its merger or consolidation as part of CSCST had rendered operative the condition in the Deed of Sale granting the vendor and her heirs, Asuncion Sadaya, the right to redeem Lot No. 1064.
>
> 17. By the legislative act of merging or consolidating Sudlon Agricultural College with other colleges, the separate existence of the constituent schools including Sudlon Agricultural College has ceased to exist as a legal consequence of merger or consolidation.
>
> 18. CSCST, as transferee of the land subject of sale, is the actual possessor of the land and is the proper party defendant for redemption.[19]

The petitioners are estopped from changing on appeal their theory of the case in the trial court and in the CA.[20]

We agree with the contention of the OSG that the annotation of the petitioners' right to repurchase the property at the dorsal side of TCT No. 15959 has no relation whatsoever to the issue as to when such right had prescribed. The annotation was only for the purpose of notifying third parties of the petitioners' right to repurchase the property under the terms of the deed of sale, and the law.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED DUE COURSE. Costs against the petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

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[1] Penned by Associate Justice Eloy R. Bello, Jr. (retired), with Associate Justices Delilah Vidallon-Magtolis and Elvi John S. Asuncion, concurring.

[2] Rollo, p. 144.

[3] Id. at 36.

[4] Rollo, p. 116.

[5] Rollo, p. 95.

[6] Id. at 96.

[7] Rollo, p. 118.

[8] Rollo, pp. 120-121.

[9] Id. at 122.

[10] Appellant's Brief, CA Rollo, p. 18.

[11] In compliance with the Order of this Court dated May 10, 1994, the undersigned went to Cebu State College of Science and Technology (CSCST), Lahug, Cebu City as the representative of this Court on the ocular inspection to be conducted on the area or land in question, on May 7, 1994, a Saturday. Atty. Romeo Reyes, counsel for the defendant, the plaintiffs and their counsel, Geodetic Engineer Wilson Bacatan and his men and Mr. Hospicio Saniel, Officer-In-Charge of the College were also present. Engineer Bacatan and his men then conducted a relocation survey of the property in question and a copy of the location plan/sketch plan is now attached to the record and marked as Annex "AA," by the plaintiff.

Erected inside the lot in question were the following:

1. Agricultural Research Laboratory
2. A part of the Agritech Building
3. Two (2) cottages at the back of Agritech building
4. Main entrance (gate) of the college
5. Holticultural Crope Laboratory
6. Canteen

Parties and their respective counsel including Mr. Hospicio Saniel, Officer-in-charge of the defendant College all agreed as to the exact location of the property in litigation which is denominated as Lot No. 1064 and under Transfer Certificate of Title No. 15959.
Respectfully submitted. (Ibid.)

[12] Rollo, p. 50.

[13] Rollo, p. 129.

[14] Id. at 68.

[15] CA Rollo, p. 87.

[16] Cruz v. Leis, G.R. No. 125233, 9 March 2000, 327 SCRA 570.

[17] Tolentino, Civil Code of the Philippines, Vol. II, 1992 ed., p. 154.

[18] Ibid.

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[19] Rollo, pp. 120-121.

[20] Manongsong v. Estimo, G.R. No. 136773, 25 June 2003, 404 SCRA 683.

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