

JERTY PASCUAL CONTRERAS (DECEASED), REPRESENTED BY HER MOTHER, LOURDES PASCUAL, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, FORMER TWELFTH DIVISION, AND SPOUSES DANILO ALCAN...*G.R. NO. 164819. March 09, 2007*

Ponente: TINGA, J.

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The antecedents that have given rise to this petition for review allude to several potentially interesting questions of law borne out of a complicated factual milieu. Yet the issues actually raised by this petition are relatively trivial, and can be disposed of against petitioner with ease.

It is established that years before the emergence of the present controversy, a house (subject house) owned by Eulalia Leis (Leis) was constructed on a parcel of land (subject land) owned by Filomena Gatchalian (Gatchalian). This segregate ownership of land and improvement, unreconciled to date, has ultimately spawned the present dispute.

As early as 1949, Leis openly manifested her rights to the subject house which was constructed on the subject land situated on San Jose Street, Antipolo, Rizal through a Tax Declaration she had secured that year.[1] While the house had been initially constructed with light materials, and covering an area of 25.25 square meters,[2] it appears that by 1974, the house had been renovated and built out of strong materials and with an expanded floor space.[3] By this time, the house had been mortgaged to the Rural Bank of Teresa (Rizal), Inc. (RBTRI), which would eventually acquire ownership over the house after the mortgagor had failed to pay the loan and redeem the house. However, in 1980, respondent Isabelita Bumatay (Isabelita), the daughter of Leis, purchased the house back from the bank, as evidenced by a deed of sale.

A different trail of ownership attaches to the subject land. It was owned by Gatchalian when the house was first constructed thereon by Leis by around 1949. Eventually, ownership of the land passed to the spouses Felipe Matawaran and Ofelia Oliveros (spouses Matawaran), though the records do not bear how they acquired such property. In 1980, the spouses Matawaran executed two real estate mortgage contracts with the Capitol City Development Bank (CCDB), covering the land, together with the house, as security for a loan of P200,000.00. Specifically, the mortgage deeds stated that the mortgaged property includes a two-storey residential building with a floor area of 220 sq. meters.[4]

After the spouses had failed to pay the loan, CCDB foreclosed on the mortgage and acquired the mortgaged property in 1984.[5] After no redemption was made, CCDB consolidated title to the property with Transfer Certificate of Title (TCT) No. 115486 issued in its name.[6]

In the meantime, Isabelita, who had since married respondent Danilo Alcantara, had purchased in July of 1983, from Florencio Oliveros, a 76 square meter lot adjacent to the house which she earlier bought from RBTRI.[7] It

is not clear whether the spouses Alcantara had resided in the house, but beginning in 1987 they rented out the lower floors of the house to petitioner Jerly Contreras (Contreras), who resided therein.

CCDB advertised its intention to sell the subject land, but there were no buyers from 1986 until 1990. In March 1990, CCDB and Contreras entered into a Contract to Sell involving the subject land, "together with the improvements existing thereon." [8] This was followed by a Deed of Absolute Sale dated 13 November 1990 wherein Contreras purchased from CCDB, for the amount of P212,400.00, the subject land "together with the improvements existing thereon." [9]

Even before the Deed of Absolute Sale was executed, the Alcantaras wrote CCDB concerning the Contract to Sell between it and Contreras. Therein, they informed the bank that they were the owners of the adjacent lot; that they had not been made aware of the Contract to Sell until after its execution; and that they were willing to avail of their preferential right to purchase as provided by the Civil Code. [10]

In 1991, the Alcantaras filed a Complaint with the Regional Trial Court (RTC) of Antipolo, Rizal, seeking the annulment of the Deed of Absolute Sale between Contreras and CCDB. [11] Impleaded as defendants were Contreras and her husband Renato, CCDB, and the spouses Matawaran. The case was docketed as Civil Case No. 91-222 and raffled to Branch 71 of the Antipolo RTC.

In their complaint, the Alcantaras identified the lot on which the house stood as Lot A-4 of the subdivision plan (LRC) Psd-282785, as identified in TCT No. N-37840 in the name of the spouses Matawaran, and its replacement in TCT No. 115486, which was issued in the name of CCDB. The Alcantaras asserted their ownership over the house even as the land on which it stood belonged to a different party. As such, they argued that the Matawaran spouses had no capacity to include the house as part of the property mortgaged to CCDB, as they were not the owners of the structure. In turn, CCDB could not have acquired ownership of the house when it foreclosed on the mortgage and, consequently too, the sale between CCDB and Contreras could not have included the house either.

Still, the Alcantaras prayed for the annulment of the Deed of Absolute Sale between CCDB and Contreras. Reiterating their ownership of the lot adjacent to the subject land, the Alcantaras claimed that they are entitled to exercise their right of pre-emption and redemption under Article 1622 of the Civil Code, and thus specifically prayed that the trial court "[allow] the plaintiffs to exercise their right of pre-emption and redemption under Article 1622 of the Civil Code of the Philippines." A claim for damages was also posed in the complaint.

An attempt by Contreras to move for the dismissal of the case was initially successful but the victory proved to be short-lived as the RTC reconsidered its earlier order of dismissal. She then filed her answer with a counterclaim for damages, wherein she asserted that the subject house was included in the sale between the CCDB and herself. This answer was filed by Atty. Melanio Zoreta in behalf not only of Contreras, but of all defendants, "save Matawaran and Oliveros." [12]

CCDB, through a different counsel, would eventually file its own answer independent of the Contreras spouses. An accompanying motion manifested that CCDB had not been aware that Atty. Zoreta, who had represented the bank in all of its court cases, was also acting as counsel for Contreras. [13] While CCDB's new answer also prayed for the dismissal of the complaint, it also lodged a cross-claim against the Contreras and the Matawaran spouses, seeking to hold them liable to CCDB "in the remote event that judgment is rendered against" the bank.

The Matawaran spouses also filed their own Answer, [14] wherein they admitted that the Alcantaras are the owners of the subject house, even as it was built on their former property. The Matawarans further claimed that they never misrepresented to CCDB that they had owned the subject house, and that the bank had very well known that the house was actually owned by the Alcantaras. [15]

In the midst of the trial that ensued, Contreras died and was substituted by her parents, Francisco and Lourdes Pascual.[16] On 15 April 1997, the RTC rendered a Decision[17] that affirmed the Alcantaras' ownership over the subject house; ordered the surrender of possession of the house to the Alcantaras; declared the Deed of Absolute Sale dated 13 November 1990 as null and void; and ordered the conveyance by CCDB to the Alcantaras of "the subject property described as Lot A-4 covered by TCT No. 115486 upon payment by [the Alcantaras] to [CCDB] the amount of P212,400.00, but which amount should be returned to defendant spouses Francisco and Lourdes Pascual by the defendant bank." [18]

In ruling in this manner, the RTC found that the evidence clearly established the Alcantaras' ownership of the subject house, as evidenced by the Deed of Sale between RBTRI and Isabelita, the various tax declarations, the testimony of Lourdes Pascual that petitioner had rented the house from the Alcantaras beginning in 1987, and the declaration of the Matawarans that they were not the owners of the house. These facts, found by the RTC, were sufficient to "negate the general presumption that the accessory follows the principal." From this finding, the RTC held that it was error on the part of CCDB to have included the subject house in the deed of sale it executed with Contreras when in fact the said house was never included in the mortgage executed by the spouses Matawaran, who had no capacity anyway to mortgage such house.

The RTC further held that the Alcantaras were entitled to exercise the right of pre-emption:

It is [a] well-settled rule that the owner of an adjoining land is given the right of pre-emption when the said land is to be sold.

The situation in the instant case may not be exactly the case called for under Article 1622 of the New Civil Code, but the principle laid down under the said rule may be applied in this case in the absence of a particular law.

It is only but just and fair that the owner of the adjoining lot is given the right of pre-emption as it would be more beneficial to him. In the instant case, the Court honestly believes that the plaintiffs, who are not only the owners of the lot adjoining the property foreclosed by the defendant bank, but also owners of the house erected on a portion of the said property, be given the preferential right to buy the property.[19]

Petitioner appealed the RTC decision to the Court of Appeals.[20] On 30 August 2002, the Court of Appeals rendered a decision affirming in toto the RTC.[21] The appellate court affirmed the findings that the Alcantaras were then, and still are, the owners of the subject house, and thus the Matawarans could not have included the same in their mortgage agreement with CCDB. The Court of Appeals also held that since the ownership by the Alcantaras of the adjacent lot was never controverted, the RTC had validly applied Articles 1621 and 1622 of the Civil Code, which allow the adjoining owner to exercise the right of pre-emption.

The present petition raises only two issues. The first issue deserves scant consideration.

Concerning the first issue, petitioner alleges that the copy they had received of the Court of Appeals decision dated 30 August 2002 was not signed by the ponente and the members of the Twelfth Division which had rendered the decision. That said, she points to Section 1, Rule 36 of the Rules of Civil Procedure, which requires that a judgment or final order determining the merits of the case be signed by the judge who prepared the decision. Proof of this allegation is supported by the Petition's Annex "A," which is represented as the copy of the seven (7)-page decision received by petitioner.[22] A cursory look at this Annex indicates that page 6, which is supposed to contain the signatures of the ponente and the concurring justices, is unsigned.[23] However, the first five pages bear the initials of the ponente, Associate Justice Elvi John Asuncion,[24] while the seventh page bears the signed Certification of the Chairperson of the Twelfth Division, Associate Justice Portia Aliño-Hormachuelos. The first page of the decision attached as Annex "A" also bears the signature of the Division Clerk of Court,

Marie Claire Victoria Mabutas-Sordan.[25]

Petitioner's contention could have been a source of worry had the decision, as filed with the official records of the Court of Appeals, failed to bear the signatures of the members of the Twelfth Division. But that is not the case. The decision, as attached to the rollo of the Court of Appeals, does bear the signature of the ponente and the two concurring Justices from the Twelfth Division. Petitioner further admits that the certified photocopy of the decision she secured from the Court of Appeals prior to the filing of this petition reflects the complete signatures of the three members of the Twelfth Division.

The signature requirement under Section 1 of Rule 36, which is rooted in the most common of senses, is necessitated as indubitable proof that the judges who prepared and concurred in the decision actually did so. Such proof, in this case, is reflected in the copy of the decision that appears in the official records of the Court of Appeals. Moreover, in this case, there is no difference at all between the unsigned page 6 attached by petitioner, and the signed page 6 that appears on the record. There is no alteration or intercalation in either copy that may have indicated a difference between the decision the justices were actually signing and the decision actually sent to the parties. Considering that the copy sent to petitioner does bear, in all other pages save for the sixth, the initials of the ponente, and the certifications of the clerk of court and the division chairperson, we are wont to believe that the transmission of the unsigned page six to petitioner is nothing more than a clerical error. Insofar as such clerical error may give rise to suspicions of untoward behavior, the Court of Appeals may be faulted. Yet it cannot give rise to the nullification of the decision which, as recorded in the official files of the Court of Appeals, has no such formal infirmity.

The second issue raised by petitioner is the claim that the RTC, in ordering the bank to convey the subject land to the Alcantaras upon payment of the amount of P212,400.00, exceeded its jurisdiction by "award[ing] reliefs not asked for by [the Alcantaras]."[26] Petitioner alleges that "nowhere in the whole complaint, in the reliefs prayed for or in the evidence presented did [the Alcantaras] ever demand from [petitioner] that the house and lot containing an area of [354] square meters with a residential house erected thereon be sold to them at a measly sum of [P214,400.00]."[27]

As it happens, that "measly sum" happens to be the exact amount for which CCDB had sold the subject property to petitioner, as evidenced by the Deed of Absolute Sale which petitioner herself had attached to her Answer before the RTC.[28] It is hardly the case of the trial court pulling a rabbit out of the hat, for the precise relief granted by the RTC is drawn from the Alcantaras' specific prayer in their complaint that sought a judgment "allowing the plaintiffs to exercise their right of pre-emption and redemption under Article 1622 of the Civil Code of the Philippines, and directing [CCDB] to instead convey Lot A-4 registered under Transfer Certificate of Title No. N-115486 of the Register of Deeds of Rizal in favor of the plaintiffs." [29]

Petitioner has taken the effort of reproducing the entire complaint in the text of the present petition[30] to stress that what the Alcantaras were merely claiming was "a portion of the house, but never the whole house and lot as what the Regional Trial Court illegally ruled." [31] This is erroneous. For one, the complaint proceeded from the premise that the Alcantaras were still the owners of the whole house, and thus sought a judicial affirmation of such ownership. In paragraph 20 of the complaint the Alcantaras further explained that they are also the owners of the adjacent lot, while in paragraph 23 they manifested that they "are now actively asserting their right of ownership over the HOUSE in question and their pre-emptive right over the lot whereon it stands." Finally, in paragraph 29 they asserted that they "should therefore be allowed to exercise their right of pre-emption and redemption under Article 1622 of the Civil Code of the Philippines."

Clearly, it is sufficiently alleged in the complaint that the Alcantaras are entitled to exercise their right of

pre-emption and redemption under Article 1622 of the Civil Code. They specifically prayed that judgment be rendered entitling them to exercise such right, which under Article 1622 entails the following:

Art. 1622. Whenever a piece of urban land which is so small and so situated that a major portion thereof cannot be used for any practical purpose within a reasonable time, having been bought merely for speculation, is about to be re-sold, the owner of the adjoining land has a right of pre-emption at a reasonable price.

If the re-sale has been perfected, the owner of the adjoining land shall have a right of redemption, also at a reasonable price.

x x x x

The petition betrays a lack of understanding on petitioner's part that the exercise of the right of redemption would entail the reconveyance to petitioner of the subject land on which the house stands. This relief stands apart from the judicial affirmation in the same RTC decision that the Alcantaras are also the owners of the house. It was not the case, as petitioner says, of the Alcantaras lodging a claim only as against the house, as they had also lodged a claim against the subject land proceeding from their right of redemption under Article 1622. In the case at bar, the trial court found that the Alcantaras were entitled to exercise their rights under Article 1622, but it would not have been sufficient nor correct for it to just make the corresponding pronouncement in the decision and then stop. The relief assailed by petitioner as unwarranted is nothing more but the affordance of the right of redemption to the Alcantaras at the same reasonable price the bank had sold the property to petitioner. We see no error in granting such relief.

We are somewhat mystified why petitioner, through this petition, has confined herself to issues that are utterly formalistic in nature, yet ultimately unmeritorious. The decision of the RTC raises a host of potential controversies, such as whether Article 1622 should apply in this case or whether the ownership of the Alcantaras of the house in question was indeed sufficiently proven considering that the main basis of such ownership appears to have been the long-standing regard that her predecessor-in-interest, Leis, was unquestionably the owner of the house. Given the unequivocal rulings of the RTC and the Court of Appeals on the points, it would be expected of petitioner to squarely argue that there was no sufficient proof establishing that the Alcantaras are the owners of the house or that the requisites for applying Article 1622 are present. That petitioner has not couched her arguments clearly to that effect can only lead to the conclusion that she agrees with the findings of the lower courts that the Alcantaras are the owners of the house and that the requisites under Article 1622 have been met. Considering that such questions are ultimately rooted in findings of fact, which the Court is not wont to review, there is no cause for us to deeply inquire into such issues. Since the arguments which are actually raised in the petition lack merit, the expedient dismissal of the petition is in order.

WHEREFORE, the petition is DISMISSED. Costs against petitioner.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio Morales, and Velasco, Jr., JJ., concur.

[1] Records, p. 261.

[2] Id.

[3] Id. at 9.

[4] Id. at 66.

- [5] Id. at 357-361.
- [6] Id. at 362.
- [7] Id. at 19-20.
- [8] Id. at 268-269.
- [9] Id. at 363-364.
- [10] Id. at 276.
- [11] See rollo, pp. 74-83.
- [12] Records, p. 87.
- [13] Id. at 113-115.
- [14] Id. at 186-191.
- [15] Id. at 187.
- [16] Id. at 222.
- [17] Rollo, pp. 121-127; Penned by Executive Judge Felix S. Caballes.
- [18] Id. at 127.
- [19] Id. at 126.
- [20] CCDB also filed a Notice of Appeal, but its appeal was dismissed when it failed to file an appeal brief.
- [21] See CA rollo, pp. 77-82.
- [22] Rollo, pp. 45-51.
- [23] Id. at 43.
- [24] Id. at 38-42.
- [25] Id. at 38.
- [26] Id. at 23.
- [27] Id. at 24.
- [28] Id. at 99-100.
- [29] Id. at 79.
- [30] Id. at 24-30.
- [31] Id. at 30.

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