

**REPUBLIC OF THE PHILIPPINES, Represented by MACTAN-CEBU
INTERNATIONAL AIRPORT AUTHORITY (MCIAA), Petitioner, VS. HEIRS
OF FRANCISCA DIGNOS-SORONO, namely: TEODORO SORONO, LUCIO**

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G.R. No. 171571. March 24, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Assailed via petition for review on certiorari is the April 23, 2005 decision of the Court of Appeals[3] affirming that of the Regional Trial Court (RTC) of Lapu-lapu City, Branch 54.[4]

Lot Nos. 2296 and 2316 of the Cadastral Survey of Opon, Lapu-lapu City were adjudicated on December 7, 1929 by the then Court of First Instance of Cebu in favor of the following in four equal shares:

- a) Francisca Dignos, married to Blas Sorono – ¼ share in the two lots;
- b) Tito Dignos, married to Candida Torrebillas – ¼ share in the two lots;
- c) Isabel Dignos, married to Fabiano Amores;
Donata Dignos, married to Estanislao Fuentes;
Segunda Dignos, married to Demetrio Cortes;
Gregoria Dignos, married to Severo Fuentes;
Domingo Dignos, married to Venturada Potot; and
Isabelo Dignos, married to Petronilla Gamallo – ¼ share in the two lots; and
- d) Silveria Amistuososo, married to Melecio Tumulak;
Mario Amistuososo, married to Rufina Tampus;
Juan Amistuososo, married to Narcisa Cosef;
Brigilda Amistuososo, married to Casimiro Yagong; and
Pastor Amistuososo, widower – ¼ share in the two lots.[5]

It appears that the two lots were not partitioned by the adjudicatees.

It appears further that the heirs of Tito Dignos, who, as reflected above, was awarded ¼ share in the two lots, sold for P2,565.59 the entire two lots to the then Civil Aeronautics Administration (CAA) via a public instrument entitled “Extrajudicial Settlement and Sale” executed on October 11, 1957, without the knowledge of respondents whose predecessors-in-interest were the adjudicatees of the rest of the ¾ portion of the two lots.[6]

In 1996, CAA’s successor-in-interest, the Mactan Cebu International Airport Authority (MCIAA), erected a security fence traversing Lot No. 2316 and relocated a number of families, who had built their dwellings within the airport perimeter, to a portion of said lot to enhance airport security in line with the standards set by the International Civil Aviation Organization and the Federal Aviation Authority.

MCIAA later caused the issuance in its name of Tax Declaration No. 00548 covering Lot No. 2296 and Tax Declaration No. 00568 covering Lot No. 2316.

Respondents soon asked the agents of MCIAA to cease giving third persons permission to occupy the lots but the same was ignored.

Respondents thereupon filed on January 8, 1996 a Complaint for Quieting of Title, Legal Redemption with Prayer for a Writ of Preliminary Injunction against MCIAA before the RTC of Lapu-lapu City,[7] alleging that the existence of the tax declarations “would cast a cloud on their valid and existing titles” to the lots. They alleged that “corresponding original certificates of title in favor of the decreed owners were . . . issued but the same could no longer be found and located, and in all probability, were lost during the Second World War.”[8] (This claim was not specifically denied by petitioner in its Answer with Counterclaim.)[9]

Respondents further alleged that neither they nor their predecessors-in-interests sold, alienated or disposed of their shares in the lots of which they have been in continuous peaceful possession.

Respondents furthermore alleged that neither petitioner nor its predecessor-in-interest had given them any written notice of its acquisition of the ¼ share of Tito Dignos.

Respondents thus prayed as follows:

- 1) Upon the filing of this complaint, that a restraining order be issued enjoining the defendant and any of its officers, agents, employees, and any third person acting on their behest, to desist from occupying their portions of Lots 2296 and 2316, Opon Cadastre, and upon due notice and hearing, to issue the corresponding writ of preliminary injunction for the same purpose;
- 2) To declare the tax declarations of the defendant or any of its predecessors-in-interests covering Lots 2296 and 2316, Opon Cadastre, to be null and void;
- 3) To grant unto the plaintiffs the right of preemption in the sale of the one-fourth share of Tito Dignos in the above-mentioned parcels of land under the provisions of Articles 1620 and 1623 of the Civil Code;
- 4) To order the defendant to reimburse plaintiffs the sum of P10,000.00 acceptance fee, the sums of P1,000.00 per appearance fee, the sum of P10,000.00 for costs of litigation;
- 5) To order the defendant to pay the plaintiffs the sum of P100,000.00 for moral damages.

Plaintiffs further pray for such orders as may be just and equitable under the premises.[10] (Underscoring supplied)

Republic of the Philippines, represented by the MCIAA (hereafter petitioner), in its Answer with Counterclaim,[11] maintained that from the time the lots were sold to its predecessor-in-interest CAA, it has been in open, continuous, exclusive, and notorious possession thereof; through acquisitive prescription, it had acquired valid title to the lots since it was a purchaser in good faith and for value; and assuming arguendo that it did not have just title, it had, by possession for over 30 years, acquired ownership thereof by extraordinary prescription.

At all events, petitioner contended that respondents’ action was barred by estoppel and laches.

The trial court found for respondents. It held that respondents and their predecessors-in-interest were in peaceful and continuous possession of their shares in the lots, and were disturbed of such possession only in 1996 when petitioner put up the security fence that traversed Lot No. 2316 and relocated families that had built their houses within the airport perimeter to a portion of said lot.

On petitioner’s claim that it had acquired ownership by extraordinary prescription, the trial court brushed it aside

on the ground that registered lands cannot be the subject of acquisitive prescription.

Neither, held the trial court, had respondents' action prescribed, as actions for quieting of title cannot prescribe if the plaintiffs are in possession of the property in question, as in the case of herein respondents.

On petitioner's defense of laches, the trial court also brushed the same aside in light of its finding that respondents, who have long been in possession of the lots, came to know of the sale only in 1996. The trial court added that respondents could not be charged with constructive notice of the 1957 Extrajudicial Settlement and Sale of the lots to CAA as it was erroneously registered under Act No. 3344,[12] the law governing recording of instruments or deeds relating to real estate which are not registered under the Torrens system. The subject lots being registered, the trial court found, the registration of the deed should have been made under Act No. 496,[13] the applicable law in 1957. In fine, the trial court held that the registration of the deed under Act No. 3344 did not operate as constructive notice to the whole world.[14]

Concluding, the trial court held that the questioned sale was valid only with respect to Tito Dignos' $\frac{1}{4}$ share of the lots, and that the sale thereof was subject to the right of legal redemption by respondents following Article 1088 of the Civil Code, reading:

Should any of the heirs sell his hereditary rights to a stranger before partition, any or all of the co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the price of the sale, provided they do so within the period of one month from the time they were notified in writing of the sale by the vendor.

In light of its finding that the heirs of Tito Dignos did not give notice of the sale to respondents, the trial court held that the period for legal redemption had not yet lapsed; and the redemption price should be $\frac{1}{4}$ of the purchase price paid by the CAA for the two lots.

The trial court thus disposed:

WHEREFORE, all premises considered, the Court rules in favor of plaintiffs and hence renders judgment:

- a) Declaring Tax Declarations Nos. 00915 and 00935, as well as all other tax declarations covering Lot 2296 and Lot 2316 under the names of the Civil Aeronautics Administration, the Bureau of Air Transportation and the defendant Mactan Cebu International Airport Authority, as null and void and directing the City Assessor of Lapu-Lapu City to cancel them;
- b) Declaring the Extrajudicial Settlement and Sale affecting Lot 2296 and Lot 2316 (Exhibit "H" for plaintiffs) as void and ineffective as regards the three-fourth[s] ($\frac{3}{4}$) shares of plaintiffs in both lots and declaring the herein plaintiffs as owners of such three fourth[s] shares and;
- c) Ordering the defendant to resell to plaintiffs for a total price of Six Hundred forty Pesos (P640.00) the one-fourth ($\frac{1}{4}$) shares in Lot 2296 and Lot 2316 it had purchased from the heirs of the late Tito Dignos in 1957;

No pronouncement as to costs.

SO ORDERED. [15]

As priorly stated, the Court of Appeals affirmed the trial court's decision.

Hence, the present petition for review on certiorari which proffers the following

GROUNDS FOR ALLOWANCE OF THE PETITION

THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION WHEN RESPONDENTS NO LONGER HAVE ANY RIGHT TO RECOVER LOTS 2296 AND 2316 DUE

TO THE PRIOR SALE THEREOF TO THE REPUBLIC AND UPON THE EQUITABLE GROUNDS OF ESTOPPEL AND LACHES.[16]

The petition fails.

Article 493 of the Civil Code provides:

Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation of the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Apropos is the following pertinent portion of this Court's decision in *Bailon-Casilao v. CA*:

As early as 1923, this Court has ruled that even if a co-owner sells the whole property as his, the sale will affect only his own share but not those of the other co-owners who did not consent to the sale [*Punsalan v. Boon Liat*, 44 Phil. 320 (1923)]. This is because under the aforementioned codal provision, the sale or other disposition affects only his undivided share and the transferee gets only what would correspond to his grantor in the partition of the thing owned in common. [*Ramirez v. Bautista*, 14 Phil. 528 (1909)]. Consequently, by virtue of the sales made by Rosalia and Gaudencio Bailon which are valid with respect to their proportionate shares, and the subsequent transfers which culminated in the sale to private respondent Celestino Afable, the said Afable thereby became a co-owner of the disputed parcel of land as correctly held by the lower court since the sales produced the effect of substituting the buyers in the enjoyment thereof [*Mainit v. Bandoy*, 14 Phil. 730 (1910)].

From the foregoing, it may be deduced that since a co-owner is entitled to sell his undivided share, a sale of the entire property by one co-owner without the consent of the other co-owners is not null and void. However, only the rights of the co-owner-seller are transferred, thereby making the buyer a co-owner of the property.[17] (Emphasis and underscoring supplied)

Petitioner's predecessor-in-interest CAA thus acquired only the rights pertaining to the sellers-heirs of Tito Dignos, which is only $\frac{1}{4}$ undivided share of the two lots.

Petitioner's insistence that it acquired the property through acquisitive prescription, if not ordinary, then extraordinary, does not lie. The trial court's discrediting thereof is well taken. It bears emphasis at this juncture that in the Extrajudicial Settlement and Sale forged by CAA and Tito Dignos' heirs in 1957, the following material portions thereof validate the claim of respondents that the two lots were registered:

x x x x

- That since the Original Transfer Certificate of Title of the above-mentioned property/ies has/have been lost and/or destroyed, or since the said lot/s is/are covered by Cadastral Case No. 19, and a decree issued on March 19, 1930, bearing Decree No./s 474824 & 474825, and the VENDEE hereby binds itself to reconstitute said title/s at its own expense and that the HEIRS-VENDORS, their heirs, successors and assigns bind themselves to help in the reconstitution of title so that the said lot/s may be registered in the name of the VENDEE in accordance with law[.][18]

x x x x

The trial court's discrediting of petitioner's invocation of laches and prescription of action is well-taken too.

As for petitioner's argument that the redemption price should be $\frac{1}{4}$ of the prevailing market value, not of the actual purchase price, since, so it claims, "(1) they received just compensation for the property at the time it was

purchased by the Government; and, (2) the property, due to improvements introduced by petitioner in its vicinity, is now worth several hundreds of millions of pesos,”[19] the law is not on its side. Thus, Article 1088 of the Civil Code provides:

Should any of the heirs sell his hereditary rights to a stranger before the partition, any or all of the co-heirs may be subrogated to the rights of the purchaser by reimbursing him for the price of the sale, provided they do so within the period of one month from the time they were notified in writing of the sale by the vendor. (Emphasis and underscoring supplied)

The Court may take judicial notice of the increase in value of the lots. As mentioned earlier, however, the heirs of Tito Dignos did not notify respondents about the sale. At any rate, since the Extrajudicial Settlement and Sale stipulates, thus:

That the HEIRS-VENDORS, their heirs, assigns and successors, undertake and agree to warrant and defend the possession and ownership of the property/ies herein sold against any and all just claims of all persons whomsoever and should the VENDEE be disturbed in its possession, to prosecute and defend the same in the Courts of Justice[20] (Emphasis and underscoring supplied),

petitioner is not without any remedy. This decision is, therefore, without prejudice to petitioner’s right to seek redress against the vendors-heirs of Tito Dignos and their successors-in-interest.

WHEREFORE, the petition is, in light of the foregoing disquisition, DENIED.

SO ORDERED.

Quisumbing, (Chairperson), Tinga, Chico-Nazario, and Velasco, J.r., JJ., concur.

[1] Also spelled Amistuosos in some parts of the records.

[2] The Court of Appeals was originally impleaded but was omitted pursuant to Section 4, Rule 45 of the Rules of Court.

[3] Penned by Justice Mercedes Gozo-Dadole and concurred in by Justice Pampio A. Abarintos and Justice Sesinando E. Villon, all of the Court of Appeals; CA-G.R. CV. No. 64614, rollo, pp. 53-64.

[4] Civil Case No. 4373-L, For: Quieting of Title, Legal Redemption with Prayer for Preliminary Injunction, id. at 114-122.

[5] Records, p. 183.

[6] Rollo, pp. 95-99.

[7] Records, p. 2.

[8] Vide Defendant[-petitioner]’s Answer with Counterclaim, id., pp. 55-61.

[9] Ibid.

[10] Id. at 3-4.

[11] Id. at 55-61.

[12] The trial court inadvertently referred to the law as Republic Act No. 3344.

[13] The trial court inadvertently referred to the law as Republic Act No. 496.

[14] Rollo, pp. 118-121.

[15] Id. at 122.

[16] Id. at 40-41.

[17] G.R. No. 78178, April 15, 1988, 160 SCRA 738, 745.

[18] Records, pp. 127-128.

[19] Rollo, p. 47.

[20] Records, p. 127.

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