

**PEBLIA ALFARO AND THE HEIRS OF PROSPEROUS ALFARO,
NAMELY: MARY ANN PEARL ALFARO & ROUSLIA ALFARO,
PETITIONERS, VS. SPOUSES EDITHO AND HERA DUMALAGAN,
SPOUSES CRISPIN AND EDITHA ...**

G.R. No. 186622. January 22, 2014

Ponente: PEREZ, J.

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PEREZ, J.:

For review on certiorari is the Decision[1] of the Court of Appeals dated 20 May 2008, which reversed and set aside the Regional Trial Court Decision[2] dated 7 August 2006 in Civil Case No. CEB-27400 for Annulment of Title, Preliminary Injunction with Temporary Restraining Order and Damages.

The facts as culled from the records are as follows:

The lot in controversy is Lot No. 1710, covered by TCT No. T-78445, consisting of an estimated area of 2,287 sq m, more or less, located in Talisay-Minglanilla Estate, Brgy. San Roque, Talisay City, registered in the name of Olegario Bagano. On 14 June 1995, Bagano sold the subject property to petitioner Spouses Prosperous and Peblia Alfaro (Spouses Alfaro) through a Deed of Absolute Sale.

Petitioners caused the immediate transfer of the title in their names on 20 June 1995, now TCT No. T-92783, and at the same time, paid the real property tax, and constructed a perimeter fence around the subject property.

In preservation of their right as occupants of the subject property, respondents filed the instant case.[3]

According to respondent Spouses Editho and Hera Dumalagan (Spouses Dumalagan), they are the real owners of Lot No. 1710-H, a portion of the subject property, based on a notarized Deed of Absolute Sale dated 6 December 1993.[4] To prove ownership and possession, respondents offered in evidence a Certificate of Completion (Exhibit “C”) and a Certificate of Occupancy (Exhibit “C-3”), both dated 10 August 1993[5] and Visayan Electric Company Inc. electric bills.[6] Right after their purchase from Bagano, respondent Spouses Dumalagan immediately took possession of the subject property and constructed a nipa hut therein, which they later on leased to Ramil Quiñineza, who then occupied the subject property until the end of 1997. Since then, several tenants have occupied the subject property, paying monthly rentals to respondent Spouses Dumalagan: Spouses Crispin and Editha Dalogdog, Spouses Alberto and Lucy Boncales, and Spouses Mariano and Constancia Castaños.

Meanwhile, Spouses Bagano filed a complaint for Declaration of Nullity of Sale with Damages and Preliminary Injunction against petitioners on 15 April 1996 entitled, “Spouses Olegario P. Bagano and Cecilia C. Bagano v. Spouses Peblia and Prosperous Alfaro” (“Bagano case” for brevity), docketed as Civil Case No. CEB-18835, in the Cebu City RTC, Branch 12.[7] In the Bagano case, this Court sustained the validity of the Deed of Absolute Sale executed on 14 June 1995 between petitioners and Spouses Bagano.[8]

In the case at bar, the trial court dismissed the complaint for lack of cause of action on 7 August 2006. The

dispositive portion of the dismissal reads:[9]

Accordingly, for lack of cause of action, the complaint is hereby DISMISSED. Plaintiff-spouses Editho and Hera Dumalagan jointly and solidarily are directed to pay defendants the following sums:

1. P50,000.00 as moral damages;
2. P30,000.00 as attorney's fees;
3. P15,000.00 as litigation expenses.

SO ORDERED.

According to the trial court:

In sum, because of the unreliability of the testimonial evidence presented by the plaintiffs, this court finds no basis to conclude that the defendants were indeed informed prior to June 20, 1995, that portions of Lot No. 1710, including Lot No. 1710-H were already owned by the plaintiffs and other parties.

In other words, the plaintiffs failed to establish that defendants were in bad faith when they bought Lot No. 1710 in 1995.[10]

Aggrieved, respondents elevated the case to the Court of Appeals. On 20 May 2008, the appellate court reversed and set aside the trial court decision. The dispositive portion of the Decision reads as:[11]

- Declaring TCT No. T-92783 of the defendants-appellees as Null and Void insofar as it included Lot No. 1710-H consisting of Two Hundred Twelve (212) square meters of plaintiffs-appellants Sps. Editho and Hera Dumalagan;
- Declaring plaintiffs-appellants Sps. Editho and Hera Dumalagan as lawful owners of Lot No. 1710-H, including the improvements thereon.
- Ordering the defendants-appellees liable to pay to plaintiffs-appellants Sps. Editho and Hera Dumalagan the amount P20,000 as moral damages; and
- Ordering the defendants-appellees liable to pay to plaintiffs-appellants Sps. Editho and Hera Dumalagan the amount P30,000 as attorney's fees and litigation expenses.

According to the appellate court, petitioners cannot claim good faith. It referred to annotations written at the back of Bagano's title. It noted that the annotated adverse claims, even if not in the names of respondents, have the effect of charging petitioners as subsequent buyers with constructive notice of the defect of the seller's title. Moreover, as shown by the records, petitioners had prior knowledge that portions of the subject property have been sold to third persons.[12]

On 9 February 2009, the Court of Appeals denied the motion for reconsideration affirming its decision.[13]

Hence this Petition with the following assignment of errors:

- THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN PARTIALLY REVERSING A DECISION OF THE SUPREME COURT INVOLVING THE ISSUES OF OWNERSHIP OVER THE SAME LOT;
- THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN DECLARING PETITIONERS AS BUYERS IN BAD FAITH MERELY ON THE BASIS OF AN EXPIRED ADVERSE CLAIM OF ALLEGED PRIOR PURCHASERS- WHO ARE NOT EVEN PARTIES HEREIN; and
- THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR AS WELL AS JUDICIAL

LEGISLATION IN DECLARING THAT AN ADVERSE CLAIM, EVEN IF ALREADY EXPIRED, IS STILL CONSIDERED CONSTRUCTIVE NOTICE.

As just noted, this Court sustained the validity of the Deed of Absolute Sale between Spouses Bagano and petitioners in the Bagano case. On this basis, petitioners contend that the Supreme Court's decision in the Bagano case constitutes *res judicata* apropos the case at bar. According to petitioners, respondents, even if they were not made parties, are bound by the Court's ruling on the ownership in favor of petitioner.[14] Petitioners contend that the appellate court violated the doctrine of *res judicata* when it sustained the validity of the Deed of Absolute Sale as it unduly awarded ownership of the subject property to respondents, obliquely reversing the Supreme Court's decision in the Bagano case.

Res judicata refers to the rule that a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on all points and matters determined in the former suit.[15] The elements of *res judicata* are as follows: (1) the former judgment or order must be final; (2) the judgment or order must be on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and the second action, identity of parties, of subject matter and cause of action.[16]

We shall discuss each element in *seriatim*.

Our decision in the Bagano case on the merits has long been final. Also, the court *a quo* has jurisdiction over the subject matter and the parties. However, on the issue on identity of parties and cause of action, We rule in the negative.

In the Bagano case, the parties are herein petitioner Spouses Alfaro and the Spouses Bagano, as privies to the Deed of Absolute Sale dated 14 June 1995. In the case at bar, the parties are petitioner Spouses Alfaro and respondent Spouses Dumalagan basing their rights on the Deed of Absolute Sale dated 3 December 1993. There is, thus, no identity of parties.

In the Bagano case, the cause of action is the alleged forgery of the Deed of Absolute Sale by petitioners; the crux of the case being the validity of the sale between Bagano and petitioners. In the case at bar, the cause of action is the violation of right of ownership of respondent Spouses Dumalagan. Clearly, there is no identity of cause of action. Therefore, the doctrine of *res judicata* is inapplicable in the case at bar. The appellate court did not reverse a Supreme Court decision.

Petitioners also contend that respondents should have intervened in the Bagano case; for failure to intervene, the latter are bound by the judgment for bad faith and/or laches.[17] Petitioners' claim must fail. In *Mactan-Cebu International Airport Authority v. Heirs of Estanislao Miñoza, et. al.*, this Court clarified that:

xxx an independent controversy cannot be injected into a suit by intervention, hence, such intervention will not be allowed where it would enlarge the issues in the action and expand the scope of the remedies. It is not proper where there are certain facts giving the intervenor's case an aspect peculiar to himself and differentiating it clearly from that of the original parties; the proper course is for the would-be intervenor to litigate his claim in a separate suit. Intervention is not intended to change the nature and character of the action itself, or to stop or delay the placid operation of the machinery of the trial. The remedy of intervention is not proper where it will have the effect of retarding the principal suit or delaying the trial of the action.[18]
[Emphasis supplied]

In line with this ruling, the issue on double sale, which concerns the present case cannot be injected into the Bagano case, which is based on facts peculiar to the transaction between Bagano and petitioners. For one, herein respondents claim ownership of only a portion of the property litigated in the Bagano case, and the basis of

respondents' claim is a prior sale to them by Bagano, whose authority as a seller was an unquestioned fact. Neither of the parties in the second Bagano sale made any mention of the first sale of a part of the property to respondents.

We shall discuss the second and third issues together as they are closely related.

A simple perusal of the records will reveal that there were two adverse claims annotated in the title: (1) 22 February 1995, executed by Maria Theresa Dimaguila and Andrew D. Sepe,[19] and (2) 6 April 1995, executed by Spouses Lorenzo and Milagros Belandres.[20] However, petitioners contend that the annotated adverse claims have already expired pursuant to Section 70 of Presidential Decree No. 1529, which provides that an adverse claim shall be effective only for a period of 30 days from the date of its registration. Petitioners claim that the "constructive notice" ended 30 days from 22 February 1995 or on 23 March 1995. Consequently, petitioners claim that because they purchased the subject property after 23 March 1995, they were, therefore, buyers in good faith.[21]

Section 70 of P.D. 1529[22] provides:

Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of certificates of title of the registered owner, the name of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of the said period, the annotation of adverse claim may be cancelled upon filing of a verified petition therefore by the party in interest: Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant. x x x x [Emphasis supplied]

The above provision would seem to restrict the effectivity of adverse claims to 30 days. However, the same should not be read separately, but should be read in relation to the subsequent sentence, which reads:[23]

After the lapse of said period, the annotation of adverse claim may be cancelled upon filing of a verified petition therefore by the party in interest. [Emphasis supplied]

The law, taken together, simply means that the cancellation of the adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien upon the property; for if the adverse claim already ceased to be effective upon the lapse of the said period, its cancellation is no longer necessary and the process of cancellation would be a useless ceremony.[24]

Therefore, petitioners cannot claim good faith on the basis of the supposed ineffectivity of the annotated adverse claims as the same have not been cancelled at the time of purchase. Assuming *arguendo* that the annotated adverse claims expired on 23 March 1995, petitioners still cannot claim good faith as they were fully aware that there were occupants in the subject property other than the seller. Worse, they were also fully aware that an occupant in the subject property bought the same; that aside from the nipa hut, there were also other structures in the subject property, one of which was built by Epifanio Pesarillo.[25]

As culled from the records, Mr. Pesarillo constructed a building in the subject property and occupied the same as evidenced by official receipts for construction materials[26] and various electrical bills and receipts.[27] In fact, it was no less than petitioner Peblia Alfaro, who admitted that there were other occupants in the subject

property:[28]

Q:

Before you bought this property from Mr. Bagano, did you try to inspect the property in order to find out if there are occupants on the subject property?

A:

Yes. I conducted an inspection of the site.

Q:

What did you find out?

A:

There was a person occupying there by the name of Pesarillo.

xxxx

Q:

Aside from Mr. Pesarillo, were there other occupants in the said lot?

A:

Yes. John Danao.

Q:

Are you trying to tell the court that Mr. John Danao was constructing a house on the said property?

A:

Yes, ma'am.

Q:

Were you able to talk to Mr. John Danao during the inspection that you have conducted?

A:

Yes, I have a talk with him once.

Q:

Will you please tell the court what did you talk about with Mr. John Danao?

A:

He told me that he purchased the lot by installment. But upon learning that we bought the lot he did not pursue talking to me. He went to Mr. Bagano to have a talk about the matter. xxxx [Emphasis supplied]

As correctly held by the appellate court:

xxx by the very fact that the title of Bagano was not clean on its face, the defendants-appellees [petitioners] were more than obliged to look beyond the former's title and make further inquiries about the extent of the latter's right and authority over the subject lot. In other words, defendants-appellees [petitioners] should have inquired deeper into the title and right of Bagano over Lot No. 1710. Obviously, the defendants-appellees

failed to take this precaution and instead proceeded with the purchase in haste. Had they done so as a reasonably prudent man buying real property should, they would have discovered that some portions of Lot 1710 had already been sold by Bagano to third persons who are already in possession of the same xxx[29]

Article 1544 of the Civil Code provides:[30]

If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith. [Emphasis supplied]

The aforesaid provision clearly states that the rule on double or multiple sales applies only when all the purchasers are in good faith. In detail, Art. 1544 requires that before the second buyer can obtain priority over the first, he must show that he acted in good faith throughout, i.e., in ignorance of the first sale and of the first buyer's rights, from the time of acquisition until the title is transferred to him by registration or failing registration, by delivery of possession.[31]

A purchaser in good faith is one who buys the property of another without notice that some other person has a right to, or an interest in such property, and pays a full and fair price for the same at the time of such purchase, or before he has notice of some other person's claim or interest in the property.[32] The petitioners are not such purchaser.

Petitioners had prior knowledge of the previous sales by installment of portions of the property to several purchasers. Moreover, petitioners had prior knowledge of respondents' possession over the subject property. Hence, the rule on double sale is inapplicable in the case at bar. As correctly held by the appellate court, petitioners' prior registration of the subject property, with prior knowledge of respondents' claim of ownership and possession, cannot confer ownership or better right over the subject property.[33]

The ruling in *Crisostomo v. Court of Appeals*, citing repeated pronouncements, is apropos:[34]

It is a well-settled rule that a purchaser or mortgagee cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor or mortgagor. His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in the vendor's or mortgagor's title, will not make him an innocent purchaser or mortgagee for value, if it afterwards develops that the title was in fact defective, and it appears that he had such notice of the defects as would have led to its discovery had he acted with the measure of precaution which may be required of a prudent man in a like situation. [Emphasis supplied]

WHEREFORE, the petition is DENIED. The Decision dated 20 May 2008 and Resolution dated 9 February 2009 of the Court of Appeals in CA-G.R. CEB CV. No. 01702 are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perlas-Bernabe, JJ. concur.

[1] Penned by Associate Justice Priscilla Baltazar-Padilla, with Associate Justices Franchito N. Diamante and

Florito S. Macalino concurring, docketed as CA-G.R. CEB CV. No. 01702. Rollo, pp. 32-43.

[2] Penned by Presiding Judge Gabriel T. Ingles. Records, pp. 342-369.

[3] Sps. Editho and Hera Dumalagan, Sps. Crispin and Editha Dalogdog, Sps. Mariano and Constancia Castanares and Sps. Alberto and Lucy Boncales v. Sps. Prosperous and Peblia Alfaro, Civil Case No. CEB-27400, RTC, Branch 58, Cebu City. Id. at 1-4.

[4] Rollo, p. 51.

[5] Records, p. 116.

[6] Id. at 117-120.

[7] Spouses Olegario P. Bagano and Cecilia C. Bagano v. Spouses Peblia and Prosperous Alfaro, Civil Case No. CEB-18835, RTC, Branch 12, Cebu City.

[8] Penned by Associate Justice Dante O. Tinga, with Associate Justices Leonardo A. Quisumbing, Antonio T. Carpio, Conchita Carpio Morales, Presbitero J. Velasco, Jr., concurring. Rollo, pp. 316-335.

[9] Id. at 214.

[10] Id. at 37.

[11] CA Rollo, pp. 184-185.

[12] Rollo, pp.38-39.

[13] Resolution dated 9 February 2009; id. at 29.

[14] Id. at 412.

[15] Allied Banking Corporation v. Court of Appeals, G.R. No. 108089, 10 January 1994, 229 SCRA 252, 257.

[16] Mirpuri v. Court of Appeals, 376 Phil. 628, 650 (1999).

[17] Rollo, pp. 20-21.

[18] G.R. No. 186045, 2 February 2011, 641 SCRA 520, 531-532.

[19] Exhibit “T-2”, records, p. 129.

[20] Exhibit “W-3”, id. at 207.

[21] Rollo, p. 413.

[22] Presidential Decree No. 1529, Section 70.

[23] Equatorial Realty Development, Inc., v. Sps. Desiderio, et. al., G.R. No. 128563, 25 March 2004, 426 SCRA 271, 278.

[24] Id.

[25] Rollo, pp. 80-87.

[26] Exhibits “I”- “M-1”, records, pp. 122-126.

[27] Exhibits “N”- “S-2”, id. at 127-128.

[28] TSN, 22 February 2002, p. 6.

[29] Rollo, pp. 41-42.

[30] CIVIL CODE, Art. 1544.

[31] Consolidated Rural Bank, Inc., v. CA, 489 Phil. 320, 334 (2005).

[32] Centeno v. Spouses Viray, 440 Phil. 881, 885 (2002).

[33] Consolidated Rural Bank Inc., v. CA, supra.

[34] 274 Phil. 1134, 1142-1143 citing *Leung Yee v. Strong Machinery Co.*, 37 Phil. 644, 651 (1918); *RFC v. Javillonar*, 57 O.G. 39 (1961); *C.N. Hodges v. Dy Buncio and Co., Inc.* and Court of Appeals, 116 Phil 595, (1962); *Manacop v. Cansino*, 61 O.G. 21; and *Gatioan v. Gaffud*, 137 Phil. 125, 133 (1969).

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