

**SPOUSES JOSE C. ROQUE AND BEATRIZ DELA CRUZ ROQUE, WITH
DECEASED JOSE C. ROQUE REPRESENTED BY HIS SUBSTITUTE HEIR
JOVETTE ROQUE-LIBREA, PETITIONERS, VS. MA. PAMELA P.
AGUADO, FR...**

G.R. No. 193787. April 07, 2014

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Assailed in this petition for review on certiorari[1] are the Decision[2] dated May 12, 2010 and the Resolution[3] dated September 15, 2010 of the Court of Appeals (CA) in CA G.R. CV No. 92113 which affirmed the Decision[4] dated July 8, 2008 of the Regional Trial Court of Binangonan, Rizal, Branch 69 (RTC) that dismissed Civil Case Nos. 03-022 and 05-003 for reconveyance, annulment of sale, deed of real estate mortgage, foreclosure and certificate of sale, and damages.

The Facts

The property subject of this case is a parcel of land with an area of 20,862 square meters (sq. m.), located in Sitio Tagpos, Barangay Tayuman, Binangonan, Rizal, known as Lot 18089.[5]

On July 21, 1977, petitioners-spouses Jose C. Roque and Beatriz dela Cruz Roque (Sps. Roque) and the original owners of the then unregistered Lot 18089 – namely, Velia R. Rivero (Rivero), Magdalena Aguilar, Angela Gonzales, Herminia R. Bernardo, Antonio Rivero, Araceli R. Victa, Leonor R. Topacio, and Augusto Rivero (Rivero, et al.) – executed a Deed of Conditional Sale of Real Property[6] (1977 Deed of Conditional Sale) over a 1,231-sq. m. portion of Lot 18089 (subject portion) for a consideration of P30,775.00. The parties agreed that Sps. Roque shall make an initial payment of P15,387.50 upon signing, while the remaining balance of the purchase price shall be payable upon the registration of Lot 18089, as well as the segregation and the concomitant issuance of a separate title over the subject portion in their names. After the deed's execution, Sps. Roque took possession and introduced improvements on the subject portion which they utilized as a balut factory.[7]

On August 12, 1991, Fructuoso Sabug, Jr. (Sabug, Jr.), former Treasurer of the National Council of Churches in the Philippines (NCCP), applied for a free patent over the entire Lot 18089 and was eventually issued Original Certificate of Title (OCT) No. M-5955[8] in his name on October 21, 1991. On June 24, 1993, Sabug, Jr. and Rivero, in her personal capacity and in representation of Rivero, et al., executed a Joint Affidavit[9] (1993 Joint Affidavit), acknowledging that the subject portion belongs to Sps. Roque and expressed their willingness to segregate the same from the entire area of Lot 18089.

On December 8, 1999, however, Sabug, Jr., through a Deed of Absolute Sale[10] (1999 Deed of Absolute Sale), sold Lot 18089 to one Ma. Pamela P. Aguado (Aguado) for P2,500,000.00, who, in turn, caused the cancellation of OCT No. M-5955 and the issuance of Transfer Certificate of Title (TCT) No. M-96692 dated December 17, 1999[11] in her name.

Thereafter, Aguado obtained an P8,000,000.00 loan from the Land Bank of the Philippines (Land Bank) secured by a mortgage over Lot 18089.[12] When she failed to pay her loan obligation, Land Bank commenced extra-judicial foreclosure proceedings and eventually tendered the highest bid in the auction sale. Upon Aguado's failure to redeem the subject property, Land Bank consolidated its ownership, and TCT No. M-115895[13] was issued in its name on July 21, 2003.[14]

On June 16, 2003, Sps. Roque filed a complaint[15] for reconveyance, annulment of sale, deed of real estate mortgage, foreclosure, and certificate of sale, and damages before the RTC, docketed as Civil Case No. 03-022, against Aguado, Sabug, Jr., NCCP, Land Bank, the Register of Deeds of Morong, Rizal, and Sheriff Cecilio U. Pulan, seeking to be declared as the true owners of the subject portion which had been erroneously included in the sale between Aguado and Sabug, Jr., and, subsequently, the mortgage to Land Bank, both covering Lot 18089 in its entirety.

In defense, NCCP and Sabug, Jr. denied any knowledge of the 1977 Deed of Conditional Sale through which the subject portion had been purportedly conveyed to Sps. Roque.[16]

For her part, Aguado raised the defense of an innocent purchaser for value as she allegedly derived her title (through the 1999 Deed of Absolute Sale) from Sabug, Jr., the registered owner in OCT No. M-5955, covering Lot 18089, which certificate of title at the time of sale was free from any lien and/or encumbrances. She also claimed that Sps. Roque's cause of action had already prescribed because their adverse claim was made only on April 21, 2003, or four (4) years from the date OCT No. M-5955 was issued in Sabug, Jr.'s name on December 17, 1999. [17]

On the other hand, Land Bank averred that it had no knowledge of Sps. Roque's claim relative to the subject portion, considering that at the time the loan was taken out, Lot 18089 in its entirety was registered in Aguado's name and no lien and/or encumbrance was annotated on her certificate of title.[18]

Meanwhile, on January 18, 2005, NCCP filed a separate complaint[19] also for declaration of nullity of documents and certificates of title and damages, docketed as Civil Case No. 05-003. It claimed to be the real owner of Lot 18089 which it supposedly acquired from Sabug, Jr. through an oral contract of sale[20] in the early part of 1998, followed by the execution of a Deed of Absolute Sale on December 2, 1998 (1998 Deed of Absolute Sale).[21] NCCP also alleged that in October of the same year, it entered into a Joint Venture Agreement (JVA) with Pilipinas Norin Construction Development Corporation (PNCDC), a company owned by Aguado's parents, for the development of its real properties, including Lot 18089, into a subdivision project, and as such, turned over its copy of OCT No. M-5955 to PNCDC. [22] Upon knowledge of the purported sale of Lot 18089 to Aguado, Sabug, Jr. denied the transaction and alleged forgery. Claiming that the Aguados[23] and PNCDC conspired to defraud NCCP, it prayed that PNCDC's corporate veil be pierced and that the Aguados be ordered to pay the amount of P38,092,002.00 representing the unrealized profit from the JVA.[24] Moreover, NCCP averred that Land Bank failed to exercise the diligence required to ascertain the true owners of Lot 18089. Hence, it further prayed that: (a) all acts of ownership and dominion over Lot 18089 that the bank might have done or caused to be done be declared null and void; (b) it be declared the true and real owners of Lot 18089; and (c) the Register of Deeds of Morong, Rizal be ordered to cancel any and all certificates of title covering the lot, and a new one be issued in its name.[25]

In its answer, Land Bank reiterated its stance that Lot 18089 was used as collateral for the P8,000,000.00 loan obtained by the Countryside Rural Bank, Aguado, and one Bella Palasaga. There being no lien and/or encumbrance annotated on its certificate of title, i.e., TCT No. M-115895, it cannot be held liable for NCCP's claims. Thus, it prayed for the dismissal of NCCP's complaint.[26]

On September 7, 2005, Civil Case Nos. 02-022 and 05-003 were ordered consolidated.[27]

The RTC Ruling

After due proceedings, the RTC rendered a Decision[28] dated July 8, 2008, dismissing the complaints of Sps. Roque and NCCP.

With respect to Sps. Roque's complaint, the RTC found that the latter failed to establish their ownership over the subject portion, considering the following: (a) the supposed owners-vendors, i.e., Rivero, et al., who executed the 1977 Deed of Conditional Sale, had no proof of their title over Lot 18089; (b) the 1977 Deed of Conditional Sale was not registered with the Office of the Register of Deeds;[29] (c) the 1977 Deed of Conditional Sale is neither a deed of conveyance nor a transfer document, as it only gives the holder the right to compel the supposed vendors to execute a deed of absolute sale upon full payment of the consideration; (d) neither Sps. Roque nor the alleged owners-vendors, i.e., Rivero, et al., have paid real property taxes in relation to Lot 18089; and (e) Sps. Roque's occupation of the subject portion did not ripen into ownership that can be considered superior to the ownership of Land Bank.[30] Moreover, the RTC ruled that Sps. Roque's action for reconveyance had already prescribed, having been filed ten (10) years after the issuance of OCT No. M-5955. [31]

On the other hand, regarding NCCP's complaint, the RTC observed that while it anchored its claim of ownership over Lot 18089 on the 1998 Deed of Absolute Sale, the said deed was not annotated on OCT No. M-5955. Neither was any certificate of title issued in its name nor did it take possession of Lot 18089 or paid the real property taxes therefor. Hence, NCCP's claim cannot prevail against Land Bank's title, which was adjudged by the RTC as an innocent purchaser for value. Also, the RTC disregarded NCCP's allegation that the signature of Sabug, Jr. on the 1999 Deed of Absolute Sale in favor of Aguado was forged because his signatures on both instruments bear semblances of similarity and appear genuine. Besides, the examiner from the National Bureau of Investigation, who purportedly found that Sabug, Jr.'s signature thereon was spurious leading to the dismissal of a criminal case against him, was not presented as a witness in the civil action.[32]

Finally, the RTC denied the parties' respective claims for damages.[33]

The CA Ruling

On appeal, the Court of Appeals (CA) affirmed the foregoing RTC findings in a Decision[34] dated May 12, 2010. While Land Bank was not regarded as a mortgagee/purchaser in good faith with respect to the subject portion considering Sps. Roque's possession thereof,[35] the CA did not order its reconveyance or segregation in the latter's favor because of Sps. Roque's failure to pay the remaining balance of the purchase price. Hence, it only directed Land Bank to respect Sps. Roque's possession with the option to appropriate the improvements introduced thereon upon payment of compensation.[36]

As regards NCCP, the CA found that it failed to establish its right over Lot 18089 for the following reasons: (a) the sale to it of the lot by Sabug, Jr. was never registered; and (b) there is no showing that it was in possession of Lot 18089 or any portion thereof from 1998. Thus, as far as NCCP is concerned, Land Bank is a mortgagee/purchaser in good faith.[37]

Aggrieved, both Sps. Roque[38] and NCCP[39] moved for reconsideration but were denied by the CA in a Resolution[40] dated September 15, 2010, prompting them to seek further recourse before the Court.

The Issue Before the Court

The central issue in this case is whether or not the CA erred in not ordering the reconveyance of the subject portion in Sps. Roque's favor.

Sps. Roque maintain that the CA erred in not declaring them as the lawful owners of the subject portion despite having possessed the same since the execution of the 1977 Deed of Conditional Sale, sufficient for acquisitive prescription to set in in their favor.[41] To bolster their claim, they also point to the 1993 Joint Affidavit whereby Sabug, Jr. and Rivero acknowledged their ownership thereof.[42] Being the first purchasers and in actual possession of the disputed portion, they assert that they have a better right over the 1,231- sq. m. portion of Lot 18089 and, hence, cannot be ousted therefrom by Land Bank, which was adjudged as a mortgagee/purchaser in bad faith, pursuant to Article 1544 of the Civil Code.[43]

In opposition, Land Bank espouses that the instant petition should be dismissed for raising questions of fact, in violation of the proscription under Rule 45 of the Rules of Court which allows only pure questions of law to be raised.[44] Moreover, it denied that ownership over the subject portion had been acquired by Sps. Roque who admittedly failed to pay the remaining balance of the purchase price.[45] Besides, Land Bank points out that Sps. Roque's action for reconveyance had already prescribed.[46]

Instead of traversing the arguments of Sps. Roque, NCCP, in its Comment[47] dated December 19, 2011, advanced its own case, arguing that the CA erred in holding that it failed to establish its claimed ownership over Lot 18089 in its entirety. Incidentally, NCCP's appeal from the CA Decision dated May 12, 2010 was already denied by the Court,[48] and hence, will no longer be dealt with in this case.

The Court's Ruling

The petition lacks merit.

The essence of an action for reconveyance is to seek the transfer of the property which was wrongfully or erroneously registered in another person's name to its rightful owner or to one with a better right.[49] Thus, it is incumbent upon the aggrieved party to show that he has a legal claim on the property superior to that of the registered owner and that the property has not yet passed to the hands of an innocent purchaser for value.[50]

Sps. Roque claim that the subject portion covered by the 1977 Deed of Conditional Sale between them and Rivero, et al. was wrongfully included in the certificates of title covering Lot 18089, and, hence, must be segregated therefrom and their ownership thereof be confirmed. The salient portions of the said deed state:

DEED OF CONDITIONAL SALE OF REAL PROPERTY

KNOW ALL MEN BY THESE PRESENTS:

x x x x

That for and in consideration of the sum of THIRTY THOUSAND SEVEN HUNDRED SEVENTY FIVE PESOS (P30,775.00), Philippine Currency, payable in the manner hereinbelow specified, the VENDORS do hereby sell, transfer and convey unto the VENDEE, or their heirs, executors, administrators, or assignors, that unsegregated portion of the above lot, x x x.

That the aforesaid amount shall be paid in two installments, the first installment which is in the amount of _____ (P15,387.50) and the balance in the amount of _____ (P15,387.50), shall be paid as soon as the described portion of the property shall have been registered under the Land Registration Act and a Certificate of Title issued accordingly;

That as soon as the total amount of the property has been paid and the Certificate of Title has been issued, an absolute deed of sale shall be executed accordingly;

x x x x[51]

Examining its provisions, the Court finds that the stipulation above-highlighted shows that the 1977 Deed of Conditional Sale is actually in the nature of a contract to sell and not one of sale contrary to Sps. Roque's belief.[52] In this relation, it has been consistently ruled that where the seller promises to execute a deed of absolute sale upon the completion by the buyer of the payment of the purchase price, the contract is only a contract to sell even if their agreement is denominated as a Deed of Conditional Sale,[53] as in this case. This treatment stems from the legal characterization of a contract to sell, that is, a bilateral contract whereby the prospective seller, while expressly reserving the ownership of the subject property despite delivery thereof to the prospective buyer, binds himself to sell the subject property exclusively to the prospective buyer upon fulfillment of the condition agreed upon, such as, the full payment of the purchase price.[54] Elsewise stated, in a contract to sell, ownership is retained by the vendor and is not to pass to the vendee until full payment of the purchase price.[55] Explaining the subject matter further, the Court, in *Ursal v. CA*,^[56] held that:

[I]n contracts to sell the obligation of the seller to sell becomes demandable only upon the happening of the suspensive condition, that is, the full payment of the purchase price by the buyer. It is only upon the existence of the contract of sale that the seller becomes obligated to transfer the ownership of the thing sold to the buyer. Prior to the existence of the contract of sale, the seller is not obligated to transfer the ownership to the buyer, even if there is a contract to sell between them.

Here, it is undisputed that Sps. Roque have not paid the final installment of the purchase price.[57] As such, the condition which would have triggered the parties' obligation to enter into and thereby perfect a contract of sale in order to effectively transfer the ownership of the subject portion from the sellers (i.e., Rivero et al.) to the buyers (Sps. Roque) cannot be deemed to have been fulfilled. Consequently, the latter cannot validly claim ownership over the subject portion even if they had made an initial payment and even took possession of the same.[58]

The Court further notes that Sps. Roque did not even take any active steps to protect their claim over the disputed portion. This remains evident from the following circumstances appearing on record: (a) the 1977 Deed of Conditional Sale was never registered; (b) they did not seek the actual/physical segregation of the disputed portion despite their knowledge of the fact that, as early as 1993, the entire Lot 18089 was registered in Sabug, Jr.'s name under OCT No. M-5955; and (c) while they signified their willingness to pay the balance of the purchase price,[59] Sps. Roque neither compelled Rivero et al., and/or Sabug, Jr. to accept the same nor did they consign any amount to the court, the proper application of which would have effectively fulfilled their obligation to pay the purchase price.[60] Instead, Sps. Roque waited 26 years, reckoned from the execution of the 1977 Deed of Conditional Sale, to institute an action for reconveyance (in 2003), and only after Lot 18089 was sold to Land Bank in the foreclosure sale and title thereto was consolidated in its name. Thus, in view of the foregoing, Sabug, Jr. – as the registered owner of Lot 18089 borne by the grant of his free patent application – could validly convey said property in its entirety to Aguado who, in turn, mortgaged the same to Land Bank. Besides, as aptly observed by the RTC, Sps. Roque failed to establish that the parties who sold the property to them, i.e., Rivero, et al., were indeed its true and lawful owners.[61] In fine, Sps. Roque failed to establish any superior right over the subject portion as against the registered owner of Lot 18089, i.e., Land Bank, thereby warranting the dismissal of their reconveyance action, without prejudice to their right to seek damages against the vendors, i.e., Rivero et al.[62] As applied in the case of *Coronel v. CA*: [63]

It is essential to distinguish between a contract to sell and a conditional contract of sale specially in cases where the subject property is sold by the owner not to the party the seller contracted with, but to a third person, as in the case at bench. In a contract to sell, there being no previous sale of the property, a third person buying such property despite the fulfillment of the suspensive condition such as the full payment of the purchase price, for instance, cannot be deemed a buyer in bad faith and the prospective buyer cannot seek the relief of reconveyance of the property. There is no double sale in such case. Title to the property will transfer to the

buyer after registration because there is no defect in the owner-seller's title per se, but the latter, of course, may be sued for damages by the intending buyer. (Emphasis supplied)

On the matter of double sales, suffice it to state that Sps. Roque's reliance^[64] on Article 1544^[65] of the Civil Code has been misplaced since the contract they base their claim of ownership on is, as earlier stated, a contract to sell, and not one of sale. In *Cheng v. Genato*, ^[66] the Court stated the circumstances which must concur in order to determine the applicability of Article 1544, none of which are obtaining in this case, viz.:

- (a) The two (or more) sales transactions in issue must pertain to exactly the same subject matter, and must be valid sales transactions;
- (b) The two (or more) buyers at odds over the rightful ownership of the subject matter must each represent conflicting interests; and
- (c) The two (or more) buyers at odds over the rightful ownership of the subject matter must each have bought from the same seller.

Finally, regarding Sps. Roque's claims of acquisitive prescription and reimbursement for the value of the improvements they have introduced on the subject property,^[67] it is keenly observed that none of the arguments therefor were raised before the trial court or the CA.^[68] Accordingly, the Court applies the well-settled rule that litigants cannot raise an issue for the first time on appeal as this would contravene the basic rules of fair play and justice. In any event, such claims appear to involve questions of fact which are generally prohibited under a Rule 45 petition.^[69]

With the conclusions herein reached, the Court need not belabor on the other points raised by the parties, and ultimately finds it proper to proceed with the denial of the petition.

WHEREFORE, the petition is DENIED. The Decision dated May 12, 2010 and the Resolution dated September 15, 2010 of the Court of Appeals in CA G.R. CV No. 92113 are hereby AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Perez, JJ., concur.

[1] Rollo, pp. 9-28.

[2] *Id.* at 34-53. Penned by Associate Justice Normandie B. Pizarro, with Associate Justices Amelita G. Tolentino and Ruben C. Ayson, concurring.

[3] *Id.* at 55-56.

[4] CA rollo, pp. 22-50. Penned by Presiding Judge Narmo P. Noblejas.

[5] *Id.* at 23.

[6] Rollo, pp. 58-61.

[7] CA rollo, p. 25.

[8] Records (Civil Case No. 05-003), pp. 18-19. Including dorsal portion.

[9] Rollo, p. 63.

[10] Records (Civil Case No. 05-003), pp. 32-33.

- [11] Records (Civil Case No. 03-022), pp. 28-29. Including the dorsal portion.
- [12] See Deed of Real Estate Mortgage; *id.* at 32-34. Including the dorsal portion.
- [13] *Id.* at 441. Including the dorsal portion.
- [14] Rollo, p. 37.
- [15] Records (Civil Case No. 03-022), pp. 1-11.
- [16] Rollo, p. 38.
- [17] *Id.* at 38-39. See also dorsal portion of OCT No. M-5955. (Records [Civil Case No. 05-003], p. 19).
- [18] *Id.* at 39-40.
- [19] Records (Civil Case No. 05-003), pp. 1-15.
- [20] *Id.* at 3.
- [21] *Id.* at 20-21.
- [22] *Id.* at 22-26.
- [23] Namely Pamela Aguado, Emily Aguado, and Gregorio Aguado; rollo, p. 41.
- [24] *Id.*
- [25] *Id.* at 40-41.
- [26] *Id.* at 42.
- [27] *Id.*
- [28] CA rollo, pp. 22-50.
- [29] *Id.* at 47.
- [30] *Id.* at 48.
- [31] *Id.*
- [32] *Id.* at 48-49.
- [33] *Id.* at 50.
- [34] *Id.* at 34-53.
- [35] *Id.* at 46-48.
- [36] Rollo, pp. 48-50.
- [37] *Id.* at 50-52.
- [38] CA rollo, pp. 301-305. Motion for Reconsideration dated June 2, 2010.
- [39] *Id.* at 292-300. Motion for Reconsideration dated June 1, 2010.
- [40] Rollo, pp. 55-56.
- [41] *Id.* at 24.

[42] Id. at 22-23.

[43] Id. at 24-26.

[44] Id. at 87-92.

[45] Id. at 92-93.

[46] Id. at 93-96.

[47] Id. at 107-140.

[48] Id. at 105. See also Court's Resolution dated November 24, 2010 in G.R. No. 193875 entitled "National Council of Churches in the Philippines v. Land Bank of the Philippines."

[49] National Housing Authority v. Pascual, 564 Phil. 94, 107 (2007); Gasataya v. Mabasa, 545 Phil. 14, 18 (2007).

[50] Pacete v. Asotigue, G.R. No. 188575, December 10, 2012, 687 SCRA 570, 580; Heirs of Valeriano Concha, Sr. v. Sps. Lumocso, 564 Phil. 580, 593 (2007).

[51] Rollo, pp. 58-60. Emphasis supplied.

[52] See Tan v. Benolirao, G.R. No. 153820, October 16, 2009, 604 SCRA 36, 48-49; Ver Reyes v. Salvador, Sr., G.R. Nos. 139047 and 139365, September 11, 2008, 564 SCRA 456, 476-481.

[53] Id. at 49.

[54] Ver Reyes v. Salvador, Sr., supra note 52, at 477; Ursal v. CA, G.R. No. 142411, October 14, 2005, 473 SCRA 52, 65; Coronel v. CA, 331 Phil. 294, 310 (1996).

[55] Sps. Serrano and Herrera v. Caguiat, 545 Phil. 660, 668 (2007).

[56] Ursal v. CA, supra note 54; id. at 66.

[57] Rollo, pp. 48-49.

[58] See Ursal v. CA, supra note 54, at 67.

[59] Records (Civil Case 03-022) p. 6.

[60] See Padilla v. Sps. Paredes, 385 Phil. 128, 139-140 (2000).

[61] CA rollo, pp. 47-48.

[62] See Ver Reyes v. Salvador, Sr., supra note 52, at 483.

[63] Supra note 54, at 311.

[64] Rollo, pp. 24-26.

[65] Art. 1544. 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.

[66] 360 Phil. 891, 909 (1998).

[67] Rollo, pp. 24, 26, and 27.

[68] “Settled is the rule that litigants cannot raise an issue for the first time on appeal as this would contravene the basic rules of fair play and justice.” (S.C. Megaworld Construction v. Parada, G.R. No. 183804, September 11, 2013.)

[69] “[A]n appeal by petition for review on certiorari cannot determine factual issues. In the exercise of its power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial.” (Sps. Andrada v. Pilhino Sales Corporation, G.R. No. 156448, February 23, 2011, 644 SCRA 1, 8-9.)

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