

CONCORDIA ASTORGA, FRANCISCO ASTORGA AND LUCILA DABLEO, PETITIONERS, VS. COURT OF APPEALS AND FROILAN, ADELFA, GODOFREDO, GALO, GIL, GABRIEL, AND ARISTOTELES, ALL SUR-NAMED MONT...

G.R. No. 58530. December 26, 1984

Ponente: AQUINO J.

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AQUINO J.:

The question in this case is whether Froilan Montaño's 1968 TCT No. T-3917 should prevail over the 1972 TCT No. T-8488 of the Astorga spouses covering the same Cadastral Lot No. 1540 with an area of 300 square meters located at Barrio San Jose, Tacloban City.

The disputed lot was owned by the spouses Canuto Virginesa and Pascuala Nombre as shown in OCT No. 20585 issued in 1937 (Exh. 1). After their death, one Elias Nombre on December 16, 1955 adjudicated the land to himself and sold it to the spouses Lucila Dableo and Vicente Esperas. The deed of extrajudicial settlement and sale was annotated on OCT No. 20585 (Exh. 1-A). Why no trans-fer certificate of title was issued is not shown in the record.

On February 28, 1972 Lucila Dableo, a widow, sold for P4,000 Lot No. 1540 to the spouses Concordia Astorga and Francisco Astorga, a school teacher (Exh. 2). The sale was not registered immediately because the owner's duplicate of OCT No. 20585 in Lucila's possession was lost. She reported the loss to the register of deeds on March 22, 1972 (Entry No. 15557). She asked the court to issue a new owner's duplicate.

The court on October 31, 1972 ordered the issuance of a new owner's duplicate of OCT No. 20585. The sale to the Astorgas was registered on November 20, 1972 (Exh. 1-B). TCT No. T-8488 was issued to them. This fact was annotated on the back of OCT No. 20585 (Exh. 1 and 3).

The Astorga spouses took possession of the lot on February 28, 1972. They moved to that lot their small house and store. The lot was not in the possession of Froilan Montaño.

On the other hand, the spouses Concepcion Abaluyan (a school teacher) and Froilan Montaño (an employee of the city engineer's office and a permanent resident of city poblacion) allegedly bought from the spouses Lucila Dableo and Vicente Esperas on October 6, 1956 for P350 the disputed lot which was assessed at P360. Montaño was a compadre of Lucila (26 tsn April 6, 1973). The deed was notarized only on February 21, 1957. It was registered only in 1968, or more than eleven years after it was notarized. The delay was not explained.

TCT No. T-3917 was issued on the basis of an administratively reconstituted original copy of OCT No. 20585 without prejudice to any right or interest duly noted on the supposedly destroyed or lost original (Back of Exh. C). The reconstitution was absolutely unnecessary because the original of OCT No. 20585 was never lost. It was all the time in the registry of deeds. That recons-tituted original was never presented in evidence. This is an anomaly vitiating the authenticity of TCT No. T-3917.

What is most significant in this case is that the issuance of a transfer certificate of title to Montaña was never noted in OCT No. 20585 which was not cancelled at all, whereas, the issuance of TCT No. T-8848 to the Astorga spouses was noted in OCT No. 20585 which was cancelled by virtue of the issuance of that transfer certificate of title. This is the decisive fact in this case. The statement in TCT No. T-3917 that it cancelled OCT No. 20585 is not true.

Montaña filed on July 8, 1972 an action for forcible entry in the city court of Tacloban City against the Astorga spouses. City Judge Arnulfo S. Oledan made a thorough and exhaustive summary of the evidence in his forty-page decision. He concluded that the Astorga spouses are the owners of Lot No. 1540 but he was unaware that under section 3(c) of Republic Act No. 5967 he could have decided the issue of ownership in conjunction with possession. He dismissed the case because he found that the Astorga spouses had prior possession of the lot and that Montano never had possession thereof.

Montaña appealed to the Court of First Instance which affirmed the dismissal. On motion for reconsideration, the trial court set aside its decision and ordered Montaña to implead Dableo. The complaint was amended. Dableo was declared in default.

After hearing, the court in the exercise of its original jurisdiction and on the basis of the evidence introduced in the city court, reversed itself, ordered the Astorgas and Dableo to vacate Lot No. 1540 and to pay Montaña P600 as attorney's fees. It ordered the register of deeds to cancel TCT No. T-8488. The judgment was executed pending appeal. Montaña was placed in possession of the lot.

The Astorgas appealed to the Court of Appeals which in a Tagalog decision affirmed the lower court's judgment. The Astorgas appealed to this Court. Thus, the courts spent in this case much time and effort totally out of proportion to the area and value of the lot involved.

We hold that under article 1544 of the Civil Code the sale by Lucila Dableo to the Astorga spouses in 1972 should prevail over the alleged 1956 sale to Montaña because the Astorga spouses acquired ownership over the disputed lot since they were the first to register in good faith their sale in the registry of property. Lucila Dableo delivered to them the reconstituted owner's duplicate of OCT No. 20585.

She did not deliver the owner's duplicate to Montaña who did not explain how he was able to obtain his Torrens title. His title must be deemed spurious. His photostatic copy of his title, Exhibit C, is blurred. One cannot determine when it was actually issued.

Concordia Astorga characterized Montaña's claim of ownership as "making foolishness" (9 tsn February 26, 1974). Lucila regarded the deed of sale in favor of Montaña, Exhibit D, as a "manufactured document (hinimo-himo la)" (3 tsn August 7, 1974). Explaining why there is a deed of sale, Lucila testified that she mortgaged her lot in Sitio Cogon to Montaña. She did not understand Exhibit D because she finished only Grade II. She can hardly sign her name (3 tsn August 7, 1974).

It should be noted that Montaña's brother-in-law, Sebastian Abaluyan (an employee of the city treasurer's office), is the owner of the lot adjoining the disputed lot (2 tsn January 3, 1975; 3 tsn August 9, 1973). That explains Montaña's desire to acquire it.

WHEREFORE, the judgment of the Appellate Court and the execution pending appeal are reversed and set aside. The Astorgas are hereby declared the owners of Lot No. 1540 entitled to possess the same. The Montañas are ordered to vacate it. The sheriff is directed to place the Astorgas in possession of said lot. Costs against respondents Montañas.

SO ORDERED.

Makasiar (Chairman), Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.

Cuevas, J., reserves his vote.

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