

APOLINAR DONGCO (NOW DECEASED), AS SUBSTITUTED BY HIS TWO LEGAL HEIRS: ESTRELLA DONGCO AND ILDEFONSO DONGCO; AND FELIMON, SINFORIANO, AND ISIDRO, ALL SURNAMED DONGCO; CERENEA, F...

G.R. No. 69894. July 19, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

The petitioners' appeal from the adverse decision of the Intermediate Appellate Court promulgated on July 11, 1984 in AC-G.R. CV No. 001341 was, by this Court's Resolution dated January 30, 1985, given "limited due course ** insofar as the award of damages is concerned." The Appellate Tribunal's decision affirmed, with a slight modification, the judgment of the Court of First Instance of Cotabato in Civil Case No. 193,¹ the dispositive portion of which reads:

"WHEREFORE, and in view of all the foregoing, the Court believes, and so holds, that the Extrajudicial Partition with Power to Sell, Exhibits E and E-1 (Exhibits 5 and 50A) acknowledged before Atty. Bernardo Cuevas, and the Deed of Sale, Exhibits B and B-1, acknowledged before Atty. Marcelo Domingo, are valid and effective, and Lot No. 2154-A, now covered by TCT No. 9234, is owned by the defendants with the exception of the area of 24,385 sq. m. on the western portion thereof which has been repurchased by, and reconveyed to Mrs. Andrea Singco Vda. de Dongco by virtue of the already final decision in Civil Case No. R-56. The complaint of the plaintiffs is hereby dismissed, with costs upon the plaintiffs.

"On the defendants' counterclaim, it had been established that defendants have suffered mental torture and anxiety and shame and, therefore, entitled to moral damages; have hired services of counsel because of the filing of this case. The defendants are hereby granted moral damages in the sum of P20,000.00, to be paid by the plaintiffs jointly and severally. To give lesson to the plaintiffs and to the public the sum of P5,000.00 is hereby granted the defendants as exemplary damages also payable by plaintiffs jointly and severally; the defendants are also granted for attorney's fees the sum of P2,500.00, also payable by plaintiffs jointly and severally."

The only change made by the Intermediate Appellate Court was the reduction of the award of moral damages from P20,000.00 to P5,000.00. The other dispositions were maintained.

The plaintiffs in said Civil Case No. 193 were Andrea Singco Vda. de Dongco and her children, namely: Apolinar,² Felimon, Sinforiano, Isidro, Cerenia, Felisa, Aurea, Merced, Pilar.³ They filed suit to recover possession of the western portion of Lot No. 2154-A, Ps-4148, situated in Barrio Bual, Midsayap, Cotabato, which had an area of 74,385 square meters. Named as defendants were the spouses Teodulo Jatiko and Anacoreta Abarrientos.

In their complaint,⁴ the plaintiffs asserted that -

- 1) they were the owners of said Lot No. 2154-A, by inheritance from Zacarias Dongco, Andrea's husband;

- 2) the western portion of this lot, with an area of five (5) hectares or so, was mortgaged on February 18, 1958 to Teodulo Jatiko to secure an indebtedness of P2,250.00 with a stipulation that the latter would have possession and enjoyment thereof until redemption could be effected within a period of three years from December 9, 1957;
- 3) the mortgage deed was executed by Andrea Singco Dongco and her son, Isidro, and daughter, Aurea;¹
- 4) subsequently, in the partition of Lot 2154-A made in 1959, the eastern portion, measuring 24,385 square meters, was allotted to Andrea Singco Dongco, and the western portion, measuring as aforesated, 5 hectares, was adjudicated to her children pro indiviso;
- 5) in March, 1960, Andrea Singco Dongco obtained a loan from the Jatiko Spouses and gave as collateral the eastern portion of the property awarded to her in virtue of the partition above mentioned, but the Jaticos, taking advantage of her illiteracy, duped her into signing a document of sale conveying the western portion to the former;
- 6) on November 5, 1960, being then in financial distress, Andrea sold to Jatiko the eastern portion of Lot 2154-A in virtue of which Andrea's title (TCT No. T-7125) was cancelled and a new one issued in favor of Jatiko (TCT No. T-9234);
- 7) in Civil Case No. 56 instituted by Andrea on April 27, 1965 a compromise agreement was reached in which the Jaticos reconveyed to her said eastern portion; and
- 8) in 1964, Andrea and her children offered to redeem the western portion of the land but the Jaticos unjustifiably refused.

They prayed for the declaration of nullity of the sale to the Jaticos of the western portion of the land and its restoration to them, and the payment by the Jaticos of actual, moral and exemplary damages, as well as attorney's fees.

The Jaticos belied the Dongcos' allegations. In their answer,² they averred that -

- 1) Lot 2154-A had in truth been legally conveyed to them by all the Dongcos thru their mother, Andrea, who was their attorney-in-fact, her authority being evidenced by a special power of attorney incorporated in the deed of sale; and they had paid the price agreed upon, P5,000.00;
- 2) there had indeed been a compromise in Civil Case No. 56 and in virtue thereof, the Jaticos had agreed to the repurchase by the plaintiffs and the reconveyance to them of an area of 24,385 square meters to be taken from the western portion of Lot 2154-A;
- 3) the area of 24,385 square meters had actually been surveyed and segregated by a private surveyor from the western portion, after which it had been conveyed to the plaintiffs -- the acquiescence of the plaintiffs to this fact placing them in estoppel to later claim any rights over the property;
- 4) the plaintiffs are guilty of laches, not having filed the action until after the lapse of more than ten (10) years from the sale, and six (6) years from the time they supposedly learned of the sale they claimed to be fictitious.

The defendants (Jaticos) set up a counterclaim for moral and exemplary damages.

As already pointed out, the Trial Court -- and the Intermediate Appellate Court -- found the plaintiffs, the Dongcos, to have acted in bad faith, their allegations shown to be false by the evidence, and decreed that not only should their complaint be dismissed but they should be sentenced as well, to pay damages to the defendant spouses. Both Courts concluded from the recorded proofs that, contrary to the Dongcos' pretenses, the "Extrajudicial Partition with Power to Sell" and the "Deed of Absolute Sale" were voluntary acts on their part,

untainted by mistake, ignorance, fraud or other improper circumstance, and having, in addition, been acknowledged before a notary public with the attendant formalities prescribed by law, had in their favor the presumption of regularity in the performance of function by a public officer,¹ the notarial acknowledgments being, too, prima facie evidence of the due execution of the documents, rendering them admissible in evidence without further proof.²

The Court finds that the modest award of P5,000.00 for moral damages is not only supported by the evidence but also eminently reasonable in the circumstances. The record contains testimony of respondent Teodulo Jatiko, never contradicted, to the effect that, being at the time a third-term councilor of his town, a member of the "Jaycees," and a director and treasurer of the Mindanao Christians Foundation, the filing of the Dongcos' complaint greatly embarrassed and humiliated him in the community. It also caused his wife and co-defendant, then a school teacher who had served several terms as treasurer of the District Association, to suffer shock and hypertension. Equally merited and reasonable are the awards for exemplary damages and attorney's fees.

WHEREFORE, the appealed Decision of the Intermediate Appellate Court is **AFFIRMED** in all respects, with costs against the petitioners.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

1 ROLLO, pp. 26-36. The ponente was Sison, Porfirio V., J., with whom concurred Bidin and Veloso, JJ.

1 Rendered by Hon. Jesus V. Occena

2 Later substituted, upon his death, by his heirs: Estrella Dongco and Ildefonso Dongco (Rollo, pp. 65-71)

3 The husbands of Cerenea, Felisa, Aurea, Merced and Pilar were joined as co-plaintiffs.

4 Rollo, pp. 39-46

1 Annex A, complaint

2 Rollo, pp. 53-59

1 Sec. 3, Rule 131, Rules of Court

2 Sec. 30, Rule 132

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