

FRANCISCA DE LA CRUZ (DECEASED) SUBSTITUTED BY ROSA ABRENICA, ASSISTED BY HER HUSBAND RAFAEL MONTERO, PETITIONER, VS. THE INTERMEDIATE APPELLATE COURT, BENITO MONTE (DECEASED), ...

G.R. No. 72981. January 29, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by certiorari from the Decision[1] of the Intermediate Appellate Court, promulgated July 30, 1985, as modified by its Resolution[2] dated October 24, 1985 and from the Resolution[3] dated November 15, 1985, denying the Motion for Reconsideration. Briefly stated the Intermediate Appellate Court ruled in the modified decision that the buyers of the subject properties are absolute owners thereof, they being innocent purchasers for value and the complaint instituted against them was dismissed for lack of cause of action. Further-more the case was ordered remanded to the court of origin with direction to hear the case on the merits but always in conformity with the appellate court's decision. In effect the appellate court declared that the action for partition instituted in the lower court was converted into an action for damages against those responsible for the transfer of the subject properties to the above-mentioned purchasers or transferees.

For a clearer understanding of the present case, the background facts may be stated as follows:

The late Gregorio Monte owned during his lifetime two (2) parcels of land, Lot 4305 of the Cadastral Survey of Urdaneta and Lot 962 of the Cadastral Survey of Villasis, both in Pangasinan. He was survived by his spouse, Francisca de la Cruz, (now deceased and substituted in this petition by her daughter Rosa Abrenica). Claiming to be the nearest surviving heirs of the late Gregorio Monte as the children of the latter's brothers, Vicente and Tiburcio Monte, 1) Benito (now deceased and substituted in this petition by Miguel Monte), 2) Mariano (now deceased and substituted in this petition by Alfredo and Geronima Monte) and Lydia, all surnamed Monte filed on September 29, 1956, Civil Case No. T-338 in the Court of First Instance of Pangasinan to recover possession and ownership of the two (2) aforementioned parcels of land against Rafael Montero, Rosa Abrenica, Marcial Esplana, Cesario Versola, Estanislao Versola, Liberato Mosquito and Francisca de la Cruz. On May 27, 1967, the trial court in said case rendered a decision[4] in favor of the plaintiffs and against the defendants declaring as null and void the deeds conveying to the defendants Lots 4305 and 962 and ordering the latter to surrender possession of said lots to the former (plaintiffs Montes), who are among the presumptive legal heirs of the late Gregorio Monte.

On appeal by the defendants to the Court of Appeals docketed as CA-G.R. No. 40121-R, the assailed judgment was affirmed by the said court in its Decision[5] dated March 17, 1971 but with the modifications that the appellants excluding Francisca de la Cruz, were ordered to pay, jointly and severally, the appellees, as the presumptive heirs of deceased Gregorio Monte, the sum of Eight Hundred Pesos (P800.00) per annum as actual damages from September 29, 1956, the date of filing of the complaint until the appellees are restored to the

possession of Lot 4305 and that only appellant Rafael Montero was ordered to pay the appellees the sum of Four Hundred Pesos (P400.00) as attorney's fees, the appealed judgment was affirmed in all other respects, with costs against appellants except Appellant Francisca de la Cruz (p. 40, Annex "A", Record on Appeal).

Be it noted however that the appellate court made the following findings of fact in the body of its decision which do not appear in the dispositive portion:

"... While the uncontradicted evidence of the plaintiffs discloses that plaintiffs Mariano and Benito Monte were the children of the late Vicente Monte, who was a brother of the deceased Gregorio Monte, and plaintiff Lydia Monte was the eldest daughter of Tiburcio Monte, deceased brother of Mariano and Benito, the equally reliable evidence of the defendants also reveals that defendant Francisca de la Cruz is the surviving spouse of Gregorio Monte, the two having been legally married on April 8, 1944 (Exhibit "16"-Montero). As we have occasion to state elsewhere in this decision, Article 1001 of the new Civil Code provides, 'Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half.'

"Besides, an undivided half of the area of Lot 962 belonged to the conjugal partnership of Gregorio Monte and defendant Francisca de la Cruz. It will be recalled that on June 30, 1944, Gregorio Monte and Victoriano Lucena settled extrajudicially the intestate estate of the late Simeona Lucena, first wife of the former and brother of the latter, whereby they agreed that an undivided half of Lot 962 would pertain for Victoriano as his inheritance from his sister. Then, in the same document of partition (Exhibit "17"-Montero), Victoriano sold his inheritance to Gregorio Monte, who at that time was already legally married to defendant Francisca de la Cruz.

"Under the above circumstances, we believe and so hold that the ownership and possession of Lots 4305 and 962 should be surrendered by defendants Monteros, Esplanas and Versolas, not only to the plaintiffs, but to the heirs of Gregorio Monte in general and this includes both the plaintiffs and defendant de la Cruz, as well as the other heirs who might later on appear." (pp. 31-32, Annex "A", Record on Appeal)

Francisca de la Cruz filed a Motion for Reconsideration of the decision of the appellate court, which was denied by said court on May 7, 1971. The denial of the Motion for Reconsideration was appealed to Us by way of Petition for Review docketed as L-33564, raising as one of the issues therein the failure of the appellate court to embody in the dispositive portion of its decision its findings of facts appearing in the body of said decision, that Francisca de la Cruz is one of the heirs of Gregorio Monte, as the surviving spouse who is entitled to inherit from the estate of the deceased Gregorio Monte. In Our Resolution, dated August 5, 1971, in said case We denied the "petition for being factual (insufficient showing that the findings of facts are unsupported by substantial evidence) and for lack of merit." (p. 21, Rollo)

After the judgment of the appellate court in CA- G.R. No. 40121-R, became final, the plaintiffs-appellees therein caused the cancellation of the original title covering the two (2) lots. Miguel Monte, Alfredo Monte and Lydia Monte, executed a Deed of Extrajudicial Partition (Exh. "E") among themselves on February 7, 1972, wherein they made it appear "that they were the only legal heirs of the late Gregorio Monte. After obtaining titles to said lots in their names, they caused the sale of Lot 962 to spouses Montenillo Rafanan and Aurelia Rafanan on February 12, 1972 and Lot 4305 to spouses Andres Rabara and Juliana Macanas, Faustina Leonin and Josefa Macanas, on February 9, 1972.

Francisca de la Cruz filed against the Montes on February 12, 1972, but was amended to include their buyers, Rafanans, Rabaras, and Leonins (herein private respondents) on March 25, 1972, a complaint for partition docketed as Civil Case No. U-2374 with the Court of First Instance of Pangasinan alleging among others in her complaint that earlier pending the consideration of the motion for the writ of execution of the decision rendered

by the Court of Appeals in CA-G.R. No. 40121-R (p. 2, Record on Appeal or p. 41, Rollo, CA-G.R. No. 61294), she demanded from the aforementioned defendants for the partition of the subject lots in accordance with the judgment rendered by the appellate court to wit:

"a) That Lot 4305 shall be divided equally between the herein plaintiff on one hand and the herein defendants on the other; and

"b) That Lot 962 shall be divided such that (1) one-fourth (1/4) of said lot shall be given as the share of herein plaintiff in the conjugal partnership and the remaining three fourths (3/4) thereto shall be divided equally between plaintiff on one hand and the herein defendants on the other; but notwithstanding said demand and others made subsequently thereafter, the herein defendants refused and up to the present time still continuously refuse to cause a partition of the said parcels of land as called for by the judgment rendered by the Court of Appeals; and instead said defendants MIGUEL MONTE, ALFREDO MONTE, GERONIMA MONTE de RAMOS, BERNABE MONTE and LYDIA MONTE sold the aforesaid parcels of land to the other defendants, the spouses ANDRES RABARA and JULIANA MACANAS and the spouses MONTENILLO RAFANAN and AURELIA RAFANAN to the damage and pre-judice of herein plaintiffs." (pp. 41-42, Rollo)

On January 30, 1976, the trial court in Civil Case No. U-2374 rendered a decision,[6] the dispositive portion reading as follows:

"In view of this situation, this Court is of the opinion that it has absolutely no authority to modify or review the decision of the Court of Appeals. For this reason, the Court feels that there is no necessity of passing upon the merit of the issues raised in this case as the decision has already become final. Considering the incidents relative to this case that have already transpired, this court is constrained to order the dismissal of the complaint with costs against the plain-tiff.

"SO ORDERED." (Decision, p. 26, Record on Appeal)

Questioning the judgment of the lower court, plaintiff Francisca de la Cruz appealed to the Court of Appeals, assigning the following errors:

"I.

The trial court erred in holding that by virtue of the decision in CA-G.R. No. 40121-R, it has no more authority to pass upon and resolve the issue of the right of plaintiff to demand her share and the partition of the property in question.

"II.

The trial court erred in holding that, since the dispositive portion of the decision of CA G.R. No. 40121-R (Appendix "B" of the Record on Appeal) did not specifically mention any right of the plain-tiff as the surviving spouse to inherit from the estate of her deceased husband Gregorio Monte, she has, therefore, no more right to inherit and demand for a partition of the property in question.

"III.

The trial court erred in holding that since the adjudication of the proper-ties in question among the defendants Montes as heirs of the late Gregorio Monte was on the basis of a fraudulent deed of extra-judicial partition, the plaintiff, as the surviving spouse, has still the right to demand her rightful share thereto pursuant to the provisions of Section 4, Rule 74 of the New Rules of Court.

"IV.

The trial court erred in holding that the defendants-purchasers of the lands in question are buyers-in-good faith." (p. 17, Rollo)

The appellate court in its Decision, promulgated July 30, 1985, set aside the assailed decision of the lower court and remanded the case to the court of origin to hear the case on the merits based on the following reasons:

"A close scrutiny of the evidence on record, shows that the case filed against the plaintiffs herein in Civil Case No. T-338 was for annulment of the deeds conveying to the defendants therein (which included plaintiff Francisca de la Cruz), the two lots: Lot 4305 and Lot 962, and for the plaintiffs therein to be declared the legal heirs of Gregorio Monte, they being the latter's brothers and sisters and children of Gregorio Monte's de-ceased brothers and sisters.

"On appeal to the Court of Appeals, therefore, said court in its judgment merely modified the ruling of the Court of First Instance and ordered that Francisca de la Cruz be exclu-ded from liability for damages in favor of the plaintiffs-appellees therein.

"There is, therefore, no prayer in said case for plaintiff Francisca de la Cruz to be declared as the legal heir of her deceased husband, Gregorio Monte.

"In fact the decision of the Court of First Instance in its Civil Case No. T-338 directed that 'the defendants x x x (to) sur-render the possession over Lot 4304, and defen-dants Rafael Montero and Rosa Abrenica (to) surrender the possession over Lots Nos. 962 to the plaintiffs who are among the presumptive legal heirs of the late Gregorio Monte.' (un-derscored ours).

"On appeal to the Appellate Court, there-fore, the latter had no occasion to rule on whether Francisca de la Cruz, as presumptive heir of the late Gregorio Monte should be given her share in the two lots in question.

"That is precisely why the Supreme Court dismissed plaintiff's petition for review on certiorari filed before it; because in that petition, plaintiff Francisca de la Cruz sought a declaration of her right to inherit from the estate of Gregorio Monte, which the Supreme Court denied, not on the basis of the fact that Francisca de la Cruz is not an heir of Gregorio Monte, but on the ground that the issues raised therein were factual and should be ventilated in the court below.

"The court a quo, therefore, committed error when it dismissed plaintiff's complaint for partition because plaintiff was not asking the court to annul or modify the decision of the Court of Appeals or that of the Supreme Court (in CA-GR No. 40121-R and GRL-33564, respectively). The plaintiff was simply asking that the estate of her deceased husband, Grego-rio Monte, consisting of the two (2) lots in question, be partitioned and that she be given her share as Gregorio Monte's surviving spouse, in accordance with the law on intestate succes-sion.

"The basis of plaintiff's complaint is, therefore, Rule 69[7] of the Rules of Court and not a petition for review of the decision of the Court of First Instance and/or the Court of Appeals, which would be absurd under any circumstances." (pp. 21-23, Rollo)

A Motion for Reconsideration of the appellate court's decision was filed by the defendants-appellees spouses Rabara, spouses Rafanan, Faustina F. Leonin and Josefa Macanas on the grounds that said decision is contrary to law and that the issues raised in said case are now barred by the principle of res judicata. Although overruling the application of the principle of res judi-cata to the case at bar, the appellate court modified its ruling as earlier stated. Hence the present petition for review on certiorari, plaintiff-appellant presenting the following:

ASSIGNMENT OF ERRORS

“1.

THAT THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE PRIVATE RESPONDENTS RABARAS, ET AL AND RAFANANS, ET AL ARE PURCHASERS IN GOOD FAITH AND FOR VALUE;

“2.

THAT THE RESPONDENT COURT OF APPEALS ERRED AND VIOLATES THE RULE ON SUBSTANTIAL EVIDENCE IN RENDERING A MODIFIED DECISION DECLARING RESPONDENTS RABARAS AND RAFANANS AS PURCHASERS IN GOOD FAITH AND FOR VALUE SOLELY ON THE BASIS OF THE BRIEF OF SAID RESPONDENTS AND NOT ON THE EVIDENCE AND FACTS ADDUCED DURING THE TRIAL IN THE LOWER COURT AND ELEVATED TO IT FOR REVIEW AND RE-APPRAISAL;

“3.

THAT THE RESPONDENT COURT OF APPEALS ERRED IN MODIFYING THE ORIGINAL DECISION RENDERED BY IT AND CONVERTING THE ORIGINAL ACTION FOR PARTITION OF THE (ESTATE OF) DECEASED GREGORIO MONTE INTO AN ACTION FOR DAMAGES AGAINST THE RESPONDENTS MON-TE; AND

“4.

THAT THE RESPONDENT COURT OF APPEALS ERRED AND VIOLATED SECTION 9 OF THE NEW JUDICIARY ACT (BP NO. 129) IN ORDERING THE REMANDING OF THE CASE FOR FURTHER TRIAL ON THE MERITS IN THE LOWER COURT." (p. 87, Rollo)

A perusal of the records shows that the "Deed of Extrajudicial Partition" was executed by Miguel, Alfredo and Lydia all surnamed Angeles on February 7, 1972, wherein they made it appear that they are the only legal heirs of the late Gregorio Monte. It was presented to the Register of Deeds of Pangasinan for registration on February 8, 1972 at 2:05 P.M. Consequently, TCT No. 16132 covering Lot 4305 in the name of Gregorio Monte (Exh. "G") was cancelled and TCT No. 93920 was issued in the names of Miguel, Alfredo and Lydia, all surnamed Montes (Exh. 1-Rabara) and OCT No. 9919 covering Lot 962 in the names of Gregorio Monte and Simeona Lucena, with the annotation that the undivided one-half (1/2) portion thereof was the subject of an extrajudicial partition and sale between Gregorio Monte and Victoriano Lucena, brother of Simeona Lucena (Exh. "H") was also cancelled and TCT No. 93396 in the names of the same Montes, Miguel, Alfredo and Lydia. Both these two new TCTs' issued in the names of the aforementioned Montes carried the annotation that these transactions were made subject to the provisions of Sec. 4, Rule 74 of the Rules of Court in favor of any other heir or person who has been unduly deprived of his lawful participation in the estate of the deceased Gregorio Monte, within the period of two (2) years after the execution on February 7, 1972 and registration on February 8, 1972 of the Deed of Extrajudicial Partition.

Lot 4305 was sold on February 9, 1972 to spouses Andres Rabara and Juliana Macanas, Faustina Leonin and Josefa Macanas (Exh. "2", Rabaras). On the same date, another deed of sale was executed by Miguel Monte and

Lydia Monte covering their alleged shares over Lot 962 to Alfredo Monte, thereby consolidating the latter's ownership over said lot. Subsequently Lot 962 was sold on February 12, 1972 to spouses Montenillo Rafanan and Aurelia Rafanan by Alfredo Monte. The two (2) deeds of sale covering Lot 4305 and Lot 962 were registered in the Office of the Register of Deeds of Pangasinan only on February 18, 1972, after the complaint for Partition was filed by herein petitioner Francisca de la Cruz on February 12, 1972. Such registration resulted in the issuance of new titles in the names of the buyers with the same annotations contained on the former titles issued in the names of the vendors-Montes.

In ruling that the buyers were vendees in good faith and for value, the respondent appellate court measured the transaction by applying the same yardstick we laid down in the case of *Cui and Joven vs. Henson*, to wit:

"A purchaser in good faith is one who buys property of another without notice that some other person has a right to, or 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 the claim or interest of some other person in the property. Good faith consists in an honest intention to abstain from taking any unconscientious advantage of another. Good faith is the opposite of fraud and of bad faith, and its non-existence must be established by competent proof." (51 Phil. 606 [p. 26, Rollo])

The appellate court concluded that the respondents' vendees bought the subject properties from the registered owners without notice that some other person or persons had a right to or interest in such properties and that they paid a full fair price for the same, before they had notice of the claim or interest of the appellant in such subject properties. Such finding is not supported by substantial evidence on the record.

It cannot be doubted that the buyers herein had notices of the claim of third persons aside from the claim or right of the registered owners. As mentioned earlier these claims were annotated on the two (2) titles covering Lot 962 and 4305, which were shown to the buyers together with the decision of the Court of Appeals in CA-G.R. No. 40121-R dated March 17, 1971. That these buyers were fully aware that the subject properties were under litigation can be surmised from their oral testimonies in the trial court, to wit:

Testimony of respondent Aurelia Rafanan:

"Atty. Tan:

Q Now, why did they have to show the decision to you?

A To show to me that they were really the owners of the property.

Q Why, do you have any doubt as to their ownership prior to February 5, 1972?

A Yes, because they said that the land was involved in a case.

Q

And as a matter of fact you have known that Lot 962 was under litigation that is why you did not bother to buy it because you were not very sure as to who was the real owner then, is it not?

A Yes, sir." (Tsn., pp. 67-68, Testimony of Aurelia Rafanan, October 17, 1975)

Testimony of respondent Andres Rabara:

"ATTY. TAN:

Q What else was shown to you aside from the decision of the Court of Appeals and the certificate of title as you claimed?

A It is only the title and the decision of the Court of Appeals.

Q What was the date of the title that you saw which was presented to you?

A I can not remember.

x x x x x x x x

Q You were shown the original owner's dupli-cate of this title Exhibit "1-Rabara" before you purchased the land?

A This is the same, sir.

Q It is the same shown to you?

A Yes, sir.

Q Now, when was this shown to you?

A It was between February 1 and February 8.

Q

Can you not make sure whether it was on February 8?

A I can not.

x x x x x x x x

Q You are not very sure that it was on Feb-ruary 8?

A I can not remember.

Q What particular part of the day did they come to you and offer the purchase or sale of this Lot 4305?

A I can not remember.

"COURT:

Q Was it morning or afternoon, after lunch?

"ATTY. TAN:

Q

Or in the evening?

A After lunch.

Q And when they offered to you what did you tell them?

A We made dealing, I bet for the said land.

Q

All right, the title of this property which you claimed was presented to you and which was the basis of you and your in-laws in purchasing the property appears to have been issued on February 8, 1972 at 2:05 in the afternoon. Will you tell this Honor-able Court now whether this particular title was shown to you on February 8, 1972 after lunch when this title was issued in Linga-yen, Pangasinan by the Register of Deeds at 2:00 p.m. on February 8, 1972?

A That is why I consulted my lawyer to see about the reality of the documents.

Q That is not the question, Mr. Witness.

"COURT:

Do you still maintain that this title Exhi-bit 1 was shown to you sometime between February 1 and February 8, 1972 after lunch when it appears that this title was only issued on February 8, 1972 at 2:05 p.m.?

A

I can not remember, sir.

Q

So, when you stated a while ago on direct examination that you relied only upon the title because it was presented to you between February first and February 8 is not correct because you do not remember whether that title was shown to you or not?

A I did not pay much attention to the date." (tsn., pp. 16-28, Testimony of Andres Rabara, October 17, 1975) (pp. 67-68, Rollo)

A purchaser of a valued piece of property cannot just 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 were no defect in the title of the vendors. Respondents-buyers should have acted with that measure of precaution which may reasonably be required to a prudent man in a like situation.

The appellate court therefore gravely erred in the appreciation of evidence on the good faith and innocence of respondents-buyers. Consequently, because respondents-buyers, were not buyers in good faith and for value, We find no basis for the appellate court to convert the original action for partition into an action for damages against respondents-Montes.

The respondent appellate court, however, on the same occasion ordered the remanding of the case to the lower court for further trial on the merits to determine the rightful heirs to the subject properties in the partition case. Such ruling is likewise assailed by the petitioner contending that respondent Court of Appeals violated Sec. 9 of the New Judiciary Act (BP 129) in remanding the case for trial on the merits in the lower court instead of conducting a hearing and receiving evidence necessary to resolve factual issues raised. Sec. 9, of Batas Pambansa 129 merely lays down the power of the appellate court to try and conduct hearings, receive evidence and perform any and all acts necessary to re-solve factual issues raised in cases falling within its original or appellate jurisdiction including the power to grant and conduct new trials or further proceedings. Such power is not made obligatory on the appellate court but gives the said court the option whether to remand the case for trial on the

merits in the lower court or for the appellate court to conduct the trial itself.

We believe that in the instant case, no further evidence has to be adduced either in the appellate court or in the trial court, for We find it sufficiently clear that the buyers were in bad faith.

WHEREFORE, We hereby AFFIRM the original decision dated July 30, 1985 of the Court of Appeals and order the remand of the case to the trial court, not for the purpose of determining anymore the good faith or bad faith of the buyers, but for the trial court to order a partition of the estate with petitioner heir herein (as substituted by her own heirs), getting her rightful share as the surviving spouse and heir of the deceased Gregorio Monte.

SO ORDERED.

Yap, (Chairman), Melencio-Herrera, Padilla, and Sarmiento, JJ., concur.

[1] Penned by Justice Jose C. Campos with the concurring votes of Justices Crisolito Pascual and Desiderio P. Jurado, Annex "A-1", pp. 16-23, Rollo.

[2] Same Ponente and concurring members with the additional concurring vote of Justice Serafin E. Camilon, Annex "B-1", pp. 25-31, Rollo.

[3] Same Ponente and concurring members with the additional concurring vote of Justice Serafin E. Camilon, Annex "C", p. 32, Rollo.

[4] Penned by Judge Amado S. Santiago, promulgated on April 24, 1967, Exh. "I" for the defendants-appellees in Civil Case No. U-2374.

[5] Penned by Justice Jesus Y. Perez with the concurring votes of Justices Cecilia Munoz-Palma and Jose N. Leuterio, Annex "A", Record on Appeal.

[6] Penned by Judge Rosalio C. Segundo.

[7] Rules on Partition

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