

**IGNACIO CARDENTE AND ANASTACIA T. CARDENTE, PETITIONERS,
VS. THE INTERMEDIATE APPELLATE COURT AND SPOUSES
RUPERTO RUBIN AND PRIMITIVA C. RUBIN, RESPONDENTS.***G.R. No. 73651. November 27, 1987*

Ponente: SARMIENTO, J.

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This is a simple case of a double sale of an immovable property. The trial court decided[1] in favor of the first vendee although the sale was by a private document. The then Intermediate Appellate Court reversed and set aside the decision[2] of the lower court. The public respondent appellate court ruled in favor of the second buyers, who registered their deed of sale. Hence, the present petition for review by certiorari.

The facts of the case are as simple as the central issue.

Sometime in 1956, Francisca Cardente, for and on behalf of her grandson, petitioner Ignacio Cardente, who was then a minor, and now married to his co-petitioner, purchased from Isidro Palanay one hectare of land. The property purchased is a part of a 9.2656-hectare parcel of land covered by Original Certificate of Title (O.C.T., for short) No. P-1380 in Palanay's name. Immediately after the purchase, the Cardentes took possession of the land and planted various crops and trees thereon. They have been in continuous possession ever since, adverse to the whole world. Unfortunately, however, the private document evidencing the sale of the one-hectare lot to petitioner Ignacio Cardente was lost and never found despite diligent efforts exerted to locate the same.

Some four years later, on August 18, 1960, Isidro Palanay sold the entire property covered by O.C.T. No. P-1380, including the one-hectare portion already sold to Cardente, this time to the private respondents, Ruperto Rubin and his wife. The deed of sale was registered and a new title, Transfer Certificate of Title (T.C.T., for short) No. 1173, was issued in favor of the Rubin spouses. Notwithstanding the second sale, or because of it, Isidro Palanay, with the written conforme of his wife, Josepha de Palanay, on December 9, 1972, executed a public document in favor of petitioner Ignacio Cardente confirming the sale to him (Cardente) in 1956 of the one hectare portion. The deed of confirmation likewise states that the subsequent vendee, respondent Ruperto Rubin, was informed by Palanay of the first sale of the one-hectare portion to Cardente.

On February 18, 1977, the house of the petitioners was burned. As a consequence thereof, they lodged a complaint for arson with the P.C.-Integrated National Police at Malaybalay, Bukidnon, against Ruperto Rubin, whom they suspected of having committed the crime. Apparently, in retaliation, on March 31, 1977, seventeen long years after their purchase, the private respondents filed a complaint with the then Court of First Instance of Bukidnon for quieting of title with damages, against the petitioners, claiming ownership over the whole property previously covered by O.C.T. No. P-1380, now registered in their names under T.C.T. No. 1173.

On July 9, 1979, the trial court dismissed the complaint of the Rubins and ordered them to "reconvey the one hectare in question to defendant (Cardente) at the expense of the latter." [3]

The Rubin spouses appealed to the respondent court, which rendered the decision under review. The assailed decision decreed:

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WHEREFORE, the decision appealed from is hereby set aside and judgment is rendered (1) declaring plaintiffs the absolute owners of subject property covered by Transfer Certificate of Title No. 1173; (2) ordering the defendants to vacate the one-hectare portion in contro-versy, and to restore plaintiffs in possession thereof; (3) quieting the title of plaintiffs over the one (1) hectare portion of land in controversy; and (4) ordering the defendants to pay the costs.

SO ORDERED.[4]

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Now before us, the petitioners impute bad faith on the private respondents when the latter purchased the entire property and when they subsequently registered their title thereto. By reason of such bad faith, the petitioners' claim that insofar as the controverted one-hectare parcel of land is concerned the private respondents' title thereto is null and void.[5]

We agree with the petitioners. We grant the petition.

Admittedly, this case involves a double sale. While the private respondents allegedly bought from Isidro Palanay on August 18, 1960 the entire property comprising 9.2656 hectares and covered by O.C.T. No. P-1380, the petitioners, on the other hand, lay claim to one hectare thereof which they undeniably purchased from the same vendor earlier, in 1956. The conflict, therefore, falls under, and can be resolved by, Article 1544 of the Civil Code which sets the rules on double sales.

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.

It is undisputed that the private respondents, the second vendees, registered the sale in their favor whereas the petitioners, the first buyers, did not. But mere registration of the sale is not enough. Good faith must concur with the registration. Bad faith renders the registration nothing but an exercise in futility. The law and jurisprudence are very clear on this score.[6]

The heart of the problem is whether or not the private respondents acted in good faith when they registered the deed of sale dated August 18, 1960 more than six months later, on March 7, 1961. Inextricably, the inquiry must be directed on the knowledge, or lack of it, of the previous sale of the one-hectare portion on the part of the second buyers at the time of registration. The trial court found that the second vendees had such knowledge.

It is true that good faith is always presumed while bad faith must be proven by the party alleging it.[7] In this case, however, viewed in the light of the circumstances obtaining, we have no doubt that the private respondents' presumed good faith has been sufficiently overcome and their bad faith amply established.

The "Confirmation Of A Deed Of Absolute Sale Of A Portion Of A Registered Agricultural Land" executed by the late Ignacio Palanay on December 9, 1972 and which was exhibited in the trial court below, admitted the sale

of the one hectare portion to the petitioners sometime in 1956. The same deed likewise explicitly stated that the "fact of the previous sale, was well known and acknowledged by Mr. Ruperto Rubin (the private respondent)."[8] These recitals were further buttressed by Concepcion Salubo, a daughter of Isidro Palanay, who testified that she knew of the previous sale of the one-hectare portion to petitioner Ignacio Cardente and that private respondent Ruperto Rubin was properly informed of the said sale.[9] On this regard, no ill-motive had been attributed to the vendor Isidro Palanay and to his daughter Concepcion Salubo for testifying the way they did -- against the private respondents. They were disinterested persons who stood to gain nothing except, perhaps, the satisfaction of setting the record straight, or, in the words of the seller, "for the purpose of giving efficacy to the Deed of Sale I made to Ignacio Cardente which was made in a private document x x x." [10]

Further, the notorious and continuous possession and full enjoyment by petitioners of the disputed one-hectare property long (four years) before the private respondents purchased the same from Palanay bolsters the petitioners' position. That possession would have been enough to arouse the suspicion of the private respondents as to the ownership of the entire area which they were about to purchase. Their failure to inquire and to investigate the basis of the petitioners' actual occupation of the land forming a substantial part of what they were buying militates against their posited lack of knowledge of the first sale. "A purchaser 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." [11] We have warned time and again that a buyer of real property which is in the possession of persons other than the seller must be wary and should investigate the rights of those in possession. Otherwise, without such inquiry, the buyer can hardly be regarded as a buyer in good faith. [12]

The private respondents' avowals that they had never known of the prior sale until the issues were joined at the trial court, for, before that, they merely tolerated the continued presence of the original occupants, Francisca and Eugenia Cardente, and Ignacio, in the premises, out of simple pity for the two old women, [13] is too pat to be believed. For if these were so, the reason why the private respondents' continued to tolerate the occupation by the petitioners of the contested property even after the demise of the two old women escapes us. Rubin's allegation that this was because they were still in good terms with the petitioners [14] is too lame an excuse to deserve even a scant consideration. The private respondents' total lack of action against the actual occupants of a good portion of the land described in their torrens title can only be construed as acceptance on their part of the existence of the prior sale and their resignation to the fact that they did not own the one-hectare portion occupied by the petitioners. Present these facts, the foisted ignorance of the respondents as to the first sale is an empty pretense. Their seventeen years of inaction and silence eloquently depict a realization of lack of right.

WHEREFORE, the Decision dated November 19, 1985 and the Resolution dated January 10, 1986 of the former Intermediate Appellate Court are hereby REVERSED and SET ASIDE and the Decision dated July 9, 1979 of the Court of First Instance of Bukidnon in Civil Case No. 860, is hereby REINSTATED. Costs against the private respondents.

SO ORDERED.

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

[1] Penned by Judge Emerito C. Ocaya, Court of First Instance of Bukidnon, Malaybalay, Civil Case No. 860.

[2] Justice Jose C. Campos, ponente, with the concurrence of Justices Crisolito Pascual, Serafin E. Camilon, and Desiderio P. Jurado of the Second Civil Cases Division, G.R. No. CV-66115, entitled, Rubin, et al. vs. Cardente,

et al.

[3] Rollo, 14-15.

[4] Annex "E" of Petition, 4; Rollo, 31.

[5] Petitioners' Brief/Memorandum, 1.

[6] Art. 1544, 2nd par., Civil Code of the Philippines; Salvoro vs. Tañega, No. L-32988, December 29, 1978, 87 SCRA 349 (1978); Caram, Jr., vs. Laureta, No. L-28740, February 24, 1981, 103 SCRA 7 (1981).

[7] Santiago vs. Cruz, 19 Phil. 145 (1911); J.M. Tuason & Co., Inc. vs. Court of Appeals, No. L-41233, November 21, 1979, 94 SCRA 413 (1979); Duran vs. Intermediate Appellate Court, No. L-64159, September 10, 1985, 138 SCRA 489 (1985).

[8] Annex "A" of Petition, Rollo, 10.

[9] Rollo, 14.

[10] Rollo, 10.

[11] J.M. Tuason & Co., Inc. vs. Court of Appeals, *supra*.

[12] Republic vs. Hon. Court of Appeals, No. L-42856, January 27, 1981, 102 SCRA 331 (1981).

[13] Decision of the Court of First Instance, Annex "B" of the Petition, 3; Rollo, 14.

[14] Rollo, 24.

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