

EUSTAQUIO BAEI AND TEOFILA JUMALON, PETITIONERS, VS. THE INTERMEDIATE APPELLATE COURT AND HEIRS OF ZOILO BAEI, NAMELY: EUSEBIA VDA. DE BAEI, RENERIO, LERMA, CONRADO, ZOSIMA, MAR...

G.R. No. 74423. January 30, 1989

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by certiorari from the decision[*] of the Intermediate Appellate Court in AC-G.R. No. 63482 entitled Heirs of Zoilo Bael, Plaintiffs-Appellants v. Eustaquio Bael, et al., Defendants-Appellants, setting aside the decision[**] of Branch III of the Court of First Instance of Dipolog City, Zamboanga del Norte.

As shown in the records, the facts are as follows:

The land subject matter of the controversy is a portion of Lot No. 4620, with an area of 3.3600 hectares, located at Sto. Nino, Polanco, Zamboanga del Norte, Zoilo Bael inherited the said land from his parents and, upon his death on November 1, 1961, his wife and children succeeded and took possession of the land in dispute.

In their complaint dated October 20, 1972, the heirs of Zoilo Bael, namely: Eusebia Vda. de Bael, the surviving wife of the deceased, together with her children, namely: Renerio, Lerma, Conrado, Zosima, Maria, Emelita and Desiderio, all surnamed Bael, alleged inter alia, that after the death of Zoilo Bael, the defendants spouses Eustaquio Bael and Teofila Jumalon thru deceit, fraud, machinations and force, made the plaintiff Desiderio Bael sign on January, 1964, a Deed of Absolute Sale (Exhibit "1") covering the land in question; that the Deed of Sale did not express the true agreement of the parties, because Desiderio Bael signed the document in the belief that it was a deed of mortgage executed to guarantee his loan of P200.00, but in the document, it was made to appear that he received the sum of P1,500.00 for and in consideration of the contract of sale covering the land in question; that Desiderio Bael signed the document before a barangay captain, not before a notary public; that Eusebia Vda. de Bael did not sign the said document but it was made to appear that she affixed her thumbmark on the document; that the subject land was not partitioned and neither Desiderio Bael nor Eusebia Vda. de Bael was authorized by the other plaintiffs to alienate or encumber their rights and interests over the land in dispute; that after the signing of the document, the defendants took by force the possession of the land from the plaintiffs; that since January 1964, the defendants appropriated to themselves the produce of the land to the damage and prejudice of the plaintiffs. As ultimate relief, plaintiffs prayed for the nullification of the deed of sale, the payment of actual and moral damages, plus attorney's fees. Also pending the trial on the merits, plaintiffs prayed for the issuance of a writ of preliminary injunction. (Rollo, pp. 86-89)

In their answer dated November 10, 1972, defendants Eustaquio Bael and Teofila Jumalon, controverted the complaint and maintained the validity of the above-mentioned document and alleged among others, that the property subject thereof, was purchased by them from the plaintiffs, not merely mortgaged to them. Specifically, defendants alleged that contrary to plaintiffs' claim, there was an oral partition of subject land by the heirs of

Zoilo Bael, whereby except for Renerio and Lerma who were minors, the shares of the surviving spouse Eusebia Vda. de Bael, Desiderio, Conrado, Felicisima, Maria and Emelita, all surnamed Bael, were sold to the defendants; that Desiderio Bael signed and Eusebia Vda. de Bael affixed her thumbmark in the document after receiving the consideration; that the contents of the document were translated in the Visayan Cebuano dialect and the same was acknowledged before a notary public; that as purchasers, defendants are entitled to the possession and fruits of the land.

By way of affirmative defenses, defendants alleged that the complaint does not state a sufficient cause of action and that the action is barred by the statute of limitations. As counterclaim, defendants asked for the payment of actual and moral damages, plus attorney's fees. They also prayed for the dismissal of the complaint. (Rollo, pp. 91-102)

After a preliminary hearing, the trial court noted that defendants had not acquired the shares of Lerma Bael and Renerio Bael, so that it issued an order on November 11, 1972 directing the defendants to deliver to the said plaintiffs their shares of the land in question. Said order, likewise, denied plaintiffs' petition for a writ of preliminary injunction on the ground that defendants either acquired by sale or mortgage the shares of the other plaintiffs. (Rollo, pp. 56-57)

On November 22, 1972, defendants filed an amended answer. Except for the alternative defense that plaintiffs have no right over the disputed land, because, Zoilo Bael, plaintiffs' predecessor in interest, sold in 1930 to Mamerto Elumbaring the land he inherited from his father Pastor Bael, defendants practically reproduced the allegations in their original answer. In the amended answer defendants also attached as Annexes "1," "2," and "3" the private document of sale executed by Emelita Bael, Felicisima Bael, Conrado Bael and Maria Bael, respectively. (Rollo, pp. 58-64)

On December 9, 1972, the trial court issued an order terminating the pre-trial conference. Trial on the merits ensued thereafter.

On July 1, 1977, the trial court rendered a decision, the dispositive portion of which reads, viz:

- "1. Declaring the Deed of Sale (Annex B) and the private deeds of sale valid and legal;
2. Ordering plaintiffs Conrado, Zosima, Maria, Emelita and Desiderio, all surnamed Bael, to execute a public document, making as basis thereof their private deed of sale (Annexes 1, 2 & 3 of Defendants' Answer)
3. However, the order of this Court requiring the defendants spouses to deliver unto Lerma and Renerio their respective shares in the property, these two-co-heirs not having sold their shares is hereby made permanent;
4. Ordering the plaintiffs except Lerma and Renerio to pay the sum of P2,000.00 by way of damages.

IT IS SO ORDERED." (Rollo, p. 74-75)

Not satisfied with the trial court's decision, both parties elevated the case to the then Intermediate Appellate Court. On November 11, 1985, the Intermediate Appellate Court set aside the trial court's decision and rendered judgment, the dispositive portion of which reads, viz:

- "(A) Declaring the Deed of Sale (Annex "B" or Exhs. "1" or "B--3") null and void ab initio;
- (B) Declaring the plaintiffs to be the absolute owners of subject property;
- (C) Ordering the defendants to allow the plaintiffs to redeem the land upon payment of their respective loans in the total amount of P650.00;
- (D) Ordering the defendants to pay the costs of this suit.

SO ORDERED." (Rollo, p. 16)

A motion for reconsideration was filed by the defendants, but for lack of merit it was denied by the appellate court on March 19, 1986. Hence, this petition.

On September 10, 1986, the Second Division of this Court, resolved to give due course to the petition. (Rollo, p. 140) Petitioners filed their brief on November 3, 1986 (Rollo, p. 150), while private respondent's brief was filed on April 28, 1987 (Rollo, p. 162).

Cited as errors in the decision of the then Intermediate Appellate Court are the following, viz:

I

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT EXHIBIT "1" OR "B-3" DID NOT AUTHORIZE EUSEBIA ELUMBARING VDA. DE BAEI AND DESIDERIO BAEI TO SELL THE SHARES OF THE OTHER HEIRS OF ZOILO BAEI.

II

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT THE DUE EXECUTION AND AUTHENTICITY OF EXH. "2," "3" AND "4" NOT PROVED DESPITE THE FACT THAT THE PRIVATE RESPONDENTS DID NOT DENY SPECIFICALLY UNDER OATH THE DOCUMENTS AND DID NOT SET FORTH WHAT THEY CLAIM TO BE THE FACTS AND THEREFORE DEEMED ADMITTED AS TO THE DUE EXECUTION AND GENUINENESS OF THE DOCUMENTS.

III

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT BELIEVING THAT PETITIONERS-APPELLANTS BOUGHT AGAIN THE LAND FROM APOLINAR BAEI AFTER LEARNING THAT SHE OWNS THE SAME BECAUSE ZOILO BAEI HAD ALREADY SOLD HIS SHARE SINCE 1930.

IV

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT THE PETITIONERS-APPELLANTS FAILED TO REFUTE THE STATEMENTS OF THE PRIVATE RESPONDENTS-APPELLEES THAT IT WAS CUSTOMARY IN THEIR LOCALITY THAT THE MORTGAGEES ENJOY THE LAND UNTIL THE DEBT IS PAID.

V

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT EXH. "2," "3" AND "4" BEING PREPARED BY THE PETITIONERS-APPELLANTS SHOULD BE STRICTLY CONSTRUED AGAINST THEM AND THAT THE SAME SHOULD BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC.

VI

THE INTERMEDIATE APPELLATE COURT ERRED IN HOLDING THAT EXH. "1" OR "B-3" WERE SIGNED NOT IN THE PRESENCE OF THE NOTARY PUBLIC DESPITE THE FACT THAT THIS IS A PUBLIC DOCUMENT.

VII

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT HOLDING THAT THE ACTION OF THE PRIVATE RESPONDENTS HAD LONG PRESCRIBED AND THAT HAVING NOT SPECIFICALLY DENIED UNDER OATH THE DOCUMENTS EXH. "1," "2," "3" AND "4" THEY HAVE ADMITTED THE GENUINENESS AND DUE EXECUTION OF THE SAME. (Brief for Petitioners-Appellants, pp. 1-3)

Reversal of the trial court's decision was anchored on the findings of the then Intermediate Appellate Court that Eusebia Elumbaring and Desiderio Bael, the widow and son of Zoilo Bael, respectively, were not authorized to act on behalf of the other heirs of Zoilo Bael so that they cannot sell more than their individual shares in the land in question. Likewise, the Appellate Court doubted Exhibit "1" as a document of sale as it was purportedly executed in January 1964, but was acknowledged only on May 3, 1964 before Notary Public Alfonso Quimiging who was not presented in court. It therefore, concluded that the contents of the said document had not been explained to Desiderio Bael and Eusebia Elumbaring Vda. de Bael. As regards Exhibits "2," "3" and "4" the appellate court ruled that said private documents cannot be admitted as evidence because their due execution and authenticity had not been established by the defendants.

In this jurisdiction it is a fundamental and settled rule that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case (*Chase v. Buencamino, Sr.*, 136 SCRA 381 {1985}).

After a careful study of the records, there appears to be no cogent reason to fault the findings of the trial court, that except Renerio Bael and Lerma Bael, all the other plaintiffs sold their respective shares to the defendants; that Exhibit "1" which is a public document entitled "Deed of Absolute Sale of Unregistered Land," and Exhibits "2," "3" and "4", which are private documents entitled "Salabutan" are admissible documents of sale, not of mortgage, transferring unto the defendants their respective interests in the land subject matter of the controversy.

Basically, the issues to be resolved in the instant case are: (1) whether or not the action for annulment has prescribed and (2) whether or not the public document Exhibit "1" and the private documents Exhibits "2," "3" and "4" are admissible in evidence in court.

On the issue of prescription, there is no dispute that under Article 1391 of the Civil Code, the prescriptive period for annulment of contracts based on intimidation, violence, undue influence is four (4) years from the time the defect of the consent ceases while in case of mistake or fraud, the period of prescription commences to run from the discovery of the same.

In legal contemplation, discovery of fraud or mistake must be reckoned to have taken place from the execution of the contract if there is an allegation that it did not reflect the true intention of the parties or from the registration of the alleged fraudulent document with the assessor's office for the purpose of transferring the tax declaration (*Asuncion v. Court of Appeals*, 150 SCRA 353 {1987}).

The trial court found that from the execution of Exhibit "1," the Deed of Absolute Sale in 1964 and of the private documents, Exhibits "2," "3" and "4" in 1963 up to the time (1972) of the filing of the action or for a period of eight or nine years, petitioners Eustaquio Bael et al. openly took possession of the property, claimed ownership thereof and enjoyed the produce exclusively. On the other hand, the heirs of Zoilo Bael never asserted any right over the land, much less, institute legal action to recover possession except in 1972 after a lapse of more than eight (8) years (*Rollo*, pp. 112-113).

Accordingly, the four year prescriptive period should be computed from 1964, the execution of Exhibit "1" or 1963, the execution of Exhibits "2," "3" and "4" or in 1967 which appears to be the date of the registration of the document with the Assessor's Office when Tax Declaration No. 6332 or Exhibit "13" was issued in the name of Eustaquio Bael. In either case the action filed on October 20, 1972 by private respondent had prescribed.

As regard the admissibility of Exhibit "1", there is no question that it is a public document acknowledged before notary public Alfonso Quimiging so that it is admissible in evidence as to the date and fact of its execution

without further proof of its due execution and delivery (*Antillon v. Barcelona*, 37 Phil. 148 {1917}).

As to the admissibility of documents entitled "Salabutan" (Exhibits "2," "3" and "4"), petitioners correctly argued that its genuineness and due execution were duly established by the testimonies of respondents themselves, as corroborated by the testimonies of their own witnesses Filomeno Gemino and Nemesio Corro on the execution of the said documents (Rollo, pp. 133-135). In fact, private respondents never proved that the documents were fictitious. On the contrary, they admitted having signed the documents and received money from the petitioners, although the former claimed to have received the same in consideration of a mortgage and not of a sale (Rollo, p. 135). But such allegation was proved false by the findings of the trial court as shown by the actuations of the private respondents who willingly surrendered possession of their shares, never demanded the produce of the land and allowed the transfer of the tax declaration in the names of petitioners who have been paying taxes since then (Rollo, p. 112).

Moreover, private respondents admitted the genuineness and due execution of the said documents by their failure to specifically deny them under oath, in consonance with Section 8, Rule 8 of the Rules of Court. As a consequence, private respondents, could neither put up the defense that said documents were not signed knowingly and voluntarily nor claim that the documents are spurious (*Hibbered v. Rhode*, 32 Phil 476).

The prescription of action and the admissibility of the questioned documents being without question, there appears to be no necessity to discuss the other issues in this cases.

PREMISES CONSIDERED, the decision of the Intermediate Appellate Court is REVERSED and SET ASIDE, and the trial court's decision is hereby REINSTATED.

SO ORDERED.

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

[*]Penned by Justice Jose Campos, Jr., concurred in by Justices Crisolito Pascual, Serafin Camilon and Desiderio Jurado.

[**]Written by Judge Dimalanes Buissan.

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