

MARGARITO ALMENDRA, DELIA ALMENDRA, BERNARDINA OJEDA AND MELECIA CENO, PETITIONERS, VS. THE HON. INTERMEDIATE APPELLATE COURT, ANGELES ALMENDRA, ROMAN ALMENDRA AND MAGDALENO CEN...

G.R. No. 75111. November 21, 1991

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

This is a petition for review on certiorari of the then Intermediate Appellate Court's decision and resolution denying the motion for reconsideration of said decision which upheld the validity of three (3) deeds of sale of real properties by a mother in favor of two of her children in total reversal of the decision of the lower court.

The mother, Aleja Ceno, was first married to Juanso Yu Book with whom she had three children named Magdaleno, Melecia and Bernardina, all surnamed Ceno. Sometime in the 1920's, Juanso Yu Book took his family to China where he eventually died. Aleja and her daughter Bernardina later returned to the Philippines.

During said marriage, Aleja acquired a parcel of land which she declared in her name under Tax Declaration No. 11500.[1] After Juanso Yu Book's death, Bernardina filed against her mother a case for the partition of the said property in the then Court of First Instance of Leyte.[2] On August 17, 1970, the lower court[3] rendered a "supplemental decision"[4] finding that the said property had been subdivided into Lots Nos. 6354 (13,738 square meters), 6353 (16,604 square meters), 6352 (23,868 square meters) and 6366 (71,656 square meters). The dispositive portion of said decision reads:

"IN VIEW OF THE FOREGOING, the Court hereby ren-ders judgment:

1. Declaring plaintiff Bernardina C. Ojeda as owner and entitled to the possession of Lot No. 6354 as described in the sketch found on page 44 of the record;
2. Declaring said plaintiff as owner and entitled to the possession of Lot 6353 as described in the sketch, without prejudice to whatever may be the rights thereto of her sister Melecia Ceno who is said to be presently in China;
3. Declaring defendant Aleja C. Almendra as owner and entitled to the possession of Lot No. 6366 as de-scribed in the sketch found on page 44 of the record;
4. Declaring said defendant also as owner and entitled to the possession or Lot No. 6352 as described in the sketch, subject to whatever may be the rights thereto of her son Magdaleno Ceno who is said to be presently in China.

No special pronouncement as to costs, except that the fees of the commissioner shall be proportionately borne by the parties.

SO ORDERED."

Meanwhile, Aleja married Santiago Almendra with whom she had four children named Margarito, Angeles, Roman and Delia. During said marriage Aleja and Santiago acquired a 59,196-square-meter parcel of land in Cagbolo, Abuyog, Leyte. Original Certificate of Title No. 10094 was issued therefor in the name of Santiago Almendra married to Aleja Ceno and it was declared for tax purposes in his name.[5]

In addition to said properties, Aleja inherited from her father, Juan Ceno, a 16,000-square-meter parcel of land also in Cagbolo.[6] For his part, her husband Santiago inherited from his mother, Nicolasa Alvero, a 164-square-meter parcel of residential land located in Nalibunan, Abuyog, Leyte.[7]

While Santiago was alive, he apportioned all these proper-ties among Aleja's children in the Philippines, including Bernardina, who, in turn, shared the produce of the properties with their parents. After Santiago's death, Aleja sold to her daugh-ter, Angeles Almendra, for P2,000 two parcels of land more particularly described in the deed of sale dated August 10, 1973.[8] as follows:

"1. Half-portion, which pertains to me as my conjugal share, with my late husband Santiago Almendra of the land located at Bo. Cagbolo, under T/D No. 22234, covered by OCT No. P-10094 in the name of Santiago Almendra; having an area of 5.9196 hectares; with bound-aries specifically designated at the technical descrip-tions of the title thereof; and hence the half portion subject of sale shall have an area of more or less 2.9598 hectares; specifically designated in the sketch below marked as X: the hilly portion.

"2. Half-portion of a parcel of land located at Bo. Cagbolo, Abuyog, Leyte under T/D No. 27190 in the name of Aleja Ceno; having an area of 1.6000 hectares bounded as follows to wit: N. Cagbolo creek; E. Leon Elmido; S. Magno Elmido and W., Higasan River, which portion shall have at area of more or less 8000 hec. (sic), and designated as X in the sketch below:"[9]

On December 26, 1973, Aleja sold to her son, Roman Almen-dra, also for P2,000 a parcel of land described in the deed of sale as located in Cagbulo (sic), Abuyog, Leyte "under T/D No. 11500 which cancelled T/D No. 9635; having an area of 6.6181 hec., assessed at P1,580.00 x x x. "[10]

On the same day, Aleja sold to Angeles and Roman again for P2,000 yet another parcel of land described in the deed of sale[11] as follows:

"A parcel of land designated as Lot No. 6352 in the name of Melicia Ceno, under Project PLS-645, Abuyog, Leyte, which had been treated in the CIVIL CASE No. 4387, For PARTITION OF REAL PROPERTY, CFI-Leyte, Taclo-ban City, Branch II; Bernardina Ojeda, Plaintiff, - vs.- Aleja C. Almendra, defendant, wherein said SUPPLEMENTAL DECISION, dated August 17th, 1970, in said case by Judge Jesus N. Borromeo:

PART OF THE DECISION, COMMISSIONER'S REPORT:

Par. 3) That the partition, plaintiff and defendant agreed to exchange the names or owners of Lot No. 6353 which is in the name of Magdaleno Ceno with Lot No. 6352 in the name of Melicia Ceno as appearing in the sketch, copy of the Public Land Subdivision of Abuyog, Leyte, under Project PLS-645 x x x..

DISPOSITIVE PORTION OF SAID DECISION:

Par. 4) Declaring said defendant (Aieja C. Almendra) also as owner and entitled to the posses-sion of Lot No. 6352 as described in the sketch, subject to whatever may be the rights thereto of her son Magdaleno Ceno who is said to be presently in China."

Aleja died on May 7, 1975. On January 21, 1977 Margarito, Delia and Bernardina filed a complaint against Angeles and Roman for the annulment of the deeds of sale in their favor, partition of the properties subjects therein and accounting of their produce[12] From China, their sister Melecia signed a special power of attorney in

favor of Bernardina. Magdaleno, who was still in China, was impleaded as a defendant in the case and summons by publication was made on him. Later, the plaintiffs informed the court that they had received a document in Chinese characters which purportedly showed that Magdaleno had died. Said document however, was not produced in court. Thereafter, Magdaleno was considered as in default without prejudice to the provisions of Section 4, Rule 18 of the Rules of Court which allows the court to decide a case wherein there are several defendants upon the evidence submitted only by the answering defendants.

On April 30, 1981, the lower court rendered a decision[13] the dispositive portion of which states:

"WHEREFORE, judgment is hereby rendered declaring the deeds of sale herein (Exhs. 'E', 'F' and 'H') to be simulated and therefore null and void; ordering the partition of the estate of the deceased Aleja Ceno among her heirs and assigns; appointing the Acting Clerk of Court, Atty. Cristina T. Pontejos, as commissioner, for the purpose of said partition, who is expected to proceed accordingly upon receipt of a copy of this decision; and to render her report on or before 30 days from said receipt. The expenses of the commissioner shall be borne proportionately by the parties herein.

SO ORDERED."

The defendants appealed to the then Intermediate Appellate Court which, on February 20, 1986 rendered a decision[14] finding that, in nullifying the deeds of sale in question, the lower court totally disregarded the testimony of the notary public confirming the authenticity of the signatures of Aleja on said deeds and the fact that Angeles and Roman actually paid their mother the amounts stipulated in the contracts. The appellate court also stated that the uniformity in the prices of the sale could not have nullified the sale because it had been duly proven that there was consideration and that Angeles and Roman could afford to pay the same. Hence, it upheld the validity of the deeds of sale and ordered the partition of the "undisposed" properties left by Aleja and Santiago Almendra and if an extra-judicial partition can be had, that it be made within a reasonable period of time after receipt of its decision.

The plaintiffs' motion for reconsideration having been denied, they filed the instant petition for review on certiorari contending principally that the appellate court erred in having sanctioned the sale of particular portions of yet undivided real properties.

While petitioners' contention is basically correct, we agree with the appellate court that there is no valid, legal and convincing reason for nullifying the questioned deeds of sale. Petitioners had not presented any strong, complete and conclusive proof to override the evidentiary value of the duly notarized deeds of sale.[15] Moreover, the testimony of the lawyer who notarized the deeds of sale that he saw not only Aleja signing and affixing her thumbmark on the questioned deeds but also Angeles and Aleja "counting money between them,"[16] deserves more credence than the self-serving allegations of the petitioners. Such testimony is admissible as evidence without further proof of the due execution of the deeds in question and is conclusive as to the truthfulness of their contents in the absence of clear and convincing evidence to the contrary.[17]

The petitioners' allegations that the deeds of sale were "obtained through fraud, undue influence and misrepresentation," and that there was a defect in the consent of Aleja in the execution of the documents because she was then residing with Angeles,[18] had not been fully substantiated. They failed to show that the uniform price of P2,000 in all the sales was grossly inadequate. It should be emphasized that the sales were effected between a mother and two of her children in which case filial love must be taken into account.[19]

On the other hand, private respondents Angeles and Roman amply proved that they had the means to purchase the properties. Petitioner Margarito Almendra himself admitted that Angeles had a sari-sari store and was engaged in the business of buying and selling logs.[20] Roman was a policeman before he became an auto mechanic and his

wife was a school teacher.[21]

The unquestionability of the due execution of the deeds of sale notwithstanding, the Court may not put an imprimatur on the intrinsic validity of all the sales. The August 10, 1973 sale to Angeles of one-half portion of the conjugal property covered by OCT No. P-10094 may only be considered valid as a sale of Aleja's one-half interest therein. Aleja could not have sold the particular hilly portion specified in the deed of sale in the absence of proof that the conjugal partnership property had been partitioned after the death of Santiago. Before such partition, Aleja could not claim title to any definite portion of the property for all she had was an ideal or abstract quota or proportionate share in the entire property.[22]

However, the sale of the one-half portion of the parcel of land covered by Tax Declaration No. 27190 is valid because the said property is paraphernal being Aleja's inheritance from her own father.[23]

As regards the sale of the property covered by Tax Declaration No. 11500, we hold that, since the property had been found in Civil Case No. 4387 to have been subdivided, Aleja could not have intended the sale of the whole property covered by said tax declaration. She could exercise her right of ownership only over Lot No. 6366 which was unconditionally adjudicated to her in said case.

Lot No. 6352 was given to Aleja in Civil Case No. 4387 "subject to whatever may be the rights thereto of her son Magdaleno Ceno." A reading of the deed of Sale[24] covering this parcel of land would show that the sale is subject to the condition stated above; hence, the rights of Magdaleno Ceno are amply protected. The rule on caveat emptor applies.

WHEREFORE, the decision of the then Intermediate Appellate Court is hereby affirmed subject to the modifications herein stated. The lower court is directed to facilitate with dispatch the preparation and approval of a project of partition of the properties considered unsold under this decision. No costs.

SO ORDERED.

Gutierrez, Jr., Bidin, Davide, Jr., and Romero, JJ., concur.

[1] Exhibit A.

[2] Civil Case No. 4387.

[3] Hon. Jesus N. Borromeo, presiding judge.

[4] Exhibit J.

[5] Exhibit C.

[6] Exhibit D.

[7] Exhibit B.

[8] Exhibit H.

[9] Exhibits H & 2.

[10] Exhibit E.

[11] Exhibit F.

[12] Civil Case No. 5527.

[13] Penned by Judge Godofredo P. Quimsing.

[14] Penned by Justice Floreliana Castro-Bartolome and con-curred in by Justices Jorge R. Coquia, Mariano A. Zosa and Bien-venido Ejercito.

[15] Antonio vs. Estrella, G.R. No. 73319, December 1, 1987, 156 SCRA 68.

[16] TSN, July 24, 1979, pp. 7 & 10.

[17] Tan vs. Intermediate Appellate Court, G.R. No. 68834, June 6, 1990, 186 SCRA 322, 328.

[18] Rollo, p. 23.

[19] Jocson vs. Court of Appeals, G.R. No. 55322, February 16, 1989, 170 SCRA 333, 343.

[20] TSN, February 14, 1980, p. 5.

[21] Ibid, September 11, 1979, p. 6.

[22] Oliveras vs. Lopez, L-29727, December 14, 1988, 168 SCRA 431, 437.

[23] Arts. 135 & 148 [2], Civil Code; Alvaran vs. Marquez, 11 Phil. 263 [1908]; Osorio vs. Posadas, 56 Phil. 748 [1929].

[24] Exhibit F.

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