

**BIENVENIDO, ESTELITA, MACARIO, LUIS, ADELAIDE, ENRIQUITA
AND CLAUDIO, ALL SURNAMED, GEVERO, PETITIONERS, VS.
INTERMEDIATE APPELLATE COURT AND DEL MONTE
DEVELOPMENT CORPORATION, ...**

G.R. No. 77029. August 30, 1990

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the March 20, 1988 decision[1] of the then Intermediate Appellate Court (now Court of Appeals) in AC-GR CV No. 69264, entitled *Del Monte Development Corporation vs. Enrique Ababa, et al., etc.* affirming the decision[2] of the then Court of First Instance (now Regional Trial Court) of Misamis Oriental declaring the plaintiff corporation as the true and absolute owner of that portion of Lot 476 of the Cagayan Cadastre, particularly Lot No. 2476-D of the subdivision plan (LRC) Psd-80450, containing an area of Seven Thousand Eight Hundred Seventy Eight (7,878) square meters more or less.

As found by the Appellate Court, the facts are as follows:

"The parcel of land under litigation is Lot No. 2476 of the Subdivision Plan Psd--37365 containing an area of 20,119 square meters and situated at Gusa, Cagayan de Oro City. Said lot was acquired by purchase from the late Luis Lancero on September 15, 1964 as per Deed of Absolute Sale executed in favor of plaintiff and by virtue of which Transfer Certificate of Title No. 4320 was issued to plaintiff (DELCOR for brevity). Luis Lancero, in turn acquired the same parcel from Ricardo Gevero on February 5, 1952 per deed of sale executed by Ricardo Gevero which was duly annotated as entry No. 1128 at the back of Original Certificate of Title No. 7610 covering the mother lot identified as Lot No. 2476 in the names of Teodorica Babangha - 1/2 share and her children: Maria; Restituto, Elena, Ricardo, Eustaquio and Ursula, all surnamed Gevero, 1/2 undivided share of the whole area containing 48,122 square meters.

"Teodorica Babangha died long before World War II and was survived by her six children aforementioned. The heirs of Teodorica Babangha on October 17, 1966 executed an Extra-Judicial Settlement and Partition of the estate of Teodorica Babangha, consisting of two lots, among them was lot 2476. By virtue of the extra-judicial settlement and partition executed by the said heirs of Teodorica Babangha, Lot 2476-A to Lot 2476-I, inclusive, under subdivision plan (LRC) Psd-80450 duly approved by the Land Registration Commission, Lot 2476-D, among others, was adjudicated to Ricardo Gevero who was then alive at the time of extra-judicial settlement and partition in 1966. Plaintiff (private respondent herein) filed an action with the CFI (now RTC) of Misamis Oriental to quiet title and/or annul the partition made by the heirs of Teodorica Babangha insofar as the same prejudices the land which it acquired a portion of lot 2476.

"Plaintiff now seeks to quiet title and/or annul the partition made by the heirs of Teodorica Babangha insofar as the same prejudices the land which it acquired, a portion of Lot 2476. Plaintiff proved that before purchasing Lot 2476-A it first investigated and checked the title of Luis Lancero and found the same to be intact in the office of the Register of Deeds of Cagayan de Oro City. The same with the subdivision plan (Exh. "B"), the corresponding technical description (Exh. "P") and the Deed of Sale executed by Ricardo Gevero --

all of which were found to be unquestionable. By reason of all these, plaintiff claims to have bought the land in good faith and for value, occupying the land since the sale and taking over from Lancero's possession until May 1969, when the defendants Abadas forcibly entered the property." (Rollo, p. 23)

After trial the court a quo on July 18, 1977 rendered judgment, the dispositive portion of which reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered declaring the plaintiff corporation as the true and absolute owner of that portion of Lot No. 2476 of the Cagayan Cadastre, particularly Lot No. 2476-D of the subdivision plan (LRC) Psd-80450, containing an area of SEVEN THOUSAND EIGHT HUNDRED SEVENTY EIGHT (7,878) square meters, more or less. The other portions of Lot No. 2476 are hereby adjudicated as follows:

"Lot No. 2476 - B -- to the heirs of Elena Gevero;

"Lot No. 2476 - C -- to the heirs of Restituto Gevero;

"Lot No. 2476 - E -- to the defendant spouses Enrique C. Torres and Francisca Aquino;

"Lot No. 2476 - F -- to the defendant spouses Eduard Rumohr and Emilia Merida Rumohr;

"Lot Nos. 2476-H, 2476-I and 2476-G--to defendant spouses Enrique Abada and Lilia Alvarez Abada.

"No adjudication can be made with respect to Lot No. 2476-A considering that the said lot is the subject of a civil case between the Heirs of Maria Gevero on one hand and the spouses Daniel Borkingkito and Ursula Gevero on the other hand, which case is now pending appeal before the Court of Appeals. No pronouncement as to costs.

"SO ORDERED." (Decision, Record on Appeal, p. 203; Rollo, pp. 21-22)

From said decision, defendant heirs of Ricardo Gevero (petitioners herein) appealed to the IAC (now Court of Appeals) which subsequently, on March 20, 1986, affirmed the decision appealed from.

Petitioners, on March 31, 1986, filed a motion for reconsideration (Rollo, p. 28) but was denied on April 21, 1986.

Hence, the present petition.

This petition is devoid of merit.

Basically, the issues to be resolved in the instant case are: 1) whether or not the deed of sale executed by Ricardo Gevero to Luis Lancero is valid; 2) in the affirmative whether or not the 1/2 share of interest of Teodorica Babangha in one of the litigated lots, lot no. 2476 under OCT No. 7610 is included in the deed of sale; and 3) whether or not the private respondents' action is barred by laches.

Petitioners maintain that the deed of sale is entirely invalid citing alleged flaws thereto, such as that: 1) the signature of Ricardo was forged without his knowledge of such fact; 2) Lancero had recognized the fatal defect of the 1952 deed of sale when he signed the document in 1968 entitled "Settlement to Avoid the Litigation"; 3) Ricardo's children remained in the property notwithstanding the sale to Lancero; 4) the designated Lot No. is 2470 instead of the correct number being Lot No. 2476; 5) the deed of sale included the share of Eustaquio Gevero without his authority; 6) T.C.T. No. 1183 of Lancero segregated the area of 20,119 square meters from the bigger area (OCT No. 7616) without the consent of the other co-owners; 7) Lancero caused the 1952 Subdivision survey without the consent of the Geveros' to bring about the segregation of the 20,119 square meters lot from the mother lot 2476 which brought about the issuance of his title T-1183 and to DELCOR's title T4320, both of which were illegally issued; and 8) the area sold as per document is 20,649 square meters whereas the segregated area covered by TCT No. T-1183 of Lancero turned out to be 20,119 square meters (Petitioners Memorandum, pp. 62-78).

As to petitioners' claim that the signature of Ricardo in the 1952 deed of sale in favor of Lancero was forged without Ricardo's knowledge of such fact (Rollo, p. 71) it will be observed that the deed of sale in question was executed with all the legal formalities of a public document. The 1952 deed was duly acknowledged by both parties before the notary public, yet petitioners did not bother to rebut the legal presumption of the regularity of the notarized document (*Dy v. Sacay*, 165 SCRA 473 [1988]); *Nuguid v. C.A.*, G.R. No. 77423, March 13, 1989). In fact it has long been settled that a public document executed and attested through the intervention of the notary public is evidence of the facts in clear, unequivocal manner therein expressed. It has the presumption of regularity and to contradict all these, evidence must be clear, convincing and more than merely preponderant (*Rebuleda v. I.A.C.*, 155 SCRA 520-521 [1987]). Forgery cannot be presumed, it must be proven (*Siasat v. IAC*, No. 67889, October 10, 1985). Likewise, petitioners allegation of absence of consideration of the deed was not substantiated. Under Art. 1354 of the Civil Code, consideration is presumed unless the contrary is proven.

As to petitioners' contention that Lancero had recognized the fatal defect of the 1952 deed when he signed the document in 1968 entitled "Settlement to Avoid Litigation" (Rollo, p. 71), it is a basic rule of evidence that the right of a party cannot be prejudiced by an act, declaration, or omission of another (Sec. 28, Rule 130, Rules of Court). This particular rule is embodied in the maxim 'res inter alios acts alteri nocere non debet.' Under Section 31, Rule 130, Rules of Court "where one derives title to property from another, the act, declaration, or omission of the latter, while holding the title, in relation to the property is evidence against the former." It is however stressed that the admission of the former owner of a property must have been made while he was the owner thereof in order that such admission may be binding upon the present owner (*City of Manila v. del Rosario*, 5 Phil. 227 [1905]; *Medel v. Avecilla*, 15 Phil. 465 [1910]). Hence, Lanceros' declaration or acts of executing the 1968 document have no binding effect on DELCOR, the ownership of the land having passed to DELCOR in 1964.

Petitioners' claim that they remained in the property, notwithstanding the alleged sale by Ricardo to Lancero (Rollo, p. 71) involves a question of fact already raised and passed upon by both the trial and appellate courts. Said the Court of Appeals.

"Contrary to the allegations of the appellants, the trial court found that Luis Lancero had taken possession of the land upon proper investigation by plaintiff the latter learned that it was indeed Luis Lancero who was the owner and possessor of Lot 2476 D. x x x" (Decision, C.A., p. 6).

As a finding of fact, it is binding upon this Court (*De Gola-Sison v. Manalo*, 8 SCRA 595 [1963]; *Gaduco vs. C.A.* 14 SCRA 282 [1965]; *Ramos v. Pepsi-Cola*, 19 SCRA 289 [1967]; *Tan v. C.A.*, 20 SCRA 54 [1967]; *Ramirez Tel. Co. v. Bank of America*, 33 SCRA 737 [1970]; *Lucero v. Loot*, 25 SCRA 687 [1968]; *Guerrero v. C.A.*, 142 SCRA 130 [1986]).

Suffice it to say that the other flaws claimed by the petitioners which allegedly invalidated the 1952 deed of sale have not been raised before the trial court nor before the appellate court. It is settled jurisprudence that an issue which was neither averred in the complaint nor raised during the trial in the court below cannot be raised for the first time on appeal as it would be offensive to the basic rules of fair play, justice and due process. (*Matienzo v. Servidad*, 107 SCRA 276 [1981]; *Dela Santa v. C.A.*, 140 SCRA 44 [1985]; *Dihiansan v. C.A.*, 157 SCRA 434 [1987]; *Anchuelo v. IAC*, 147 SCRA 434 [1987]; *Dulos Realty and Development Corporation v. C.A.*, 157 SCRA [1988]; *Kamos v. IAC*, G.R. No. 78282, July 5, 1989).

Petitioners aver that the 1/2 share of interest of Teodorica (mother of Ricardo) in Lot 2476 under OCT No. 7610 was not included in the deed of sale as it was intended to limit solely to Ricardos' proportionate share out of the undivided 1/2 of the area pertaining to the six (6) brothers and sisters listed in the Title and that the Deed did not include the share of Ricardo, as inheritance from Teodorica, because the Deed did not recite that she was deceased at the time it was executed (Rollo, pp. 67-68).

The hereditary share in a decedents' estate is transmitted or vested immediately from the moment of the death of the 'causante' or predecessor in interest (Civil Code of the Philippines, Art. 777), and there is no legal bar to a successor (with requisite contracting capacity) disposing of his hereditary share immediately after such death, even if the actual extent of such share is not determined until the subsequent liquidation of the estate (*De Borja v. Vda. de Borja*, 46 SCRA 577 [1972]).

Teodorica Babangha died long before World War II, hence, the rights to the succession were transmitted from the moment of her death. It is therefore incorrect to state that it was only in 1966, the date of extrajudicial partition, when Ricardo received his share in the lot as inheritance from his mother Teodorica. Thus, when Ricardo sold his share over lot 2476 that share which he inherited from Teodorica was also included unless expressly excluded in the deed of sale.

Petitioners contend that Ricardo's share from Teodorica was excluded in the sale considering that a paragraph of the aforementioned deed refers merely to the shares of Ricardo and Eustaquio (Rollo, p. 67-68).

It is well settled that laws and contracts shall be so construed as to harmonize and give effect to the different provisions thereof (*Reparations Commission v. Northern Lines, Inc.*, 34 SCRA 203 [1970]), to ascertain the meaning of the provisions of a contract, its entirety must be taken into account (*Ruiz v. Sheriff of Manila*, 34 SCRA 83 [1970]). The interpretation insisted upon by the petitioners, by citing only one paragraph of the deed of sale, would not only create contradictions but also, render meaningless and set at naught the entire provisions thereof.

Petitioners claim that DELCOR's action is barred by laches considering that the petitioners have remained in the actual, open, uninterrupted and adverse possession thereof until at present (Rollo, p. 17).

An instrument notarized by a notary public as in the case at bar is a public instrument (*Eacnio v. Baens*, 5 Phil. 742). The execution of a public instrument is equivalent to the delivery of the thing (Art. 1498, 1st Par., Civil Code) and is deemed legal delivery. Hence, its execution was considered a sufficient delivery of the property (*Buencamino v. Viceo*, 13 Phil. 97; [1906]; *Puato v. Mendoza*, 64 Phil. 457 [1937]; *Vda. de Sarmiento v. Lesaca*, 108 Phil. 900 [1960]; *Phil. Suburban Development Corp. v. Auditor Gen.* 63 SCRA 397 [1975]).

Besides, the property sold is a registered land. It is the act of registration that transfers the ownership of the land sold. (*GSIS v. C.A.*, G.R. No. 42278, January 20, 1989). If the property is a registered land, the purchaser in good faith has a right to rely on the certificate of title and is under no duty to go behind it to look for flaws (*Mallorca v. De Ocampo*, No. L-26852, March 25, 1970; *Unchuan v. C.A.*, 161 SCRA 710 [1988]; *Nuguid v. C.A.*, G.R. No. 77427, March 13, 1989).

Under the established principles of land registration law, the person dealing with registered land may generally rely on the correctness of its certificate of title and the law will in no way oblige him to go behind the certificate to determine the condition of the property (*Tiongco v. de la Merced*, L-2446, July 25, 1974; *Lopez vs. CA.*, G.R. No. 49739, January 20, 1989; *Davao Grains Inc. vs. IAC*, 171 SCRA 612 [1989]). This notwithstanding, DELCOR did more than that. It did not only rely on the certificate of title. The Court of Appeals found that it had first investigated and checked the title (T.C.T. No. T-1183) in the name of Luis Lancero. It likewise inquired into the Subdivision Plan, the corresponding technical description and the deed of sale executed by Ricardo Gevero in favor of Luis Lancero and found everything in order. It even went to the premises and found Luis Lancero to be in possession of the land to the exclusion of any other person. DELCOR had therefore acted in good faith in purchasing the land in question.

Consequently, DELCOR's action is not barred by laches.

The main issues having been disposed of, discussion of the other issues appear unnecessary.

PREMISES CONSIDERED, the instant petition is hereby DISMISSED and the decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

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

[1] Penned by Justice Jose C. Campos, Jr. with the concurrence of Justices Crisolito Pascual, Serapin Camilon and Desiderio P. Jurado

[2] Penned by Judge Benjamin K. Gorospe

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