

SPOUSES FLORENTINO L. FERNANDEZ AND VIVENCIA B. FERNANDEZ, PETITIONERS, VS. HON. COURT OF APPEALS AND ZENAIDA ANGELES FERNANDEZ, RESPONDENTS.

G.R. No. 83141. September 21, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review of the decision of the Court of Appeals in CA-G.R. CV No. 05191 which modified the decision of the Regional Trial Court, Branch 95, Quezon City in Civil Case No. Q-32843 ordering private respondent Zenaida Angeles-Fernandez to execute a deed of conveyance over 1/3 portion or 110 square meters of the lot subject of the action.

The facts of the case are as follows:

On November 28, 1966, petitioners-spouses Florentino and Vivencia Fernandez and private respondent Zenaida Angeles-Fernandez and the latter's husband Justiniano Fernandez purchased in common a parcel of land with an area of 310 square meters identified as Lot 13, Block 19, Pag-Asa Subdivision, Quezon City. The parcel of land was purchased for P15,500.00. Spouses Florentino and Vivencia Fernandez advanced the downpayment of P5,500.00 to the vendors-spouses Santos and Matilde de Torres. A Deed of Conditional Sale (Exhibit "B") was executed by the spouses de Torres in favor of the two Fernandez couples.

On February 24, 1967, the vendors Torres executed a Deed of Absolute Sale in favor of spouses Zenaida and Justiniano Fernandez only. When petitioners learned that the Absolute Deed of Sale did not include their names as vendees they confronted Zenaida and Justiniano Fernandez. Thus, on April 24, 1967, Zenaida and Justiniano Fernandez executed an affidavit (Exhibit "D") in which they acknowledged the sale to petitioners Florentino and Vivencia Fernandez of a portion of the subject parcel of land consisting of 110 square meters and the receipt of the consideration therefor in the amount of P5,500.00.

When private respondent Zenaida Angeles-Fernandez planned to build a house on the lot, she was informed by the City Engineer of Quezon City that the area in Pag-asa is classified under the zoning ordinance as R--2 or residential 2, wherein the minimum requirement for a family house is 240 square meters and therefore, no two (2) separate and independent family houses can be built on the 310 square meter lot. She also found out that the Register of Deeds will not issue a separate title for only 110 square meters (p. 4, C.A. Decision; p. 36, Rollo).

Thus, a duplex building was constructed on the subject land, one unit known as No. 216-A Road I, Pag-asa, Quezon City which was occupied by petitioners Florentino and Vivencia and the other unit known as No. 216, Pag-asa, Quezon City which was occupied by the spouses Zenaida and Justiniano.

On January 26, 1970, Zenaida and Justiniano caused the issuance of a certificate of title (TCT No. 149347) only in their names (p. 47, Rollo).

On February 26, 1976, private respondent Zenaida Fernandez and her husband Justiniano Fernandez filed a

petition for voluntary dissolution of their conjugal partnership before the Juvenile and Domestic Relations Court, Quezon City. In the petition, the couple prayed for judicial approval of their compromise agreement wherein Justiniano waived all his rights to the conjugal properties including the subject parcel of land. Pursuant to the compromise agreement, the Juvenile and Domestic Relations Court awarded the parcel of land subject of the instant case to private respondent Zenaida Angeles-Fernandez on December 13, 1976. In a letter dated October 22, 1977, private respondent demanded that petitioners vacate the premises of the lot awarded to her. On June 9, 1981, petitioners-spouses Florentino and Vivencia filed an action to quiet title and damages against Zenaida Fernandez only, who was then already estranged from her husband Justiniano. In another letter dated June 21, 1981, Zenaida reiterated her demand that petitioners vacate the premises of the lot awarded to her, which lot was also the subject matter of the complaint for quieting of title filed by petitioners.

After trial, a decision (pp. 43-45, Rollo) was rendered on July 23, 1984 wherein the trial court made the following findings and conclusions:

"1. The genuineness and/or due execution of the Deed of Conditional Sale dated November 28, 1966 (Exhibit 'B' & Exhibit '2') and Affidavit dated April 24, 1967 (Exhibit 'D' & Exhibit '4'), were admitted by defendant Zenaida Angeles-Fernandez. Likewise, the voluntariness of the execution thereof, including their contents, were not seriously controverted by defendant Zenaida Angeles-Fernandez. Said documents, therefore, should be taken against her for as ruled by the higher court; 'a man's acts, conduct, and declarations wherever made, if voluntary, are admissible against him, for the reason that it is fair to presume that they correspond with the truth, and it is his fault if they do not.' (U.S. vs. Ching Po, 23 Phil. 578, 583);

"2. The claim of defendant Zenaida Angeles-Fernandez to the effect that the P5,500.00 used as down payment for the purchase price in the total amount of P15,500.00 mentioned in the Deed of Conditional Sale dated November 28, 1966 (Exhibit 'B' & Exhibit '2'), was merely a loan, and that she and her husband Justiniano E. Fernandez have already paid the same almost three-fold to plaintiffs, cannot be considered there being no concrete proof on record to substantiate the same. The Court noted, however, that no further amount, aside from the P5,500.00 were paid by the plaintiffs for the purchase of Lot 13, Block N-19 of Pagasa Subdivision. By mathematical computations, said amount was short for the amount they should pay for the 1/2 portion of the purchased lot, and they should be required to reimburse defendant Zenaida Angeles-Fernandez;

"3. Likewise, the verbal claim of the defendant Zenaida Angeles-Fernandez that she and her husband Justiniano B. Fernandez executed the Affidavit dated April 24, 1967 (Exhibit 'D' & Exhibit '4') as security or assurance to plaintiffs' non-eviction from the premises they are co-occupying and/or payment of the alleged loan, appears gratuitous and illogical, and cannot be given weight more than their admission (Exhibit 'B' & Exhibit '4'), while admission is against interest.

"4. The fact that the names of plaintiffs no longer appear as co-vendees in the Deed of Absolute Sale dated February 24, 1967 (Exhibit 'C' & Exhibit '3'), and to the title to Lot. 13, Block N-19 of the Pagasa Subdivision, Quezon City Exhibit 'A' & Exhibit '1'), as of not moment (sic) and inconsequential to their right or ownership over the 1/2 portion of the lot, the same having been sufficiently established by the Deed of Conditional Sale dated November 28, 1966 (Exhibit 'B' and Exhibit '2'); the Affidavit dated April 24, 1967 (Exhibit 'D' & Exhibit '4'); and the proof on record showing that defendant Zenaida Angeles-Fernandez collected taxes due on the subject lot for the year 1974, 1975, 1976 and 1977 (Exhibit 'H')." (pp. 50-51, Rollo)

Anent the ownership of the duplex house, the trial court concluded that although the petitioners advanced the sum of P1,258.00 (Exhibit "K" and "K-1") for the unit occupied by them, said amount is not sufficient to construct one unit of the duplex building.

The trial court disposed of the case as follows:

"All told, this Court finds plaintiffs spouses Florentino L. Fernandez and Vivencia B. Fernandez, owner of 1/2

portion or the area of 113 square meters of the Lot 13, Block N-19 of Pag-asa Subdivision, Quezon City, subject to reimbursement of the sum of P2,250.00, representing the difference of the total amount they ought to pay for the purchase price thereof, to defendant Zenaida Angeles-Fernandez, plus legal interest thereon from February 24, 1967 until fully paid; and defendant Zenaida Angeles-Fernandez owner of the other one-half or 113 square meters of the aforesaid lot, together with both units of the duplex house existing thereon, subject to the provision of Article 448 of the Civil Code.

"WHEREFORE, decision is hereby rendered:

"1. ORDERING defendant Zenaida Angeles-Fernandez to execute a deed of conveyance over 1/2 portion or 113 square meters of Lot 13, Block N-19 of Pag-asa Subdivision, covered by Transfer Certificate of Title No. 149347 of the Register of Deeds of Quezon City, in favor of plaintiffs, spouses Florentino L. Fernandez and Vivencia B. Fernandez, upon the latter's payment of P2,225.00 plus legal interest thereon counted from February 24, 1967, until fully paid.

"2. The portion of the duplex building resting on the portion of the lot to be reconveyed to the plaintiffs, spouses Florentino L. Fernandez and Vivencia B. Fernandez, shall remain under the ownership of defendant Zenaida Angeles-Fernandez, subject to the provision of Article 448 of the Civil Code.

"x x x"

(pp. 53-54, Rollo).

Petitioners filed a motion to reconsider the decision insofar as the area awarded them was concerned and the amount spent by them for the construction of the duplex house. On November 15, 1984, an order (pp. 55-56, Rollo) was issued by the trial court amending the July 23, 1984 decision, thus:

"WHEREFORE, 1) The dispositive portion of the decision dated July 23, 1984, is hereby amended as follows: '1. ORDERING defendant Zenaida Angeles-Fernandez to execute a deed of conveyance over 1/3 portion or 110 square meters of Lot 13, Block N-19 of the Pag-asa Subdivision, covered by Transfer Certificate of Title No. 149347 of the Register of Deeds of Quezon City, in favor of plaintiffs, spouses Florentino L. Fernandez and Vivencia B. Fernandez, upon the latter's payment of P2,225 plus legal interest thereon counted from February 24, 1967, until fully paid.' 2) Denying all other matters raised in the motion for reconsideration and opposition thereto.

"SO ORDERED." (pp. 55-56, Rollo)

While the order amended the area of the land to be awarded to the petitioners from 1/2 to 1/3, it failed to delete the portion ordering petitioners to pay private respondent the amount of P2,225, as originally ordered in the July 23, 1984 decision.

Not satisfied with the trial court's decision and the order amending said decision, both the petitioners and the private respondent appealed to respondent Court of Appeals. In a decision (pp. 33-40, Rollo) promulgated on January 26, 1988, respondent appellate court made a different conclusion and modified the decision of the trial court:

"The main basis of the trial court in concluding that the plaintiffs are entitled to 1/2 and later to 1/3 portion of the lot and house in Pag-asa are the deed of conditional sale (Exh. B and 2) and the affidavit executed by Justiniano Fernandez (Exh. D).

"It appears, however, that the effect of said documents have been modified by later events. The first is the absolute deed of sale of the house and lot in question and the subsequent issuance of the title thereof only in the name of Justiniano Fernandez and his wife (Exh. C and 3 and Exh. A and 1). Thereafter, Transfer Certificate of Title No. 149347 in the name of the spouses Justiniano E. Fernandez and Zenaida A. Fernandez

was issued by the Register of Deeds of Quezon City on January 26, 1970 (Exh. A). If, indeed, the herein plaintiffs were entitled to 1/2 of the said property, they should have taken steps to include their names in the said title or at least had it annotated on said title. A Certificate of Title issued a party accumulates all the ultimate facts with respect to a particular piece of registered land in one single document, making out a precise and correct statement to the exact status of the fee simple title which the owner has in fact. Once issued, the certificate is the evidence of the title which the owner has (*Legarda vs. Saleeby*, 31 Phil. 590). A torrens title concludes all controversy over ownership of land covered by final decree of registration, and title by adverse possession cannot be acquired against the registered owner (Sec. 46, Act 496; *J.M. Tuason and Co. vs. Vibat*, L-28884, May 29, 1963, 8 SCRA 54; *Espiritu vs. Sison*, CA 51612-R, Feb. 14, 1979).

"What militates more against the claim of ownership of a portion of the property in question by the plaintiffs is the fact that as a result of marriage settlement between Justiniano Fernandez and his wife Zenaida, the whole property was adjudicated to Zenaida. The settlement was approved by the Juvenile and Domestic Relations Court. The herein plaintiffs were supposed to know about said marriage settlement of property. Here is a situation where Zenaida was in fact abandoned by her husband Justiniano, who is a nephew of plaintiff Florentino Fernandez. The plaintiffs should have intervened in said case by filing their claims on the property that was to be granted to Zenaida alone in the marriage settlement. Indeed, it would be less than fair for the herein plaintiffs to demand their alleged share against Zenaida alone after their nephew agreed to grant said property to his wife whom he abandoned.

"Lastly, the cause of action of the plaintiffs had already prescribed. As already stated, the Transfer Certificate of Title was issued in the name of the spouses Justiniano and Zenaida Fernandez in 1970. From said date, Justiniano and his wife exercised acts of absolute ownership by mortgaging the property. The instant action to claim ownership of the portion of the land was filed on July 9, 1981.

"With these findings, We find no merit in the contention of plaintiffs-appellants that they are entitled to damages and attorney's fees.

"WHEREFORE, the decision appealed from is hereby MODIFIED by declaring the defendant Zenaida Fernandez as the sole owner of the property in question covered by Transfer Certificate of Title No. 14934, Registry of Deeds of Quezon City.

"In fairness to the plaintiffs, however, defendant Zenaida Fernandez is ordered to return to the plaintiffs the amount of P5,500.00 plus interest at the legal rate from November 28, 1966 until full payment thereof.

"SO ORDERED." (pp. 39-40, Rollo)

Petitioners' motion for reconsideration of the decision of the Court of Appeals was denied on April 22, 1988 (p. 42, Rollo).

On June 15, 1988, petitioners filed the instant petition for review. They contend that respondent appellate court erred in not declaring them part owners of the lot in question despite the fact that it is not disputed that petitioners and defendant Zenaida Fernandez with her husband Justiniano Fernandez entered into an agreement with the vendors-spouses Santos and Matilde de Torres that the subject land would be purchased by them in common.

While, as a rule, this Court is bound by the findings of the Court of Appeals in matters of fact, that rule is subject to well-settled exceptions, amongst them: (1) when the same are grounded entirely on speculation, surmise, and conjecture; (2) the inference made is manifestly mistaken; (3) x x x; (4) its judgment is based on a misapprehension of facts; (5) it went beyond the issues of the case and its findings contravene admissions of the parties; (6) its findings of fact are contrary to those of the trial court; (7) the same are conclusions without citation of specific evidence; (8) x x x; and (9) when the findings of fact of the Court of Appeals are not supported by the evidence or contradicted in fact by the evidence on record (*Teodoro v. Court of Appeals*, L-31471, November 12,

1987).

In the instant case, there is a disparity in the factual findings and conclusions of the respondent appellate court and the trial court. On the basis of the evidence presented and in view of the accepted rule that "the judge who tries a case in the court below, has vastly superior advantage for the ascertainment of truth and the detection of falsehood over an appellate court of review (*Roque v. Buan*, L-22459, October 31, 1967, 21 SCRA 642), the findings of the trial court must be upheld.

We agree with petitioners' contention that respondent court erred in not declaring them as part owners of the subject property. There is sufficient evidence on record to prove that petitioners and spouses Justiniano and Zenaida Fernandez purchased in common the lot subject of this case and that it was the parties' intention to become owners of specific portions thereof.

The purchase of the property by the two Fernandez couples was evidenced by a Deed of Conditional Sale (Exhibit "B" and Exhibit "2") executed by the previous owners Spouses Santos and Matilde de Torres in favor of the petitioners and the Spouses Zenaida and Justiniano Fernandez. Respondent appellate court concluded that the effect of the Deed of Conditional Sale was modified by later events specifically, the execution of a deed of Absolute Sale in favor of Justiniano Fernandez and private respondent Zenaida Fernandez only. However, respondent appellate court lost sight of the fact that upon petitioners' knowledge that the Deed of Absolute Sale was executed in favor of Justiniano and Zenaida Fernandez only, the petitioners confronted the latter spouses which led to the execution by the latter on April 24, 1967 of an affidavit (Exhibit 'D') acknowledging petitioners' purchase of 110 square meters of the subject lot and the receipt of the consideration therefor for P5,500.00. The due execution and authenticity of both the Deed of Conditional Sale and Affidavit were never denied by private respondent. Having recognized the sale and the receipt of the consideration in the affidavit, private respondent is now estopped from going against such declaration.

It is noted that subsequent to the execution of the affidavit, a duplex house was constructed on the lot where one unit was occupied by private respondent Zenaida and her husband Justiniano and the other unit by the petitioners. The expenses for the construction of the duplex were advanced by the spouses Zenaida and Justiniano, but they demanded reimbursement of the expenses they advanced for the portion belonging to petitioners. Exhibit "I" and Exhibit "J" reveal that on November 10, 1969, Justiniano demanded from the petitioners payment of their share of the materials used in the construction of their portion of the duplex house amounting to P2,607.70 (p. 44, Rollo) and the taxes due from them for the house and lot. On March 8, 1977, petitioners paid for their share of the realty taxes for the year 1974, 1975, 1976 and 1977 in the total amount of P894.36 to private respondent Zenaida (Exhibit "H"). For the expenses in the construction of the portion of the duplex possessed by petitioners, they gave P1,258.10 to Justiniano who issued a receipt therefor (Exhibit "K" and "K-1"). Petitioners promised to liquidate the balance in installment at the rate of P300.00 a month. The trial court concluded that the amount of P1,258.10 advanced by petitioners was not sufficient to construct their portion of the duplex house and that no evidence was presented to prove that petitioners paid for the balance. From this findings, it erroneously concluded that the entire duplex house belongs to private respondent Zenaida Angeles-Fernandez.

It should be noted that Justiniano Fernandez admitted in Exhibits "I" and "J" petitioner's ownership of the portion of the duplex house now occupied by them. It may be that the amount of P1,258.10 paid by petitioner Florentino Fernandez to Justiniano Fernandez was not sufficient to construct their portion of the duplex house but such insufficiency cannot be made the basis for divesting them of their ownership.

Respondent court's conclusion that petitioners were not part owners of subject land relied much on the existence of Transfer Certificate of Title No. 149347 issued in the name of Spouses Justiniano and Zenaida Fernandez only.

It further concluded that if, indeed, petitioners were entitled to 1/2 of the property, they should have taken steps to include their names in the title.

Section 50 of Act No. 496 (now Sec. 51 of P.D. 1529), provides that the registration of the deed is the operative act to bind or affect the land insofar as third persons are concerned. But where the party has knowledge of a prior existing interest which is unregistered at the time he acquired a right to the same land, his knowledge of that prior unregistered interest has the effect of registration as to him. The torrens system cannot be used as a shield for the commission of fraud (*Gustillo v. Maravilla*, 48 Phil. 442). As far as private respondent Zenaida Angeles and her husband Justiniano are concerned, the non-registration of the affidavit admitting their sale of a portion of 110 square meters of the subject land to petitioners cannot be invoked as a defense because (K)nowledge of an unregistered sale is equivalent to registration (*Winkleman v. Veluz*, 43 Phil. 604).

The respondent appellate court also erred in ruling that the cause of action of petitioners had already prescribed in view of the issuance in 1970 of a certificate of title in the name of the Spouses Justiniano and Zenaida Fernandez. As already stated, the issuance of a certificate of title in the name appearing therein does not preclude petitioners from asserting their right of ownership over the land in question. Time and again it has been ruled that the torrens system should not be used as a shield to protect fraud. Moreover, prescription cannot be considered against petitioners who had been in possession of subject premises from the time it was purchased from the de Torres spouses in 1967 and continue to possess the same under claim of ownership. There is no sufficient basis for the respondent court to conclude that spouses Zenaida and Justiniano were possessing the entire property adversely against petitioners. At most, the first time that respondent Zenaida Fernandez claimed adverse possession of the entire premises was when she demanded from petitioners the possession of the unit possessed by them in a letter dated October 22, 1977 (Exhibit "F"), emboldened by a decision of the Juvenile and Domestic Relations Court awarding the premises to her. The decision of private respondent to claim total ownership of the premises was in fact, pursued only half-heartedly by her because the second time that she demanded possession of the premises was four (4) years after or on June 21, 1981, after an action to quiet title was filed by petitioners on June 9, 1981. In *Almanza v. Arguelles*, L-49250 December 21, 1987, We held that, "prescription cannot be invoked in an action for reconveyance, which is, in effect an action to quiet title against the plaintiff therein who is in possession of the land in question. As lawful possessor and owner of the disputed portion, her cause of action for reconveyance which, in effect, seeks to quiet title to property in one's possession is imprescriptible (also cited in *Caragnay-Layno v. Court of Appeals*, 133 SCRA 718, citing *Sapto, et al. v. Fabiana*, 103 Phil. 683 and *Faja v. C.A.*, 75 SCRA 441). The reason, We explained in *Bucton v. Gabar*, L-36359, January 31, 1974, 55 SCRA 499 is:

"x x x that while the owner in fee continues liable to an action, proceeding, or suit upon the adverse claim, he has a continuing right to the aid of a court of equity to ascertain and determine the nature of such claim and its effect on his title, or to assert any superior equity in his favor. He may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. But the rule that the statute of limitations is not available as a defense of an action to remove a cloud from title can only be invoked by a complainant when he is in possession. x x x." (44 Am. Jur., p. 47)

The judgment in the petition for dissolution of the conjugal partnership filed with the Juvenile and Domestic Relations Court by private respondent Zenaida Angeles-Fernandez and her husband Justiniano where the property in question was awarded to Zenaida cannot bind the petitioners who were not parties thereto. The failure of petitioners to intervene in the said proceedings for dissolution of conjugal partnership is not fatal. Petitioners may file their claim of ownership over the one-third portion of the property in question separately which they did when they brought the complaint for quieting of title before the trial court.

As already stated, the affidavit executed by Justiniano Fernandez and private respondent Zenaida Angeles

Fernandez acknowledged the sale of one-third (1/3) portion of the subject land to petitioners?spouses Florentino and Vivencia Fernandez and the receipt by the former of the amount of P5,500.00 as consideration thereof. However, the trial court in awarding the said one-third portion to petitioners also ordered the payment by them of P2,225.00 to private respondent Zenaida Angeles-Fernandez, oblivious of the fact that only 1/3 and not one-half (1/2) pertain to petitioners and that the P5,500.00 advanced by petitioners at the time the subject property was purchased from the de Torres spouses was sufficient payment for the 1/3 portion awarded to them.

ACCORDINGLY, the petition is GRANTED. The decision of respondent appellate court is REVERSED. Judgment is hereby rendered declaring petitioners owners of: 1) one-third (1/3) or 110 square meters of Lot 13, Block N-19 of Pag-asa Subdivision, presently occupied by them, covered by TCT NO. 149347 of the Register of Deeds of Quezon City; and 2) the portion of the duplex house occupied by them after payment of the balance of P1,349.70 advanced by the husband of private respondent Zenaida Fernandez for the construction thereof, with interest at the legal rate from November 1969 until fully paid.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Griño-Aquino, JJ., concur.

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