

HEIRS OF DECEASED COSME RABE, MIGUEL MABUTE AND FELISA MABUTE, PETITIONERS, VS. THE COURT OF APPEALS AND LEON FAYTAREN, RESPONDENTS.

G.R. No. 84313. April 26, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks to set aside the decision of the Court of Appeals promulgated on April 2, 1987, declaring private respondent Leon Faytaren owner of subject, land, as well as the Resolution dated July 12, 1988 denying petitioners' motion for reconsideration.

The spouses Isidoro Mampusti and Potenciana Lazo were original owners of two adjoining parcels of land located at Pangulayan (now Pagalagala) Pinamalayan, Oriental Mindoro: 1) Parcel A with an area of 11.7023 hectares formerly covered by OCT No. 830 of the Register of Deeds, Mindoro, issued on April 15, 1928, pursuant to a homestead patent issued on April 7, 1928 and 2) Parcel B consisting of an area of 8.7673 hectares, formerly covered by OCT No. 3521 of the Registry of Deeds, Mindoro, issued on May 26, 1939, pursuant to a homestead patent issued April 12, 1939.

On May 26, 1938, Potenciana Lazo, then already a widow, sold two portions of Parcel B: (a) four (4) hectares, more or less, in favor of petitioner spouses Cosme Rabe and Felisa Mabute and (b) one (1) hectare, more or less, in favor of the spouses Sabino Manrique and Aurelia Mogo.

Parcel B was still a public land in 1938 but the same was already declared for taxation purposes under Tax Declaration No. 79856.

Since 1938 when they purchased the land from Potenciana Lazo, spouses Rabe had cleared the same and converted it into an irrigated ricefield, enjoyed the fruits thereof, declared the same in their name for taxation purposes, paid the corresponding realty taxes, paid the irrigation fees since the land became irrigated in 1961, and has been in continuous, adverse, peaceful and notorious possession thereof for the last 32 years from 1938 until 1970 when this case was filed by respondent Faytaren.

In 1950, Potenciana Lazo died.

On July 22, 1956, the heirs of Isidoro Mampusti and Potenciana Lazo, executed a deed of extrajudicial partition, wherein they recognized and affirmed the sale of five hectares of Parcel B by their parents to the spouses Rabe and Manrique. Thereafter, some of the heirs sold their respective shares in the partition.

Two years later, or on February 28, 1958, the Mampusti heirs executed another "extrajudicial settlement of estate with Simultaneous Sale of Inheritance" wherein they declared null and void all prior sales affecting the inherited property and cancelled the first extrajudicial partition executed by them.

The land sold in 1938 by Potenciana Lazo to Cosme Rabe was included in OCT No. 3521 (Parcel B) which was

subsequently cancelled and TCT No. 8270 was issued to the heirs of Isidoro Mampusti and Potenciana Lazo on the basis of the deed of extrajudicial partition above mentioned.

On March 26, 1962, Pedro and Ines Mampusti and Elena Mondragon sold their shares in the remaining portion of 40,455 square meters (or the portion sold to Rabe embraced in TCT 8270) to their brother, Paulino Mampusti.

The land was surveyed and the survey plan registered on June 5, 1962.

On June 15, 1962, TCT 8270 was cancelled and TCT No. 12786-A was issued in the name of P. Mampusti. Earlier, however, on May 15, 1962, before issuance of title in his name, Mampusti had sold the land to Gregorio Moratilla and Gregorio Marquines.

On June 18, 1962, TCT 12786-A was cancelled and TCT No. 12789 was issued in the names of Moratilla and Marquines. Following the release of the title, the latter caused the fencing of subject land, but this was removed by Rabe. A confrontation followed at the police station, where Rabe showed his deed of sale covering the land being claimed by Moratilla and Marquines.

Not being in possession of the land, but relying on their transfer certificate of title, Moratilla and Marquines mortgaged the land to the Philippine National Bank. The land was released from mortgage on March 1, 1965 when Moratilla and Marquines paid the P1,000.00 loan they secured from the bank.

On May 31, 1965, Marquines sold her 1/2 share to Nori Moratilla, G. Moratilla's niece.

On February 21, 1970, Nori Moratilla and Gregorio Moratilla sold the land to Leon Faytaren for which TCT No. 40129 was issued in his name.

On April 8, 1970, Faytaren filed a complaint for quieting of title against Rabe (docketed as Civil Case No. R-218), alleging that he was being dispossessed by adverse possessors.

On January 21, 1972, Rabe filed a complaint for quieting of title against the heirs of Isidoro Mampusti and Potenciana Lazo, Gregorio Moratilla, Gregoria Marquines, Nori Moratilla and Leon Faytaren (docketed as Special Action No. R-72).

The two cases were consolidated and jointly tried upon agreement of the parties.

On October 20, 1976, the lower court^[1] rendered judgment, the dispositive portion of which provides as follows:

"WHEREFORE, in view of the foregoing findings, judgment is hereby rendered in favor of the Rabe spouses and against Leon Faytaren and the Heirs of Isidoro Mampusti and Potenciana Lazo.

1. Dismissing Civil Case No. R-218;
2. Declaring the land in question as embraced in TCT No. T-40129 and which is the same land denominated as Lot A in Annex A of the complaint in Special Civil Action No. R-72 appearing on page 12 thereof, as exclusively belonging to Rabe spouses, free from all liens and encumbrances;
3. Declaring as null and void TCT No. T--40129 (Exh. "B" - Faytaren) and all the titles that preceded the same except OCT No. 3521;
4. Ordering the Mampusti-Lazo heirs, defendants in Special Civil Action No. R-72, to execute a notarized deed of sale of the land in dispute in favor of the Rabe spouses within thirty (30) days from the final entry of this decision and if they fail to do so, the Clerk of Court will execute said document at the expense of said Mampusti-Lazo heirs in order that the land in question may be segregated from OCT No. 3521 (Exh. "29") and another transfer certificate of title issued in the name of Cosme Rabe and Felisa Mabuti on the basis of TCT No. T-40129 and Lot A in Annex A appearing on page 12 of the complaint in Special Civil Action No. R-72;

5. Condemning the defendants in Special Civil Action No. R-52 jointly and severally to pay the Rabe spouses damages in the amount of P1,500.00 corresponding expenses and damages incurred by plaintiff Rabe in the prosecution of these cases and an additional amount of P2,000.00 in the form of attorney's fees;

6. Lifting the subsisting order of receivership and ordering the restoration of the possession of the land in question to the Rabe spouses and the receiver is ordered to deliver all proceeds or harvests in his custody and care to the said spouses; and

7. Sentencing the defendants to pay the cost of this action.

"IT IS SO ORDERED." (pp. 80-81, Rollo)

Faytaren appealed. On April 2, 1987, the Court of Appeals reversed and set aside the lower court decision as follows:

"WHEREFORE, the judgment of the lower court is REVERSED and SET ASIDE. Judgment is hereby rendered:

a) Declaring appellant Faytaren as the owner of the subject land.

b) Ordering the heirs of Isidoro Mampusti and Potenciana Lazo to reimburse Cosme Rabe the sum of P200.00, the price of the sale. The value of any improvement made on the land and the interest on the purchase price shall be deemed equitably compensated by the fruits the appellee Cosme Rabe received from his long possession of the homestead.

This judgment is without prejudice to any appropriate action the government may take against the Mampustis and their successor in interest, as may be authorized by Commonwealth Act. No. 141, as amended.

SO ORDERED." (p. 91, Rollo)

Upon denial of his motion for reconsideration, Rabe filed the present petition anchored mainly on the validity of the sale to him of subject land by P. Lazo-Mampusti.

The validity of the sale, premised on Sec. 20 of CA 141, was belatedly questioned in the Court of Appeals which, nonetheless, ruled in favor of Faytaren over Rabe's objections based on Art. 1409 of the new Civil Code, as follows:

"The general rule is that defenses and objections not pleaded in the answer are deemed waived (Section 2, Rule 9, Rules of Court), and that issues not raised before the lower court cannot be considered for the first time on appeal (*Ng Cho Ohio v. Ng Ding*, 1 SCRA 275). This rule is not, however, absolute. Thus, Article 1409 of the New Civil Code provides that the right to set up the defense of illegality of inexistent and void contract cannot be waived.

"The contract between Rabe and Lazo purports to alienate, convey or transfer Lazo's ownership of subject land, which at that time was still public land. Article 1409 of the New Civil Code expressly declares as inexistent (sic) and void from the beginning those contracts prohibited or declared void by law. Under Section 20 of the Public Land Act, if the applicant for public land alienates or transfer his rights before the issuance of the homestead patent to him, said transfer is null and void if it is without the previous approval of the Director of Lands. In the present case, there is no affirmative showing that previous approval of the transfer was obtained from the Director of Lands. The transfer, therefore, is null and void.

"It is well settled that a void contract can neither be confirmed nor ratified (*Menil v. Court of Appeals*, 84 SCRA 413; *Manzano v. Ocampo*, 1 SCRA 691). For this reason, the recognition and confirmation by the heirs of Potenciana Lazo of the sale of the subject land to appellee Rabe are bereft of any legal force and cannot validate the sale." (pp. 89-90, Rollo)

In the petition before Us, Rabe disputes the conclusion of the Court of Appeals in that Sec. 20 cannot apply in the case at hand.

Section 20 provides:

"Sec. 20. If at any time after the approval of the application and before the patent is issued, the applicant shall prove to the satisfaction of the Director of the Lands that he has complied with all the requirements of the law, but cannot continue with his homestead, through no fault of his own, and there is a bona fide purchaser for the rights and improvements of the applicant on the land, and that the conveyance is not made for purposes of speculation, then the applicant, with the previous approval of the Director of Lands, may transfer his rights to the land and improvements to any person legally qualified to apply for a homestead, and immediately after such transfer, the purchaser shall file a homestead application to the land so acquired and shall succeed the original homesteader in his rights and obligations beginning with the date of the approval of said application of the purchaser. Any person who has so transferred his rights may not again apply for a new homestead. Every transfer made without the previous approval of the Director of Lands shall be null and void and shall result in the cancellation of the entry and the refusal of the patent. (As amended by Com. Act No. 456, and by Rep. Act. No. 1242, approved June 10, 1955)." (Emphasis Ours)

An analysis of the foregoing provision reveals that Faytaren's reliance on Sec. 20 is misplaced.

Section 20 contemplates a situation where an applicant (considered as such because his application has already been approved) wishes to transfer his homestead rights to a bona fide purchaser (not for speculation) in which case the approval of the Director of Lands must be obtained prior to such transfer.

Likewise, the provision applies only in cases of transfers made after a homestead application has been approved, but before the corresponding patent is issued. (Sec. 118 of CA 141 would govern a transfer made after the issuance of the homestead patent).

There is no showing in the present case that at the time of the sale in 1938 an application was, in fact, filed by the Mampusti spouses, or if one has been so filed, that the same was already approved at the time of the sale. Since the approval of the Director of Lands is a prerequisite only when an application has been approved, obviously, Section 20 does not apply in the present case.

It has been established that the Mampusti-Lazo heirs were never in physical possession of subject lot (pp. 83-84, CA Decision, Rollo), Neither has it been disputed that the Rabe spouses were in adverse occupancy and possession thereof for more than 32 years, which in effect had ripened into ownership, by reason of the inaction and complacency not only of Potenciana Lazo herself from whom the property was acquired, but also of her surviving heirs.

We agree with the trial court that:

"x x x such inaction and indifference on the part of the heirs of Potenciana Lazo to take legal steps to recover the property from the Rabes, coupled with their tacit approval and recognition of the right of the said couple over the property after the latter was purchased in 1938 from their mother Potenciana Lazo up to 1970 when it was placed under receivership, constituted laches on their part, they having slept on their rights. Hence, whatever transactions they might have entered in relation to the subject landholding with third parties like Leon Faytaren, as in these cases, did not amount to anything and did not effect (sic) whatsoever the right and interest of the Rabe couple over the property, which after its purchase by them from Potenciana Lazo, was automatically transferred to them and segregated from the mass of land belonging to the couple Isidoro Mampusti and Potenciana Lazo.

"By and large, therefore, there is no dispute that not only TCT No. T-40129 but also all the titles that preceded

the same, except OCT No. 3521, should be as they are hereby declared null and void, it being clearly ventilated in the evidence that said titles were issued without any leg to stand on because the property embraced by said titles already belonged to the Rabes whose right thereto had been vested to them from the time they purchased the land in 1938 from the deceased Potenciana Lazo." (pp. 51-52, Rollo)

Reconveyance in this case is a necessary consequence. For to adjudge respondent Faytaren, owner of the disputed lot, solely on the basis of its having been erroneously included in their certificate of title would indeed be "a sad day for the law for then, We shall be attaching full faith and credence to a Torrens certificate of title oblivious of the demands of justice and anchoring our decision solely on a narrow and literal reading of a statutory prescription, devoid of any shadow of moral right. Furthermore, We shall be putting a premium on land-grabbing and transgressing the broader principle in human relations that no person shall unjustly enrich himself at the expense of another." (Almanza v. Arguelles, G.R. No. L-49250, December 21, 1987, 156 SCRA 718; Teofilo Linazo v. Hon. Intermediate Appellate Court and Ignacio Malintas, G.R. No. 73741, February 28, 1990)

WHEREFORE, the petition is hereby GRANTED. The questioned decision is REVERSED and SET ASIDE and the decision of the lower court, dated October 20, 1976 is REINSTATED. This decision is immediately executory.

SO ORDERED.

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

[1] RTC, Ildefonso M. Bleza, Presiding Judge, Pinamalayan, Oriental Mindoro.

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