

MACARIO TALAG, VICTORINA JOAQUIN, MARIANO TALAG, MARIA TALAG, MIGUELA TALAG AND HEIRS OF FRANCISCO TALAG, PETITIONERS, VS. THE COURT OF APPEALS, HON. JUDGE BRAULIO DAYDAY, OF TH...

G.R. No. 84431. September 21, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

Before Us are two petitions filed by Macario Talag, Victorina Joaquin, Mariano Talag, Maria Talag, Miguela Talag and Heirs of Francisco Talag (hereafter "petitioners"). The first is a petition for review on certiorari (G.R. No. 84431) under Rule 45, and the other is a petition for certiorari and prohibition with preliminary injunction/restraining order (G.R. No. 86053).

The following facts appear undisputed. Sixto Joaquin (now deceased) and his second wife Maria Laxamana (also deceased) were the owner's of two parcels of land/fishponds located in Paombong, Bulacan with areas of 201,296 square meters, and 76,635 square meters, or a total of 28 hectares, more or less as evidenced by Transfer Certificate of Title Nos. 17840 and 22388 of the Register of Deeds of Bulacan.

On March 26, 1958, the Joaquin spouses executed a document of sale of this property for and in consideration of P32,000.00 in favor of Victorina Joaquin (daughter of Sixto Joaquin by his previous marriage), and Remigia, Restituta and Jovita Sangil (nieces of Maria Laxamana),[1] whose names Transfer Certificate of Titles Nos. 21456 and 31455 were issued.

Nevertheless, even after the execution of said sale, the Joaquin spouses continued to perform acts of ownership and possession over the property by leasing the same and collecting rentals. In 1966 the Joaquin spouses leased said property to Feliza del Rosario and her children Macario Talag, et al. (petitioners herein) for 4 years and collected the rentals.[2] In 1969, Sixto Joaquin died. His widow, Maria Laxamana, continued in acts of ownership of the property. In 1970 she renewed the lease of the property to the Talags for four (4) years, and collected the rentals.[3]

In 1972, after the termination of the lease the Sangils for the first time asserted their claim of title and right of possession over these two fishponds by filing Civil Case No. 4160 for recovery of possession with damages in the Court of First Instance of Bulacan against Victorina Joaquin (their co-vendee who did not join their cause) and the petitioners.

In 1974, Maria Laxamana, despite the fact that she was no longer the registered owner of the fishponds again extended the lease of the fishponds to petitioners Talag for four (4) years and collected the rentals.[4]

On December 29, 1978, Maria Laxamana again extended the lease for four (4) years to the Talags and collected the rentals.[5] And on December 7, 1979, she again extended the lease agreement with said petitioners up to February 1, 1997, (a period longer than the lifespan of private respondents) and collected the rentals of

P600,000.00.[6]

In the aforesaid civil case the title and right of possession over the fishponds in question are in dispute. The Sangils claim 3/4 portion of the property predicated on the aforementioned deed of sale and transfer of titles in their names. The original complaint claimed that petitioners were in possession of the 28 hectares of the fishponds, but was subsequently amended twice with the allegation that defendants were in legal possession of two (2) hectares of fishponds only, against the categorical statements of petitioners that they are in possession of the entire 28 hectares. Petitioners (including Victorina Joaquin who was a co-vendee of Sangils who filed a separate answer) likewise claim that the sale was simulated and fictitious and it was not intended to transfer title to the Sangils; that the sale was devised merely to insure Maria Laxamana's ownership of the fishpond from any possible claim of Sixto Joaquin's children of his previous marriage; that the consideration which was exceedingly low was never paid by the supposed vendees; that even after said sale in 1958, the Joaquins continued acts of ownership by leasing the fishponds and collecting rentals; that after the death of Sixto Joaquin, Maria Laxamana extended the lease of the fishponds as owner to petitioners Talag and collected the rentals; that the Sangils never protested and it was only 14 years after the sale that the complaint for recovery of possession was filed in court.

On motion of petitioners, the trial court then presided by then Judge Florelia Castro Bartolome (later Associate Justice of the Court of Appeals) issued an order enjoining private respondents Sangils from interfering with and disturbing petitioners' peaceful possession of the fishponds. Private respondents questioned said order in a certiorari and prohibition proceeding in the Court of Appeals docketed as AC-G.R. No. 01491 but the petition was denied in its orders of August 30 and October 22, both of 1973.

The trial then proceeded in the lower court. In October, 1975, private respondents filed a motion for the appointment of a receiver of said fishponds but this was denied by then Judge Edgardo Paras (now a member of this Court) in an order of March 24, 1976,[7] on the grounds, among others, (a) in cases involving disputes concerning title and possession as in this case, the remedy of receivership is not proper; (b) the property involved here does not fall under the instance of being irreparably or materially injured as required by law to warrant receivership; and (c) the petition for receivership was vague about what properties receivership was sought whether 28 hectares or 2 hectares.

Over 9 years later, private respondents reiterated their motion for receivership but this was denied by then Presiding Judge Zotico Tolete in the order of September 26, 1985[8] considering "the conflicting interest of both parties" of which there is as yet no final determination.

Private respondents then filed a motion for reconsideration of said order. This time Presiding Judge Braulio S. Dayday of the trial court granted the motion in an order of January 27, 1986[9] by appointing one Felipe Salazar as receiver upon filing a bond of P60,000.00. A motion for reconsideration filed by petitioners was denied in an order of June 30, 1986.[10]

Hence, petitioners filed a petition for certiorari with restraining order or preliminary injunction in the Court of Appeals docketed as AC-G.R. No. SP-09481, wherein they sought to annul and restrain the enforcement of the aforesaid orders of January 27, 1986 and June 30, 1986 of the trial court. In due course, a decision was rendered by the appellate court on August 3, 1987,[11] dismissing the petition for certiorari and lifting the temporary restraining order it issued on July 14, 1986 with costs against petitioners.

A motion for reconsideration of said decision filed by petitioners was denied in a resolution of the appellate court of July 28, 1988 by modifying its decision limiting the receivership to seven (7) hectares of the property corresponding to the share of Remigia Sangil it appearing that Restituta Sangil and Jovita Sangil withdrew from the case and/or were no longer interested in the same.[12]

Hence, petitioners filed the herein petition (G.R. 84431) for review on certiorari praying that the aforesaid decision of the Court of Appeals of August 3, 1987 and resolution of July 28, 1988 be reversed and set aside, and in lieu thereof, judgment be rendered denying receivership in Civil Case No. 4160 of the now Regional Trial Court of Bulacan.

In the meanwhile, private respondents filed two (2) motions for reconsideration of the resolution of the Court of Appeals of July 28, 1988, which motions were opposed by petitioners on the ground that the appellate court had lost jurisdiction over the case by the filing of the present petition in this Court. On November 15, 1988 the appellate court issued a resolution granting the motions for reconsideration extending the receivership to twenty-one (21) hectares out of the twenty-eight (28) hectares of the property appearing that Restituta Sangil and Jovita Sangil are still interested in the case.[13]

Thus, petitioners filed in this Court the instant petition in G.R. No. 86053 for certiorari and prohibition with preliminary injunction or restraining order seeking the annulment of said resolution of the Court of Appeals of November 15, 1988 for having been rendered without jurisdiction.

On May 15, 1989, this Court resolved to deny the petition as the establishment of a receivership and the consequent appointment of a receiver is a question of fact and dependent principally on the discretion of the Court. On the filing of a motion for reconsideration, We took a second look at the issues raised by petitioners and found that a reversal is in order.

The trial court through Judge Dayday in the order of June 30, 1986 granting the motion for reconsideration of private respondents stated:

"While it is true that the respective claims of the parties are still to be determined, it being that the main issue to be resolved in this case is whether or not the Torrens title of the plaintiffs over the property in question (fishpond) should be declared null and void on the claim of the defendants that it was issued on the basis of a fictitious or simulated sale, it is a well-known doctrine of law that a Torrens title is generally, conclusively, presumed to be legally issued to the person or persons appearing therein to be the owner of the property covered thereby. And the only way to overcome such presumption is to present clear, convincing and strong evidence to the contrary. At the present stage of the proceedings, where the defendants have just started to present their evidence, the defendants have so far not yet shown such quantum of evidence as to destroy that legal presumption in favor of the plaintiffs.

"Therefore, by correct legal thinking and sound factual reasoning, the plaintiffs, by virtue of their Torrens title which has not yet been declared null and void, should be considered to have successfully shown a clear legal right in themselves to the property in litigation which would warrant the granting of their petition for receivership in order that the fishpond and its income may be properly and adequately preserved and administered during the pendency of the litigation. (The case has been pending for more than 10 years already)."[14]

From the foregoing, it is clearly admitted by the trial court that the respective claims of the parties have yet to be determined and that petitioners have just started the presentation of evidence, and yet it forthwith arrived at a conclusion that private respondents have a clear legal right to the property as they have a title over the same. It did not so much consider the need of giving petitioners the opportunity to present all their evidence to prove their claim that said sale is fictitious and simulated before venturing into an opinion.

In the case of the appellate court its role was solely to determine if the trial court committed a grave abuse of discretion in granting the receivership based on the undisputed facts. However, it went beyond the scope of its authority by discussing the disputed aspects of the case on the merits. It analyzed the reasonableness of rentals, alleged laxity in the records keeping of Atty. Talag, and his failure to get receipts of rentals. It overlooked the fact

that the receipt of payments of rentals are reflected in the lease agreements. It made the observation that since it was Atty. Talag who notarized the deed of sale he is now estopped to question the legality of the same. The appellate court should have also considered that although Atty. Talag notarized the deed of sale, he and the other petitioners still continued to deal with the Joaquins and upon the death of Sixto Joaquin with Maria Laxamana, as owners and lessors. Can this not be an indicia that the said deed of sale was only simulated?

Again, in the resolution of July 28, 1988 the appellate court made a finding that petitioners were inept in the management of the fishponds and that the extension of the lease up to 1997 is anomalous. On the other hand, petitioners contend that they have taken good care of the fishpond, improved and developed the same and spent over P850,000.00 which they will establish during the trial and that they can prove that the lease agreements entered into are regular and the rentals were duly received by Maria Laxamana.[15]

The appellate court should have realized the petitioners were just beginning to present evidence. They should be allowed to adduce all evidence before any conclusion should be arrived at on the merits. Unfortunately, the appellate court practically pre-empted the authority of the trial court to decide the case on the merits even while the trial on the merits was hardly halfway through.

As it is there are many questions that need to be considered as against the deed of sale and title of private respondents. Why did it take private respondents 14 years after the sale to go to court? Why is it that their co-vendee Victorina Joaquin did not join their cause and instead joined the Talags as one of the petitioners asserting that the sale is fictitious and simulated. Is the price of P32,000.00 adequate for 28 hectares? Why did the Joaquins and thereafter Maria Laxamana continue to perform acts of ownership after the sale and the Sangils never complained until 14 years later? Why did Maria Laxamana file a separate action for annulment of this sale and a motion to intervene in Civil Case No. 4160 seeking nullification of the sale? Why did private respondents ask for delivery of possession of only two (2) hectares in the second amended complaint and now seek receivership over twenty-one (21) hectares? These are among the many questions that remain to be answered. And this can be resolved only after the trial on the merits.

As it is now, the question of title and possession to the fishponds cannot be determined nor is there any clear indication one way or the other.

Hence, the appointment of a receiver is improper and has no basis. The power to appoint a receiver should not be exercised when it is likely to produce irreparable injustice or injury to private rights, or when it will injure the interests of others whose rights are entitled to as much consideration from the court as the movant. Before the remedy is granted, the consequences or effects thereof should be considered or established in order to avoid causing irreparable injustice or injury to others who are entitled to as much consideration as those seeking it.[16]

As to the petition in G.R. No. 80653, the Court finds that while it is true petitioners have already filed a petition for certiorari in this Court questioning the decision of the appellate court of August 3, 1987, and the resolution of July 28, 1988, nevertheless, the appellate court has not lost jurisdiction over the case as private respondents filed their timely motions for reconsideration of the resolution of July 28, 1988. Nevertheless, the resolution of the appellate court of November 15, 1988 granting said motions for reconsideration and extending receivership to twenty-one (21) hectares portion of the property, should be struck down to be without lawful basis as hereinabove discussed. To this extent the petition must be granted.

ACCORDINGLY, the motion for reconsideration filed by petitioners in G.R. No. 84431 is GRANTED by setting aside the resolution of May 15, 1989 and the petition is hereby GRANTED. The questioned decision of the Court of Appeals of August 3, 1987 and its resolutions of July 28, 1988 and November 15, 1988 are hereby REVERSED AND SET ASIDE. Another judgment is hereby rendered denying the application for receivership of

private respondents in Civil Case No. 4160 before the Regional Trial Court of Bulacan, with costs against private respondents. The Court further Resolved to GRANT the petition in G.R. No. 86053 insofar as it upheld and extended the receivership to twenty-one (21) hectares.

SO ORDERED.

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

[1] Exhibits C and 1 C.

[2] Annex I to Annex C to petition; pages 111 to 113, Rollo.

[3] Annex J to Annex C to petition; pages 114 to 115, Rollo.

[4] Annex K to Annex C to petition; pages 116 to 118, Rollo.

[5] Annex L to Annex C to petition; pages 119 to 1212, Rollo.

[6] Annex M to Annex C to petition; pages 112 to 124, Rollo.

[7] Annex I to Annex C to the Petition.

[8] Annex G to Annex C to the Petition.

[9] Annex A to Annex C to the Petition.

[10] Annex B to Annex C to the Petition.

[11] Justice Justo P. Torres, Jr. was the ponente concurred in by Justice Leonor Ines Luciano and Oscar M. Herrera.

[12] Pages 55 to 56, Rollo.

[13] Pages 20 to 23, Rollo.

[14] Pages 77 to 78, Rollo, underscoring supplied.

[15] See petition, pages 26 to 36, Rollo.

[16] *Lanson v. Araneta*, 64 Phil. 549 (1937); *Velasco & Co. v. Gon Gochuico & Co.*, 28 Phil. 39 (1914); and *Claudio v. Zulueta*, 64 Phil. 813 (1937).

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