

SPOUSES FELIX ABAD AND ELENA R. ABAD, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND SPOUSES NEAL DAYAP AND PROFETIZA M. DAYAP, RESPONDENTS.

G.R. No. 84908, December 04, 1989

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The decision of the Court of Appeals* in CA-G.R. CV No. 09424 which reversed the decision of Branch 101 of the Regional Trial Court of Quezon City in Civil Case No. Q-35941 is assailed in this petition for review on certiorari.

A certain piece of real property designated by the Bureau of Lands as Lot B, VS-04-000182 is the center of dispute in this case. To fully understand the facts from which the controversy arose, it is indispensable to include in Our discussion Civil Case No. Q-27582 which by supervening events became tightly intertwined with the case at bar.

To begin, about two decades ago, four persons, namely, Herminigildo Aquino, Juanito Dichoso, Damian Garcia and herein petitioner Felix Abad agreed among themselves to contribute to a certain fund in order to purchase from Cres Piliás and Narciso Adaya a parcel of land situated in Diliman, Quezon City described as follows:

"Lot 2-E, Blk. E-1 of Psd-67763, containing an area of 441-6 square meters, more or less at Malaya Avenue, Subdivision." [1]

To conform with the rules and regulations of the People's Homesite and Housing Corporation (PHHC), Cres Piliás and Narciso Adaya executed a Deed of Assignment naming Herminigildo Aquino as the only assignee of the said parcel of land.

To the end that the rights of all the other co-owners will be protected, Aquino executed an affidavit on October 10, 1969 stating among others that although he is the sole assignee in the Deed of Assignment executed jointly by Cres Piliás and Narciso Adaya, in truth and in fact, Juanito Dichosa, Damian Garcia and herein petitioner Felix Abad are also assignees as they have contributed equally to the amount corresponding to the payments made on the property; that he voluntarily recognizes and acknowledges the above-named persons as his co-owners of the property; and that after the corresponding transfer certificate of title is issued in his name, he would execute the necessary deed of absolute sale to each co-owner. [2]

On April 18, 1972, Transfer Certificate of Title No. 175968 was finally issued in the name of the Aquino spouses covering the lot which was purchased by the four co-owners. In pursuance of his legitimate claim over the property and as earlier agreed upon by everyone concerned, petitioner Felix Abad went to see Herminigildo Aquino to ask the latter to execute the necessary document (deed of sale) that will cause the issuance of title in his (petitioner's) name. In violation of the agreement and in contravention of the affidavit that he himself signed, Aquino refused. This being the case, petitioner had to insure that his interest over the property would be protected

by having his adverse claim duly annotated at the back of TCT No. 175968. Petitioner Felix Abad also sent letters to Aquino requesting for a conference so that the document would be executed but the same were never answered.[3]

Hence, petitioner Felix Abad filed Civil Case No. Q-27582 with the Regional Trial Court of Quezon City to compel the Aquino spouses to execute the requisite instrument recognizing his co-ownership over the property and for the Register of Deeds to issue a transfer certificate of title in his favor over his portion thereof.

On November 29, 1982, the Regional Trial Court in Civil Case No. Q-27582 rendered a decision ordering the Aquino spouses or, in their default, the Branch Clerk of Court, to sign, execute and deliver after the judgment has become final and executory, a registerable deed of sale in favor of petitioner Felix Abad over the portion pertaining to him in accordance with the survey conducted by the Bureau of Lands, that is:

"A parcel of land (Lot B, VS-04-000182, L.R.C., record No. _____), situated in the district of Diliman, Quezon City, island of Luzon. Bounded on the N., along lines 7-1-2 by old Course of Culiati Creek (Now Dried), on the E., along lines 2-3-4-5 by Lot C, VS-04-000182, on the S., along line 5-6 by Masaya Interior Street, and on the W., along line 6-7 by Lot A, VS-04-000182. Beginning at a point marked '1' on plan, being N., 8 deg. 45' W., 1728.32 m. from BLIM #10, Quezon City;

thence N., 49 deg. 29' E., 6.06 m. to point 2;

thence S., 12 deg. 11' W., 0.89 m. to point 3;

thence S., 28 deg. 15' W., 4.39 m. to point 4;

thence S., 0 deg. 44' E., 7.88 m. to point 5;

thence N., 83 deg. 38' E., 4.92 m. to point 6;

thence N., 2 deg. 53' W., 8.56 m. to point 7;

thence N., 76 deg. 44' E., 2.95 m. to point of origin;

beginning, containing an area of FIFTY FIVE SQUARE METERS, all points referred to are indicated on the plan and are marked on the ground by old P.S. cyl., conc., mons., 15 x 60 cm., bearing true date of original survey, December 1910 to June 1971 to April 3, 1963 and was approved on November 10, 1981."[4]

The Regional Trial Court in the above-mentioned case (Civil Case No. Q-27582) also ordered the Register of Deeds to issue in favor of petitioner Felix Abad a transfer certificate of title over the portion conveyed to him on the basis of the aforestated deed of sale.

Unfortunately, the contest over the property in question did not end there. After the decision in Civil Case no. Q-27582 was rendered, petitioners Abad spouses learned that private respondents Dayap spouses intended to build a fence around the area already allocated to the former by virtue of the above decision. Hence, petitioners Abad spouses filed another case, Civil Case No. Q-35941, this time against private respondents Dayap spouses, for injunction with prayer for a writ of preliminary injunction, to enjoin the latter from building the said fence. In their Answer, private respondents Dayap spouses admitted the allegations of petitioners Abad spouses with respect to their act of fencing the area. However, private respondents claimed that the lot belonged to them as it was within the property they bought from Herminigildo Aquino.

Considering that both parties were asserting their right over the same piece of property, the lower court ordered the Bureau of Lands to make a survey that would determine the identity of the land claimed by each party based on the titles and other documents of ownership submitted in court.

After conducting a verification survey, the Bureau of Lands submitted a report informing the court that the construction made by the private respondents Dayap spouses is entirely within Lot B, VS-04-000182 which was the same land already assigned to petitioner Felix Abad by virtue of Civil Case No. Q-27582.[5]

On February 16, 1984, the lower court rendered a decision in favor of petitioners Abad spouses with the following dispositive portion:

"WHEREFORE, premises above-considered, judgment is hereby rendered ordering defendants and/or their agents to desist and refrain from making any construction, interfering or disturbing plaintiffs in their possession of the subject land afore-described.

With cost against defendants, including the surveyor's fee.

SO ORDERED."[6]

In arriving at its decision, the lower court took into consideration the decision in Civil Case No. Q-27582.

On appeal to the Court of Appeals, the decision of the lower court was reversed. The appellate court criticized the Regional Trial Court in Civil Case No. Q-27582 for adjudicating to petitioners Lot B, VS-04-000182. The Court of Appeals went on to say that Civil Case No. Q-27582 cannot bind private respondents as they were not included as parties to the case.

Hence, this petition for review on certiorari with the following assignments of error.

"First Assignment of Error

THE RESPONDENT COURT OF APPEALS ERRED WHEN IT RENDERED A DECISION BASED ON THE DECISION OF THE COURT OF FIRST INSTANCE OF QUEZON CITY, BRANCH 31, (NOW REGIONAL TRIAL COURT OF QUEZON CITY BRANCH 89) WHICH IS NOT ON APPEAL BEFORE IT.

Second Assignment of Error

THE RESPONDENT COURT OF APPEALS ERRED WHEN IT IGNORED THE DOCTRINE OF THE LAW OF THE CASE.

Third Assignment of Error

THE RESPONDENT COURT OF APPEALS ERRED WHEN IT FOUND FOR THE PRIVATE RESPONDENTS AND AGAINST THE PETITIONERS."[7]

The above-enumerated assignments of error will be taken up together for being closely related with one another.

Firstly, petitioners aver that instead of deciding the issue regarding the propriety of the injunctive relief issued in Civil Case No. Q-35941 which was the case on appeal before it, the Court of Appeals erroneously ruled on the actuations of the Regional Trial Court in Civil Case No. Q-27582[8] which on the other hand, were not in issue before it.[9] Petitioners contend that the ruling of the Court of Appeals was baseless inasmuch as Civil Case No. Q-35941 was entirely separate from Civil Case No. Q-27582 and also because the theory on which the appellate court proceeded involved factual considerations neither touched upon in the pleadings or made the subject of evidence at the trial.[10]

A perusal of the records of this case would reveal that the Court of Appeals committed a glaring error in ruling on a case which was not on appeal before it. We find that the appellate court indeed went beyond its realm of authority when it criticized the proceedings in Civil Case No. Q-27582, questioning the assignment of the subject

lot to herein petitioners and even hinted at the impropriety of the same.[11]

The pronouncements made by the Court of Appeals regarding Civil Case No. Q-27582 are uncalled-for. As already mentioned, the case was not on appeal before it and the Regional Trial Court had its own basis for arriving at its decision in favor of herein petitioners Abad spouses as against the defendant in that case, Herminigildo Aquino. The duty of the Court of Appeals was to rule on whether or not petitioners were properly granted their prayer for injunction as against the private respondents. Whether or not the trial court in Civil Case No. Q-27582 committed a mistake in arriving at its decision is an issue that is beyond its authority to decide.

What makes the error of the Court of Appeals more apparent is that the decision in Civil Case No. Q-27582 had long become final and duly executed. The appellate court need not be reminded of the well-entrenched principle that a decision, once final and executory, can no longer be altered or modified even by the court which rendered it, otherwise there would be no end to litigation.[12] In *Litton Mills, Inc. vs. Galleon Trade Inc.*,[13] We made it clear that once a judgment has become final, the issues therein should be laid to rest. If the trial court itself which rendered the decision which has become final could no longer reopen the issues that have already been settled therein, then all the more should the prohibition apply to an appellate court called upon to decide on a different case. At this juncture, We reiterate that the main role of courts of justice is to assist in the enforcement of the rule of law and the maintenance of peace and order, by settling justiciable controversies with finality.[14]

Nonetheless, private respondents maintain that the only reason why the Court of Appeals cited Civil Case No. Q-27582 is that it was also mentioned in the decision of the lower court in Civil Case No. Q-35941 which was brought to it on appeal. Private respondents add that they cannot be bound by the decision in the other case as they were not parties to it.

In response to the above-written arguments of private respondents, We note that the word "cite" seems to have been used to mislead this Court into believing that Civil Case No. Q-27582 was mentioned by the Court of Appeals in its decision with less significance than what appears to be. However, the decision of the Court of Appeals would itself reflect its clear intention to openly declare its own finding that the decision in the said case, not appealed to it, was wrong.

Regarding the point that not only the Court of Appeals but even the lower court in Civil Case No. Q-35941 included in its decision the other case, We are of the opinion that the Regional Trial Court had to take into consideration the decision in Civil Case No. Q-27582 because in deciding whether or not to grant herein petitioners their prayer for injunction, it had to be established first whether or not petitioners had a better right to the property than private respondents did. Civil Case No. Q-27582 came into the picture as it provided the answer the court was in search of since by virtue of that case, petitioners acquired a strong document (torrens title) evidencing their ownership of the property as compared to the inconclusive documents offered by private respondents.

Had the private respondents presented incontestable proof supporting their claim of ownership over the property, then the lower court may have decided Civil Case No. Q-35941 in a different manner, regardless of the outcome in Civil Case No. Q-27582. However, weighing all the evidence on hand, the lower court found it reasonable and fair to decide for petitioners as their assertion was backed by a torrens title whereas private respondents miserably failed to convince the court of their claim. Hence, the lower court said:

"x x x Unless defendants could show, which they failed even to allege indubitably, that they have a better and stronger right than the plaintiffs over the subject parcel of land, then the remedy sought by plaintiffs must lie." [15]

It is not true that the lower court based its decision entirely on Civil Case No. Q-27582 though, admittedly, the

outcome in the said case contributed much in convincing the lower court that petitioners must be granted their prayer for injunction. Furthermore, there is nothing in the decision of the lower court which categorically states that private respondents are bound by the decision in Civil Case No. Q-27582. To repeat, the decision was only brought up to prove that petitioners had a better right to the property, hence, their prayer for injunction against private respondents who were planning to make additional constructions, had to be granted.

As to the other allegations of private respondents - they all sum up to the claim that they are the rightful owners of the property. To support their stand, they present the following: (1) they purchased the lot in question from Herminigildo Aquino in good faith and for value as evidenced by the Deed of Sale executed by the latter in their favor; and (2) they are the ones in possession of the property.

The issue of ownership having been tackled by the Court of Appeals and there being a need to settle once and for all the issue of who has a better right to the property as between the petitioners and private respondents, We make the following ruling:

With respect to the allegation of private respondents that they purchased the property in question from Herminigildo Aquino in good faith and for value in 1972 --- We hold that such sale could not have covered a definite portion of the land under co-ownership. It has been established on record that from 1969, the property in question was co-owned by Herminigildo Aquino and three other persons including petitioner Felix Abad. In 1972, such co-ownership still existed and even the Court of Appeals does not deny the fact of such co-ownership. It is well-settled that a co-owner has no right to sell a divided part, by metes and bounds, of the real estate owned in common.¹⁵ This doctrine was reiterated in *Mercado Vs. Liwanag*,^[16] where it was held that a co-owner may not convey a physical portion of the land owned in common. Applying the foregoing principles, We hold, therefore, that Aquino, a mere co-owner, could not have validly sold to private respondents a specific part of the land he owned in common with petitioner and two others as described in the Deed of Sale executed by him in favor of private respondents. Private respondents, therefore, cannot claim title to that definite portion of the land owned in common, wherein they have made and were about to begin other constructions at the time the complaint for injunction was filed by petitioners in the lower court.

With regard to the contention of private respondents that they have a better right to the property since they have occupied and are presently in possession of the same, it is but proper to reiterate the well-established rule that mere possession cannot defeat the title of a holder of a registered torrens title to real property.^[17] It is indeed questionable that up to now, private respondents merely have in their possession a deed of absolute sale executed way back in 1972 to evidence their claim of ownership. Petitioners, on the other hand, have the affidavit proving their right as co-owner of the lot, their adverse claim annotated at the back of the torrens title of Aquino, and a final judgment in their favor. The transfer certificate of title covering the disputed lot is now in the name of petitioner spouses. Such title is entitled to respect and great weight until somebody else can show a better right to the lot.

Of course, this Decision is without prejudice to any right private respondents may have against Herminigildo Aquino. All constructions built by private respondents in good faith may be removed by them following the provisions in the Civil Code on builders in good faith.

WHEREFORE, in view of the foregoing, the decision of the Court of Appeals in CA-G.R. No. 09424 is hereby REVERSED and SET ASIDE and the decision of the Regional Trial Court in Civil Case No. Q-35941 is hereby REINSTATED. The case is hereby remanded to the Regional Trial Court of Quezon City for immediate execution. No costs.

SO ORDERED.

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

* Penned by Associate Justice Santiago M. Kapunan and concurred in by Associate Justices Arturo B. Buena and Eduardo R. Bengzon.

[1] Page 5, Rollo.

[2] Page 6, Rollo.

[3] Page 7, Rollo.

[4] Pages 25 and 26, Rollo.

[5] Page 97, Rollo.

[6] Page 99, Rollo.

[7] Pages 13, 19 and 20, Rollo.

[8] Page 75, Rollo.

[9] Page 78, Rollo.

[10] Ibid

[11] Page 29, Rollo.

[12] Heirs of Remigio Tan, et al. vs. The Intermediate Appellate Court, G.R. No. 71033, July 29, 1988.

[13] G.R. No. L-40867, July 26, 1988.

[14] Heirs of Remigio Tan, et al. vs. The Hon. Intermediate Appellate Court, *supra*.

[15] Page 99, Rollo..

15 Lopez vs. Ilustre, 5 Phil. 567 (1906).

[16] L-14429, June 20, 1962.

[17] J.M. Tuason & Co., Inc. vs. Court of Appeals, 93 SCRA 146 (1979).

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