

DANILO I. SUAREZ, EUFROCINA SUAREZ-ANDRES, MARCELO I. SUAREZ, JR., EVELYN SUAREZ-DE LEON AND REGINIO I. SUAREZ, PETITIONERS, VS. THE COURT OF APPEALS, VALENTE RAYMUNDO, VIOLETA ...

G.R. No. 94918. September 02, 1992

Ponente: NOCON, J.

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NOCON, J.:

The ultimate issue before Us is whether or not private respondents can validly acquire all the five (5) parcels of land co-owned by petitioners and registered in the name of petitioner's deceased father, Marcelo Suarez, whose estate has not been partitioned or liquidated, after the said properties were levied and publicly sold en masse to private respondents to satisfy the personal judgment debt of Teofista Suarez, the surviving spouse of Marcelo Suarez, mother of herein petitioners.

The undisputed facts of the case are as follows:

Herein petitioners are brothers and sisters. Their father died in 1955 and since then his estate consisting of several valuable parcels of land in Pasig, Metro Manila has not been liquidated or partitioned. In 1977, petitioners' widowed mother and Rizal Realty Corporation lost in the consolidated cases for rescission of contract and for damages, and were ordered by Branch 1 of the then Court of First Instance of Rizal (now Branch 151, RTC of Pasig) to pay, jointly and severally, herein respondents the aggregate principal amount of about P70,000 as damages.[1]

The judgment against petitioner's mother and Rizal Realty Corporation having become final and executory, five (5) valuable parcels of land in Pasig, Metro Manila, (worth to be millions then) were levied and sold on execution on June 24, 1983 in favor of the private respondents as the highest bidder for the amount of P94,170.00. Private respondents were then issued a certificate of sale which was subsequently registered on August 1, 1983.

On June 21, 1984, before the expiration of the redemption period, petitioners filed a reivindicatory action[2] against private respondents and the Provincial Sheriff of Rizal, thereafter docketed as Civil Case No. 51203, for the annulment of the auction sale and the recovery of the ownership of the levied pieces of property. Therein, they alleged, among others, that being strangers to the case decided against their mother, they cannot be held liable therefor and that the five (5) parcels of land, of which they are co-owners, can neither be levied nor sold on execution.

On July 31, 1984, the Provincial Sheriff of Rizal issued to private respondents a final deed of sale[3] over the properties.

On October 22, 1984, Teofista Suarez joined by herein petitioners filed with Branch 151 a Motion for Reconsideration[4] of the Order dated October 10, 1984, claiming that the parcels of land are co-owned by them and further informing the Court the filing and pendency of an action to annul the auction sale (Civil Case No.

51203), which motion however, was denied.

On February 25, 1985, a writ of preliminary injunction was issued enjoining private respondents from transferring to third parties the levied parcels of land based on the finding that the auctioned lands are co-owned by petitioners.

On March 1, 1985, private respondent Valente Raymundo filed in Civil Case No. 51203 a Motion to Dismiss for failure on the part of the petitioners to prosecute, however, such motion was later denied by Branch 155, Regional Trial Court, Pasig.

On December 1985, Raymundo filed in Civil Case No. 51203 an Ex-Parte Motion to Dismiss complaint for failure to prosecute. This was granted by Branch 155 through an Order dated May 29, 1986, notwithstanding petitioner's pending motion for the issuance of alias summons to be served upon the other defendants in the said case. A motion for reconsideration was filed but was later denied.

On October 10, 1984, RTC Branch 151 issued in Civil Case Nos. 21736-21739 an Order directing Teofista Suarez and all persons claiming right under her to vacate the lots subject of the judicial sale; to desist from removing or alienating improvements thereon; and to surrender to private respondents the owner's duplicate copy of the torrens title and other pertinent documents.

Teofista Suarez then filed with the then Court of Appeals a petition for certiorari to annul the Orders of Branch 151 dated October 10, 1984 and October 14, 1986 issued in Civil Case Nos. 21736-21739.

On December 4, 1986, petitioners filed with Branch 155 a Motion for reconsideration of the Order^[5] dated September 24, 1986. In an Order dated June 10, 1987,^[6] Branch 155 lifted its previous order of dismissal and directed the issuance of alias summons.

Respondents then appealed to the Court of Appeals seeking to annul the orders dated February 25, 1985,^[7] May 19, 1989^[8] and February 26, 1990^[9] issued in Civil Case No. 51203 and further ordering respondent judge to dismiss Civil Case No. 51203. The appellate court rendered its decision on July 27, 1990,^[10] the dispositive portion of which reads:

“WHEREFORE, the petition for certiorari is hereby granted and the questioned orders dated February 25, 1985, May 19, 1989 and February 26, 1990 issued in Civil Case No. 51203 are hereby annulled; further respondent judge is ordered to dismiss Civil Case No. 51203.”^[11]

Hence, this appeal.

Even without touching on the incidents and issues raised by both petitioner and private respondents and the developments subsequent to the filing of the complaint. We cannot but notice the glaring error committed by the trial court.

It would be useless to discuss the procedural issue on the validity of the execution and the manner of publicly selling en masse subject properties for auction. To start with, only one-half of the 5 parcels of land should have been the subject of the auction sale.

The law in point is Article 777 of the Civil Code, the law applicable at the time of the institution of the case:

“The rights to the succession are transmitted from the moment of the death of the decedent.”

Article 888 further provides:

“The legitime of the legitimate children and descendants consists of one-half of the hereditary estate of the

father and of the mother.

The latter may freely dispose of the remaining half, subject to the rights of illegitimate children and of the surviving spouse as hereinafter provided.”

Article 892 par. 2 likewise provides:

“If there are two or more legitimate children or descendants, the surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children or descendants.”

Thus, from the foregoing, the legitime of the surviving spouse is equal to the legitime of each child.

The proprietary interest of petitioners in the levied and auctioned property is different from and adverse to that of their mother. Petitioners became co-owners of the property not because of their mother but through their own right as children of their deceased father. Therefore, petitioners are not barred in any way from instituting the action to annul the auction sale to protect their own interest.

WHEREFORE, the decision of the Court of Appeals dated July 27, 1990 as well as its Resolution of August 28, 1990 are hereby REVERSED and set aside; and Civil Case No. 51203 is reinstated only to determine that portion which belongs to petitioners and to annul the sale with regard to said portion.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.

Melo, J., no part.

[1] Records, pp. 19-24.

[2] Records, pp. 38-41.

[3] Records, p. 25.

[4] Records, pp. 27-29.

[5] Records, p. 46.

[6] Records, p. 104.

[7] Records, p. 42.

[8] Records, pp. 47-50.

[9] Records, p. 76.

[10] Records, pp. 177-180.

[11] Rollo, p. 18.

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