

AIDA ONG, PETITIONER, VS. THE COURT OF APPEALS, JUDGE JESUS BERSAMIRA AND CEFERINO BATA, RESPONDENTS.

G.R. No. 98448. May 27, 1992

Ponente: PARAS, J.

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PARAS, J.:

Petitioner, Miss Aida Ong, seeks the reversal of the decision* of the Court of Appeals promulgated on February 28, 1991 issued in CA-G.R. SP No. 23445 (Aida Ong, petitioner, versus Ceferino Bata, Hon. Jesus Bersamira and Sheriff William Ramos, respondents), which sustained respondent judge's challenged orders dated August 29, 1990 and September 24, 1990, both issued in Civil Cases Nos. 56162 and 56397, respectively, (Ceferino Bata, Plaintiff, versus Spouses Rogelio and Efigenia Ilada, Defendants) of the Regional Trial Court of Pasig, Branch 165, Metro Manila.

Petitioner reiterates her contention in the court a quo that there was grave abuse of discretion involved in the issuances of the aforementioned orders, insisting that she has not really lost her rights over the house and lot subject of her appeal when she sold back the same to then defendants Spouses Rogelio and Efigenia Ilada.

The orders which petitioner prays to be nullified, read:

"Finding merit in plaintiff's motion, dated August 27, 1990, as prayed for, let a writ of possession be issued in favor of plaintiff for him to be placed in physical and actual possession of the property covered by Transfer Certificate of Title No. 187207, situated at No. 28 W. dela Paz St., Sta. Elena, Marikina, Metro Manila.

"SO ORDERED.

"Pasig, Metro Manila, August 29, 1990." (P. 13, Rollo)

"Considering the grounds set forth in defendants' 'Motion for Reconsideration and to Quash Writ of Possession', and plaintiff's reasons and arguments in opposition thereto, the court finds the instant motion unmeritorious and must be denied.

"WHEREFORE, the instant motion is hereby denied for lack of merit.

"SO ORDERED.

"Pasig, Metro Manila, September 24, 1990." (p. 22, Rollo)

The undisputed facts of the case are as follows:

In July of 1988, Civil Case No. 56162 was filed by herein private respondent Ceferino Bata against spouses Rogelio and Efigenia Ilada. Two (2) months thereafter, in September 1988, another civil case was filed against the same couple by the same private respondent. Both cases were lodged at the Regional Trial Court of Pasig, Branch 165. With the filing of the cases, a writ of preliminary attachment was prayed for which was granted by public respondent Judge Bersamira. There was a house and lot registered in the names of therein defendants - spouses

Rogelio and Efigenia Ilada and the court finding no other property, the same was attached and the notice of Levy of said attachment in Civil Case No. 56162 was annotated on TCT No. (34338) 27683 on July 20, 1988. The Notice of Levy of attachment in the other civil case was annotated on same Transfer Certificate of Title on September 20, 1988.

Judgments in favor of now private respondent in the two civil cases, Ceferino Bata, came out and in time, became final and executory. The property in the names of the Spouses Ilada was caused by private respondent to be sold at public auction. Private respondent was the winning bidder in the absence of other bidders and a certificate of title was issued to him. After the registration of the sale and expiration of the redemption period, a final certificate of title was issued to him, by now another public respondent, Sheriff William Ramos.

Later, on July 10, 1990, upon proper application, public respondent Judge Bersamira ordered the Register of Deeds to cause the registration of Officer's Final Deed of Absolute Sale dated June 13, 1990 and upon proper motion, public respondent Judge, on July 17, 1990, thru an Order, authorized the cancellation of Title No. 343387 and a new certificate of title was issued to private respondent Bata by the Register of Deeds.

Thereafter, a motion for the issuance of a Writ of Possession was filed which was granted by public respondent Judge on August 27, 1990. Private respondent took possession of the property on August 29, 1990.

After all these proceedings had taken place, a certain Aida Ong, herein-petitioner, came forward with a purported deed of sale over the attached house and lot and alleged that the subject-property had been sold to her as early as July 7, 1981. Explaining further this sale, petitioner claims that defendants-spouses Ilada of the two (2) civil cases were also indebted to her. She narrated that by way of partial payment in kind, the judgment debtors spouses Ilada sold to her their house and lot with assumption of mortgage. She said that she paid the mortgage and thereafter secured the transfer certificate in her name. After this sale, petitioner alleged that the spouses Ilada still owe her P550,000.00.

Later, on April 6, 1989, petitioner Aida Ong sold back subject-house and lot to Spouses Ilada so that the spouses would be able to have something to use for an amicable settlement with herein-private respondents as the spouses were also sued for Estafa. Petitioner Aida Ong admitted the repurchase by Spouses Ilada, but in reality, the repurchase, she said, had two (2) conditions, namely: that the owner's duplicate copy of title remain in her possession and that she would retain physical possession of the property, but which conditions, she did not place anymore in the deed of sale of repurchase upon the request of Spouses Ilada so that therein plaintiff Ceferino Bata would be encouraged in withdrawing the criminal cases he had filed against the Iladas. Now, that she was being ejected by private respondent Bata, she alleges that she is an adverse possessor. She moved for the quashing of the Writ of Possession issued to private respondent Bata thru a motion for reconsideration which was denied in the last questioned order. She then came to the Court of Appeals which sustained the two (2) questioned orders of the court a quo, hence, this petition.

The petition is devoid of merit.

Petitioner, in selling back the house and lot to Spouses Ilada relinquished all her rights as owner since her act transferred ownership of subject-lot to Vendees-Spouses Ilada. It is clear that in the instrument which she executed on April 6, 1989 in Quezon City (p. 122, Rollo), notarized on June 13, 1989 in "consideration of one hundred twenty thousand pesos (P120,000.00)", she sold subject-property to Spouses Rogelio and Efigenia Ilada, defendants in civil cases nos. 56162 and 56397 in the Regional Trial Court of Pasig, Branch 165.

As the next owner, spouses Ilada had the right to dispose of their property as they did by having it answer for their indebtedness to private respondent Bata. Moreover, as admitted by petitioner herself, the repurchase by Spouses

Ilada of the subject property was to make possible the settling of their obligation to private respondent Bata. Petitioner knew all along the risk that she would have to take, for how could the subject property answer for the obligation of Spouses Ilada if it would still remain with the spouses or with her (petitioner)? Petitioner, in effect, caused the possible amicable settlement between the feuding parties in the two (2) aforementioned civil cases and she never denied that the deed of absolute sale (repurchase of spouses Ilada) executed in favor of Spouses Ilada was made to save the spouses from imprisonment because of the criminal cases (Estafa charges) filed against them. She was therefore ready and willing to really part with subject property as long as the spouses would be relieved of their obligations. The consequences of her "benovolent act", she should now shoulder. After all, she had not bothered to have her rights annotated. There is no logic now in her petition.

Further it is puzzling why the petitioner kept silent throughout the development of the civil cases which had subject-property attached. It is likewise puzzling that the counsel of the defendants-spouses Iladas and the counsel of petitioner is one and the same person - Atty. Oliver Lozano. Atty. Lozano was even the one who delivered to herein private respondent Bata the original of the deed of sale executed by petitioner on April 9, 1989, ceding, transferring and selling her property rights to the defendants, the Spouses Ilada in Civil Case Nos. 56162 and 56397. (p. 105, Rollo). This act alone belies the veracity of the claim of petitioner for what a person has consented to, she cannot set up now as an injury. We likewise rule, that one who trifles with the law must suffer the fruits of her scheme.

A careful study of the case also reveals these facts and it is noteworthy to point them out. "The attachments issued in Civil Case Nos. 56162 and 563967 were respectively made on July 20, 1988 and September 20, 1988 on the title of the spouses Ilada as registered owners of the property; there is no indication of any entry or annotation of any sale between them; a purported sale was antedated to July 7, 1988 in order to show that a prior sale involving transfer of rights had been made before the attachments were annotated in the title of the spouses Iladas; if it were true that as early as July 7, 1988, there was already the sale, petitioner cannot verily explain why the delay in registering her ownership only on October 17, 1988, and at this time, there were already the notices of levy on attachment on the property. In other words, petitioner was already cautioned or should have been put on notice, and necessarily could have already complained and moved to discharge the attachment, on a claim of better right over the property question. She did not lift a finger at all and it was only when the writ of possession was issued that she came forward to complain." (p. 7, memorandum for respondents)

The case of *Hamoy v. Batingolo*, 5 SCRA 962, which is a very different case, is often cited by petitioner as the basis of her motion for reconsideration in the court below. Here is the case, Pablo S. Hamoy filed with CFI Lanao, on January 4, 1952 an action against Pambaya Batingolo and four (4) other Muslims for the purpose of ejecting them from a parcel of land located in Kauswagan, Lanao. This piece of land was also a subject of an administrative investigation between the same parties before the Bureau of Lands wherein Hamoy was to be placed in its possession and same was supposed to be confirmed by the Secretary of Agriculture and Natural Resources on June 14, 1954. Judgment was in favor of Hamoy and the defendants were then ordered to vacate the land. Only one defendant, named Pambaya Batingalo, gave notice of intention to appeal the decision. Hamoy was granted, upon motion, a writ of possession, pending appeal. Surprisingly, it turned out that the land was then in possession of one Macaindig Rangar who complained about the sheriff's action and prayed that his possession be restored and respected. Because he only came to know of the litigation for the first time when he was forced out of the property, he was then given a chance to ventilate his claim. But in the instant case, petitioner knew all along about the litigation and it was even she, incredible as it was, who caused the repurchase of subject-property to defendant Spouses Ilada for use of the spouses for possible attachments and amicable settlement to escape liabilities in pending estafa cases against them. Petitioner only reaps what she has sown. In addition, she estopped herself from questioning the physical possession of judgment debtor of subject-property in the court a quo.

Petitioner harps likewise on another case - *Antonio v. Estrella*, 156 SCRA 68, as another authority for her position. Again, this is entirely different from the instant case. The doctrine cited is not apropos to petitioner's claim. This feud involves certain portions of agricultural lands covered by Presidential Decree No. 27 which were sold or transferred long before Operation Land Transfer came into effect. The notarized sales of these portions were considered valid where there was no indication that they were simulated. The sales were registered, however, only after the promulgation of Presidential Decree No. 27. But still, actual knowledge by third persons (of the sales) was considered equivalent to registration. Why? Because petitioners who feigned ignorance of the sales were shown per record, to have been notified by the Zafra sisters through a Joint Affidavit that the sales to private respondent took place on such dates, etc. and which factual dissemination was never controverted at any stage of the proceedings by the petitioners. In reiteration, petitioner Aida Ong knew all along what was happening to subject property but she never lifted a finger.

As to the issuance of the writ of possession. We quote some pertinent lines from *De Gracia v. San Jose, et al.*, 94 Phil. 623:

"x x x the order for a writ of possession issues as a matter of course upon the filing of the proper motion x x x."

"No discretion is left to the court. And any question regarding the validity of the sale (and subsequent cancellation of the writ) is left to be determined in accordance with Sec. 8, Rule 39. Such question is not to be raised as a justification for opposing the issuance of the writ of possession x x x."

In view of the foregoing, public respondent Court of Appeals is correct in stating that: -

"x x x She had lost all her rights when she sold back the property to the defendants - spouses Iladas on April 6, 1989."

and

"In issuing the assailed Order dated 30 October 1990 the respondent Judge was only taking the legal and logical step in protecting the rights of the private respondents already preserved by a previously issued writ of possession. This could hardly be considered abuse of discretion on his part much less a grave abuse of discretion as he was merely exercising his sound discretion as conferred by law. As this exercise is perfectly within the jurisdiction of the trial court, it is certainly beyond the corrective writ of certiorari."

WHEREFORE, the petition is DISMISSED for utter lack of merit.

SO ORDERED.

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

* Penned by Associate Justice Jorge S. Imperial and concurred in by Associate Justices Fidel P. Purisima and Jainal D. Rasul.

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