

POTENCIANA CALAHAT AND SUPREMA CALAHAT, PETITIONERS, VS. INTERMEDIATE APPELLATE COURT AND BLAS CALAHAT, RESPONDENTS.

G.R. Nos. 75257-58. February 15, 1995

Ponente: QUIASON, J.

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QUIASON, J.:

This is a petition for review on certiorari of the decision of the Intermediate Appellate Court (now Court of Appeals) in AC-G.R. CV Nos. 00357-58 affirming the decision of the Court of First Instance of Misamis Occidental, Branch II, Ozamiz City which declared private respondent as owner of the contested parcel of land.

We rule for petitioners.

I

Juana, Suprema, Potenciana, Maura and Blas, all surnamed Calahat, are the legitimate children of spouses Segundo Calahat and Norberta Prontes. On July 3, 1937, Segundo Calahat acquired a parcel of land (Lot No. 204 of the Misamis Cadastre) situated at Ozamiz City from the spouses Francisco Codia and Tomasa Bugo. The sale was evidenced by a private document.

Encountering some difficulty in transferring the said lot to the heirs of Segundo Calahat and Norberta Prontes, private respondent acquired in his name the ratification and confirmation of the sale of the lot from Francisco Codia in a notarized Deed of Sale dated September 11, 1954.

Subsequently, the other heirs of Francisco Codia filed a complaint for the annulment of the deed of sale and recovery of possession with damages against private respondent with the Court of First Instance of Misamis Occidental, Branch II, Ozamiz City (Civil Case No. OZ-248). In a decision dated September 9, 1970, the trial court dismissed the complaint, "(c)onsidering that said document, Exhibit 1 (referring to the private document of sale to Segundo Calahat) was coupled with the delivery of the possession of the land in question to the predecessor of the defendant Blas Calahat," and held that the land was sold legally to the Calahat spouses (Rollo, p. 68). The finding is buttressed by the fact that on September 11, 1954, Francisco Codia executed a notarized document conveying the land in question to private respondent, a successor-in-interest of the Calahat spouses. The conclusion is therefore inevitable that the land had already been sold by the spouses Francisco Codia and Tomasa Bugo to the predecessors-in-interest of private respondent.

On February 28, 1977, the Court of Appeals affirmed the decision of the trial court and held that the 1954 sale was a confirmation of the sale in 1937 and so included the rights of Tomasa Bugo, who died in 1943 (Rollo, p. 36).

Meanwhile, on October 22, 1973, an extrajudicial settlement of the intestate estate of the spouses Segundo Calahat and Norberta Prontes was executed among their heirs: namely, Juana, Suprema, Potenciana, Maura and private respondent. Among the property included in the settlement was Lot No. 204.

On September 15, 1976, Original Certificate of Title No. P-653 was issued by the Bureau of Lands under Free Patent No. (X-5) 4067 in the name of private respondent covering Lot No. 204.

On April 25, 1977, a petition for the subdivision of Lot No. 204 docketed as Cadastral Case No. 12, L.R.C. No. 1638 was filed by Suprema Calahat and Potenciana Calahat with the Court of First Instance of Misamis Occidental, Branch II, Ozamiz City.

On August 22, 1977, an amended complaint for Reformation of Extrajudicial Settlement of Estate of Segundo Calahat and Norberta Prontes docketed as Civil Case No. OZ?651 was filed by private respondent against Potenciana Calahat, alleging: (1) that the Extrajudicial Settlement of Estate of the late Segundo Calahat and Norberta Prontes did not express the true intention of the parties; (2) that having bought the same from Francisco Codia and Tomasa Bugo, he became the owner of Lot No. 204; and (3) that to maintain peace and unity in the family, he agreed to include Lot No. 204 as one of the property to be partitioned by them provided that his sisters would do either of the following:

“(a) Reimburse plaintiff of his services, sacrifices, expenses, acquisition cost, costs of suit, attorney’s fees and other expenses during the litigation of Lot 204 under Civil Case No. OZ-248, CFI, Branch II, Ozamiz City, and subsequently under Case No. CA-G.R. 48235-R in the total amount of P10,000.00;

“(b) Sell their rights and participation to plaintiff at a minimal sum; and

“(c) To exercise this right within reasonable time from execution of their settlement agreement” (Rollo, p. 32)

In his amended complaint, private respondent alleged that two of his sisters, Juana and Maura Calahat, chose to sell their respective rights and interest in the land in question to him for P800.00 each.

In their answer, Juana and Maura admitted that they had sold their respective shares to their brother, Blas.

Both cases were consolidated and on March 5, 1982, the Court of First Instance of Misamis Occidental, Branch II, Ozamiz City, rendered its decision, the dispositive portion of which reads as follows:

"ACCORDINGLY, judgment is hereby rendered as follows:

“1. Declaring the extra-judicial settlement, marked Exhibit "P", executed by the plaintiff and the defendants and acknowledged by Judge Ceferino T. Ong, ex-officio notary public entered in his Notarial Register as Document No. 146; Page No. 54; Book No. I; Series of 1973 as null and void from the beginning with respect only to lot 204 of the Misamis Cadastre.

“2. Declaring plaintiff Blas Calahat as the true owner of the said Lot 204;

“3. Declaring plaintiff Blas Calahat to be the rightful possessor of the said lot;

“4. Ordering defendants Suprema Calahat and Potenciana Calahat to vacate the portion of the land in question in which they and Suprema’s husband, Alberto Garban constructed a house and to deliver to (sic) the same to the plaintiff;

“5. Ordering the defendants to pay the plaintiff the amount of P15,000.00 as reimbursements of litigation expenses and attorney’s fees in the instant case.

“6. Dismissing defendants counterclaim for lack of merit and for lack of evidence to prove the same.

“7. Denying the petition for the issuance of an order for the subdivision of Lot 204 in Cadastral Case No. 12 LRC Record No. 1638 for having been barred by laches.

“8. Ordering defendants Suprema Calahat and Potenciana Calahat to pay the costs of this suit” (Rollo, pp.

30-31).

From the trial court's adverse decision, Potenciana and Suprema Calahat appealed to the Intermediate Appellate Court, which affirmed the decision of the trial court in toto.

Hence, this petition.

II

The issue to be resolved is the ownership of Lot No. 204. Does it belong to respondent Blas Calahat by virtue of the notarized Deed of Sale dated September 11, 1954 executed by Francisco Codia or to the conjugal partnership of Segundo Calahat and Norberta Prontes by virtue of the unnotarized Deed of Sale executed by Francisco Codia and Tomasa Bugo on July 3, 1937?

The issue of the ownership of Lot No. 204 was already threshed out in the decision of the trial court in Civil Case No. OZ-248, which was affirmed by the Court of Appeals in CA-G.R. No. 48235-R. In said case, the trial court held that Lot No. 204 was sold by Francisco Codia and Tomasa Bugo to the late Segundo Calahat and Norberta Prontes in a private document in 1937. The Court of Appeals ruled that the Deed of Sale dated September 11, 1954 was executed merely to confirm the sale made in 1937.

A reading of the allegations in the complaint for Reformation of Extrajudicial Settlement of Estate (Civil Case No. OZ-651) of Segundo Calahat and Norberta Prontes filed by private respondent shows that the complaint was actually for annulment of the extrajudicial settlement on the ground that he was the owner of Lot No. 204, using as basis the Deed of Sale dated September 11, 1954. Said Deed of Sale was held to be merely a confirmation of the private document executed in 1937 in favor of Segundo Calahat and Norberta Prontes.

We have ruled that "the policy of the law is to avoid multiplicity of suits such that if an issue has been resolved in one case, it cannot be relitigated in a subsequent case even if based on a different cause of action" (Serrano v. Court of Appeals, 189 SCRA 440 [1990]).

Private respondent contends that he agreed to include Lot No. 204 in the extrajudicial settlement because he was pressured and threatened by a public prosecutor to do so. He was entertaining in his mind that if a criminal case was filed against him, this would affect his impending retirement from the government service (Rollo, p. 85).

It will be noted that the notarized extrajudicial settlement signed by petitioners and private respondent was a public document. To contradict the facts contained in a notarial document and the presumption of regularity in its favor, there must be evidence that is clear, convincing and more than merely preponderant (Yturalde v. Azurin, 28 SCRA 407 [1969]).

We find nothing in the records to support private respondent's claim that he was merely pressured by a public prosecutor to include Lot No. 204. Private respondent had all the chance to subpoena the public prosecutor, who allegedly intimidated him into signing the extrajudicial partition, to testify in court, yet he chose not to do so. The records show that of the five children, only private respondent and petitioner Potenciana Calahat finished college. Private respondent cannot therefore be said to have been misled by his sisters into including Lot No. 204 as one of the property to be partitioned among them.

If it were true that private respondent was merely pressured to include Lot No. 204, why did it take him more than three years to question the said extrajudicial settlement?

Moreover, private respondent in his complaint for reformation stated that he agreed to include Lot No. 204 provided that his sisters, the petitioners herein, do either of the following: (a) reimburse him for his services; (b) sell their rights to him at a minimal sum; and (c) exercise the right offered them within a reasonable time.

In giving petitioners the said options, private respondent impliedly admitted that petitioners have certain interests over Lot No. 204.

Furthermore, private respondent in paragraph 6 of his amended complaint alleged:

"6. That both the Plaintiff's sisters Juana Calahat and Maura Calahat, after reasonable time, chose to sell, transfer, and convey their respective rights and participation to the Plaintiff at a minimal sum of P400.00 each" (Rollo, p. 75; Underscoring Supplied).

This allegation is an implied admission by private respondent that his four sisters have interest over Lot No. 204. Why should he buy the respective rights and participation of his sisters, if he, as he claims to be, is the owner of Lot No. 204?

Inasmuch as Juana and Maura had conveyed their share in the lot to Blas, the latter became the owner of three-fifths of the property.

WHEREFORE, the decision of the Court of Appeals is REVERSED and SET ASIDE. A new one is entered ordering the Register of Deeds of Ozamiz City to cancel Original Certificate of Title No. D-653 in the name of private respondent and to issue a new one in the names of Potenciana Calahat, Suprema Calahat and Blas Calahat as co-owners with one-fifth, one-fifth and three-fifths interests, respectively.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

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