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SECOND DIVISION

[G.R. No. L-25954. June 29, 1979]

CATALINA DE LEON and ELEUTERIO LIMCACO, *petitioners, vs.* **PETRONILO CASTAÑEDA and HONORABLE COURT OF APPEALS,** *respondents.*

SYLLABUS

1. **CIVIL LAW; PROPERTY; POSSESSION; POSSESSOR OR BUILDER IN GOOD FAITH, NOT A CASE OF.—** The conjunction of the abovementioned facts would support the conclusion that she was not a possessor or builder in good faith. She could not have been unaware of the flaw in her title otherwise she would have vindicated her rights to the full extent that the law would allow. On the contrary, she stopped her suit when the tide, so to speak, was in her favor. She was the prevailing party in L-8965 and L-7805. Another fact that would destroy her claim of good faith is that the Deed of Assignment was dated October 5, 1949, or the day before Rosario filed her suit against the spouses Bautista. Catalina could not have been unaware that there was a defect in her title.

2. **ID.; DAMAGES; AWARD THEREOF IS JUSTIFIED IN CASE OF INABILITY OF OWNER TO TAKE POSSESSION OF HIS PROPERTY AND ENJOY HIS RIGHT OF OWNERSHIP.—** The instant award of damages against Catalina de Leon is justified by the finding both of the trial court and the Court of Appeals that the deed of assignment in favor of Catalina de Leon was, in effect, a simulated one. Catalina de Leon was a possessor in bad faith, whose insistence on her simulated title prevented Castañeda from taking possession over the questioned property. Since the damages suffered by Castañeda are by reason of his inability to take possession of the questioned property and enjoy his rights of ownership, Catalina de Leon is, properly, the one liable for the damages.

APPEARANCES OF COUNSEL

Mariano T. Yap & Associates for petitioners.
Celestino L. de Dios for private respondent.

Supreme Court E-Library

DECISION

ABAD SANTOS, *J.*:

This case concerns a piece of land which has been the subject of numerous litigations. Hopefully, this decision will clear away all clouds over the land and its improvements.

Before us is a petition to review a decision of the Court of Appeals concerning the ownership of the land, which is denominated as Lot 11, Block K-19 of the Diliman Estate Subdivision and formerly owned by the People's Homesite and Housing Corporation (PHHC).

On July 11, 1949, the spouses Perfecta Roque and Aurelio Bautista, who were awardees of the parcel of land in question by the PHHC, sold their right to purchase said land to Rosario de Leon for ₱2,000 of which ₱900 was given as initial payment and the balance payable within sixty (60) days.

Upon failure of Rosario de Leon to pay the balance of the purchase price, the spouses Bautista sold the same right to Petronilo Castañeda on October 3, 1949.

It appears, however, that a deed of assignment of rights was executed by Rosario de Leon, dated October 5, 1949, in favor of her sister-in-law Catalina de Leon. This deed of assignment covers one-half portion of the land in question.

Four civil actions were filed to litigate the ownership of this contested parcel of land, including the present case.

Rosario de Leon filed Civil Case No. 9366 on October 6, 1949, before the Court of First Instance of Manila against the spouses Bautista for specific performance to compel the latter to accept the balance of the purchase price. The trial court decided the case on December 22, 1950, declaring the contract between Rosario de Leon and the spouses Bautista rescinded and directed the latter to return the ₱900 to Rosario de Leon. The decision was not appealed and, therefore, became final.

Supreme Court E-Library

Petronilo Castañeda instituted Civil Case No. Q-64 on October 17, 1949, before the Court of First Instance of Quezon City to restrain Rosario de Leon from fencing the property, from making constructions thereon and to pay damages.

In 1950, Catalina de Leon filed Civil Case No. Q-198 also before the Court of First Instance of Quezon City, against Rosario de Leon, Petronilo Castañeda, the spouses Bautista, and the PHHC to make effective her right to purchase of one-half portion of the contested property.

Judgment was rendered in Civil Case No. Q-64 in favor of Castañeda on February 6, 1952, directing Rosario de Leon to demolish the house and other improvements built on the land. The trial court also awarded damages to Castañeda in the amount of ₱2,000 representing the liquidated damages which Castañeda had paid to a contractor named Chua Chuay Guat; monthly rentals of ₱180 from January 1950 to date of delivery; plus cost of the suit. A writ of execution directing the defendant to demolish a house and other improvements was served upon Catalina de Leon who claimed that she was the owner of the house and improvements on the land and refused to vacate the same on the strength of the deed of assignment in her favor. The trial court ruled that Catalina de Leon had no right over the property as her right was contingent upon the contract between Rosario de Leon and the spouses Bautista which was declared rescinded in Civil Case No. 9366. Catalina de Leon appealed the demolition order to the Court of Appeals. The demolition order was set aside by the Court of Appeals and the case was ordered to be remanded to the trial court "to determine solely the question of whether or not petitioner Catalina de Leon is a successor-in-interest by title subsequent to the commencement of the action in Civil Case No. Q-64 as contemplated by Rule 39, Sec. 44(b)." Castañeda appealed to the Supreme Court in L-7805. The Supreme Court, on December 24, 1957, at 102 Phil. 690, affirmed the setting aside of the demolition order but reversed and set aside the portion remanding the case to the trial court for further proceedings to determine if Catalina de Leon may be considered a privy to Rosario de Leon; instead,

Supreme Court E-Library

this Court "Ordered that the correlative rights of Petronilo Castañeda and Catalina de Leon to the land and improvements thereon be decided in a separate action." The dispositive portion of the decision is quoted hereunder:

"For the foregoing considerations, the decision of the Court of Appeals is hereby affirmed insofar as it sets aside the order of demolition issued by respondent judge, Hon. Hermogenes Caluag, on August 30, 1952, but that portion thereof which directs the case to be remanded to the trial court for determination if Catalina de Leon may be considered a privy to Rosario de Leon, is hereby set aside; and it is hereby declared and ordered that the *correlative rights of Petronilo Castañeda and Catalina de Leon to the land and the improvements thereon be decided in a separate action.* No costs in the appeal." (Italics supplied.)

In the meantime, Civil Case No. Q-198 aforementioned, filed by Catalina de Leon in 1950, was dismissed by the trial court on the ground of *res judicata* by reason of the final decision in Civil Case No. 9366. On appeal, the Supreme Court, in L-8965 promulgated on February 29, 1956, at 98 Phil. 589 ruled that Catalina de Leon was not a "successor-in-interest by title subsequent to the commencement of an action," mentioned in Section 44(b) Rule 39, and remanded the case to the trial court for further proceedings.

It appears that after Civil Case No. Q-198 (L-8965) was remanded to the lower court in 1956, Catalina de Leon did not pursue her case and, on September 30, 1960, the Court of First Instance of Rizal dismissed her complaint for failure to prosecute and the order of dismissal became final.

Sometime in 1958, Castañeda obtained certificate of title (TCT No. 42103, Register of Deeds of Quezon City) covering the land in question after making full payment of the price of the land to the PHHC and on the strength of this certificate of title, Castañeda instituted on August 7, 1958, an action before the Court of First Instance of Rizal, against Catalina de Leon *et al.*, Civil Case No. 3239, for "*Reivindication de possession y cobro de daños perjuicious.*"

Supreme Court E-Library

On September 12, 1960, the trial court declared Castañeda the legitimate owner of the contested parcel of land and ordered the defendants to vacate the land and to deliver the possession thereof to Castañeda. In addition, the trial court sentenced them to pay damages quoted hereunder:

"*Asimismo, el Juzgado condena a diches demandados para que paguen mancomunada y solidariamente al demandante las siguientes cantidades: (1) ₱2,000.00 que el demandante, ha pagado al contratista Chua Guay Huat, como daños liquidades; (2) ₱1,000.00 como honorarious de sus abogados en la Causa Civil No Q-64; (3) ₱2,000.00 causa; (4) ₱3,600.00 como alquileres que ha estado pagando el demandante per espacio de 20 meses desde el mes de Enero de 1950 a razon de ₱180.00 al mes; y (5) ₱50.00 al mes como alquiler justo y razonable del terreno en cuestion desde el Marzo de 1952 en que el Sheriff de esta Ciudad no pudo poner en possession del mismo al demandante por la oposicion de los demandados, hasta que se le reponga al demandante en posesion de dicho terreno, mas las costas del juicio.*"

On appeal, the Court of Appeals sustained the findings of facts and conclusion of the trial court and affirmed the decision *in toto*. The trial court ordered the execution of its decision pending appeal. This order of execution pending appeal was sustained by the Court of Appeals and, eventually, by the Supreme Court in L-18722 promulgated on September 14, 1967, at 21 SCRA 85.

Petitioner Catalina de Leon now assigns before this Court several alleged errors of law supposedly committed by the Court of Appeals, which, however, are not sufficient to overturn the decision appealed from.

The decision of the trial court which was wholly affirmed by the Court of Appeals was based upon findings of fact that Castañeda acquired the contested property two days earlier than the execution of the deed of assignment in favor of Catalina de Leon; that Catalina de Leon was not the true owner of the house and improvements on the land but her sister-in-law Rosario de Leon; and that Catalina de Leon's alleged good faith was not at all justified by her conduct for she had failed to question

Supreme Court E-Library

the approval by the PHHC of the transfer of rights to Castañeda nor did she pay the PHHC anything as price of the land in question.

Petitioner Catalina de Leon maintains that the aforesaid findings of the Court of Appeals and the trial court deviate from the alleged "adjudicated facts and legal dispositions" made by the Supreme Court in L-8965 and L-7805. This is not correct. This Court made no findings of fact relative to the right of Catalina de Leon over the questioned property. The only legal disposition made by the Court in the said two cases was that the Deed of Assignment made in favor of Catalina de Leon did not make her "a successor-in-interest by title subsequent to the commencement of an action" mentioned in Section 44(b), Rule 39, of the Rules of Court, as to whom a decision in said action would have the effect of *res judicata*. The action referred to was Civil Case No. 9366 which was an action instituted by Catalina de Leon's predecessor-in-interest, Rosario de Leon. However, the Court in said two cases did not make any finding of fact relative to the validity of the title of Catalina de Leon over the contested property. On the contrary, the Court declared in L-7805 that the correlative rights of Catalina de Leon and Petronilo Castañeda over the questioned property had to be determined independently of the action, Civil Case No. Q-64, between Petronilo Castañeda and Rosario de Leon. Catalina de Leon appeared in Civil Case No. Q-64 only during the proceedings for execution. L-7805 was an appeal by Petronilo Castañeda where the Court observed:

"The problem that has arisen proceeds from the fact that Perfecta Roque had sold the residential land to two vendees, first to Rosario B. de Leon and later to Petronilo Castañeda. *If justice is to be done to the rights of Rosario B. de Leon's vendee, Catalina de Leon, who had constructed two houses and a fence on one-half of the residential lot in question, complicated questions of fact and good faith will have to be investigated and decided and certainly this can not be done in the proceedings for execution.* The question can be decided fairly and justly only in an ordinary suit between the parties, as the correlative rights and obligations of owner and builders were never at issue in Civil Case No. Q-64 because

Supreme Court E-Library

Catalina de Leon was not allowed to be a party to the suit." (Italics supplied.)

In the same way, L-8965 merely reversed the dismissal of Civil Case No. Q-198, which was based on *res judicata*, again because of the decision in Civil Case No. 9366. This Court remanded the case for further proceedings. However, as abovestated, Catalina de Leon did not pursue her case. This prompted the observation made by Justice J.B.L. Reyes in L-18722, *supra*, that "x x x petitioner's own suit to confirm her pretended title, Civil Case No. Q-198 of the Court of First Instance of Rizal, has been unconditionally dismissed (after the remand order by us in 98 Phil. 589) for lack of prosecution, a dismissal that under the Rules of Court 'shall have the effect of an adjudication on the merits, unless otherwise provided.' Thus, her lack of title becomes more evident and that she has spent all efforts to drag out these litigations as far as possible." This definitely disposes of the question of ownership.

Petitioner also assigns as error the finding of the Court of Appeals that she was not a possessor or builder in good faith on the ground that the same is contradicted by the fact that she had acquired her title through a deed of assignment executed by Rosario de Leon.

Article 526 of the Civil Code states the law on this point:

"Art. 526. He is deemed a possessor in good faith who is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.

"He is deemed a possessor in good faith who is a possessor in any case contrary to the foregoing.

"Mistake upon a doubtful or difficult question of law may be the basis of good faith."

The trial court and the Court of Appeals ruled that Catalina's presumed good faith was not supported by her conduct. She failed to seek the approval of the PHHC on the supposed transfer of rights to her and she did not make any payments to the PHHC. The claim of Catalina de Leon that she was the owner

Supreme Court E-Library

of the house and improvements on the questioned land was, according to the Court of Appeals, absolutely unfounded. The Court of Appeals upheld the finding of the trial court that the true owner of the house and improvements was her sister-in-law, Rosario de Leon.

The conjunction of the abovementioned facts would support the conclusion that she was not a possessor or builder in good faith. She could not have been unaware of the flaw in her title otherwise she would have vindicated her rights to the full extent that the law would allow. On the contrary, she stopped her suit when the tide, so to speak, was in her favor. She was the prevailing party in L-8965 and L-7805.

Another fact that would destroy her claim of good faith is that the Deed of Assignment was dated October 5, 1949, or the day before Rosario filed her suit against the spouses Bautista. Catalina could not have been unaware that there was a defect in her title.

Finally, petitioner questions the award of damages, claiming that they are the same damages awarded to Castañeda in Civil Case No. Q-64 against the defendant in that case, Rosario de Leon.

The award of damages appears to be justified. Petitioner has not manifested whether or not the award in Civil Case No. Q-64 against the defendant Rosario B. de Leon was ever executed. It appears that the execution of the decision in Civil Case No. Q-64 was stayed because Catalina appealed the demolition order to the Court of Appeals. Then, the order of the Court of Appeals remanding the case to the trial court for further proceedings was reversed and set aside by the Supreme Court in L-7805. Petitioner does not assert that Castañeda was, in fact, able to collect against Rosario B. de Leon. Thus, while there may be a duplication of award, there can be no unjust enrichment on the part of Castañeda at the expense of Catalina de Leon because the previous award in his favor was never executed.

Supreme Court E-Library

The instant award of damages against Catalina de Leon is justified by the finding both of the trial court and the Court of Appeals that the deed of assignment in favor of Catalina de Leon was, in effect, a simulated one. Catalina de Leon was a possessor in bad faith, whose insistence on her simulated title prevented Castañeda from taking possession over the questioned property. Since the damages suffered by Castañeda are by reason of his inability to take possession of the questioned property and enjoy his rights of ownership, Catalina de Leon is, properly, the one liable for the damages.

WHEREFORE, the decision appealed from is hereby affirmed.

It is evident that petitioner, as stated by Justice J.B.L Reyes, "has spent all efforts to drag out these litigations as far as possible." Her actuations have to be rebuked and, accordingly, she shall pay treble costs.

SO ORDERED.

Barredo (Chairman), Antonio, Aquino, and *Santos, JJ.*, concur.

EN BANC

[G.R. No. L-26704. June 29, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **DALMACIO SABENORIO, ROLANDO SABENORIO and TORIBIO ORTIZ,** *defendants* (*at large*), **ESTEBAN ANGCON,** *defendant whose death sentence is under review.*