Supreme Court E-Library

EN BANC

[G.R. No. L-42636. August 1, 1985]

MARIA LUISA DE LEON ESCALER and ERNESTO ESCALER, CECILIA J. ROXAS and PEDRO ROXAS, *petitioners*, *vs.* **COURT OF APPEALS, JOSE L. REYNOSO, now deceased, to be substituted by his heirs or legal representatives, and AFRICA V. REYNOSO,** *respondents.*

SYLLABUS

1. **CIVIL LAW; SPECIAL CONTRACTS; SALES; WARRANTY AGAINST EVICTION; REQUISITES BEFORE VENDOR'S LIABILITY FOR EVICTION MAY BE ENFORCED.**— In order that a vendor's liability for eviction may be enforced, the following requisites must concur — a) there must be a final judgment; b) the purchaser has been deprived of the whole or part of the thing sold; c) said deprivation was by virtue of a right prior to the sale made by the vendor; and d) the vendor has been summoned and made co-defendant in the suit for eviction at the instance of the vendee.

2. **ID.; ID.; ID.; ID.; FURNISHING THE VENDOR WITH A COPY OF THE PLEADING IS NOT SUFFICIENT, HE SHOULD BE MADE PARTY TO A SUIT AT THE INSTANCE OF THE VENDEE; CASE AT BAR.**— The fourth requisite — that of being summoned in the suit for eviction (Case No. 4252) at the instance of the vendee — is not present. All that the petitioners did, per their very admission, was to furnish respondents, by registered mail, with a copy of the opposition they (petitioners filed in the eviction suit. Decidedly, this is not the kind of notice prescribed by the aforequoted Articles 1558 and 1559 of the New Civil Code. The term "unless he is summoned in the suit for eviction at the instance of the vendee" means that the respondents as vendor/s should be made parties to the suit at the instance of petitioners-vendees, either by way of asking that the former be made a co-defendant or by the filing of a third-party complaint against said vendors. Nothing of that sort appeared to have been done by the petitioners in the instant case.

Supreme Court E-Library

AQUINO, *J.*, *dissenting opinion:*

CIVIL LAW; SPECIAL CONTRACTS; SALES; WARRANTY AGAINST EVICTION; FURNISHING THE VENDOR WITH A COPY OF THE OPPOSITION WAS A SUBSTANTIAL COMPLIANCE; CASE AT BAR.— The furnishing of the vendor with a copy of the opposition was a substantial compliance with Articles 1558 and 1559. It was a notice to the vendor, Africa's vendor, Angelina, was first notified of the cancellation proceeding. At least, Escaler and Roxas complied with Article 1481 of the old Civil Code which requires notice to the vendor. It was not the fault of the petitioners that the eviction case assumed the shape of a mere incident in the land registration proceeding and not that of an ordinary contentious civil action. Africa Reynoso could not be made a co-defendant in that incident for cancellation of title, a summary proceeding.

APPEARANCES OF COUNSEL

Avanceña Law Office for petitioners.

Bauza, Ampil, Suarez, and *Paredes Law Office* for respondent Africa V. Reynoso.

D E C I S I O N

CUEVAS, *J.*:

This is a Petition for Review on *Certiorari* of the Decision of the then Court of Appeals (now the Intermediate Appellate Court) and of its Resolution denying petitioners' Motion for Reconsideration, in CA-G.R. No. 41953-R, which was an appeal from the judgment of the Court of First Instance of Rizal in Civil Case No. 9014 entitled "*Maria Luisa de Leon Escaler, et al. vs. Jose L. Reynoso and Africa Reynoso.*"

The following are the pertinent background facts:

On March 7, 1958, the spouses Africa V. Reynoso and Jose L. Reynoso sold to petitioners several others, a parcel of land, situated in Antipolo, Rizal with an area of 239,479 square meters

Supreme Court E-Library

and covered by TCT No. 57400 of the Register of Deeds of the Province of Rizal. The Deed of Sale[1] contained the following covenant against eviction, to wit:

"That the VENDOR is the absolute owner of a parcel of land x x x the ownership thereto being evidenced by an absolute deed of sale executed in her favor by registered owner ANGELINA C. REYNOSO, x x x;

That the VENDOR warrants valid title to and ownership of said parcel of land and further, warrant to defend the property herein sold and conveyed, unto the VENDEES, their heirs, and assignees, from any and all claims of any persons whatsoever."

On April 21, 1961, the Register of Deeds of Rizal and A. Doronilla Resources Development, Inc. filed Case No. 4252 before the Court of First Instance of Rizal for the cancellation of OCT No. 1526 issued in the name of Angelina C. Reynoso (predecessor-in-interest of private respondents-vendors) on February 26, 1958 under Decree No. 62373, LRC Record No. N-13783, on the ground that the property covered by said title is already previously registered under Transfer Certificate of Title No. 42999 issued in the name of A. Doronilla Development, Inc. Petitioners as vendees filed their opposition to the said petition.

On June 10, 1964, an Order[2] was issued in the said case, the dispositive portion of which reads:

"IN VIEW OF THE ABOVE CONSIDERATIONS, this Court is constrained to set aside Decree No. 62373 issued in L.R.C. Rec. No. N-13783 and the Register of Deeds of Rizal is directed to cancel OCT No. 1526 of his office and all Transfer Certificates of Title issued subsequently thereafter to purchaser of said property or portions thereof, the same being null and void, the expenses for such cancellation to be charged to spouses Angelina Reynoso and Floro Reynoso. The owner's duplicates in the possession of the transferees of the property covered by OCT No. 1526 are declared null and void

---

[1] Annex "A", pp. 7-12, Record on Appeal, Page 29, *Rollo*.

[2] pp. 13-21 Record on Appeal, p. 29, *Rollo*.

Supreme Court E-Library

and said transferees are directed to surrender to the Register of Deeds of Rizal, said owner's duplicates for cancellation.

The other reliefs sought for by the party oppositors are denied the same not falling within the jurisdiction of this Court under this proceeding.

SO ORDERED."

On August 31, 1965, herein petitioners, spouses Maria de Leon Escaler and Ernesto Escaler and spouses Cecilia J. Roxas and Pedro Roxas, filed Civil Case No. 9014 before the Court of First Instance of Rizal against their vendors, herein private respondents, spouses Jose L. Reynoso and Africa Reynoso for the recovery of the value of the property sold to them, plus damages on the ground that the latter have violated the vendors' "warranty against eviction."

The complaint among others, alleged that the Order issued in Case No. 4252 which cancelled the title of Angelina C. Reynoso and all subsequent Transfer Certificates of Title derived and/or emanating therefrom and which includes the titles of petitioners, is now final, and by reason thereof petitioners lost their right over the property sold; and that in said Case No. 4252, the respondents were summoned and/or given their day in court at the instance of the petitioners.[3]

The respondents, as defendants, filed their answer alleging, among others, by way of affirmative defenses that "the cause of action, if any, of plaintiffs against defendants have been fully adjudicated in Case No. 4252 when plaintiffs failed to file a third-party complaint against defendants."[4]

On August 18,1967, petitioners, as plaintiffs, filed a Motion for Summary Judgment, alleging the facts already averred in the complaint, and further alleging that the defendants were summoned and were given their day in court at the instance of plaintiffs in Case No. 4252. In support of their said motion, the

---

[3] pp. 1-7, Record on Appeal p. 29, *Rollo*.

[4] pp. 25-26, Record on Appeal, p. 29, *Rollo*.

Supreme Court E-Library

plaintiffs attached the affidavit of Atty. Alberto R. Avanceña who had represented the plaintiffs in Case No. 4202 and had filed a joint opposition in behalf of all the vendees. The pertinent portion of that affidavit, states —

"4. That he has furnished a copy of said joint opposition to Africa Reynoso, wife of Jose L. Reynoso, at her given address at c/o Antipolo Enterprises, Antipolo, Rizal and the latter had received the same, as evidenced by the photostatic copy of the Registry Return Receipt thereto affixed as Annex 'C-1';

x x x x x x x x x

"6. That he hereby executed this Affidavit to prove that said defendants Africa Reynoso and Jose L. Reynoso were given their day in Court and/or were afforded the opportunity to be heard in Case No. 4252 aforecited."

On September 27,1967, judgment was rendered by the trial court, the pertinent portion of which reads —

"Considering the foregoing motion for summary judgment and it appearing that the defendants under a Deed of Absolute Sale (Annex "C") have expressly warranted their valid title and ownership of the said parcel of land and further warranted to defend said property from any and all claims of any persons whomever in favor of plaintiffs; that the said warranties were violated when on June 10, 1964, an Order was promulgated by the Court of First Instance of Rizal in Case No. 4252 (Related to LRC Case No. 1559 LRC Record No. N-13293). *In Re: Petition for Cancellation of Original Registration, etc.*, covering the parcel of land in question; that said order of June 10, 1964 has become final and executory there being no appeal interposed thereto and defendants were summoned and were given a day in court at the instance of the plaintiffs in Case No. 4252, the Court hereby grants the motion for summary judgment, and hereby orders the defendants to jointly and severally return to the plaintiffs Maria Luisa de Leon Escaler and Ernesto Escaler, Cecilia J. Roxas and Pedro Roxas, the value of the property sold to them at the time of eviction which is not to be less than ₱5,500.00 to reimburse to each one of the plaintiffs the expenses of contract and litigation and the amount of ₱2,250.00 to pay the attorney's fees of ₱1,000.00 plus the costs of suit.

SO ORDERED."

Supreme Court E-Library

Private respondents appealed the aforesaid decision to the then Court of Appeals[5] assigning as sole error — that the lower court erred in finding that they were summoned and were given their day in court at the instance of petitioners-plaintiffs in Case No. 4252.

In reversing the decision of the trial court and dismissing the case, the then Court of Appeals found and so ruled that petitioners as vendees had not given private respondents-vendors, formal notice of the eviction case as mandated by Arts. 1558 and 1559 of the New Civil Code.

Hence, the instant recourse, petitioners contending —

1) that the Court of Appeals erred in applying strictly to the instant case the provisions of Articles 1558 and 1559 of the New Civil Code; and

2) that the decision of the Court of First Instance of Rizal should have been affirmed by the Court of Appeals or at least, the Court of Appeals should have remanded the case to the trial court, for hearing on the merits.

The petition is devoid of merit. Consequently, it must be dismissed.

Article 1548, in relation to Articles 1558 and 1559 of the New Civil Code reads as follows:

"Art. 1548. Eviction shall take place whenever by a final judgment based on a right prior to the sale or an act imputable to the vendor, the vendee is deprived of the whole or of a part of the thing purchased.

"The vendor shall answer for the eviction even though nothing has been said in the contract on the subject.

"The contracting parties, however, may increase, diminish, or suppress this legal obligation of the vendor.

"Art. 1558. The vendor shall not be obliged to make good the proper warranty, *unless he is summoned in the suit for eviction at the instance of the vendee.* (italics supplied)

---

[5] CA-G.R. No. 41953.

Supreme Court E-Library

"Art. 1559. The defendant vendee shall ask, within the time fixed in the Rules of Court for answering the complaint that the vendor be made as co-defendant."

In order that a vendor's liability for eviction may be enforced, the following requisites must concur — a) there must be a final judgment; b) the purchaser has been deprived of the whole or part of the thing sold; c) said deprivation was by virtue of a right prior to the sale made by the vendor; and d) the vendor has been summoned and made co-defendant in the suit for eviction at the instance of the vendee.[6]

In the case at bar, the fourth requisite — that of being summoned in the suit for eviction (Case No. 4252) at the instance of the vendee — is not present. All that the petitioners did, per their very admission, was to furnish respondents, by registered mail, with a copy of the opposition they (petitioners) filed in the eviction suit. Decidedly, this is not the kind of notice prescribed by the aforequoted Articles 1558 and 1559 of the New Civil Code. The term "unless he is summoned in the suit for eviction at the instance of the vendee" means that the respondents as vendor/s should be made parties to the suit at the instance of petitioners-vendees, either by way of asking that the former be made a co-defendant or by the filing of a third-party complaint against said vendors. Nothing of that sort appeared to have been done by the petitioners in the instant case.

IN VIEW OF THE FOREGOING CONSIDERATIONS, the petition is DISMISSED and the appealed decision of the then Court of Appeals is AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Concepcion Jr., Abad Santos, Plana, Escolin, Relova, Gutierrez, Jr., and *De la Fuente, JJ.*, concur.

Makasiar, C.J., I join Justice Aquino's dissent.

---

[6] *Bautista, et al vs. Laserna, et al.*, 72 Phil. 506; *Jovellano, et al. vs. Lualhati*, 47 Phil. 371; *Canizares Tiana vs. Torrejos*, 21 Phil. 127.

Supreme Court E-Library

Teehankee, J., I concur with Justice Aquino's dissent.

Aquino, J., see dissent.

Melencio-Herrera, J., I join Justice Aquino in his dissent.

Alampay, J., I join in the dissent of Justice Aquino and fully agree in the views expressed by him therein.

AQUINO, *J.*, *dissenting*:

In 1958 Cecilia Roxas and Maria Luisa de Leon Escaler and ten other persons bought for ₱12,000 from *Africa V. Reynoso*, 23.9 hectares of land located at Barrio San Isidro, Antipolo, Rizal covered by OCT No. 1526 in the name of *Angelina C. Reynoso*. Africa had purchased the land from Angelina (9-12, Record on Appeal). Escaler and Roxas obtained TCT Nos. 58389 and 58393, respectively.

On April 21,1961 the register of deeds of Rizal in Civil Case No. 4252, LRC Case No. 1559, LRC Rec. No. 13793, filed a petition for the cancellation of Decree No. N-62373 and OCT No. 1526 issued in the name of *Angelina C. Reynoso* because the 23.9-hectare land covered by said 'decree and title had been previously registered in the name of A. Doronilla Resources Development, Inc. since February 20, 1956. Angelina was furnished a copy of the petition by registered mail, Registry Receipt No. 6883. The petition was set for hearing on May 20, 1961.

It was alleged in paragraph 5 of the petition that Angelina transferred to *Africa V. Reynoso* the said land. Among the 20 persons furnished copies of the petition for cancellation were Escaler and Roxas. Escaler and Roxas filed a joint opposition to the petition for cancellation. Their lawyer, Alberto R. Avanceña, furnished *Africa Reynoso* and *Angelina C. Reynoso* by registered mail with copies of said opposition sent at their common postal address, care of Antipolo Enterprises, Antipolo, Rizal, as shown in Registry Receipts Nos. 58558 and 58559 dated June 24, 1961 (p. 85, Record of Civil Case No, 4252).

Supreme Court E-Library

In said joint opposition, it was alleged that Escaler and Roxas were innocent purchasers for value, that the court, as a land registration court, had no jurisdiction over the controversy and that should the titles of Escaler and Roxas be nullified, they are entitled to relief from the Assurances Fund.

After hearing, which lasted for three years, Judge Muñoz Palma in her order of June 10, 1964 found that the land covered by Angelina Reynoso's title, OCT No. 1526, had been previously registered in 1907 under OCT No. 301, which was cancelled by subsequent transfer certificates of title, the latest of which is TCT No. 42999 in the name of A. Doronilla Resources Development, Inc.

She declared void Decree No. 62373 and Angelina Reynoso's title and those derived therefrom, like the titles of Escaler and Roxas, in accordance with the rule that the prior registration prevails over the later registration (*Legarda and Prieto vs. Saleeby*, 31 Phil. 590).

The titles of Angelina and Africa (maybe relatives by affinity) were void because they were issued for lands already registered. The titles of Angelina and Africa may be regarded as a form of land-grabbing. The purchasers were speculators in Antipolo lots.

More than a year later, or on August 31,1965, Escaler and Roxas in Civil Case No. 9014 sued Africa Reynoso to enforce the warranty against eviction contained in the deed of sale executed by Africa in 1958 in their favor. They prayed for the return to each of the plaintiffs of ₱5,500 as the value of the land and ₱4,750 as reimbursement of "expenses of contract," attorney's fees and litigation expenses.

Africa Reynoso in her answer alleged that Escaler and Roxas failed to file a third-party complaint against her when the latter were sued in Civil Case No. 4252, that their action had prescribed, that they should claim from Angelina C. Reynoso reimbursement for the expenses of cancellation of title and that their claim is against the Assurance Fund.

Supreme Court E-Library

Africa Reynoso filed a third-party complaint against Angelina C. Reynoso. No summons was issued. Escaler and Roxas filed a motion for summary judgment.

On September 27, 1967, Judge Navarro ordered the spouses Africa Reynoso and Jose Reynoso to return solidarily to the Escalers and the Roxases the value of the land amounting to ₱5,500, to reimburse to each one of the plaintiffs the "expenses of contract" and litigation in the sum of ₱2,250 and attorney's fees of ₱1,000 (61, Record on Appeal).

The Reynoso spouses appealed to the Court of Appeals which reversed the trial court's decision. The Appellate Court held that because Escaler and Roxas did not make Africa Reynoso a co-defendant in the eviction case, as required in Articles 1558 and 1559 of the Civil Code, they could not later on enforce the warranty against Africa. Escaler and Roxas appealed to this Court.

In my opinion, it was not possible for Escaler and Roxas to comply strictly with Articles 1558 and 1559. The eviction took place, not in an ordinary suit wherein the vendor can be made a co-defendant, but as an incident in the cancellation of title in a land registration proceeding.

In such a case, the furnishing of the vendor with a copy of the opposition was a substantial compliance with Articles 1558 and 1559. It was a notice to the vendor. Africa's vendor, Angelina, was first notified of the cancellation proceeding.

At least, Escaler and Roxas complied with Article 1481 of the old Civil Code which requires notice to the vendor. It was not the fault of the petitioners that the eviction case assumed the shape of a mere incident in the land registration proceeding and not that of an ordinary contentious civil action. Africa Reynoso could not be made a co-defendant in that incident for cancellation of title, a summary proceeding.

A contrary view would enable Africa Reynoso to enrich herself unjustly at the expense of the petitioners.