

## SECOND DIVISION

**[ G.R. No. 171008, September 13, 2007 ]**

**CARMELITA FUDOT, PETITIONER, VS. CATTLEYA LAND, INC.,  
RESPONDENT.**

### **D E C I S I O N**

**TINGA, J.:**

For resolution is a petition that seeks to nullify the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals dated 28 April 2005 and 11 January 2006, respectively, in C.A. —G.R. CV No. 73025 which declared respondent as having a better right over a parcel of land located in Doljo, Panglao, Bohol.

The facts, as culled from the records, follow.

Sometime in July 1992, Cattleya Land, Inc. (hereinafter referred to as respondent) asked someone to check, on its behalf, the titles of nine (9) lots, the subject land included, which it intended to buy from the spouses Troadio and Asuncion Tecson. Finding no defect on the titles, respondent purchased the nine lots through a Deed of Conditional Sale on 6 November 1992. Subsequently, on 30 August 1993, respondent and the Tecsons executed a Deed of Absolute Sale over the same properties. The Deed of Conditional Sale and the Deed of Absolute Sale were registered with the Register of Deeds on 06 November 1992 and 04 October 1993, respectively.<sup>[3]</sup> The Register of Deeds, Atty. Narciso dela Serna, refused to actually annotate the deed of sale on the titles because of the existing notice of attachment in connection with Civil Case No. 3399 pending before the Regional Trial Court of Bohol.<sup>[4]</sup> The attachment was eventually cancelled by virtue of a compromise agreement between the Tecsons and their attaching creditor which was brokered by respondent. Titles to six (6) of the nine (9) lots were issued, but the Register of Deeds refused to issue titles to the remaining three (3) lots, because the titles covering the same were still unaccounted for.

On 23 January 1995, petitioner presented for registration before the Register of Deeds the owner's copy of the title of the subject property, together with the deed of sale purportedly executed by the Tecsons in favor of petitioner on 19 December 1986. On the following day, respondent sent a letter of protest/opposition to petitioner's application. Much to its surprise, respondent learned that the Register of Deeds had already registered the deed of sale in favor of petitioner and issued a new title in her name.<sup>[5]</sup>

On 5 May 1995, respondent filed its Complaint<sup>[6]</sup> for Quieting Of Title &/Or Recovery Of Ownership, Cancellation Of Title With Damages before the Regional Trial Court of Tagbilaran City.<sup>[7]</sup> On 26 June 1995, Asuncion filed a complaint-in-intervention, claiming that she never signed any deed of sale covering any part of their conjugal

property in favor of petitioner. She averred that her signature in petitioner's deed of sale was forged thus, said deed should be declared null and void.<sup>[8]</sup> She also claimed that she has discovered only recently that there was an amorous relationship between her husband and petitioner.<sup>[9]</sup>

Petitioner, for her part, alleged in her answer<sup>[10]</sup> that the spouses Tecson had sold to her the subject property for P20,000.00 and delivered to her the owner's copy of the title on 26 December 1986. She claims that she subsequently presented the said title to the Register of Deeds but the latter refused to register the same because the property was still under attachment.

On 31 October 2001, the trial court rendered its decision:<sup>[11]</sup> (i) quieting the title or ownership of the subject land in favor of respondent; (ii) declaring the deed of sale between petitioner and spouses Tecson invalid; (iii) ordering the registration of the subject land in favor of respondent; (iv) dismissing respondent's claim for damages against the Register of Deeds for insufficiency of evidence; (v) dismissing Asuncion's claim for damages against petitioner for lack of factual basis; and (vi) dismissing petitioner's counterclaim for lack of the required preponderance of evidence.<sup>[12]</sup>

According to the trial court, respondent had recorded in good faith the deed of sale in its favor ahead of petitioner. Moreover, based on Asuncion's convincing and un rebutted testimony, the trial court concluded that the purported signature of Asuncion in the deed of sale in favor of petitioner was forged, thereby rendering the sale void.<sup>[13]</sup>

Petitioner sought recourse to the Court of Appeals, arguing in the main that the rule on double sale was applicable to the case. The appellate court, however, dismissed her appeal, holding that there was no double sale because the alleged sale to petitioner was null and void in view of the forgery of Asuncion's purported signature in the deed. The appellate court noted that petitioner failed to rebut Asuncion's testimony despite opportunities to do so.<sup>[14]</sup> Moreover, even if there was double sale, according to the appellate court, respondent's claim would still prevail since it was able to register the second sale in its favor in good faith, had made inquiries before it purchased the lots, and was informed that the titles were free from encumbrance except the attachment on the property due to Civil Case No. 3399.<sup>[15]</sup>

Petitioner sought reconsideration of the decision but the Court of Appeals denied her motion for reconsideration for lack of merit.<sup>[16]</sup>

Petitioner thus presents before this Court the following issues for resolution:

I.

BETWEEN 2 BUYERS OF REGISTERED LAND, WHO HAS THE BETTER RIGHT-IS IT THE FIRST BUYER WHO WAS GIVEN THE OWNER'S DUPLICATE TCT TOGETHER WITH A DEED OF SALE IN 1986, OR THE SECOND BUYER IN 1992 WITH ONLY A DEED OF SALE.

II.

IS A BUYER OF REGISTERED LAND WHO DID NOT DEMAND OR REQUIRE THE DELIVERY OF THE OWNER'S DUPLICATE TCT A BUYER IN GOOD FAITH.

### III.

II. IN SUBSEQUENT REGISTRATION OF REGISTERED LANDS, AS BY SALE, WHICH LAW SHALL GOVERN, ARTICLE 1455 OF CIVIL CODE OR P.D. 1529 OR TORRENS SYSTEM.<sup>[17]</sup>

Petitioner avers that she was the first buyer in good faith and even had in her possession the owner's copy of the title so much so that she was able to register the deed of sale in her favor and caused the issuance of a new title in her name. She argues that the presentation and surrender of the deed of sale and the owner's copy carried with it the "conclusive authority of Asuncion Tecson" which cannot be overturned by the latter's oral deposition.<sup>[18]</sup>

Petitioner claims that respondent did not demand nor require delivery of the owner's duplicate title from the spouses Tecson, neither did it investigate the circumstances surrounding the absence of the title. These indicate respondent's knowledge of a defect in the title of the spouses and, thus, petitioner concludes that respondent was not a buyer in good faith.<sup>[19]</sup>

Finally, petitioner insists that the applicable law in this case is P.D. No. 1529, a special law dealing precisely with the registration of registered lands or any subsequent sale thereof, and not Article 1544 of the Civil Code which deals with immovable property not covered by the Torrens System.<sup>[20]</sup>

Respondent points out, on one hand, that petitioner's first two issues which present an inquiry on who has a better right or which one is a buyer in good faith, are questions of fact not proper in a petition for review. The third issue, on the other hand, is ostensibly a question of law which had been unsuccessfully raised below.<sup>[21]</sup>

Respondent maintains that there is no room to speak of petitioner as a buyer in good faith since she was never a buyer in the first place, as her claim is based on a null and void deed of sale, so the court *a quo* found. Respondent also asserts that its status as a buyer in good faith was established and confirmed in the proceedings before the two courts below.<sup>[22]</sup>

Lastly, respondent argues that P.D. No. 1529 finds no application in the instant case. The "production of the owner's duplicate certificate x x x being conclusive authority from the registered owner" is only true as between the registration applicant and the register of deeds concerned, but never to third parties. Such conclusive authority, respondent adds, is "only for the Register of Deeds to enter a new certificate or to make a memorandum of registration in accordance with such instrument." It cannot cure the fatal defect that the instrument from which such registration was effected is null and void *ab initio*, respondent concludes.<sup>[23]</sup>

The petition is bereft of merit.

Petitioner's arguments, which rest on the assumption that there was a double sale, must fail.

In the first place, there is no double sale to speak of Art. 1544 of the Civil Code,<sup>[24]</sup> which provides the rule on double sale, applies only to a situation where the same property is validly sold to different vendees. In this case, there is only one sale to advert to, that between the spouses Tecson and respondent.

In *Remalante v. Tibe*,<sup>[25]</sup> this Court ruled that the Civil Law provision on double sale is not applicable where there is only one valid sale, the previous sale having been found to be fraudulent. Likewise, in *Espiritu and Apostol v. Valerio*,<sup>[26]</sup> where the same parcel of land was purportedly sold to two different parties, the Court held that despite the fact that one deed of sale was registered ahead of the other, Art. 1544 of the Civil Code will not apply where said deed is found to be a forgery, the result of this being that the right of the other vendee should prevail.

The trial court declared that the sale between the spouses Tecson and petitioner is invalid, as it bears the forged signature of Asuncion. Said finding is based on the unrebutted testimony of Asuncion and the trial court's visual analysis and comparison of the signatures in her Complaint-in-Intervention and the purported deed of sale. This finding was upheld by the Court of Appeals, as it ruled that the purported sale in petitioner's favor is null and void, taking into account Asuncion's unrefuted deposition. In particular, the Court of Appeals noted petitioner's failure to attend the taking of the oral deposition and to give written interrogatories. In short, she did not take the necessary steps to rebut Asuncion's definitive assertion.

The congruence of the wills of the spouses is essential for the valid disposition of conjugal property.<sup>[27]</sup> Thus, under Article 166 of the Civil Code<sup>[28]</sup> which was still in effect on 19 December 1986 when the deed of sale was purportedly executed, the husband cannot generally alienate or encumber any real property of the conjugal partnership without the wife's consent.

In this case, following Article 173<sup>[29]</sup> of the Civil Code, on 26 June 1995, or eight and a half years (8 ½) after the purported sale to petitioner, Asuncion filed her Complaint-in-Intervention seeking the nullification thereof, and while her marriage with Troadio was still subsisting. Both the Court of Appeals and the trial court found Asuncion's signature in the deed of sale to have been forged, and consequently, the deed of sale void for lack of marital consent. We find no reason to disturb the findings of the trial court and the Court of Appeals. Findings of fact of lower courts are deemed conclusive and binding upon the Supreme Court subject to certain exceptions,<sup>[30]</sup> none of which are present in this case. Besides, it has long been recognized in our jurisprudence that a forged deed is a nullity and conveys no title.<sup>[31]</sup>

Petitioner argues she has a better right over the property in question, as the holder of and the first one to present, the owner's copy of the title for the issuance of a new TCT. The Court is not persuaded.

The act of registration does not validate petitioner's otherwise void contract. Registration is a mere ministerial act by which a deed, contract, or instrument is