

THIRD DIVISION

[G.R. Nos. 185857-58, June 29, 2016]

TRIFONIA D. GABUTAN, DECEASED, HEREIN REPRESENTED BY HER HEIRS, NAMELY: ERLINDA LLAMES, ELISA ASOK, PRIMITIVO GABUTAN, VALENTINA YANE; BUNA D. ACTUB, FELISIA TROCIO, CRISANTA D. UBAUB, AND TIRSO DALONDONAN, DECEASED, HEREIN REPRESENTED BY HIS HEIRS, NAMELY: MADELYN D. REPOSAR AND JERRY DALONDONAN, MARY JANE GILIG, ALLAN UBAUB, AND SPOUSES NICOLAS & EVELYN DAILO, PETITIONERS, VS. DANTE D. NACALABAN, HELEN N. MAANDIG, SUSAN N. SIAO, AND CAGAYAN CAPITOL COLLEGE, RESPONDENTS.

[G.R. NOS. 194314-15]

DANTE D. NACALABAN, HELEN N. MAANDIG, AND SUSAN N. SIAO, AS HEIRS OF BALDOMERA D. VDA. DE NACALABAN, PETITIONERS, VS. TRIFONIA D. GABUTAN, BUNA D. ACTUB, FELISIA D. TROCIO, CRISANTA D. UBAUB, AND TIRSO DALONDONAN, DECEASED, HEREIN REPRESENTED BY HIS HEIRS, NAMELY: MADELYN D. REPOSAR AND JERRY DALONDONAN, MARY JANE GILIG, ALLAN UBAUB, AND SPOUSES NICOLAS & EVELYN DAILO, CAGAYAN CAPITOL COLLEGE, REPRESENTED BY ITS PRESIDENT, ATTY. CASIMIRO B. SUAREZ, JR., PRIVATE RESPONDENT;

HON. LEONCIA R. DIMAGIBA (ASSOCIATE JUSTICE), HON. PAUL L. HERNANDO (ASSOCIATE JUSTICE), HON. NINA G. ANTONIO-VALENZUELA (ASSOCIATE JUSTICE), HON. EDGARDO T. LLOREN (ASSOCIATE JUSTICE), HON. MICHAEL P. ELBINIAS (ASSOCIATE JUSTICE), AND HON. JANE AURORA C. LANTION (ASSOCIATE JUSTICE, ACTING CHAIRMAN), COURT OF APPEALS, CAGAYAN DE ORO CITY (FORMER SPECIAL TWENTY-SECOND DIVISION), PUBLIC RESPONDENTS.

DECISION

JARDELEZA, J.:

Before us are consolidated petitions questioning the Court of Appeals' (CA) Decision^[1] dated December 11, 2008 and Resolution^[2] dated August 17, 2010 in CA-G.R. CV No. 68960-MIN and CA-G.R. SP No. 53598-MIN.^[3] In G.R. Nos. 185857-58, the heirs of Trifonia D. Gabutan and Tirso Dalondonan, Buna D. Actub, Felisia Trocio and Crisanta D. Ubaub (Gabutan, *et al.*) filed a partial appeal by way of a petition for review on *certiorari*,^[4] seeking to reverse the portion of the CA Decision declaring Cagayan Capital College (the College) as a buyer in good faith.

The other petition, G.R. Nos. 194314-15, is one for *certiorari*^[5] filed by Dante D. Nacalaban, Helen N. Maandig, and Susan N. Siao as heirs of Baldomera D. Vda. De Nacalaban (Nacalaban, *et al.*). It seeks to annul the CA Decision and Resolution which sustained the action for reconveyance filed by Gabutan, *et al.*

The Antecedents

On January 25, 1957, Godofredo Nacalaban (Godofredo) purchased an 800-square meter parcel of prime land (property) in Poblacion, Cagayan de Oro City from Petra, Fortunata, Francisco and Dolores, all surnamed Daamo.^[6] Pursuant to the sale, Transfer Certificate of Title (TCT) No. T-2259^[7] covering the property was issued in the name of Godofredo. He thereafter built a house on it.^[8]

Godofredo died on January 7, 1974.^[9] He was survived by his wife, Baldomera, and their children, Dante, Helen, and Susan. On March 19, 1979, Baldomera issued a Certification^[10] in favor of her mother, Melecia. It provided, in effect, that Baldomera was allowing her mother to build and occupy a house on the portion of the property.^[11] Accordingly, the house was declared for taxation purposes. The tax declaration^[12] presented in evidence showed that Melecia owned the building on the land owned by Godofredo.^[13]

Baldomera died on September 11, 1994.^[14] On July 3, 1996, her children executed an Extrajudicial Settlement of Estate of Deceased Person with Sale^[15] (Extrajudicial Settlement with Sale) where they adjudicated unto themselves the property and sold it to the College. On August 22, 1996, TCT No. T-2259 was cancelled and TCT No. T-111846^[16] covering the property was issued in the name of the College.^[17]

Melecia died on April 20, 1997^[18] and was survived by her children, Trifonia, Buna, Felisia, Crisanta, and Tirso.

In a letter^[19] dated May 5, 1997, the College demanded Trifonia D. Gabutan, Mary Jane Gilig, Allan Ubaub, and Evelyn Dailo, the heirs of Melecia who were occupying the house on the property, to vacate the premises.^[20]

On July 7, 1997, Gabutan, *et al.* filed a Complaint for Reconveyance of Real Property, Declaration of Nullity of Contracts, Partition and Damages with Writ of Preliminary Attachment and Injunction^[21] against Nacalaban, *et al.* and the College. They alleged that: (1) Melecia bought the property using her own money but Godofredo had the Deed of Absolute Sale executed in his name instead of his mother-in-law;^[22] (2) Godofredo and Baldomera were only trustees of the property in favor of the real owner and beneficiary, Melecia;^[23] (3) they only knew about the Extrajudicial Settlement with Sale upon verification with the Registry of Deeds;^[24] and (4) the College was a buyer in bad faith, being aware they were co-owners of the property.^[25]

In its Answer with Affirmative Defenses,^[26] the College claimed that it is a buyer in good faith and for value, having "made exhaustive investigations and verifications from all reliable sources" that Melecia and her heirs were staying in the property by

mere tolerance.^[27] It alleged that: (1) in the tax declaration^[28] of the residential house, Melecia admitted that the lot owner is Godofredo;^[29] (2) the occupancy permit of Melecia was issued only after Godofredo issued a certification^[30] to the effect that Melecia was allowed to occupy a portion of the property;^[31] and (3) the Extrajudicial Settlement with Sale was published in three consecutive issues of Mindanao Post, a newspaper of general circulation.^[32]

In their Answer with Counterclaim,^[33] Nacalaban, *et al.* denied the allegations of Gabutan, *et al.* They claimed to have acquired the property by intestate succession from their parents, who in their lifetime, exercised unequivocal and absolute ownership over the property.^[34] Nacalaban, *et al.* also set up the defenses of laches and prescription, and asserted that the action for reconveyance was improper because the property had already been sold to an innocent purchaser for value.^[35]

On September 10, 1997, the College filed a separate Complaint for Unlawful Detainer and Damages^[36] with the Municipal Trial Court in Cities (MTCC) against Trifonia, Mary Jane, Allan, Evelyn and Nicolas Dailo (Heirs of Melecia). In their Answer with Affirmative and/or Negative Defenses with Compulsory Counterclaim,^[37] the Heirs of Melecia claimed that they own and possess the property in co-ownership with Nacalaban, *et al.* and Gabutan, *et al.* because it was purchased by Melecia, their common predecessor.^[38] They also claimed that the house in which they reside was constructed at her expense.^[39] The College had prior knowledge of this co-ownership, and hence, was a purchaser in bad faith.^[40] The Heirs of Melecia also raised the defense of forum-shopping in view of the pendency of the action for reconveyance.^[41] They then concluded that in view of the issues and the value of the property, as well, the MTCC had no jurisdiction over the case.^[42]

The MTCC found it had jurisdiction to hear the case and ruled in favor of the College.^[43]

WHEREFORE, JUDGMENT is hereby rendered ordering each of the defendants to:

- a.) Immediately vacate the property of the plaintiff;
- b.) Pay the plaintiff the monthly use compensation for the continued use of the property at the rate of P500.00 per month from MAY 5, 1997 until the property is actually vacated;
- c.) Pay the plaintiff Attorney's fees amounting to P5,000.00 per defendant;
- d.) Pay for litigation expenses at the rate of P1,000.00 per defendant.

SO ORDERED.^[44]

On appeal, the Regional Trial Court (RTC) affirmed the MTCC's Decision^[46] in all respects, except that the Heirs of Melecia were given 30 days from notice to vacate the property.^[47] They filed a motion for reconsideration, but it was denied.^[49] Thus, the Heirs of Melecia filed a petition for review^[50] before the CA, docketed as

Meanwhile, in the reconveyance case, the RTC rendered a Decision^[52] in favor of Gabutan, *et al.* The RTC found the testimonies of their witnesses credible, in that the money of Melecia was used in buying the property but the name of Godofredo was used when the title was obtained because Godofredo lived in Cagayan de Oro City while Melecia lived in Bornay, Gitagum, Misamis Oriental.^[53] Thus, the RTC held that a trust was established by operation of law pursuant to Article 1448 of the Civil Code.^[54] The dispositive portion of the RTC's Decision reads:

WHEREFORE, judgment is hereby rendered, and this Court hereby:

1. Declares that the Spouses Godofredo and Baldomera Nacalaban held the land covered by Transfer Certificate of Title No. T-2259 issued in the name of Godofredo Nacalaban married to Baldomera Dalondonan issued on January 13, 1959 in trust for Melecia Vda. de Dalondonan with the Spouses as the trustees and Melecia Vda. de Dalondonan as the cestui que trust;
2. Declares that upon the death of Melecia Vda. de Dalondonan on August 20, 1997, the ownership and beneficial interest of the foregoing Land passed to the plaintiffs and individual defendants by operation of law as legal heirs of Melecia Vda. de Dalondonan;
3. Nullifies the Extrajudicial Settlement of Estate of Deceased Person with Sale executed by the individual defendants on July 30, 1996 and known as Doc. No. 326; Page No. 67; Book No. XX; Series of 1996 in the Notarial Register of Notary Public Victoriano M. Jacot with respect to the Extrajudicial settlement by the individual defendants of the land referred to above;
4. Declares that defendant Cagayan Capitol College was a buyer in good faith and for value of the land referred to above, and, accordingly, declares that said defendant now owns the land;
5. Orders defendant Cagayan Capitol College to inform this Court in writing within thirty (30) days from receipt of this decision the amount of the purchase price of the land referred to above bought by it from the individual defendants the amount of which should approximate the prevailing market value of the land at the time of the purchase;
6. Orders the individual defendants namely, Dante D. Nacalaban, Helen N. Maandig, and Susan N. Siao, jointly and severally, to deliver and turn over to the plaintiffs, within thirty (30) days from receipt of this decision, plaintiffs' shares of the proceeds of the sale of the land referred to above the amount of which is equivalent to live-sixth (5/6) of said proceeds with the remaining one-sixth (1/6) to be retained by the individual defendants as their share by virtue of their being the legal heirs of Baldomera D. Nacalaban;

SO ORDERED.^[55]

Both parties filed separate appeals from this Decision before the CA.^[57] In a Resolution^[58] dated October 7, 2004, the CA consolidated both appeals.

The CA rendered its Decision^[59] on December 11, 2008 dismissing the consolidated appeals and affirming in *toto* the RTC Decisions in the unlawful detainer case and the action for reconveyance. The CA held that: (1) the defense of co-ownership based on an implied trust by a defendant in an unlawful detainer case shall not divest the MTCC of jurisdiction over the case;^[60] (2) the dead man's statute does not apply because Gabutan, *et al.*'s counsel did not interpose any objection when the testimony of Crisanta Ubaub was offered and Gabutan, *et al.*'s counsel even examined her;^[61] (3) Nacalaban, *et al.*'s claim that Gabutan, *et al.*'s witnesses are not competent to testify on matters which took place before the death of Godofredo and Melecia is without merit because Gabutan, *et al.* have not specified these witnesses and such hearsay evidence alluded to;^[62] (4) the parole evidence rule does not apply because Melecia and Nacalaban, *et al.* were not parties to the Deed of Conditional Sale;^[63] (5) the action for reconveyance has not yet prescribed because Gabutan, *et al.* are in possession of the property;^[64] and (6) the College is a buyer in good faith.^[65]

Nacalaban, *et al.* filed their motion for reconsideration of the CA Decision, but it was denied in a Resolution^[66] dated August 17, 2010. Hence, they filed the present petition for *certiorari*^[67] under Rule 65, where they allege that: (1) the action for reconveyance already expired;^[68] (2) for an action for reconveyance to prosper, the property should not have passed into the hands of another who bought the property in good faith and for value;^[69] and (3) the title of Godofredo under TCT No. T-2259 which was issued on January 13, 1959 could not be attacked collaterally.^[70]

On the other hand, Gabutan, *et al.* filed the present petition for review on *certiorari*^[71] under Rule 45, seeking a partial appeal of the CA Decision. In their petition, Gabutan, *et al.* allege that the College is not a buyer in good faith because it did not buy the property from the registered owner.^[72] Since Godofredo was the registered owner of the property and not Nacalaban, *et al.*, the College should have exercised a higher degree of prudence in establishing their capacity to sell it.^[73] Further, despite knowing that other persons possessed the property, the College did not inquire with Gabutan, *et al.* the nature of their stay on the property.^[74] Under Section 1, paragraph 2, Rule 74 of the Rules of Court, the publication of the Extrajudicial Settlement with Sale was also without prejudice to claims of other persons who had no notice or participation thereof.^[75] Finally, Gabutan, *et al.* argue that they cannot be ejected from the property because there is no evidence to show that their stay was by mere tolerance, and that Melecia was a builder in good faith.^[76]

Considering that the petitions assail the same CA Decision and involve the same parties, we issued a Resolution^[77] dated December 13, 2010 consolidating them.