

## SECOND DIVISION

**[ G.R. No. 193551, November 19, 2014 ]**

**HEIRS OF GREGORIO LOPEZ, REPRESENTED BY ROGELIA LOPEZ,  
ET AL., PETITIONERS, VS. DEVELOPMENT BANK OF THE  
PHILIPPINES [NOW SUBSTITUTED BY PHILIPPINE INVESTMENT  
TWO (SPV-AMC), INC.], RESPONDENTS.**

### DECISION

**LEONEN, J.:**

This case involves the application of the doctrine on innocent purchaser or mortgagee for value. It also involves the application of the doctrines on sales by persons who are not owners of the property.

This is a Rule 45 petition<sup>[1]</sup> filed on October 15, 2010, assailing the Court of Appeals May 8, 2009 decision<sup>[2]</sup> and August 16, 2010 resolution.<sup>[3]</sup> The Court of Appeals reversed and set aside the Regional Trial Court's December 27, 2005 decision,<sup>[4]</sup> which ordered the nullification of the affidavit of self-adjudication executed by Enrique Lopez, and the documents relating to the sale and mortgage of the property to respondent Development Bank of the Philippines.

Gregoria Lopez owned a 2,734-square-meter property in Bustos, Bulacan.<sup>[5]</sup> She died on March 19, 1922<sup>[6]</sup> and was survived by her three sons: Teodoro Lopez, Francisco Lopez, and Carlos Lopez.<sup>[7]</sup> Tax Declaration No. 613 was issued under the names of Teodoro, Francisco, and Carlos.<sup>[8]</sup>

Teodoro, Francisco, and Carlos died.<sup>[9]</sup> Only Teodoro was survived by children: Gregorio, Enrique, Simplicio, and Severino.<sup>[10]</sup>

Petitioners in this case are Simplicio substituted by his daughter Eliza Lopez, and the heirs of Gregorio and Severino.<sup>[11]</sup> Enrique is deceased.<sup>[12]</sup>

Petitioners discovered that on November 29, 1990, Enrique executed an affidavit of self-adjudication declaring himself to be Gregoria Lopez's only surviving heir, thereby adjudicating upon himself the land in Bulacan.<sup>[13]</sup> He sold the property to Marietta Yabut.<sup>[14]</sup>

Petitioners demanded from Marietta the nullification of Enrique's affidavit of self-adjudication and the deed of absolute sale.<sup>[15]</sup> They also sought to redeem Enrique's one-fourth share.<sup>[16]</sup> Marietta, who was already in possession of the property, refused.<sup>[17]</sup>

Sometime in 1993, Marietta obtained a loan from Development Bank of the Philippines (DBP) and mortgaged the property to DBP as security.<sup>[18]</sup> At the time of the loan, the property was covered by Tax Declaration No. 18727, with the agreement that the land shall be brought under the Torrens system.<sup>[19]</sup> On July 26, 1993, an original certificate of title was issued in Marietta's name.<sup>[20]</sup> Marietta and DBP "executed a supplemental document dated 28 February 1995 placing the subject [property] within the coverage of the mortgage."<sup>[21]</sup> The mortgage was annotated to the title.<sup>[22]</sup>

Sometime between 1993 and 1994, petitioners filed a complaint<sup>[23]</sup> and an amended complaint<sup>[24]</sup> with the Regional Trial Court for the annulment of document, recovery of possession, and reconveyance of the property. They prayed that judgment be rendered, ordering the annulment of Enrique's affidavit of self-adjudication, the deed of sale executed by Enrique and Marietta, and the deed of real estate mortgage executed by Marietta in favor of DBP.<sup>[25]</sup> Petitioners also prayed for the reconveyance of their three-fourth share in the property, their exercise of their right of redemption of Enrique's one-fourth share, as well as attorney's fees and costs of suit.<sup>[26]</sup>

Petitioners caused the annotation of a notice of lis pendens at the back of the original certificate of title.<sup>[27]</sup> The annotation was inscribed on June 27, 1994.<sup>[28]</sup>

Marietta failed to pay her loan to DBP.<sup>[29]</sup> "DBP instituted foreclosure proceedings on the . . . land."<sup>[30]</sup> It was "awarded the sale of the [property] as the highest bidder."<sup>[31]</sup> "The Certificate of Sale was registered with the Register of Deeds . . . on 11 September 1996."<sup>[32]</sup> Marietta failed to redeem the property.<sup>[33]</sup> The title to the property was "consolidated in favor of DBP."<sup>[34]</sup>

On December 27, 2005, the Regional Trial Court ruled in favor of petitioners.<sup>[35]</sup> The Regional Trial Court found that the affidavit of self-adjudication and the deed of absolute sale did not validly transfer to Marietta the title to the property.<sup>[36]</sup> Enrique could not transfer three-fourths of the property since this portion belonged to his co-heirs.<sup>[37]</sup> The Regional Trial Court also found that Marietta was not an innocent purchaser for value because when the deed of absolute sale was executed, the property was only covered by a tax declaration in the name of the heirs of Gregoria Lopez,<sup>[38]</sup> thus:

[Marietta] should have looked further into the veracity of vendor Enrique Lopez' claim of ownership over the subject property considering that he has not presented her any other proof of his ownership when the said Deed of Absolute Sale was executed other than his mere allegation of ownership thereof.<sup>[39]</sup>

Hence, the issuance of the original certificate of title would not protect Marietta. Title is not vested through a certificate.<sup>[40]</sup> At best, Marietta's ownership over the subject property would cover only Enrique's share.<sup>[41]</sup>

The Regional Trial Court also found that DBP was not a mortgagee in good faith because at the time of the execution of the mortgage contract, a certificate of title was yet to be issued in favor of Marietta.<sup>[42]</sup> Marietta's title at that time was still based on a tax declaration.<sup>[43]</sup> Based on jurisprudence, a tax declaration is not a conclusive proof of ownership.<sup>[44]</sup> The DBP should have exerted due diligence in ascertaining Marietta's title to the property.<sup>[45]</sup>

The Regional Trial Court ordered the nullification of Enrique's affidavit of self-adjudication, the sale of the three-fourth portion of the subject property in favor of Marietta, the reconveyance of the three-fourth share of the property in favor of petitioners, the nullification of the real estate mortgage executed in favor of DBP, and the surrender of possession of the property to petitioners.<sup>[46]</sup> The trial court also ordered DBP to pay attorney's fees.

DBP, substituted by Philippine Investment Two (PI Two), appealed to the Court of Appeals.<sup>[47]</sup>

The Court of Appeals reversed the decision of the Regional Trial Court in the decision<sup>[48]</sup> promulgated on May 8, 2009. It held that DBP was a mortgagee in good faith:

[W]ith the absence of any evidence to show that the DBP was ever privy to the fraudulent execution of the late Enrique Lopez' [sic] affidavit of Adjudication over the subject land, the right of the former over the same must be protected and respected by reason of public policy.<sup>[49]</sup>

The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the appeal is GRANTED. The 27 December 2005 Decision of the Regional Trial Court is hereby REVERSED and SET ASIDE as to defendant-appellant Development Bank of the Philippines and dismissing the complaint against the latter [now substituted by Philippine Investment Two (SPV-AMC), Inc.]<sup>[50]</sup>

The Court of Appeals denied petitioners' motion for reconsideration on August 16, 2010.<sup>[51]</sup>

Petitioners filed a Rule 45 petition<sup>[52]</sup> before this court on October 15, 2010.

The issue in this case is whether the property was validly transferred to Marietta and, eventually, to DBP.

Petitioners argued that the Court of Appeals erred in its application of the doctrine on "innocent purchaser for value."<sup>[53]</sup> DBP should have exercised diligence in ascertaining Marietta's claim of ownership since at the time of the mortgage, the

property was only covered by a tax declaration under Marietta's name.<sup>[54]</sup> As a financial institution of which "greater care and prudence"<sup>[55]</sup> is required, DBP should not have relied on the face of a certificate of title to the property.<sup>[56]</sup>

On the other hand, DBP's position, citing *Blanco v. Esquiedo*,<sup>[57]</sup> was that since its participation in Enrique's execution of the affidavit of self-adjudication was not shown on record, it could not have been aware that there was any irregularity in the sale in favor of Marietta and in her title to the property.<sup>[58]</sup> Moreover, Marietta was in possession of the property at the time of the contract with DBP.<sup>[59]</sup> Therefore, DBP should enjoy the protection accorded to innocent purchasers for value.<sup>[60]</sup>

We find merit in the petition.

## **I**

### **Validity of Enrique's affidavit and the sale to Marietta**

We have consistently upheld the principle that "no one can give what one does not have."<sup>[61]</sup> A seller can only sell what he or she owns, or that which he or she does not own but has authority to transfer, and a buyer can only acquire what the seller can legally transfer.<sup>[62]</sup>

This principle is incorporated in our Civil Code. It provides that in a contract of sale, the seller binds himself to transfer the ownership of the thing sold, thus:

Art. 1458. By the contract of sale, one of the contracting parties obligates himself to transfer the ownership of and to deliver a determinate thing, and the other to pay therefor a price certain in money or its equivalent.

The seller cannot perform this obligation if he or she does not have a right to convey ownership of the thing. Hence, Article 1459 of the Civil Code provides:

Art. 1459. The thing must be licit and the vendor must have a right to transfer the ownership thereof at the time it is delivered.

Title or rights to a deceased person's property are immediately passed to his or her heirs upon death.<sup>[63]</sup> The heirs' rights become vested without need for them to be declared "heirs."<sup>[64]</sup> Before the property is partitioned, the heirs are co-owners of the property.<sup>[65]</sup>

In this case, the rights to Gregoria Lopez's property were automatically passed to her sons — Teodoro, Francisco, and Carlos — when she died in 1922.<sup>[66]</sup> Since only Teodoro was survived by children, the rights to the property ultimately passed to them when Gregoria Lopez's sons died.<sup>[67]</sup> The children entitled to the property were Gregorio, Simplicio, Severino, and Enrique.

Gregorio, Simplicio, Severino, and Enrique became co-owners of the property, with

each of them entitled to an undivided portion of only a quarter of the property. Upon their deaths, their children became the co-owners of the property, who were entitled to their respective shares, such that the heirs of Gregorio became entitled to Gregorio's one-fourth share, and Simplicio's and Severino's respective heirs became entitled to their corresponding one-fourth shares in the property.<sup>[68]</sup>

The heirs cannot alienate the shares that do not belong to them. Article 493 of the Civil Code provides:

Art. 493. Each co-owner shall have the full ownership of his part and of the fruits and benefits pertaining thereto, and he may therefore alienate, assign or mortgage it, and even substitute another person in its enjoyment, except when personal rights are involved. But the effect of the alienation or the mortgage, with respect to the co-owners, shall be limited to the portion which may be allotted to him in the division upon the termination of the co-ownership.

Since Enrique's right to the property was limited to his one-fourth share, he had no right to sell the undivided portions that belonged to his siblings or their respective heirs. Any sale by one heir of the rest of the property will not affect the rights of the other heirs who did not consent to the sale. Such sale is void with respect to the shares of the other heirs.

Regardless of their agreement, Enrique could only convey to Marietta his undivided one-fourth share of the property, and Marietta could only acquire that share. This is because Marietta obtained her rights from Enrique who, in the first place, had no title or interest over the rest of the property that he could convey.

This is despite Enrique's execution of the affidavit of self-adjudication wherein he declared himself to be the only surviving heir of Gregoria Lopez. The affidavit of self-adjudication is invalid for the simple reason that it was false. At the time of its execution, Enrique's siblings were still alive and entitled to the three-fourth undivided share of the property. The affidavit of self-adjudication did not have the effect of vesting upon Enrique ownership or rights to the property.

The issuance of the original certificate of title in favor of Marietta does not cure Enrique's lack of title or authority to convey his co-owners' portions of the property. Issuance of a certificate of title is not a grant of title over petitioners' undivided portions of the property.<sup>[69]</sup> The physical certificate of title does not vest in a person ownership or right over a property.<sup>[70]</sup> It is merely an evidence of such ownership or right.<sup>[71]</sup>

Marietta could acquire valid title over the whole property if she were an innocent purchaser for value. An innocent purchaser for value purchases a property without any notice of defect or irregularity as to the right or interest of the seller.<sup>[72]</sup> He or she is without notice that another person holds claim to the property being purchased.<sup>[73]</sup>

As a rule, an ordinary buyer may rely on the certificate of title issued in the name of