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FIRST DIVISION

[G.R. No. 159116, September 30, 2009]

SPS. NESTOR AND FELICIDAD DADIZON, PETITIONERS, VS. HON. COURT OF APPEALS, AND SPS. DOMINADOR AND ELSA MOCORRO, RESPONDENTS.

D E C I S I O N

BERSAMIN, J.:

The mere execution of a *deed of sale* covering an unregistered parcel of land is not enough to bind third persons. A succeeding step **-** the registration of the sale **-** has to be taken. Indeed, registration is the operative act to convey or affect the unregistered land insofar as third persons are concerned.

Spouses Nestor and Felicidad Dadizon (Dadizons), the defendants in the trial court, seek the review of the resolutions dated February 26, 2003 and June 30, 2003, respectively dismissing their petition for review[1] and denying their motion for reconsideration,[2] both issued by the Court of Appeals (CA).

Antecedents

Respondent Spouses Dominador and Elsa Mocorro (Mocorros) initiated this case in the Municipal Trial Court (MTC) of Naval, Biliran against the Dadizons to recover a parcel of land with an area of 78 square meters and to cancel the latter's tax declaration. The Mocorros also sought consequential damages.

The Mocorros' right to recover was traced back to Ignacia Bernal, who had owned a large tract of 3,231 square meters that she had declared for taxation purposes in Tax Declaration No. 504. On December 30, 1946, Bernal had sold to Almeda Elaba a portion of 364 square meters of her land. Tax Declaration No. 1551 had been then issued in the name of Elaba, but covering only 224 square meters. On May 29, 1971, Elaba had sold the same 224 square meters to Brigido Caneja, Sr., resulting in the issuance of Tax Declaration No. 4301 in the name of Caneja, Sr. in 1972 over the entire 224 square meters. As alleged in this action, the land of Caneja, Sr. was described as follows:

> It is a residential lot and house, bounded on the North by P. Inocentes St.; on the East by High School Plaza; on the South by Elem. School Plaza; and on the West by Ignacia Bernal; of approximately 224 square meters in area, more or less, covered by Tax Dec. No. 4301 and assessed at P448.00 only.[3]

On June 2, 1973, Caneja, Sr. sold the land to the Mocorros. Thus, Caneja, Sr.'s Tax Declaration No. 4301 was cancelled and Tax Declaration No. 4518 was issued in the name of Dominador Mocorro.[4]

In 1979, Tax Declaration No. 4518 was superseded by Tax Declaration No. 3478, still covering the same area of 224 square meters. It is relevant to mention that Tax Declaration No. 3478 carried an annotation of the mortgage on the land constituted by the Mocorros in favor of the Rural Bank of Naval on July 23, 1975.[5]

In 1984, as borne out in Tax Declaration No. 607, the area of 224 square meters was reduced by 78 square meters to only 146 square meters, with the western boundary being now described as Cadastral Lot No. 523, Assessor's Lot No. 049, owned by the Dadizons.[6] It is not denied that the Dadizons were issued their own tax declaration for the first time only in 1980, through Tax Declaration No. 535 in the name of Felicidad Dadizon, covering an area of 147 square meters. Tax Declaration No. 535 indicated as the eastern boundary the property of the Mocorros, described as Cadastral Lot No. 524, Assessor's Lot No. 048. The dorsal side of Tax Declaration No. 535 of the Dadizons contained the following note:

> "Note: Previous Tax Declaration was unidentified it is subject for further verification" Cad. Lot No. 523 in the name of Felicidad Dadizon is denominated "has no previous tax declaration and or assessed as "NEW" under the Tax Mapping revision."[7]

Based on the tax declarations, the area of the land of the Mocorros had always been 224 square meters until 1984, when the area was reduced to 146 square meters following the exclusion of a part thereof measuring 78 square meters to adjust the area to that declared in the name of the Dadizons in Tax Declaration No. 535.[8]

Ruling of the MTC

In determining the issue as to who between the Mocorros and the Dadizons possessed the better right to the 78-square meter lot occupied by the Dadizons, the MTC rendered judgment on December 6, 1999 in favor of the Mocorros, holding thuswise:

> The Court has painstakingly reviewed the evidence in this case and has arrived at the conclusion that the seventy eight (78) square meters complained of is part of the land sold to plaintiff spouses. Plaintiffs have convincingly proved that they have a better right to the land. They have solid evidence to support their claim of ownership.
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> As early as June 2, 1973, they bought the land in question from Brigido Caneja Sr., a former town mayor of Naval, Biliran. The integrity of His honor, was engrained into the document so much so that it was respected by the adjoining owners. A total land area of 224 square meters was sold by Brigido Caneja, Sr. to plaintiff spouses as reflected in

a Deed of Absolute Sale.

It was only in 1975 when defendant spouses allegedly acquired a residential land adjoining that of plaintiff spouses that a boundary dispute ensued between them.

The Court finds the alleged acquisition of defendant spouses of the land in question peppered with inconsistencies. At the outset, the land was conveyed to defendant spouses by their mother Eustaquia Bernadas in a private document on March 10, 1976. Defendant spouses offered flimsy excuses why said document was not notarized. They did not know according to their joint affidavit that there was a need for it while their instrumental witness claim that defendant spouses had no more money to pay for the notarization. The Court does not subscribe to said assertion because defendant Felicidad Dadizon is a public school teacher and as such knowledgeable enough to know that it takes a notary public to make a private document a public one. And to claim that they had no more money to pay the notarization of the document is unbelievable considering that they could even pay the alleged consideration of the property in the amount of P2,000.00. The only logical reason why the document was not notarized according to the mind of the Court is to make it appear that the documents were executed on the dates mentioned therein.

It was unfortunate, however, that the plaintiff Dominador Mocorro was misled into fencing their residential land as to its correct boundary upon misrepresentation of one Eustaquia Bernadas, the mother of defendant Felicidad Dadizon. Plaintiff Elsa Mocorro was not around when the alleged deception was made upon co-plaintiff Dominador Mocorro by Eustaquia Bernadas.

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WHEREFORE, in view of the foregoing, the Court finds a preponderance of evidence in favor of plaintiffs and against defendants and hereby declares plaintiffs as owners of the seventy eight (78) square meters of the lot covered by Tax Declaration No. 535 and/or TD No. 68 in the name of defendant Felicidad Dadizon.

The Court likewise orders the defendant spouses,

a. To deliver the said seventy eight (78) square meters portion to plaintiffs and to demolish whatever structures defendants might have erected thereon;

b. To pay plaintiffs the sum of TEN THOUSAND PESOS P10,000.00 for attorney's fees and litigation expenses and the costs of suit.

The Court orders the Provincial Assessor of Naval, Biliran to cancel Tax Declaration No. 531 T.M. and 608 in the name of Felicidad Dadizon and any other tax declaration relative to the property in question.[9]

Ruling of the RTC

On appeal, the Regional Trial Court (RTC) in Naval, Biliran affirmed the MTC's findings through its decision of May 17, 2001,[10] to wit:

> Factual findings and conclusions of the trial court are entitled to great weight and respect absent any showing of a fact or any circumstance which the court a quo failed to appreciate and which would change the result if it were considered.
>
> WHEREFORE, premises considered, this Court finds that the decision of the court *a quo* as correct; hereby affirming the said decision *in toto*.

Ruling of the Court of Appeals

The Dadizons filed a notice of appeal. Initially, the CA required the Dadizons to file their *appellant's brief*. Later on, however, the Mocorros moved to dismiss the Dadizons' appeal on the ground that the mode of appeal they had adopted was erroneous.

Agreeing with the Mocorros, the CA dismissed the Dadizons' appeal through its resolution dated February 26, 2003.[11] The CA denied the Dadizons' motion for reconsideration on June 30, 2003.[12]

Hence, the Dadizons have come to this Court to assail the dismissal of their appeal and the denial of their motion for reconsideration.

Our Ruling

The petition for review on *certiorari* lacks merit.

I

The mode of appeal *vis-à-vis* the decision of the RTC adopted by the Dadizons was undoubtedly wrong. They should have filed a petition for review in accordance with Rule 42, *Rules of Court*, which was the correct mode of appeal, considering that the RTC had rendered the decision in question in the exercise of its appellate jurisdiction.

The error of the Dadizons was inexcusable and inexplicable. The Court has followed a *strict* policy against misdirected or erroneous appeals since February 27, 1990, when it issued the following instructions and caution in *Murillo v. Consul*:[13]

> At present then, except in criminal cases where the penalty imposed is life imprisonment or *reclusion perpetua*, there is no way by which judgments of regional trial courts may be appealed to the Supreme Court

except by petition for review on *certiorari* in accordance with Rule 45 of the Rules of Court, in relation to Section 17 of the Judiciary Act of 1948 as amended. The proposition is clearly stated in the *Interim* Rules: "Appeals to the Supreme Court shall be taken by petition for *certiorari* which shall be governed by Rule 45 of the Rules of Court.

On the other hand, it is not possible to take an appeal by *certiorari* to the Court of Appeals. Appeals to that Court from the Regional Trial Courts are perfected in two (2) ways, both of which are entirely distinct from an appeal by *certiorari* to the Supreme Court. They are:

> a) by *ordinary appeal*, or *appeal by writ of error* - where judgment was rendered in a civil or criminal action by the RTC in the exercise of original jurisdiction; and
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> b) by *petition for review* - where judgment was rendered by the RTC in the exercise of appellate jurisdiction.

The petition for review must be filed with the Court of Appeals within 15 days from notice of the judgment, and as already stated, shall point out the error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed. An ordinary appeal is taken by merely filing a notice of appeal within 15 days from notice of the judgment, except in special proceedings or cases where multiple appeals are allowed in which event the period of appeal is 30 days and a record on appeal is necessary.

There is therefore no longer any common method of appeal in civil cases to the Supreme Court and the Court of Appeals. The present procedures for appealing to either court - and, it may be added, the process of ventilation of the appeal - are now to be made by petition for review or by notice of appeals (and, in certain instances, by record on appeal), but only by petition for review on *certiorari* under Rule 45. As was stressed by this Court as early as 1980, in *Buenbrazo v. Marave*, 101 SCRA 848, all "the members of the bench and bar" are charged with knowledge, not only that "since the enactment of Republic Act No. 8031 in 1969," the review of the decision of the Court of First Instance in a case exclusively cognizable by the inferior court x x cannot be made in an ordinary appeal or by record on appeal," but also that *appeal by record on appeal to the Supreme Court under Rule 42 of the Rules of Court was abolished by Republic Act No. 5440 which, as already stated, took effect on September 9, 1968*. Similarly, in *Santos, Jr., v. C.A*., 152 SCRA 378, this Court declared that "Republic Act No. 5440 had long superseded Rule 41 and Section 1, Rule 122 of the Rules of Court on direct appeals from the court of first instance to the Supreme Court in civil and criminal cases, x x and that "direct appeals to this Court from the trial court on questions of law had to be through the filing of a petition for review on *certiorari*, wherein this Court could either give due course to the proposed appeal or deny it outright to prevent the clogging of its docket with unmeritorious and dilatory appeals."