

FIRST DIVISION

[G.R. No. 156076, September 17, 2008]

SPS. JESUS CHING AND LEE POE TIN, PETITIONERS, VS. SPS. ADOLFO & ARSENIA ENRILE, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Assailed in the instant petition for review on certiorari are the Decision^[1] of the Court of Appeals (CA) dated August 29, 2002 in CA-G R. CV No. 42985 and the Resolution^[2] dated November 21, 2002 denying petitioners' motion for reconsideration.

The assailed CA decision reversed the decision of the Regional Trial Court (RTC) of Makati City, Branch 135, in Civil Case No. 90-064, an action for quieting of title thereat commenced by petitioner spouses Jesus Ching and Lee Poe Tin against respondent spouses Adolfo and Arsenia Enrile.

The antecedent facts follow.

On September 5, 1985, petitioners purchased from a certain Raymunda La Fuente a 370-square meter lot located at Barrio Tungtong, Las Piñas and covered by TCT No. 83618. La Fuente delivered to petitioners a duly notarized Deed of Absolute Sale^[3] with the Owner's Duplicate Certificate of Title and thereafter, petitioners took physical possession of the subject property.

For reasons known only to petitioners, the conveyance was not registered in the Register of Deeds as prescribed by Section 51 of PD 1529^[4]. Instead, on November 20, 1986, petitioners executed an Affidavit of Adverse Claim which was recorded and annotated at the back of TCT No. 83618 reflected in the Memorandum of Encumbrances under Entry No. 86-62262.^[5]

In the meantime, petitioners peacefully and continuously possessed the subject property.

On August 19, 1988 – three years after they purchased the disputed property, petitioners received a *Notice of Levy on Attachment* and *Writ of Execution* issued by the Regional Trial Court (RTC) of Pasig in favor of respondents, in Civil Case No. 54617 entitled *Sps. Adolfo Enrile and Arsenia Enrile v. Raymunda La Fuente*.

The Notice of Levy on Attachment was recorded at the dorsal portion of TCT No. 83618 under Entry No. 3433-2 while the Writ of Execution was inscribed under Entry No. 3434-2. Also inscribed in the TCT is the Certificate of Sale dated January 26, 1989 covering the disputed property in favor of respondents.

On January 8, 1990, petitioners filed a *Petition to Remove Cloud on or Quiet Title to Real Property* asserting ownership of the disputed property.

On May 11, 1993, the RTC rendered judgment in favor of petitioners upholding the latter's superior right over the disputed property in view of the registration of the Affidavit of Adverse Claim prior to the Certificate of Sale annotated in favor of respondents. Dispositively the decision reads:

WHEREFORE, premises, the above-entitled petition is granted for being preponderantly meritorious. Judgment is hereby rendered ordering:

- 1) The Register of Deeds of Las Piñas, Metro Manila to cancel all the annotations of encumbrances in favor of defendants [respondents] in Transfer Certificate of Title No. 83618 issued by the Register of Deeds of Pasay City, Metro Manila, District IV;
- 2) Defendants [respondents] to pay plaintiffs [petitioners] in the sum of P 10,000.00 as compensatory damages by way of litigation expenses;
- 3) To pay to plaintiffs [petitioners] the sum of P 10,000.00 as attorney's fees; and,
- 4) To pay the cost of the proceedings.

SO ORDERED.

In time, respondents appealed to the CA, principally arguing that the RTC committed reversible error in ruling that petitioners had a better right over the disputed property. Respondents theorized that the prior conveyance of the disputed property made by La Fuente to petitioners being a voluntary dealing with a registered land, mere registration of their adverse claim was insufficient. To respondents, in order to have petitioners' interest protected, they should have registered the Deed of Absolute Sale with the Register of Deeds pursuant to Section 51 of PD 1529 and not merely register an adverse claim under Section 70 of the same law. Citing the second paragraph of Section 70 which provides that *an adverse claim shall be effective for a period of thirty days from the date of registration*, respondents insisted that the annotated Adverse Claim of petitioners had already expired, hence, it offered no protection when respondents acquired the disputed property through execution sale.

On August 29, 2002, the CA rendered the herein challenged decision reversing that of the RTC. Even as the CA viewed the prior sale of the disputed lot in favor of petitioners as perfected and consummated, it nonetheless upheld respondents' preferential right over the disputed property. Finding merit in respondents' arguments, the CA ruled:

This Court, also believes that there is truth in defendants-appellants' assertion that while the sale is perfected and consummated, plaintiffs-appellees failed to diligently protect their interests by failing to register the conveyance or transaction in the office of Register of Deeds. An owner of a registered land is vested by law with rights and obligations and thus exercises all attributes of ownership. These attributes include among others the right to dispose the real property itself. The owner of

the land may convey, mortgage, lease or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instrument as are sufficient in law. However, as clearly provided by Section 51 of Presidential Decree 1529, no deed, mortgage, lease or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, until the same has been registered in the office of the Register of Deeds. It shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to effect registration. The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the Office of the Register of Deeds of the province or city where the land lies. Unless and until the subject transaction has been filed or registered in the office of the Register of Deeds, the transaction shall only be binding on the parties to the contract but not on the third person. The instrument is not thereby rendered void by failure to register. Section 51 of PD 1529 states:

Section 51. Conveyance and other dealings by registered owner - An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all cases under this Decree, the registration shall be made in the office of the Register of Deeds for the province or city where the land lies.

Laying the blame on petitioners, the CA added:

The law provides protection to third person, who believing in good faith and relying on the sweet representations of some evil minded persons, may be unjustifiably inveigled to enter into a contract or transaction not knowing that the subject real property has been encumbered or sold. It is the duty of the buyer or vendee to register the transaction before the Register of Deeds of the province or city where the property lies. The registration is intended to inform any minded individual that the property has been subjected to a prior transaction and that entering into any further contract involving the same property shall be at his own risk. In the event that any third person was *bona fide* tricked to enter into any transaction involving the same property because the transferee or vendee failed to register the same as required by law, the latter's interests should be subordinated to that of the third party. Axiomatic is the rule in this jurisdiction that when loss or damage was caused to two

individuals who both acted in good faith but one is negligent, the loss or damage shall fall upon the one who acted negligently.

Citing a myriad of jurisprudence^[6], the CA declared that respondents, as attaching creditors who registered the order of attachment and the sale of the property to them as the highest bidders, acquired a valid title to the disputed property as against petitioners who had previously bought the same property from the registered owner but failed to register their deed of sale.

The CA further declared respondents as purchasers in good faith. On the premise that petitioners' filing of the Affidavit of Adverse Claim was procedurally flawed and that the annotated adverse claim had already prescribed on December 20, 1986 after the lapse of 30 days from its registration which was November 20, 1986, the CA ruled that it cannot be considered sufficient notice to third person like the respondents who were not aware of the sale of the disputed lot to petitioners prior to the levy on attachment.

As stated at the threshold hereof, the CA, in its decision^[7] of August 29, 2002, reversed and set aside that of the RTC, thus:

WHEREFORE, in view of the foregoing, the Decision dated May 11, 1993 of the Regional Trial Court, National Capital Judicial Region, Branch 135, Makati City in Civil Case No. 90-064 is hereby REVERSED.

The Register of Deeds of Las Piñas, Metro Manila is hereby mandated not to cancel any annotations of encumbrances in favor of defendants-appellants in Transfer Certificate of Title No. 83618 issued by the Register of Deeds of Pasay City, Metro Manila, Dist. IV.

Who among the parties has a preferential right over the disputed property.

SO ORDERED.

Their motion for reconsideration having been denied by the CA in its challenged Resolution of November 21, 2002, petitioners are now before this Court, faulting the CA as follows:

WITH DUE RESPECT, THE COURT A QUO GRAVELY ERRED AND ABUSED ITS DISCRETION WHEN IT RENDERED SUBJECT DECISION AND RESOLUTION IN A WAY PROBABLY NOT IN ACCORD WITH LAW OR RULES WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT; Specifically, the Court a quo erred;

- a. **When it held that the levy on attachment LATER annotated shall prevail over the Adverse Claim EARLIER annotated at the back of the title by the mere lapse of 30 days and even without any petition in court for its cancellation;**
- b. **When it did not dismiss the appeal considering that the question raised were questions of law and NO question of fact.**^[8]