

FIRST DIVISION

[G. R. No. 126802, January 28, 2000]

**ROBERTO G. ALARCON, PETITIONER, VS. THE COURT OF
APPEALS AND BIENVENIDO JUANI, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

Assailed in the instant petition for review on *certiorari* is the decision of the Court of Appeals penned in Pilipino^[1] setting aside the Partial Decision rendered by the Regional Trial Court, Third Judicial Region, Malolos, Bulacan, Branch 22, in Civil Case No. 8245-M.

On June 17, 1985, herein petitioner, Roberto Alarcon, filed a complaint for the annulment of a deed of sale with damages against Bienvenido Juani, Edgardo Sulit and Virginia Baluyot as defendants.

In his complaint docketed as Civil Case No. 8245-M, petitioner alleged that sometime in 1976, before he went to Brunei in order to work, he left with his father, Tomas Alarcon, a Special Power of Attorney to administer, mortgage or sell his properties in Baliwag, Bulacan, among them Lot 878-B-1-A (LRC) psd 312453 situated in Barangay Tangos, Baliwag, Bulacan and covered by TCT No. 279065. Upon his return from Brunei, he found out that on the strength of the aforementioned special power of attorney, a portion of the land containing an area of 2,500 square meters was sold to Bienvenido Juani, Edgardo Sulit and Virginia Baluyot pursuant to a "Kasulatan ng Bilihang Tuluyan ng Bahagi ng Lupa" allegedly executed by his father, Tomas Alarcon on March 27, 1985 for a nominal consideration of P5,000.00. The defendants were able to register the sale, cancel the title of Roberto Alarcon and to have new certificates of title issued in the names of Bienvenido Juani, Edgardo Sulit and Virginia Baluyot over the respective portions sold to them.^[2]

Petitioner prayed for the nullification of the sale contending that: (1) his father's signature on the Deed of Sale was forged; (2) there was no consideration of the sale; and (3) his father had no more authority to sell the land since the special power of attorney had already been earlier revoked, specifically, on June 9, 1984.^[3] Further, it was also discovered that the signature of the notary public who allegedly attested said sale was falsified.

In their answer,^[4] Bienvenido Juani and Virginia Baluyot averred that Juani had been the tiller-occupant for almost 10 years of the land covered by TCT No. 279065 with an area of 10,000 square meters owned by Roberto Alarcon for almost 10 years now. He was allegedly lured by Tomas Alarcon as the attorney-in-fact of his son to give up his right as tiller of the land in exchange of ownership of a parcel of land with an area of 2,500 square meters. After much contemplation, he acceded to the

prodding of Tomas Alarcon and signed an agreement with him, denominated as "Kasunduan ng Pagbibili," where it was provided that Tomas Alarcon had a Special Power of Attorney to sell the parcel of land with an area of 2,500 square meters to Bienvenido Juani. Eventually, a Final Deed of Sale was executed on March 27, 1985 confirming said transaction. Thereafter, Juani sold 1,000 square meters of the 2,500 square meters to Virginia Baluyot and 500 sq. meters to Edgardo Sulit. They then engaged the services of Notary Public Carmen Gonzales to facilitate the transfer of titles to them. Finally, the defendants further alleged that Juani was never aware of the revocation of the Special Power of Attorney granted to Tomas Alarcon.

On July 10, 1985, Virginia Baluyot also filed a third-party complaint against Notary Public Carmen Gonzales for allegedly altering the deed of sale without her knowledge and permission for purposes of securing the TCTs in defendants' names.

On July 12, 1985, Juani filed a Third-Party Complaint^[5] against Tomas Alarcon charging him of having employed a fraudulent scheme in depriving the former of possession of the land.

After all the issues were joined, the trial court set the case for pre-trial conference on June 3, 1986 which was continued on August 1, 1986.

During the pre-trial conference, the parties represented by their counsel made some admissions of facts. On the basis thereof, on August 1, 1986, the trial judge rendered a partial decision which reads:

PARTIAL DECISION

During the pre-trial of this case on August 1, 1986, all the parties and their respective counsel appeared and made the following admissions of facts:

1. That the document of sale or "Kasulatan Ng Bilihang Tuluyan Ng Bahagi Ng Lupa" (Annex "C" of the complaint) purportedly executed by Tomas L. Alarcon, as attorney-in-fact of his son Roberto Alarcon (the plaintiff herein), on March 27, 1985 over some portions of the land in question in favor of the defendants Bienvenido Juani (1,000 sq.m.), Edgardo Sulit (500 sq.m.) and Virginia Baluyot (1,000 sq.m.) or a total of 2,500 sq.m., is a forged document (which is subject of a pending criminal case);
2. That it is that forged document of sale which was registered with the Register of Deeds of Malolos, Bulacan on May 27, 1985; and
3. That after the registration of that forged document, the defendants Juani, Sulit and Baluyot were issued Transfer Certificates of Titles Nos. T-294353 (Annex "E" of the complaint), T-294354 (Annex "F" of the complaint), and T-294355 (Annex "G" of the complaint) respectively.

On the basis of the foregoing facts admitted by all the parties, it is very clear that the aforesaid document of sale or "Kasulatan Ng Bilihang Tuluyan Ng Bahagi Ng Lupa" purportedly executed on March 27, 1985 is

void ab initio for being a forgery. And, therefore, the three separate titles (TCT Nos. T-294353, T-294354 and T-294355) issued respectively in favor of defendants Juani, Sulit and Baluyot on the basis of that forged document are null and void and should be cancelled.

In view therefore of the foregoing, judgment is hereby rendered:

1. Declaring the document of sale or "Kasulatan Ng Bilihang Tuluyan Ng Bahagi Ng Lupa" purportedly executed on March 27, 1985 by Tomas L. Alarcon, as attorney-in-fact of Roberto Alarcon, in favor of the defendants Juani, Sulit and Baluyot void ab initio;
2. Declaring Transfer Certificates of Titles Nos. T-294353, T-294354 and T-294355 issued respectively in the names of Bienvenido Juani, Edgardo Sulit and Virginia Baluyot null and void; and
3. Ordering the Register of Deeds of Malolos, Bulacan to cancel the aforesaid certificates of titles.

SO ORDERED

Malolos, Bulacan, August 1, 1986

(SGD.) BRAULIO S. DAYDAY
Judge.^[6]

On September 26, 1986, the trial court issued its pre-trial order,^[7] to wit:

During the pre-trial of this case conducted on June 3, 1986 and August 1, 1986, all the parties and their respective counsels appeared. There was no amicable settlement reached by the parties. Thus, they proceeded to state their respective contentions and to make some admissions of facts. And on the basis of the admissions made by the parties, the court rendered a partial decision on August 1, 1986 after which the issues remaining to be resolved are the following:

I. Issue of Law

1. Whether or not the deed of sale of a portion (2,500 sq. m.) of a parcel of land (10,000 sq. m.) belonging to plaintiff Roberto G. Alarcon (covered by Transfer Certificate of Title No. T-279065) executed by third-party defendant Tomas L. Alarcon, as attorney-in-fact of the plaintiff, in favor of defendant Bienvenido Juani on March 27, 1985 is legal and valid.

II. Issues of Fact

1. Whether or not third-party defendant Tomas Alarcon had still authority to act for and in behalf of plaintiff Roberto Alarcon when the former executed the aforesaid deed of sale in favor of defendant Bienvenido Juani; and

2. Whether or not Tomas Alarcon had complete control of his mental faculties when he executed the said deed of sale on March 27, 1985 in favor of defendant Bienvenido Juani.

With the statement of the foregoing issues, the pre-trial is now deemed closed and terminated. The parties are hereby given fifteen (15) days from receipt of the pre-trial order within which to have it set aside or modified to prevent manifest injustice.

The trial of this case shall proceed on October 7, 28 and 29 and November 6, 1996 at 8:30 o'clock in the morning. The parties are all notified of the next assignment.^[8]

On August 8, 1990 petitioner moved for the execution of the Partial Decision considering that no motion for reconsideration or appeal was filed therefrom. At the same time, for the purpose of ending litigation of the case, petitioner offered to drop his claim for damages against the defendants if they were also willing to waive their claims against him and his father. Upon the opposition of defendant Baluyot, the trial court denied petitioner's motion.

On January 24, 1991, the trial court issued an Order, dismissing the complaint as against Juani and the latter's counterclaim against the plaintiff (herein petitioner), the pertinent portion of which reads:

At today's scheduled hearing for the initial reception of plaintiff's evidence, Atty. Sesinando Manuel, Jr. counsel for the plaintiff, reiterated his previous motion to have this case dismiss (sic) with respect to the defendants who are willing to dismiss their counterclaim. Atty. Rosalino Barican, counsel for defendant Buenvenido Juani manifested that he has no objection to have his counterclaim dismissed without prejudice, to effect the partial decision which is with his conformity. The complaint against Bienvenido Juani and his counterclaim is hereby DISMISSED. The Court will proceed with this case only with respect to defendants Virginia Baluyot and Edgardo Sulit. xxx^[9]

On August 19, 1991, the trial court issued an order granting petitioner's motion for a writ of execution of the Partial Decision.

For failure of the defendants to interpose an appeal from the Partial Decision, the same became final and executory. However, the judgment could not be executed because the defendants allegedly refused to surrender their respective Owner's Duplicate of Transfer Certificates of Title issued to them by the Register of Deeds.

On April 17, 1995, herein private respondent Bienvenido Juani filed with the Court of Appeals a petition for the annulment of the Partial Decision rendered by the trial court

After hearing the case, the Court of Appeals on October 16, 1996 handed down a decision^[10] granting the petition and setting aside the Partial Decision of the regional trial court, as well as its Order, dated January 24, 1991, dismissing the "counterclaim" and the Order, dated August 19, 1991 granting the Motion for

Execution of the said Partial Decision. Its decision was anchored on its finding that the Partial Decision was vitiated by extrinsic fraud. Respondent court directed that the case be remanded to the court of origin for further proceedings. The dispositive portion of the decision states:

DAHIL DITO, batay sa masusing pagaaral sa mga tala at patibay na nasa hukumang ito ay ipinapasiya na ang petisyon ay ipinahihintulot at pinapayagan, at tuloy iniuutos na pawalang saysay ang parsyal desisyon na siyang pinagmulan ng lahat ng kaguluhang ito at gayon din ang "order" ng hukuman sa ibaba na may petsa Enero 24, 1991, kasali na ang "writ of execution" na may petsa Agosto 19, 1991 upang mapawalang bisa ang lahat ng bunga ng kahoy na may lason.

Gayon din, iniuutos sa hukumang pinagmulan ng asunto na kailangang magkaroon ng panibagong paglilitis ang kaso ni Bienvenido Juani laban kay Tomas Alarcon.^[11]

Thus, petitioner now comes to this Court raising two (2) main issues, to wit:

- (1) whether or not the petition for annulment of judgment instituted before the Court of Appeals was filed on time; and
- (2) whether or not there was extrinsic or collateral fraud attendant in the case which would justify the setting aside of the Partial Decision of the trial court.

The Court of Appeals found that extrinsic fraud was attendant in the instant case. It considered the fact that Juani, being unlettered, was not apprised of the proceedings held in the trial court. While it is true that he had lawyers representing him in court, the appellate court opined that he did not understand the proceedings in the trial court, much less the admissions made in the pre-trial conference that the Deed of Sale which was made as the basis for the issuance of titles in favor of Juani, Baluyot and Sulit was a forgery. Under such circumstances, he was allegedly deprived of the parcel of land which he was in possession prior to the controversy.

Anent the issue of prescription, the Court of Appeals justified its ruling by citing the instance where Juani's counsel agreed to dismiss his counterclaim when there was really no counterclaim to speak of since what was actually filed was a third-party complaint against Tomas Alarcon, the father of herein petitioner. The dismissal of the "counterclaim"^[12] was granted in an Order, dated January 24, 1991. Since Juani was allegedly deprived of his day in court, the respondent court considered the reckoning point of counting the prescriptive period to be April 10, 1995, when Juani's wife personally received a copy of said order, and not February 5, 1991,^[13] which is the date of receipt of Juani's counsel of record. Thus, according to the Court of Appeals, the petition to annul the Partial Decision instituted on April 17, 1995 was filed within the four-year period from the discovery of fraud as prescribed by law.

We find for petitioner.

The governing rule in the case at bar is Rule 47 of the New Rules on Civil Procedure which provides: