

SECOND DIVISION

[G.R. No. 128677, March 02, 2000]

SANTIAGO ABAPO (NOW DECEASED), SUBSTITUTED BY ONE OF HIS HEIRS, NATIVIDAD ABAPO-ALMARIO, PETITIONER, VS. HONORABLE COURT OF APPEALS, (FIRST DIVISION-MANILA); AND HEIRS OF SPOUSES PEDRO BACALSO AND CRISPULA ABAPO-BACALSO, RESPONDENTS.

D E C I S I O N

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision^[1] and the Resolution^[2] of the Court of Appeals^[3] dated July 15, 1996 and March 3, 1997, respectively, in its affirmance of the decision^[4] of the Regional Trial Court of Cebu City, Branch 8 in an action for quieting of title, declaring private respondents as absolute owners of a 1,695 square meter property in Inawayan, Cebu, otherwise known as Lot 3912 of the Cadastral Survey of Cebu.^[5]

The facts are as follows:

The late spouses Victoriano Abapo and Placida Mabalate owned a 1,695 square meter parcel of land located in Inawayan, Cebu identified as Lot 3912 of the Cadastral Survey of Cebu. Of the five (5) children^[6] the spouses left behind, only Santiago^[7] and Crispula^[8] have heirs, who are currently the antagonists in this drawn-out melodrama.

Dispute over the land, designated as Lot 3912 of the Cadastral Survey of Cebu, can be traced to a contract executed by Crispula Abapo-Bacalso and Santiago Abapo in favor of Teodulfo Quimada, their tenant. Under the contract denominated as "Deed of Sale Under Pacto de Retro"^[9] dated August 8, 1967, the land was sold for P500.00, with right of repurchase within five (5) years failing which the conveyance would become absolute and irrevocable without the necessity of drawing up a new deed. No redemption was done within the five (5) year period.

More than seven (7) years later, Teodulfo Quimada, through a notarized "Deed of Absolute Sale"^[10] dated February 13, 1975, yielded ownership of the property to Crispula Abapo-Bacalso and her husband, Pedro Bacalso, for the amount of P500.00. Since then until their deaths^[11], the spouses Bacalso had possession, enjoyed the fruits of the land and paid the corresponding real estate taxes thereon to the exclusion of Santiago Abapo.

In an "Extrajudicial Declaration of Heirs"^[12] dated February 20, 1990 private respondents, heirs of the spouses Bacalso, allotted unto themselves the subject land

in equal pro indiviso shares and succeeded to the possession and enjoyment of the land and paid real property taxes thereon, again to the exclusion of Santiago.

On April 19, 1990, Santiago Abapo instituted^[13] a petition for reconstitution of the original certificate of title over the property. The petition was granted and a reconstituted Original Certificate of Title No. RO-2998^[14] in the name of Victoriano Abapo was issued, with the owner's copy handed to Santiago.

Upon discovery of the said reconstitution of title, private respondents interposed^[15] on July 29, 1991 a petition to surrender owner's copy of the reconstituted Original Certificate of Title No. RO-2998 in the hands of Santiago Abapo. In an Order^[16] dated December 23, 1991, the trial court dismissed the petition without prejudice to the filing of the appropriate action.

Thus, on January 31, 1992, private respondents instituted the complaint^[17] for "Quieting of Title with Damages" against Santiago Abapo contending, among other things, that the latter's possession of the owner's copy of the reconstituted original certificate of title and his claim as owner of the property constitute a cloud over their title to it.

In his answer^[18], petitioner assailed the due execution of both the Deed of Sale under Pacto de Retro and the Deed of Absolute Sale. He vehemently swore that he never sold in 1967 his interest in the disputed land. To strengthen his contentions, Teodulfo Quimada testified for him.

In due time, the trial court rendered its decision in favor of private respondents, the decretal portion of which reads:

"THE FOREGOING CONSIDERED, judgment is hereby rendered in favor of the plaintiffs and against the defendant, declaring the former the absolute owners of the property, subject matter of this case; directing the defendant to deliver to the plaintiffs the Owner's copy of OCT RO-22998 (sic) or if for any reason it cannot be given, then for the said title to be declared as null and void; with costs against the defendant.

SO ORDERED."^[19]

Finding the said decision unacceptable, petitioner interposed^[20] an appeal to the public respondent Court of Appeals. Santiago Abapo died in August 13, 1994 while his appeal was pending. He was substituted in his cause by one of his heirs, Natividad Abapo-Almario. On July 15, 1996, respondent appellate court affirmed^[21] the challenged decision of the trial court. Petitioner moved^[22] for reconsideration of the said adverse decision. However, this was denied in a Resolution^[23] dated March 3, 1997.

Hence, the instant petition anchored on four (4) assigned errors, to wit:

"A.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY

AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT FINDING THE DEED OF SALE UNDER PACTO DE RETRO DATED AUGUST 8, 1967 (EXH. "C", EXH. "1", EXH. "1-A") TO BE THAT OF A MORTGAGE.

B.

THE RESPONDENT COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT FINDING THE DEED OF ABSOLUTE SALE DATED FEBRUARY 13, 1975 (EXH. "D", EXH. "2", EXH. "2-A") ILLEGAL AND VOID, EVEN ASSUMING WITHOUT CONCEDED THAT THE DEED OF ABSOLUTE SALE UNDER PACTO DE RETRO DATED AUGUST 8, 1967 (EXH. "C", EXH. "1", EXH. "1-A") WAS THE TRUE TRANSACTION COVERING THE SUBJECT PARCEL OF LAND.

C.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT DECLARING THE PETITIONER SANTIAGO ABAPO A LAWFUL CO-OWNER OVER THE SUBJECT PARCEL OF LAND WITH CRISPULA ABAPO-BACALSO, THE MOTHER OF THE RESPONDENTS HEIRS, AND THAT THE PETITIONER SANTIAGO ABAPO IS THUS ENTITLED TO ONE-HALF (1/2) SHARE OF THE SUBJECT PARCEL OF LAND.

D.

THE RESPONDENT HONORABLE COURT OF APPEALS HAS GRAVELY AND IMPROVIDENTLY OVERLOOKED, BOTH IN SUBSTANCE AND IN LAW, IN NOT AWARDING DAMAGES AGAINST THE RESPONDENT HEIRS AND IN FAVOR OF THE PETITIONERS."^[24]

Petitioner is unrelenting in his insistence that what he entered into in 1967 may be considered only as an "equitable mortgage" in view of the "unusually inadequate" consideration of P500.00 which was the same consideration in the Deed of Absolute Sale in favor of the spouses Bacalso executed in 1975.

It is a truism that the Supreme Court is not a trier of facts. Thus, factual findings of trial courts, adopted and confirmed by the Court of Appeals, are final and conclusive and, generally, will not be reviewed on appeal.^[25] There is no cogent reason why we should deviate from this rule for none of the circumstances enumerated in Article 1602^[26] of the Civil Code, exist in the case at bench.

Thus, the instant petition must fail.

First. The price of P500 is not unusually inadequate. The extant record reveals that the assessed value of the land in dispute in 1970^[27] was only P400. Thus, at the time of sale in 1967 the price of P500 is indisputably over and above the assessed value of P400.