

THIRD DIVISION

[G.R. No. 139524, October 12, 2000]

**PHILIP C. SANTOS AND HEIRS OF ELISEO M. SANTOS,
PETITIONERS, VS. LADISLAO M. SANTOS REPRESENTED HEREIN
BY HIS ATTORNEY-IN-FACT NOE M. SANTOS, RESPONDENTS.**

DECISION

GONZAGA-REYES, J.:

Before us is a petition for review on certiorari assailing the January 8, 1999 Decision^[1] of the Court of Appeals^[2] in CA-G.R. CV No. 48576 which reversed the decision^[3] of the Regional Trial Court^[4] of San Mateo, Rizal (Branch 76) and which declared Ladislao M. Santos and Eliseo M. Santos as entitled to $\frac{1}{2}$ *pro indiviso* shares in the property of Isidra M. Santos. The dispositive portion of the assailed Decision reads:

"IN THE LIGHT OF ALL THE FOREGOING, the appeal is granted. The Decision appealed from is **REVERSED**. Judgment is hereby rendered in favor of the Appellant and against the Appellees as follows:

1. Tax Declaration Nos. 04-0566 and 04-0016, **Exhibits "8" and "9"**, under the name of Appellee Philip Santos and the **"Deed of Sale of Unregistered Residential Land"** (Exhibit "15") are hereby declared inefficacious insofar as the undivided one-half portion of the Appellant in the Isidra property is concerned;
2. The Appellant and the Appellee Eliseo Santos are hereby declared each entitled to $\frac{1}{2}$ *pro indiviso* shares in the Isidra property;
3. The Court *a quo* is hereby ordered to effect the partition of the subject lot conformably with Rule 69 of the 1997 Rules of Civil procedure.

Without pronouncement as to costs.

SO ORDERED."

The following facts as narrated by the Court of Appeals are undisputed:

On May 13, 1993, Ladislao Santos, a resident in the United States of America, the Appellant in the present recourse, through his Attorney-in-fact, Noe Santos, filed a complaint, with the Regional Trial Court of Rizal, against his brother, Eliseo Santos and the latter's son, Philip Santos, the Appellees in the present recourse, for **"Judicial Partition"**.

The Appellant averred, *inter alia*, in his complaint, that, when his and

Eliseo Santos' sister, Isidra Santos, died intestate on April 1, 1967, without any issue, they inherited her parcel of land covered by Tax Declaration 1115, issued by the Provincial Assessor of Rizal located along General Luna Street, Gitnangbayan, San Mateo, Rizal; that, sometime, in February 1, 1993, the Appellant discovered that Tax Declaration No. 1115 had been cancelled by Tax Declaration No. 7892, under the name of his nephew, Appellee Philip Santos, and that, on December 16, 1980, Virgilio Santos executed a "**Deed of Absolute Sale of Unregistered Residential Land**" on the basis of which Tax Declaration No. 04-0016 was issued to the Appellee Philip Santos. The Appellant prayed the Court that judgment be rendered in his favor as follows:

"WHEREFORE, it is most respectfully prayed of this Honorable Court that after due hearing judgment be rendered as follows:

- (1) Ordering the division of the intestate estate of the late Isidra Santos between petitioner and respondent Eliseo M. Santos;
- (2) Declaring Tax Declaration No. 04-0015 in the name of Virgilio Santos as null and void;
- (3) Declaring the Deed of Sale dated December 11, 1980, executed by Virgilio Santos in favor of Philip Santos as null and void;
- (4) Declaring Tax Declaration No. 04-00161 (sic) in the name of Philip Santos as null and void;

Petitioner prays for other relief which this Court may deem just and equitable in the premises." (**at page 3, Records**)

In their Answer to the complaint, the Appellees admitted that, upon the demise of Isidra Santos, the Appellant and the Appellee Eliseo Santos inherited the said property and the latter's share in Lot 1522 of the San Mateo Cadastre, which they and their sister, Isidra Santos, inherited from their father, Bonifacio Santos who died before the outbreak of the Second World War but insisted that the Appellant and the Appellee Eliseo Santos had agreed, in 1969, after the death of Isidra Santos, on April 1, 1967, to partition Lot 1522, under which a portion of Lot 1522, with an area of 3,387 square meters, was adjudicated to the Appellant, and a portion of the same lot, with an area of 3,000 square meters, was conveyed to the Appellee Eliseo Santos and the parcel of land left by Isidra Santos was conveyed by Appellee Eliseo Santos to Virgilio Santos, who, from infancy had been under the care of Isidra Santos, to approximately equalize the share of the Appellee Eliseo Santos in the estate of Bonifacio Santos. The Appellees further averred that Appellees had acquired the Isidra property by acquisitive prescription.

Neither Appellant Ladislao Santos nor Appellee Eliseo Santos testified in the Court *a quo*. Although the Appellee Eliseo Santos was present during

the proceeding, he did not testify anymore because of senility being then about 88 years old. Virginia Santos, the widow of Virgilio Santos, testified, in the Court *a quo*, and declared, that she and Virgilio Santos married, on February 12, 1967, and resided in the house of Isidra Santos until the sale, by Virgilio Santos, of the Isidra property to his brother, the Appellee Philip Santos and in exchange with the property of the latter located at Kambal Street, Gitnangbayan, San Mateo, Rizal, where the couple and, after Virgilio Santos' death, on April 5, 1984, had been residing. Virginia Santos likewise declared that Appellant Ladislao Santos and the Appellee Eliseo Santos had an agreement, notarized by Atty. Sixto Natividad, that Virgilio Santos and Virginia Santos became the new owners of the Isidra property. The copy of the Agreement given Virgilio Santos was xeroxed and the xerox copy was given to Appellee Philip Santos while Virgilio Santos' copy was filed with the Provincial Assessor's Office on the basis of which, Tax Declaration No. 7892 was issued under his name. The Appellee Philip Santos, on the other hand, declared that the Appellant Ladislao Santos and the Appellee Eliseo Santos and their respective Spouses executed a "**Combined Deed of Partition**", in 1969, covering the Lot 1522 and the Isidra Property, wherein it was covenanted that the Isidra Property was deeded to Appellee Eliseo Santos. The Appellee Philip Santos further declared that he was then about 20 years old, and saw the said "**Combined Deed of Partition**" in the possession of Appellee Eliseo Santos.

After due proceedings, the Court *a quo* promulgated a Decision dismissing Appellant's complaint on the ground that the Appellant failed to adduce proof of his entitlement to the relief prayed for by him and on the ground of acquisitive prescription.

The present recourse stemmed from the following factual backdrop - when Bonifacio Santos died intestate, he was survived by his two (2) sons, namely Ladislao Santos, the Appellant in the present recourse, and Appellee Eliseo Santos, one of the Appellees in the present recourse and their sister, Isidra Santos. The latter was the owner of a parcel of land, hereinafter referred to, for brevity's sake, as the **Isidra property**, located in General Luna Street, Gitnangbayan, San Mateo, Rizal, with an area of 391 square meters, more or less, covered by Tax Declaration No. 655, located in front of but oblique to and about fifty (50) meters away from the property, with an area of 6,340 square meters, covered by Tax Declaration No. 383 of the Provincial Assessor's Office, (**Exhibit "L-3"**). She had a house constructed on her lot where she had been residing ever since.

In the meantime, on November 10, 1964, a cadastral survey of lands in San Mateo, Rizal, was undertaken. The property, with an area of 6,340 square meters was identified as Lot 1522, Cadastre No. 375-D. Tax Declaration No. 655, covering the Isidra Property was later cancelled by Tax Declaration 1115 under her name, effective 1966 (**Exhibit "4"**).

On May 29, 1967, the Appellant and his wife, Leonila Mateo executed a "**Deed of Absolute Conveyance with Right of Way**" over the southwestern portion of **Lot 1522**, with an area of 3,000 square meters,

in favor of his brother, the Appellee Eliseo Santos for the price of P500.00, with a provision for a right of way.

On April 1, 1967, Isidra Santos died intestate and was survived by her two (2) brothers, the Appellant and the Appellee Eliseo Santos.

On September 9, 1969, the Provincial Assessor issued Tax Declaration No. 7892, over the Isidra property, under the name of Virgilio Santos and Virginia Santos, thereby canceling Tax Declaration No. 1115 under the name of Isidra Santos (**Exhibit "5"**). In 1972, Tax Declaration No. 7892 was cancelled by Tax Declaration No. 5043, still under the names of Virgilio Santos and Virginia Santos, effective 1974 (**Exhibit "4"**) and by Tax Declaration No. 04-0015, effective 1980 (**Exhibit "7"**).

On December 16, 1980, Virgilio Santos executed a "**Deed of Absolute Sale of Unregistered Residential Land**" in favor of his brother, the Appellee Philip Santos, over the Isidra Property at the time covered by Tax Declaration No. 04-0015, for the price of P24,460.00 (**Exhibit "H"**). On the basis of said deed, Tax Declaration No. 04-0015 was cancelled by Tax Declaration No. 04-0566, under the name of Appellee Philip Santos, effective 1981 (**Exhibit "E"**). The Spouses Virgilio Santos vacated the said property and resided at Kambal Street, Gitnangbayan I, San Mateo, Rizal formerly owned by Philip Santos. The latter, in turn, had the house on the lot demolished and had his shop installed in the Isidra Property. Since then, Philip Santos had been paying the realty taxes therefor. On April 5, 1984, Virgilio Santos died intestate and was survived by his wife, Virginia Santos. In the meantime, the Appellant and Appellee Philip Santos left the Philippines and resided in the United States of America.

Despite the "**Deed of Absolute Conveyance With Right of Way**" executed by the Appellant in favor of Appellee Eliseo Santos, the children of the Appellant and their uncle, the Appellee Eliseo Santos, signed an Application, on September 26, 1984 and filed the same with the Regional Trial Court of Rizal (**at San Mateo**) for the registration of "**their title over Lots 1522 and 2433 of Cadastre 375-D**". The Applicants alleged, *inter alia* in said application, that Noe Santos, et al., (children of Ladislao Santos), were occupying a portion of Lot 1522, with an area of 3,430 square meters, while Appellee Eliseo Santos was occupying a portion of the same lot, with an area of 3,000 square meters, more or less, as a site of cockpit building (**Exhibit "5"**). On July 16, 1986, the Regional Trial Court promulgated a Decision granting the application, the decretal portion of which reads as follows:

"WHEREFORE, this Court hereby declares herein applicants the absolute owners of that parcels of land identified as Lot 1522 and Lot 2433, both of Plan AP-04-001205 marked as Exhibit "D" and in consequence thereof, it is hereby Ordered that the said parcels of land be registered in the names of the applicants, to wit:

1. Noe Santos, married to Felicidad Santos; Asuncion S. Ramos, married to Virgilio Ramos; LADISLAO SANTOS, JR.,

married to Regina Linco; NELIA S. MACALALAD, married to Jacinto Macalalad; OFELIA SANTOS, single; RECTO SANTOS, single, all of legal ages, Filipino citizens and all are residents of Gen. Luna St., San Mateo, Rizal, an undivided portion of 3,387 square meters of that parcel of land identified as Lot 1522 of Plan AP-04-001205, marked as Exhibit "D" and undivided rights, interest and participation of that parcel of land identified as Lot 2433 of the above-mentioned Plan with an area of 43 square meters, all in equal shares (pro-indiviso);

2. ELISEO SANTOS, of legal age, Filipino citizen, married to Virginia Santos and resident of Gen. Luna St., San Mateo, Rizal, an undivided portion of 3,000 square meters of that parcel of land identified as Lot 1522 of Plan AP-04-001205.

Once this Decision becomes final, let an Order of the issuance of a Decree of Registration issue" (**Exhibits "26-E" and "26-F"**)

On the basis of the Decision of the Court, Noe Santos, et al., and Appellee Eliseo Santos, were issued an Original Certificate of Title No. ON-1146, on November 18, 1986 over Lot 1522 (**Exhibit M"**).

Noe Santos, for and in behalf of his siblings and Appellee Eliseo Santos had a subdivision plan prepared, subdividing Lot 1522 into two (2) subdivision lots, namely, **Lot 1522-A, with an area of 3,000 square meters (Exhibit "15-A")** and **Lot 1522-B, with an area of 3,387 square meters (Exhibit "15-B")**.

In June, 1987, Noe Santos and his siblings and their uncle, Appellee Eliseo Santos, executed a "**Partition Agreement**" **adjudicating Lot 1522-A**, with an area of 3,000 square meters unto Appellee Eliseo Santos, **and Lot 1522-B**, with an area of 3,387 square meters, unto Noe Santos, et al., (**Exhibit "13"**). On the basis of said deed, Original Certificate of Title No. ON-1146 was cancelled and Transfer Certificate of Title No. 148892 was issued to Appellee Eliseo Santos over Lot 1522-A (**Exhibit "11"**).

On March 17, 1993, Appellant Ladislao Santos, through counsel, sent a letter to the Appellee Philip Santos alleging that the Appellant had discovered that the Isidra property inherited by Appellant and Appellee Eliseo, had been declared, for taxation purposes, under the name of Appellee Philip Santos, on the basis of a "**Deed of Sale**" executed by Virgilio Santos and suggesting a conference regarding the matter (**Exhibit "J"**). The Appellee Philip Santos wrote to the counsel of the Appellant, declaring, *inter alia*, that the Isidra property, with the portion and Lot 1522-A, with an area of 3,000 square meters, formed part of the share of Appellee Eliseo Santos in the estate of **his father**, Bonifacio Santos; that Appellee Eliseo Santos transferred the Isidra property to his son, Virgilio Santos, who, in turn, sold the said property to Appellee Philip Santos, for the amount of P24,600.00, as part of the consideration of the