

THIRD DIVISION

[G.R. No. 109307, November 25, 1999]

TEODORA SALTIGA DE ROMERO, PRESENTACION ROMERO MAMA, REPRESENTED BY SABDULLAH MAMA, LUCITA ROMERO PACAS, GLORIOSA ROMERO RASONABLE AND MINDALINA ROMERO NUENAY, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS, THE HONORABLE SEVENTEENTH DIVISION AND LUTERO ROMERO AND NATIVIDAD ROMERO AND THE DEVELOPMENT BANK OF THE PHILIPPINES, ILIGAN BRANCH, ILIGAN CITY AND THE REGISTER OF DEEDS OF LANA DEL NORTE, RESPONDENTS.

DECISION

GONZAGA-REYES, J.:

Before us is a Petition for Review on *Certiorari* of the decision of the Court of Appeals^[1] in CA-G.R. CV No. 33164 entitled *TEODORA SALTIGA DE ROMERO ET. AL. vs. LUCERO ROMERO ET. AL. and LUTERO ROMERO, ET. AL. vs. SPOUSES MELITON PACAS, ET. AL.* involving two civil cases which were tried jointly by the Regional Trial Court of Lanao Del Norte, Branch 7, namely:

1. Civil Case No. 591, which was filed by herein Petitioners Teodora Saltiga De Romero, Presentacion Romero- Mama (PRESENTACION), Lucita Romero-Pacas (LUCITA), Gloriosa Romero-Rasonable (GLORIOSA), and Mindalina Romero-Nuenay (MINDALINA) against Lutero Romero (LUTERO) and the Development Bank of the Philippines (DBP) for reconveyance of their share in a parcel of land, Lot 23 Pls-35, titled in the name of LUTERO; and
2. Civil Case No. 1056, which was filed by LUTERO and his wife Natividad S. Romero against LUCITA and her husband Meliton Pacas, PRESENTACION and her husband Sabdullah Mama and GLORIOSA and her husband Dionisio Rasonable for annulment of three affidavits wherein LUTERO supposedly sold to them shares over Lot No. 23 Pls-35.

The facts as found by the Court of Appeals are as follows:

"From the evidence presented by the appellants, it appears that on December 12, 1939 Eugenio Romero bought from spouses Celedonio Jaug and Sofia Macan the latter's `rights, interest, participation, ownership and possession' of 12 hectares of land. The land in question was then public land. When Eugenio Romero applied for a homestead patent for said land, the same was disapproved by the Bureau of Lands because said Romero already had applied for a homestead patent for 24 hectares and was disqualified from owning the additional 12 hectares.

Eugenio Romero placed the application in the name of his eldest son, Eutiquio

Romero, allegedly in trust for all the children of Eugenio. When Eutiquio got married and had children, his brothers and sisters got worried that his heirs may claim the land so the application was transferred in the name of Lutero Romero, the second son of Eugenio who was then still single. When Lutero in turn got married, he relinquished the application in favor of his younger brother Ricardo through an instrument dated July 5, 1952.

The spouses Eugenio Romero and Teodora Saltiga had nine (9) children. Other than the three (3) sons aforementioned, they had six (6) daughters, namely Generosa, Diosdada, Mindalina, Lucita, Presentacion and Gloriosa.

Eugenio Romero died sometime in 1948. In 1961 his widow Teodora caused the land in question to be subdivided among six (6) of her children, the other three (3) having already been given their shares in the other properties of the Romero spouses. The twelve (12) hectares were supposedly divided equally among Lutero, Ricardo, Mindalina, Lucita, Presentacion, and Gloriosa who all got about two (2) hectares each. Subsequently, however, Ricardo conveyed his share to Lucita and Gloriosa who therefore had 3 hectares each. On the other hand, Mindalina left her share in the care of her mother Teodora and her sister Presentacion because she left for Davao City. Lutero later requested that he be allowed to farm this share of Mindalina, thus he occupied a total of 4 hectares with the consent of his mother Teodora and sister Presentacion.

The appellants further claimed that after the partition, they had been in occupancy of their respective shares through their tenants.

However, appellee Lutero Romero presented evidence to the effect that sometime in 1969 a policeman picked him up and brought him to the office of Mayor Pablito Abragan of Kapatagan where he found his mother Teodora and his three (3) sisters Gloriosa, Presentacion and Lucita and the respective husbands of the latter two. He testified that when he arrived at the office, he was presented three (3) affidavits for his signature. Said affidavits were to the effect that he sold three (3) hectares each out of the 12 hectares of land to his sister Gloriosa, his brother-in-law Sabdullah Mama married to Presentacion Romero, and to Meliton Pacas married to Lucita Romero for a consideration of P3,000.00 each.

Appellee Lutero Romero testified that he told the mayor that he was not selling the land and that he could not do so because the five-year period had not yet elapsed but the mayor told him to just sign the affidavits because after five (5) years his sisters will get the land and pay for them and that if they would not pay, the mayor will take steps to return the land personally to him. Lutero stated that he has not been paid for the land by his sisters.

Lutero Romeo claimed that as early as 1940-1941 he had already been in occupancy of the 12 hectares in question when it was shown to him by this father who owned the adjoining parcel; and that the said land had been titled in his name even while his father Eugenio was still alive. Indeed it appears that the title to the property, O.C. T No. P-2,261, had been issued to Lutero Romero as early as April 26, 1967, after the homestead patent was issued in his favor on April 7, 1967. He said that his three (3) sisters occupied portions of the property only in 1969, after he was forced to sign the affidavits by Mayor Abragan.

Lutero Romero had thereafter repudiated the three (3) affidavits on August 12, 1974. Because of this, estafa charges were filed against him by the three (3) parties concerned but said charges were dismissed.

It further appears that Lutero Romero obtained a loan from the Development Bank of the Philippines on December 3, 1975 and mortgaged the land in question as collateral for said loan. Appellants claim that only then did they know that the land had been titled in the name of Lutero Romero. Thereafter, through a letter dated August 2, 1976, Lutero Romero asked his sisters to vacate the land in question.

A few days thereafter, or on August 14, 1976, Civil Case No. 591 was filed against Lutero Romero."^[2]

On March 11, 1991, the RTC rendered a decision the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered:

1. Declaring the three (3) affidavits of sale as null and void and no effect;
2. Ordering the plaintiffs in Civil Case No. 591 and defendants in Civil Case No. 1056, namely Sabdullah Mama, Presentation Romero-Mama Gloriosa Romero Rasonable, Meliton Pacas and Lucita Romero to surrender and to deliver to Lutero Romero the possession of all the portions of Lot 23, Pls-35;
3. Ordering the Municipal Assessor of Kapatagan, Lanao del Norte to cancel Tax Declaration Nos. 6029, 6030, 6031 and 6032 in the names of defendants (Civil Case No.1056) Sabdullah Mama, Gloriosa Rasonable, plaintiff Lutero Romero and defendant Meliton Pacas and to restore Tax Declaration No. 1347 in the name of Lutero Romero for the entire Lot 23, Pls-35;
4. Ordering the defendants (Civil Case No. 1056) to pay to the plaintiff the sum of TEN THOUSAND (P10,000.00) PESOS as actual damages;
5. Ordering the defendants (Civil Case no. 1056) to pay to the plaintiffs the sum of TEN THOUSAND (P10,000.00) Pesos as moral damages; and
6. Ordering the defendants (Civil Case No. 1056) to pay the cost of this proceeding.

SO ORDERED."^[3]

Not satisfied with the decision of the RTC, petitioners appealed to the Court of Appeals, which affirmed the decision of the RTC in favor of LUTERO. Hence this petition where the petitioners assign the following issues:

"WHETHER OR NOT LUTERO ROMERO IS A TRUSTEE OF LOT 23 PLS-35 FOR THE BENEFIT OF THE HEIRS OF EUGENIO ROMERO.

WHETHER OR NOT WITH OR WITHOUT SAID THREE (3) AFFIDAVITS IN QUESTION PETITIONERS' VALID CAUSE OF ACTION CAN STAND OR NOT."^[4]

DBP filed its comment to the petition and seeks the dismissal of the case against it considering that the agricultural loan in favor of LUTERO has been paid in full. DBP maintains that since the mortgage was already cancelled, petitioners have no cause of action against it.^[5]

Petitioners contend that LUTERO merely holds Lot 23 Pls-35 in trust for the benefit of the heirs of his father EUGENIO since it was actually EUGENIO who first applied for the homestead but considering that EUGENIO was already granted a homestead, the application had to be placed in the name of his eldest son EUTIQUIO. The application was subsequently transferred to the name of LUTERO who later transferred the application in the name of Ricardo Romero (RICARDO), his younger brother. To support their contention, petitioners point to the testimony of LUTERO during the investigation of the homestead application of RICARDO to the effect that he transferred and relinquished his rights as trustee of the lot to RICARDO. The fact that LUTERO was able to cause the issuance of the Homestead title of the land in question under his name clearly shows that LUTERO employed fraud in procuring the same. Consequently, herein petitioners are entitled to recover the said lot. Petitioners also rely on the three affidavits of sale executed by LUTERO wherein he sold portions of Lot 23 Pls-35 in favor of GLORIOSA, PRESENTACION and her husband and LUCITA and her husband. They claim that pursuant to these three affidavits, LUTERO no longer has a claim over Lot 23 Pls-35.^[6]

On the other hand, respondents maintain that LUTERO did not commit fraud in the titling of Lot 23 Pls-35. They allege that the petitioners failed to prove this during the trial of the case. On the contrary, LUTERO complied with all the requirements of the law when he successfully obtained title to the lot. Respondents also deny that LUTERO held the land in trust for the benefit of the heirs of his father EUGENIO. According to them, this violates the provisions of The Public Land Act. Even assuming that a trust in fact was created, such is null and void for being contrary to law. Finally, respondents maintain that the three affidavits of sale executed in favor of the petitioners are void since they were simulated and not supported by any consideration; and they were executed within the five-year prohibitory period from the issuance of the patent.^[7]

The Court of Appeals ruled in favor of LUTERO, stating:

"Appellants herein maintain that the land was held by Lutero Romero, only in trust for his brothers and sisters because the land belonged to their father Eugenio Romero. We do not find any basis for this posture. Eugenio Romero was never the owner of the land in question because all he bought from the Jaug spouses were the alleged rights and interests, if there was any, to the said land which was then part of the public domain. The Jaugs could not have sold said land to Eugenio as they did not own it. Eugenio Romero was not granted, and could not have been