

SECOND DIVISION

[G.R. No. 107653, February 05, 1996]

FELIPA GARBIN, PETITIONER, VS. THE HONORABLE COURT OF APPEALS (FORMER TENTH DIVISION) AND SPOUSES ANTONIO JULIAN AND CASIMIRA GARBIN, RESPONDENTS.

D E C I S I O N

ROMERO, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals reversing the Regional Trial Court of Tarlac, Tarlac which had earlier dismissed the complaint for annulment of sale filed by private respondents.

The facts are the following:

Pablo Garbin and Leoncia Garbin are the parents of petitioner Felipa Garbin (Felipa) and private respondent Casimira Garbin (Casimira) married to private respondent Antonio Julian. Pablo Garbin is the original owner of Lot 12712, Camiling, Tarlac Cadastre with an area of 25,681 square meters, title thereto being evidenced by Original Certificate of Title No. 33251.

On October 31, 1955, Pablo Garbin and his wife Leoncia executed a "Deed of Absolute Sale of Real Estate" purportedly conveying to private respondent Casimira Garbin the undivided northern half of the said lot. Casimira then registered an adverse claim over the property.

On May 24, 1970, Pablo Garbin sold the entire Lot 12712, including the northern portion, to petitioner Felipa by virtue of a Deed of Sale. Consequently, Transfer Certificate of Title No. 88932 was issued in favor of Felipa. On July 29, 1974, Felipa and Pablo Garbin filed an ejectment case against private respondent spouses. In that case, the Municipal Trial Court of Camiling, Tarlac decided against private respondents. They appealed the case to the Regional Trial Court of Tarlac which affirmed the questioned decision. Private respondents then filed a petition for review with the Court of Appeals, but said petition was dismissed. They questioned the dismissal in this Court docketed as G.R. No. 59817 but the petition was denied due course.

On March 1, 1982, before judgment could become final in the ejectment case, private respondents filed a complaint for annulment of sale, partition and damages with the Regional Trial Court of Tarlac. The issue presented therein was whether or not private respondents, as the alleged first vendees in a double sale, (who annotated the same as an adverse claim on the covering title) have a superior right over petitioner, the subsequent vendee (who received a transfer certificate of title for the entire lot despite prior inscription of the adverse claim).

The RTC ruled in favor of petitioner and dismissed the complaint. Aggrieved, private respondents went to the Court of Appeals which reversed and set aside the decision of the trial court.

The appellate court said:

"x x x it is Our view, and so We hold, that, at the very least, the inscription of the adverse claim of plaintiffs-appellants on vendor Pablo Garbin's OCT No. 33251 did constitute a sufficient notice to the whole world, defendant-appellee Felipa Garbin included, - that the northern half of subject Lot 12712 was deeded out by the registered owner to plaintiffs-appellants. Therefore, defendant-appellee is a buyer in bad faith, with full awareness of the prior sale of the northern half of Lot 12712 to her sister Casimira Garbin, and consequently, the registration of the sale in favor of defendant-appellee did not cleanse her bad faith and the legal consequences thereof, and did not vest in her (appellee) the ownership over the northern half of Lot 12712, as against the first buyer thereof, plaintiff-appellant Casimira Garbin.

It is well-settled that in a double sale of real property, ownership thereof "shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property" (2nd paragraph, Article 1544, New Civil Code of the Philippines). Under this applicable provision of law, mere registration of the sale of real or immovable property is not enough. The good faith of the buyer registering the sale must concur. In the case of defendant-appellee she cannot be considered in good faith, within legal contemplation, and her profession of innocence or lack of knowledge of the prior sale is incredible and unworthy of belief. To be sure, the annotation of plaintiffs-appellants' adverse claim on the title of vendor Pablo Garbin made defendant-appellee fully aware of such earlier sale.

As regards the defense of prescription or laches invoked by defendant-appellee to defeat the claim of plaintiffs-appellants over the portion of land in question:

We find the same equally undeserving of serious consideration. Considering that before instituting this action on March 2, 1982, plaintiffs-appellants were pre-occupied with the ejectment proceedings commenced against them by defendant-appellee on July 29, 1970; it cannot be said, then, that plaintiffs-appellants slumbered on their rights and had failed to assert their claim seasonably. As a matter of fact, even during the pendency of the ejectment case they did find time to initiate this case under consideration. Plaintiffs-appellants having been busy defending themselves in said ejectment case against them; their inability to file the present action sooner is understandable. It should be borne in mind that the running of the period of prescription is capable of interruption. And, to repeat; during the pendency of the ejectment case aforementioned; We believe that the running of the period of prescription of plaintiffs-appellants' cause of action had been interrupted.

As regards the equitable principle of laches, the attendant facts and

circumstances come to the fore. Whether or not laches set in depends on the surrounding facts and circumstances. Here, We believe that plaintiffs-appellants have not faltered or failed for an unreasonable length of time to assert their claim of ownership.

With respect to the southern half of Lot 12712; plaintiffs-appellants' stance is also meritorious. When the wife of Pablo Garbin died, her estate was transmitted by operation of the law on intestate succession to plaintiff-appellant Casimira Garbin, defendant-appellee Felipa Garbin, and surviving spouse Pablo Garbin. So, when Pablo Garbin executed the deed of sale in favor of defendant-appellee, he could only convey to the latter his undivided share therein, which was 4/6 of the southern portion of Lot 12712 because as hereinabove pointed out, the northern half of the said lot was effectively conveyed to plaintiffs-appellants, so that he could only dispose of 4/6 of the southern portion. Plaintiff-appellant Casimira Garbin inherited 1/6, and the remaining 1/6 of the southern portion went to defendant-appellee as her inheritance from their mother. Therefore, plaintiffs-appellants own 7/12 of Lot 12712 while defendant-appellee owns 5/12; the northern half being equivalent to 6/12, and out of the other 6/12, Pablo Garbin conveyed 4/12 to appellee Felipa Garbin, who inherited 1/12 in her own right. Plaintiff-appellant Casimira Garbin also inherited 1/12 which portion added to what appellants bought from Pablo Garbin, made appellant's area 7/12 of Lot 12712.

WHEREFORE, the decision appealed from is hereby SET ASIDE; the sale by Pablo Garbin to defendant-appellee Felipa Garbin of the entire Lot 12712, Camiling, Tarlac Cadastre (Exh. "B") is hereby declared null and void and without force and effect, and the resulting TCT No. T-88932 of the latter (Exh. "C") is ordered canceled; plaintiffs-appellants are adjudged the owners pro-indiviso of seven-twelfth (7/12), including the northern half, of the said lot, with defendant-appellee as the owner of the remaining five-twelfth (5/12) southern portion thereof.

To avoid multiplicity of suits; the plaintiffs-appellants and defendant-appellee are hereby given thirty (30) days from finality of this disposition, to submit to the trial court of origin a scheme of partition for subject lot on the basis of their undivided co-ownership of seven-twelfth (7/12) and five-twelfth (5/12), respectively; otherwise, pursuant to Rule 69, Revised Rules of Court, the lower court shall by order appoint not more than three (3) competent and disinterested commissioners to effect the partition in accordance herewith. Costs against defendant-appellee.

SO ORDERED."

Petitioner, before this Court, now questions the appellate court's decision stating that:

1. No evidence has been presented by private respondents to prove the validity of the "Deed of Absolute sale of Real Estate" executed in their favor by Pablo Garbin.