

SECOND DIVISION

[G.R. No. 109410, August 28, 1996]

**CLARA M. BALATBAT, PETITIONER, VS. COURT OF APPEALS AND
SPOUSES JOSE REPUYAN AND AURORA REPUYAN,
RESPONDENTS.**

D E C I S I O N

TORRES, JR., J.:

Petitioner Clara M. Balatbat instituted this petition for review pursuant to Rule 45 of the Revised Rules of Court seeking to set aside the decision dated August 12, 1992 of the respondent Court of Appeals in CA-G.R. CV No. 29994 entitled "Alejandro Balatbat and Clara Balatbat, plaintiffs-appellants, versus Jose Repuyan and Aurora Repuyan, defendants-appellees," the dispositive portion of which reads:^[1]

"WHEREFORE, the judgment appealed from is affirmed with the modification that the awards of P10,000.00 for attorney's fees and P5,000.00 as costs of litigation are deleted.

SO ORDERED."

The records show the following factual antecedents:

It appears that on June 15, 1977, Aurelio A. Roque filed a complaint for partition docketed as Civil Case No. 109032 against Corazon Roque, Alberto de los Santos, Feliciano Roque, Severa Roque and Osmundo Roque before the then Court of First Instance of Manila, Branch IX.^[2] Defendants therein were declared in default and plaintiff presented evidence ex-parte. On March 29, 1979, the trial court rendered a decision in favor of plaintiff Aurelio A. Roque, the pertinent portion of which reads:^[3]

"From the evidence, it has been clearly established that the lot in question covered by Transfer Certificate of Title No. 51330 was acquired by plaintiff Aurelio Roque and Maria Mesina during their conjugal union and the house constructed thereon was likewise built during their marital union. Out of their union, plaintiff and Maria Mesina had four children, who are the defendants in this case. When Maria Mesina died on August 28, 1966, the only conjugal properties left are the house and lot above stated of which plaintiff herein, as the legal spouse, is entitled to one-half share pro-indiviso thereof. With respect to the one-half share pro-indiviso now forming the estate of Maria Mesina, plaintiff and the four children, the defendants here, are each entitled to one-fifth (1/5) share pro-indiviso. The deceased wife left no debt.

Wherefore, judgment is hereby rendered ordering the partition of the properties, subject matter of this case consisting of the house and lot, in

the following manner:

1. Of the house and lot forming the conjugal properties, plaintiff is entitled to one-half share pro-indiviso thereof while the other half forms the estate of the deceased Maria Mesina;
2. Of the Estate of deceased Maria Mesina, the same is to be divided into five (5) shares and plaintiff and his four children are entitled each to one-fifth share thereof pro-indiviso.

Plaintiff claim for moral, exemplary and actual damages and attorney's fees not having been established to the satisfaction of the Court, the same is hereby denied.

Without pronouncement as to costs.

SO ORDERED."

On June 2, 1979, the decision became final and executory. The corresponding entry of judgment was made on March 29, 1979.^[4]

On October 5, 1979, the Register of Deeds of Manila issued a Transfer Certificate of Title No. 135671 in the name of the following persons in the following proportions:
^[5]

Aurelio A. Roque	6/10 share
Severina M. Roque	1/10 share
Osmundo M. Roque	1/10 share
Feliciano M. Roque	1/10 share
Corazon M. Roque	1/10 share

On April 1, 1980, Aurelio A. Roque sold his 6/10 share in T.C.T. No. 135671 to spouses Aurora Tuazon-Repuyan and Jose Repuyan as evidenced by a "Deed of Absolute Sale."^[6]

On July 21, 1980, Aurora Tuazon Repuyan caused the annotation of her affidavit of adverse claim^[7] on the Transfer Certificate of Title No. 135671,^[8] to wit:

"Entry No. 5627/T-135671 - NOTICE OF ADVERSE CLAIM - Filed by Aurora Tuazon Repuyan, married, claiming among others that she bought 6/10 portion of the property herein described from Aurelio Roque for the amount of P50,000.00 with a down payment of P5,000.00 and the balance of P45,000.00 to be paid after the partition and subdivision of the property herein described, other claims set forth in Doc. No. 954, page 18, Book 94 of _____ 64 _____ PEDRO DE CASTRO, Notary Public of Manila.

Date of instrument - July 21, 1980

Date of inscription- July 21, 1980 at 3:35 p.m.

TERESITA H. NOBLEJAS
Acting Register of Deeds

By:

RAMON D. MACARICAN
Acting Second Deputy"

On August 20, 1980, Aurelio A. Roque filed a complaint for "Rescission of Contract" docketed as Civil Case No. 134131 against spouses Aurora Tuazon-Repuyan and Jose Repuyan before Branch IV of the then Court of First Instance of Manila. The complaint is grounded on spouses Repuyan's failure to pay the balance of P45,000.00 of the purchase price.^[9] On September 5, 1980, spouses Repuyan filed their answer with counterclaim.^[10]

In the meantime, the trial court issued an order in Civil Case No. 109032 (Partition case) dated February 2, 1982, to wit:^[11]

"In view of all the foregoing and finding that the amount of P100,000.00 as purchase price for the sale of the parcel of land covered by TCT No. 51330 of the Registry of Deeds of Manila consisting of 84 square meters situated in Callejon Sulu, District of Santa Cruz, Manila, to be reasonable and fair, and considering the opportunities given defendants to sign the deed of absolute sale voluntarily, the Court has no alternative but to order, as it hereby orders, the Deputy Clerk of this Court to sign the deed of absolute sale for and in behalf of defendants pursuant to Sec. 10, Rule 39 of the Rules of Court, in order to effect the partition of the property involved in this case.

SO ORDERED."

A deed of absolute sale was executed on February 4, 1982 between Aurelio S. Roque, Corazon Roque, Feliciano Roque, Severa Roque and Osmundo Roque and Clara Balatbat, married to Alejandro Balatbat.^[12] On April 14, 1982, Clara Balatbat filed a motion for the issuance of a writ of possession which was granted by the trial court on September 14, 1982 "subject, however, to valid rights and interest of third persons over the same portion thereof, other than vendor or any other person or persons privy to or claiming any rights or interest under it." The corresponding writ of possession was issued on September 20, 1982.^[13]

On May 20, 1982, petitioner Clara Balatbat filed a motion to intervene in Civil Case No. 134131^[14] which was granted as per court's resolution of October 21, 1982.^[15] However, Clara Balatbat failed to file her complaint in intervention.^[16] On April 15, 1986, the trial court rendered a decision dismissing the complaint, the pertinent portion of which reads:^[17]

"The rescission of contracts are provided for in the laws and nowhere in the provision of the Civil Code under the title Rescissible Contracts does the circumstances in the case at bar appear to have occurred, hence, the prayer for rescission is outside the ambit for which rescissible [sic] could be granted.

"The Intervenor - Plaintiff, Clara Balatbat, although allowed to intervene,

did not file her complaint in intervention.

"Consequently, the plaintiff having failed to prove with sufficient preponderance his action, the relief prayed for had to be denied. The contract of sale denominated as "Deed of Absolute Sale" (Exh. 7 and sub-markings) being valid and enforceable, the same pursuant to the provisions of Art. 1159 of the Civil Code which says:

"Obligations arising from contracts have the force of law between the contracting parties and should be complied with in good faith."

has the effect of being the law between the parties and should be complied with. The obligation of the plaintiff under the contract being to have the land covered by TCT No. 135671 partitioned and subdivided, and title issued in the name of the defendant buyer (see page 2 par. C of Exh. 7-A) plaintiff had to comply thereto to give effect to the contract.

"WHEREFORE, judgment is rendered against the plaintiff, Aurelio A. Roque, and the plaintiff in intervention, Clara Balatbat, and in favor of the defendants, dismissing the complaint for lack of merit, and declaring the Deed of Absolute Sale dated April 1, 1980 as valid and enforceable and the plaintiff is, as he is hereby ordered, to partition and subdivide the land covered by T.C.T. No. 135671, and to aggregate therefrom a portion equivalent to 6/10 thereof, and cause the same to be titled in the name of the defendants, and after which, the defendants to pay the plaintiff the sum of P45,000.00. Considering further that the defendants suffered damages since they were forced to litigate unnecessarily, by way of their counterclaim, plaintiff is hereby ordered to pay defendants the sum of P15,000.00 as moral damages, attorney's fees in the amount of P5,000.00.

Costs against plaintiff.

SO ORDERED."

On March 3, 1987, petitioner Balatbat filed a notice of lis pendens in Civil Case No. 109032 before the Register of Deeds of Manila.^[18]

On December 9, 1988, petitioner Clara Balatbat and her husband, Alejandro Balatbat filed the instant complaint for delivery of the owner's duplicate copy of T.C.T. No. 135671 docketed as Civil Case No. 88-47176 before Branch 24 of the Regional Trial Court of Manila against private respondents Jose Repuyan and Aurora Repuyan.^[19]

On January 27, 1989, private respondents filed their answer with affirmative defenses and compulsory counterclaim.^[20]

On November 13, 1989, private respondents filed their memorandum^[21] while petitioners filed their memorandum on November 23, 1989.^[22]

On August 2, 1990, the Regional Trial Court of Manila, Branch 24, rendered a decision dismissing the complaint, the dispositive portion of which reads:^[23]

"Considering all the foregoing, this Court finds that the plaintiffs have not been able to establish their cause of action against the defendants and have no right to the reliefs demanded in the complaint and the complaint of the plaintiff against the defendants is hereby DISMISSED. On the counterclaim, the plaintiff are ordered to pay defendants the amount of Ten Thousand Pesos by way of attorney's fees, Five Thousand Pesos as costs of litigation and further to pay the costs of the suit.

SO ORDERED."

Dissatisfied, petitioner Balatbat filed on appeal before the respondent Court of Appeals which rendered the assailed decision on August 12, 1992, to wit:^[24]

"WHEREFORE, the judgment appealed from is affirmed with the modification that the awards of P10,000.00 for attorney's fees and P5,000.00 as costs of litigation are deleted.

SO ORDERED."

On March 22, 1993, the respondent Court of Appeals denied petitioner's motion for reconsideration.^[25]

Hence, this petition for review.

Petitioner raised the following issues for this Court's resolution:

I

WHETHER OR NOT THE ALLEGED SALE TO THE PRIVATE RESPONDENTS WAS MERELY EXECUTORY AND NOT A CONSUMMATED TRANSACTION?

II

WHETHER OR NOT THERE WAS A DOUBLE SALE AS CONTEMPLATED UNDER ART. 1544 OF THE CIVIL CODE?

III

WHETHER OR NOT PETITIONER WAS A BUYER IN GOOD FAITH AND FOR VALUE?

IV

WHETHER OR NOT THE COURT OF APPEALS ERRED IN GIVING WEIGHT AND CONSIDERATION TO THE EVIDENCE OF THE PRIVATE RESPONDENTS WHICH WERE NOT OFFERED?

Petitioner asseverates that the respondent Court of Appeals committed grave abuse of discretion tantamount to lack or excess of jurisdiction in affirming the appealed judgment considering (1) that the alleged sale in favor of the private respondents