

FIRST DIVISION

[G.R. No. 81524, February 04, 2000]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF APPEALS AND CONSUELO YU, RESPONDENTS.

R E S O L U T I O N

KAPUNAN, J.:

For consideration of this Court is a petition for review of the Decision, dated January 14, 1988, of the Court of Appeals which affirmed *in toto* the Decision, dated November 17, 1983, of the Regional Trial Court of Ilocos Norte, Branch 19, in Civil Case No. 192-XIX.

The antecedent facts are undisputed: On February 20, 1974, Manuel de los Santos applied for, and was granted a loan in the amount of Three Thousand Pesos (P3,000.00) by herein petitioner Philippine National Bank (PNB, for brevity), thru its Laoag Branch. To secure said loan, Mr. de los Santos mortgaged a parcel of agricultural land consisting of Fifty Six Thousand Two Hundred Ninety Square Meters (56,290 sq. m.) located at Bangui, Ilocos Norte. Despite repeated demands for payment of his loan account when the same became due and demandable, Mr. de los Santos failed and refused to pay his outstanding obligation to the bank which amounted to Seven Thousand Five Hundred Fifteen Pesos and Eight Centavos (P7,515.08) with interest at the rate of 19% plus 2% service charge.

On July 17, 1982, herein private respondent Consuelo Yu (hereinafter referred to as respondent Yu) filed before the Regional Trial Court of Ilocos Norte a complaint against Manuel de los Santos and the PNB for ownership, annulment of mortgage contract and damages, alleging, among others, that she is the absolute owner of the parcel of land in question; that Manuel de los Santos, through fraud and misrepresentation, executed an affidavit (Exhibit C) on December 13, 1973 stating therein that although the land in question is declared in the name of his "Auntie" (referring to herein private respondent Yu), it was actually owned by his deceased father, Gregorio Chua; that on the basis of said affidavit, Tax Declaration No. 7591 in the name of private respondent was cancelled and another one, Tax Declaration No. 400551-a was issued by the Provincial Assessor in the name of Manuel de los Santos; that thereafter, Manuel de los Santos mortgaged said land to PNB; and, that PNB with bad faith, approved the mortgage in favor of said Manuel de los Santos.

The evidence for private respondent as found by the trial court is quoted as follows:

The evidence for the plaintiff consists of the testimonies of Dr. Leticia Go Garvida and Cresencia de los Santos as well as documentary evidence which are hereinafter cited.

In essence, plaintiff's evidence tends to establish that the land in question was originally owned by a certain Sy O who was the mother-in-

law of the plaintiff. As such, the land was declared for taxation purposes in the name of said Sy O, per Tax Declaration No. 015521 in the year 1949 (Exhibit E). Evidently, the property was inherited by the plaintiff's husband who transferred it to her, as per Tax Declaration No. 7591 (per Exhibit A). The plaintiff has consistently paid the realty taxes of the subject property per Exhibit D and D-1.

As early as in 1952, the subject property has been under the administration of Dr. Leticia G. Garvida who collects the produce of the land in question from the tenants, namely: Evaristo Agustinez and Lazaro Baloalao. Dr. Garvida either sells the owner's share and remits the proceeds to Conchita Yu (sic) who resides in Manila or delivers them in kind.

Sometime in 1982, Dr. Garvida was informed by the tenants of the land in question that the Philippine National Bank is foreclosing it. Dr. Garvida verified the matter with the bank and found out that it was mortgaged by defendant Manuel de los Santos. She investigated further by verifying the papers in the office of the Provincial Assessor and found out that on December 13, 1973, Manuel de los Santos executed an affidavit (Exhibit C), stating therein that although the land is declared in the name of her (sic) "Auntie" his deceased father, Gregorio Chua, is the owner thereof. On the basis of the said affidavit, Tax Declaration No. 7591, in the name of plaintiff Consuelo Yu, was cancelled and another one, Tax Declaration No. 400551-a was issued by the Provincial Assessor in the name of Manuel de los Santos (Exhibit B). Dr. Garvida reported this matter to plaintiff Consuelo Yu.

Cresencia de los Santos, testifying for the plaintiff, declared that she is 73 years old, widow, a resident of Sta. Rita, Bangui, Ilocos Norte and the mother of defendant Manuel de los Santos; that her husband was the late Gregorio Chua who died two years ago (sometime in 1981); that she had eight (8) children with Gregorio Chua, namely: Rogelio, Constante, Corazon, Carmen, Consuelo, Manuel, Amor and Carlos; that at present she does not know the whereabouts (sic) of her son Manuel de los Santos; and finally, that she does not know the property in question.^[1]

Petitioner's submission is summarized by the trial court in this wise:

On the other hand, the evidence of defendant PNB consists of documents which were submitted to the court upon stipulation of the parties. From the said documentary evidences, it appears that sometime in January 1974, defendant Manuel de los Santos applied for a loan with the defendant PNB, Laoag branch, in the amount of P3,500 (Exhibit 1), offering the subject property as collateral thereof. The bank conducted an inspection of the property and on February 9, 1974, an inspection report was submitted by Oscar F. Almazan and concurred in by Antonio E. Guerrero, Chief L & D (Exhibits 2 and 2-a). On the basis of the said inspection report, the bank granted defendant Manuel de los Santos a loan in the amount of P3,000. Accordingly, a credit agreement (Exhibit 3) and a real estate mortgage (Exhibit 4) have been executed by and between defendant PNB and Manuel de los Santos. Likewise, Manuel de

los Santos executed a promissory note (Exhibit 5) for the same amount of P3,000. The loan was for a period of one year.

To support his claim of ownership over the property in question, defendant Manuel de los Santos submitted to the bank the following documents: affidavit denominated as "Affidavit of Principal Borrower/Co-maker" (Exhibit 6) wherein he stated, among other things, that he acquired the subject property by inheritance from his parents; a joint affidavit of adjoining owners, dated February 9, 1974 (Exhibit 7) purportedly executed by Andres Aguinaldo and Lazaro Baloaloo; a certification of payment of taxes prepared and signed by one Manuel Martinez, Clerk, Municipal Treasury of Bangui, Ilocos Norte (Exhibit 8); tax receipt for 1974 marked as Exhibit 9; tax declaration of the property for the year 1974, in the name of Manuel de los Santos, marked as Exhibit 10; a deed of confirmation of ownership purportedly executed by the brothers of Manuel de los Santos, namely: Carlos de los Santos and Constante de los Santos, marked Exhibit 11; and a "Notice of Adverse Claim of Ownership" executed by defendant Manuel de los Santos, marked Exhibit 13.

Upon the maturity of the loan, defendant Manuel de los Santos failed to pay it and so, the bank, on July 12, 1979, sent a telegram to him advising him to pay his account otherwise the property will be foreclosed (Exhibit 12). The telegram appears to have been received by Barangay Captain Esmeraldo Aguinaldo of Brgy. Abaca, Bangui, Ilocos Norte. A demand letter was likewise sent to defendant Manuel de los Santos to pay his account, marked as Exhibit 12-a.^[2]

On November 17, 1983, the Regional Trial Court rendered a decision, the dispositive portion of which reads as follows:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered as follows:

"1. Declaring plaintiff Consuelo Yu as the true and lawful owner of the land described in the complaint;

"2. Declaring the deed of mortgage (Exhibit 4) entered into by and between defendant Manuel de los Santos and defendant Philippine National Bank as null and void ab initio;

"3. Ordering defendant Manuel de los Santos to pay defendant Philippine National Bank the sum of THREE THOUSAND (P3,000.00) PESOS with interest at the rate of 12% per annum from February 20, 1975 until fully paid;

"4. Ordering defendants Manuel de los Santos and the Philippine National Bank, jointly and severally to pay the plaintiff reasonable attorney's fees of P2,000.00 and to pay the costs.

"SO ORDERED."^[3]

Petitioner PNB appealed the aforequoted decision to the Court of Appeals. On January 14, 1988, the appellate court rendered the assailed decision affirming *in toto* the decision of the court *a quo*.^[4] Hence, the instant petition for review wherein petitioner PNB alleges that:

- I. THE HONORABLE COURT OF APPEALS ERRED IN NOT CONSIDERING THE TESTIMONIES DURING THE TRIAL WHICH RAISED SOME DOUBTS.
- II. THE HONORABLE COURT OF APPEALS ERRED IN NOT PASSING UPON THE ISSUE OF INHERITANCE OF SUBJECT PROPERTY BY THE HEREIN RESPONDENT'S HUSBAND, ELEUTERIO CHUA.
- III. THE HONORABLE COURT OF APPEALS ERRED IN NOT DECLARING THE PHILIPPINE NATIONAL BANK A MORTGAGEE IN GOOD FAITH WITH THE RIGHTS OF AN INNOCENT PURCHASER (MORTGAGEE) FOR VALUE.
- IV. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING PNB JOINTLY AND SEVERALLY TO PAY THE ATTORNEY'S FEES OF P2,000.00, AND COSTS.^[5]

This case was archived by the Court in a Resolution, dated September 3, 1990, upon petitioner's motion, to be reopened and revived upon appearance of private respondent or her counsel or heirs, successors-in-interest or legal representatives.^[6]

On March 11, 1998, this Court resolved to require the parties to move in the premises.^[7]

Petitioner PNB filed its Manifestation,^[8] dated August 26, 1998, in compliance with the aforesaid resolution. It stated that after conducting an investigation to find the address of Consuelo Yu for the proper service of the petition, it obtained her address at 153 Kaliraya, Quezon City, at which place it caused personal service of a copy of the petition.

On January 8, 1999, private respondent Consuelo Yu filed her Opposition to Petition,^[9] alleging therein that the instant petition actually raises questions of fact.

We go now to the merits of the case.

Petitioner PNB alleged that the testimony of witness Dr. Leticia G. Garvida engendered doubt because even as she testified that she collected the owner's share of the produce of the subject land; and, that a certain Lazaro Baloalao was a tenant of said land, she failed to state that Baloalao had delivered to her the owner's share.

Secondly, petitioner alleged that the Court of Appeals erred in declaring respondent as the true and lawful owner of the subject land when the fact of inheritance by respondent's husband Eleuterio Chua of the subject land from his mother, Sy O, was not proven in the trial court.