

## EIGHTH DIVISION

**[ CA-G.R. CV NO. 81656, August 08, 2006 ]**

**BENJAMIN SERRANO AND PATERNO SAMANIEGO, PLAINTIFFS-APPELLEES, VS. JOSELITO B. YOUNG, ADELAIDA B. BILANO, HEIRS OF LYDIA MERCADO, HEIRS OF REYNALDO MERCADO AND REGISTER OF DEEDS OF QUEZON CITY, DEFENDANTS, HEIRS OF LYDIA MERCADO, DEFENDANTS-APPELLANTS.**

### D E C I S I O N

**BERSAMIN, J.:**

In this action to recover ownership or to quiet title to property, defendants Heirs of Lydia Mercado appeal the adverse decision rendered on January 31, 2001 by the Regional Trial Court (RTC), Branch 94, in Quezon City. The background facts follow.

Plaintiff Benjamin Serrano commenced this suit to recover the ownership of or to quiet title of the parcel of land described in Transfer Certificate of Title No. 105925 of the Registry of Deeds of Quezon City, located at No. 36 Scout Tobias Street, Quezon City, and its improvements. The defendants were originally Joselito B. Young and Adelaida B. Bilano, the natural children and only surviving heirs of their late mother, Asuncion Ballecer, who had been the registered owner who had sold the property to him by a deed of absolute sale dated March 2, 1985 as.

The complaint was amended on March 11, 1986 to implead Spouses Reynaldo C. Mercado and Lydia Corrales-Mercado and the Office of the Register of Deeds of Quezon City also as defendants. Serrano claimed that the Mercados had acted in bad faith in their acquisition of the property *in litis*.

The Mercados averred in their answer with counterclaim that they had bought the property in good faith and for valuable consideration by virtue of the extra-judicial settlement of the intestate estate of Asuncion Ballercer with deed of absolute sale dated December 18, 1985, executed by Young and Bilano; that they learned of the adverse claim annotated by the plaintiff on TCT 105925 on January 16, 1986 only after the issuance of TCT 339869 in their name by the Register of Deeds of Quezon City (canceling TCT 105925) and had no notice of any liens and encumbrances on the property prior thereto; that the sale of the same property to the plaintiff was void and lacked the legal requisites for a valid sale; and that the sale was unenforceable against the defendants who had registered their title first and ahead of the plaintiffs and, therefore, had a better right.

As counterclaim, the Mercados claimed that the filing of the baseless and unwarranted case against them entitled them to moral damages of P200,000.00, exemplary or punitive damages whose amount they left to the sound discretion of the court, and attorney's fees of P50,000.00.

The Mercados died during the pendency of the action, Reynaldo on September 10, 1994 and Lydia on March 17, 1998. Reynaldo was substituted by his own children from a previous marriage, namely: Ma. Lourdes M. Castillo; Ma. Asuncion M. Laragan; Ma. Cristina M. Bautista; Ma. Theresa M. Tan; and Ma. Cecilia M. Rosal. Lydia was substituted by her own children from a previous marriage, namely: Norma C. Cervantes, Ma. Cristina C. De Leon, and Renato Carbungco.

For his part, Young filed a so-called *sagot sa demanda*, containing 2 attachments, a *sinumpaang salaysay* and a *karagdagaang sinumpaang salaysay*. The RTC directed Young to secure counsel that he might be fully represented at the trial, warning him that his failure to do so would lead to the expunging of his pleadings from the records.

The case was later dismissed without prejudice as to Bilano after she could not be served with summons.

Paterno Samaniego, who bought the property in the public auction, executed a compromise agreement with Serrano by assigning the property to the latter. Thereafter, Serrano filed a motion for substitution praying that Samaniego be substituted for the Spouses Mercados within the context of the former Sec. 20, Rule 3, *Revised Rules of Court* (now Sec. 19, Rule 3, 1997 *Rules of Civil Procedure*). The Mercados opposed. The RTC denied the motion and declared Samaniego to have voluntarily appeared and that he should be impleaded as a co-plaintiff.

Serrano and the Mercados presented their testimonial and documentary evidence. The RTC's exhaustive summary of the factual aspects of the case, which we adopt herein, follows:

xxx ASUNCION BALLECER, a widow, died intestate on August 20, 1983, leaving behind her natural children and legitimate heirs—herein private defendants Joselito B. Young and Adelaida B. Bilano. The deceased, at the time of her death, was the registered owner of a parcel of residential land with improvements existing thereon located at No. 36 Scout Tobias Street, Quezon City, covered by Transfer Certificate of Title No. 105925 which is now the subject realty in controversy.

Private defendants Young and Bilano, through Jose Verde, offered to sell the questioned real property to plaintiff Serrano and being an interested buyer, plaintiff went to inspect the lot and house being offered to him for sale. At that time, the subject house in question was found to be with no toilet, no electricity, no water and there were leakages on its roof during rainy days. Also, at the time of inspection, the said house was then occupied by four (4) families, Joselito Young and his wife, Adelaida Bilano and children, one family was renting the master's bedroom and another was renting the garage.

During their initial meeting, defendants Young and Bilano informed plaintiff Benjamin Serrano that the administrator of the subject property was Atty. Prospero Crescini, hence, they all proceeded to the lawyer's law office located at the corner of Timog and Quezon Avenue, Quezon City, wherein the plaintiff intimated to Atty. Crescini that he was interested in buying the house and lot to which the lawyer replied: "Well, you can have

it. I will be the one to prepare everything. I am the administrator of it since the time of Aurora Ballecer" (p. t. TSN, September 13, 1988). On the same occasion, Atty. Crescini informed the plaintiff that he would first prepare the extra-judicial partition to be executed by Young and Bilano involving the subject house and lot and assured the plaintiff that he would undertake the publication of the extra-judicial partition and thereafter, upon issuance of the land title in the names and Young and Bilano, he would then prepare the Deed of Sale signed by Young and Bilano with the stipulated purchase price of Four Hundred Thousand Pesos (P400,000.00).

However, prior to the preparation of the documents by Atty. Crescini, plaintiff gave money advances to Young and Bilano upon their request (p. 6, TSN, September 13, 1988) and these cash advances were made on the following occasions:

- a) Exhibit A – Receipt dated November 12, 1984 in the sum of P1,000.00 signed by Joselito and Wilma Young;
- b) Exhibit A-1 – Receipt dated November 23, 1984 signed by Adelaida Bilano and Wilma Young in the sum of P2,000.00;
- c) Exhibit A-2 – Receipt dated December 11, 1984 signed by Wilma Young and Adelaida Bilano in the sum of P2,000.00;
- d) Exhibit A-3 – Receipt dated December 22, 1984 signed by Adelaida Bilano in the sum of P500.00;
- e) Exhibit A-4 – Receipt dated January 30, 1985 in the sum of P38,000.00 signed by Joselito Young and Adelaida Bilano;
- f) Exhibit A-5 – Receipt dated February 15, 1985 in the sum of P6,000.00 signed by Joselito Young and Adelaida Bilano;
- g) Exhibit A-6 – Receipt dated April 3, 1985 in the sum of P250,000.00 signed by Joselito Young and Adelaida Bilano (pp. 8-12, TSN, September 13, 1988).

Corollary, Atty. Crescini also asked the plaintiff to shoulder the payments of the inheritance tax, capital gains tax and the documentary stamps paid for the sale of the subject property to which the plaintiff obliged as he paid P8,648.82 for the inheritance tax (Exhibits B and B-1), capital gains tax in the sum of P3,499.50 (Exhibits C and C-1) and documentary stamps in the sum of P8,642.00 (Exhibits D and D-1) (p. 14, TSN, September 13, 1988)

As promised by Atty. Crescini, Young and Bilano executed an Extra-Judicial Partition (Exhibit F) of the subject property and the same was published in the "Economic Monitor" on June 3, 10 and 17, 1985 (Exhibits G and G-1). The publication expenses in the sum of P3,000.00 was also shouldered by the plaintiff (p. 3, TSN, October 4, 1985).

On March 2, 1985, Joselito Young and Adelaida Bilano executed a Deed of Sale in favor of herein plaintiff Benjamin Serrano whereby the house and lot under Transfer Certificate of Title No. 105925 still in the name of deceased Asuncion Ballecer was sold to the plaintiff (Exhibits E – E-3). However, upon Young's suggestion, two (2) Deeds of Sale was prepared and executed by the vendor-defendants Young and Bilano, one in the amount of P400,000.00 (Exhibit E) and the other with a consideration of P250,000.00 (Exhibit 1) for purposes of paying the capital gains tax (p. 5, TSN, April 20, 1989). Both documents were signed and executed at Atty. Crescini's office by the private defendant/vendors Young and Bilano in the presence of the plaintiff, Atty. Crescini and Young's wife – Wilma.

On April 3, 1985, upon plaintiff Serrano's payment of P250,000.00 (Exhibit A-6) to defendants Young and Bilano, he simultaneously transferred some appliances and fixtures at the subject premises in dispute located at No. 36 Scout Tobias St., Quezon City, consisting of a sala set, a dining set, two beds, a TV set, and other appliances (p. 17, TSN, September 13, 1988). A day earlier, Lydia Erasmo, who was renting the master's bedroom and Estrella Ferre, the one renting the garage, moved out of the premises, whereas Adelaida Bilano and her family transferred to Scout Rallos on April 5, 1985. However, Joselito and Wilma Young asked that they be allowed to stay in the premises in the meantime.

On even date of April 3, 1985, plaintiff also placed in possession of the questioned premises Luis Figueras, Cornelio Rance and one Mendez as his caretakers in the said realty.

Soon after the last publication of the Extra-Judicial Partition in the "Economic Monitor", the plaintiff visited Atty. Crescini at his law office for the preparation of the appropriate documents in order that he can already transfer the title in his name but Atty. Crescini told him to come back as he had still to talk to Young whom he had not seen for quite sometime. The plaintiff went to visit the lawyer twice thereafter but each time, he was told that Young could not be located so Atty. Crescini told him: "You better see him and talk to him and tell him to go to the office to talk about the matter (p. 4, TSN, October 4, 1988). About November, 1985, the plaintiff saw Young at No. 36 Tobias St., Quezon City, and told the latter to see Atty. Crescini at his office. Later, on December 29, 1985, Bilano and her daughter went to plaintiff's residence at No. 1140 España, Manila, and asked for an advance payment to be spent for her child's baptism but the plaintiff told her that he will just go to their place the next day, December 30, 1985, because he wanted to talk to both Young and Bilano after which, he will give the money. As promised, plaintiff met Young and Bilano the next day at the questioned premises and he gave them P2,000.00 to which the defendants executed a receipt of even date (Exhibit H).

In the meantime, on or about September, 1985, Young met defendants Reynaldo Mercado and Lydia Corrales-Mercado through the latter's son named Rey Carbungco. The defendant-spouses intimated to Young that they were interested to buy the house and lot at No. 36 Scout Tobias St.

but Young told them that the house was already sold to "somebody" referring to the plaintiff Serrano. At this juncture, the Mercados asked Young if they can see the title to which the latter obliged and while scrutinizing the said land title, they asked Young again if they can borrow it for verification purpose with the Register of Deeds. Young gave the latter to the Mercados (pp. 3-4, TSN, September 22, 1989). The title was placed in a brown envelope together with some letters of Atty. Crescini to Young as well as a copy of the Deed of Sale to the plaintiff Serrano. The letters referred to by Young are those addressed to him by Atty. Crescini which were dated September 23, 1985 (Exhibit L); October 7, 1985 (Exhibit M); October 10, 1985 (Exhibit N) and October 15, 1985 (Exhibit O).

The letters of Atty. Crescini addressed to Young on various dates were made when the plaintiff was following up at Atty. Crescini's office the transfer of title in his name and these were sent to Young, when despite having told by the plaintiff when they saw each other at the subject premises, sometime in November, 1985 to see Atty. Crescini at the latter's law office, refused to deliver the title and other pertinent documents to the Atty. Crescini. This was the main reason which prompted Atty. Crescini to write those letters, all demanding that Young deliver the documents to him in order that the title could be transferred to plaintiff Serrano.

However, instead of delivering the title and other documents to Atty. Crescini, defendant Young attempted to entice Atty. Crescini with a 20% commission on the purchase price if he could maneuver to render ineffective or cancel the Deed of Sale which he and his sister Bilano had already executed in favor of plaintiff Serrano but Atty. Crescini rejected the offer for being illegal and immoral (p. 9, TSN, October 26, 1990).

The defendant-spouses Mercado did not return anymore the title they borrowed from defendant Young and defendant Reynaldo Mercado even scolded him when Young was trying to retrieve the said title from him.

Sometime in December 18, 1985, the Mercados requested defendants Young and Bilano to sign and execute a Deed of Sale of the subject house and lot at No. 36 Scout Tobias St., Quezon City, in favor of the defendant-spouses although the same was already sold to plaintiff Serrano (p. 6, TSN, June 22; Exhibits P, P-1 and P-2). Simultaneously, Young and Bilano likewise executed an extra-Judicial Settlement of the Intestate Estate of Asuncion Ballecer.

Corroboratively, in the "Sinumpaang Salaysay" (Annex 2 of Young's Sagot sa Demanda), he averred under par. 6 thereof the following:

6. Dahil sa paghimok ni G. Mercado, ako ay pumayag. Ang usapan ay babayaran kami ng halagang P600,000.00 Pinirmahan naming ang Deed of Sale para G. Mercado noong bandang Disyembre, 1985. Ito ay bago mag-Pasko. Pinalabas sa dokumento na kami ay nabayaran na ng halagang P500,000.00. Ang katotohanan ay hindi niya kami nabayaran