

THIRD DIVISION

[G.R. No. 211755, October 07, 2020]

HEIRS OF FELICISIMO GABULE, NAMELY: ELISHAMA GABULE-VICERA, FELINA GABULE CIMAFRANCA, IEMELIF GABULE, GRETTEL GABULE, REPRESENTED BY HIS SPOUSE, CECILIA RIZA GABULE AND HAMUEL GABULE REPRESENTED BY HIS SPOUSE ISABEL GABULE, PETITIONERS, VS. FELIPE JUMUAD, SUBSTITUTED FOR BY HIS HEIRS NAMELY: SUSANO, ISIDRA, EUGENIA, ROLDAN, ELIAS, AND BUENAVENTURA, ALL SURNAMED JUMUAD, RESPONDENT.

DECISION

GESMUNDO, J.:

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the January 21, 2013 Decision^[1] and March 5, 2014 Resolution^[2] of the Court of Appeals (CA) in CA-G.R. CV No. 01200-MIN which reversed and set aside the March 5, 2007 Order^[3] of the Regional Trial Court, 9th Judicial Region, Pagadian City, Branch 22 (RTC), in Civil Case No. 3075, an action for Reconveyance and Damages, and reinstated the May 10, 2006 Decision.^[4]

The Antecedents

As borne by the records, Felipe Jumuad (*respondent*) filed an action for reconveyance and damages against the heirs of Felicisimo Gabule (*petitioners*). Prior to such action, however, an action for reconveyance involving petitioners' same property was likewise filed by one Severino Saldua (*Saldua*) against the former.

*Prior Case: Civil Case No. 2973
Saldua v. Heirs of Felicisimo Gabule*

Saldua alleged that he is the owner of a residential lot known and designated as Lot No. 2857-B, which was, through fraudulent means and misrepresentation, included in the title of petitioners' late father Felicisimo Gabule (*Gabule*) when the latter applied for title over his land. Consequently, Felicisimo was issued Original Certificate of Title No. 1,817 (*OCT 1817*) on May 16, 1980 pursuant to a decree in the cadastral proceedings.^[5] The said residential lot was the remaining portion of the ½ land known as Lot No. 2857 which he previously bought, through barter, from respondent. This barter between Saldua and respondent was confirmed by the latter himself on the witness stand.^[6]

After due trial, the RTC of Pagadian City, Branch 19, rendered a Decision dismissing Saldua's complaint, thereby affirming Felicisimo's title over the subject property. The

RTC explained that:

In short, plaintiff Saldua has no more right, interest and [participation over] Lot No. 2857, because when he sol[d] one half (1/2) of said lot to Antonio Langga, as admitted by plaintiff, and which resulted to the designation of Antonio Langga's lot as Lot No. 2857-A, the portion left with plaintiff was the other half which is designated as Lot No. 2857-B, and since out of Lot No. 2857-B he sold 144 sq. m. to Alfredo Balugo and from Balugo to Agapito Bagapuro, and from Bagapuro to Telesporo Pulido, it would seem that the area left with plaintiff after he sold the 144 sq. m. is the one half of Lot No. 2857-B with an area of 144 sq. m. However, since plaintiff admitted that he is not recovering what he has given to his brother-in-law Hermogenes Daniel who applied a Miscellaneous Sales Application, it is clear that plaintiff Saldua has indeed no more interest whatsoever on Lot No. 2857-B, and therefore, has no cause of action in the case at bar.^[7]

Consequently, the RTC Decision dismissing Saldua's complaint attained finality as no motion for reconsideration or appeal was filed.

Present Case: Civil Case No. 3075

Felipe Jumud v. Heirs of Felicisimo Gabule, et al.

In his verified complaint, respondent alleged that he was previously the sole owner of a certain lot situated along Alano Street, San Francisco District, Pagadian City. Subsequently, he sold the one-half (½) lengthwise portion of the said lot to Saldua, who later sold half of said portion to Antonio Langga (*Langga*), specifically the portion fronting Alano Street, Pagadian City.^[8]

Saldua then sold the inner portion of his lot, about 150 square meters, to a certain Hermogenes Daniel (*Daniel*). In turn, Daniel resold the portion to Rev. Diosdado Aenlle (*Rev. Aenlle*). It was from Rev. Aenlle that Gabule acquired his portion of land, now occupied by his heirs. What was supposedly left to Saldua was only the middle portion of that lot which he previously acquired from respondent.^[9]

However, in his application for a title over the land, Gabule, through fraudulent means and misrepresentation, included Saldua's remaining or middle portion and further encroached on a portion of respondent's lot, the subject property of this case.^[10] The actual encroachment referred to a portion having a dimension of 50m. by 3.78m. by 50m.^[11]

Respondent demanded from the petitioners the reconveyance of the subject lot included in Gabule's OCT 1817, but the heirs failed and refused to heed the demands.

In their Answer,^[12] petitioners denied the allegations in the complaint. They specifically claimed that their father's acquisition of the land was not limited to only 150 sq. m., but in fact, the acquisition referred to a portion which was subsequently

surveyed and identified as Lot No. 2857-B, Csd- 12763 of Pagadian Public Land Subdivision, Pls-119, which was previously identified as Lot No. 8833, with an area of 337 sq. m., more or less.^[13]

Petitioners also averred that respondent never made any demand against them.^[14]

Trial ensued. Both parties submitted their respective documentary and testimonial pieces of evidence.

On May 10, 2006, the RTC rendered judgment in favor of respondent. It was of the view that Gabule committed constructive fraud in including the subject lot in his application for a certificate of title. The Deed of Sale presented by Gabule during the cadastral proceedings showed a piece of lot with an area of 150 sq. m. He identified the deed and affirmed that he bought the property from Rev. Aenlle, and that its area was only 156.25 sq. m., more or less. However, during the relocation survey of the land for purposes of obtaining the technical description thereof for titling, the resultant area ballooned to 337 sq. m.^[15]

Thus, the RTC ruled that since Gabule committed constructive fraud, under our laws, he should, through his heirs, be ordered to reconvey that portion of land duly identified during a relocation survey as Lot No. 2857-B-1 to its lawful owner, herein respondent.^[16]

Aggrieved, petitioners filed a Motion to Nullify the Decision^[17] dated May 10, 2006 alleging that: 1) it was null and void because the handing-down Judge had no more authority to promulgate the same, having retired in the early day of June 2006; and 2) it was inherently defective because it equated a tax declaration as a muniment of a title of ownership when it is only a right to acquire the title of ownership over the area it covers.^[18]

On March 5, 2007, the RTC issued an Order^[19] setting aside the May 10, 2006 Decision. It treated the heirs' Motion to Nullify as a Motion for Reconsideration. While the trial court chose not to discuss the first ground since there was no proof presented to show that the Decision was improperly promulgated, thus, making the allegation a mere conjecture, it nonetheless granted the motion on the ground that respondent, not being an owner, has no cause of action and was not entitled to a reconveyance. In so ruling, the trial court opined that the questioned property was previously a public land, and therefore, respondent had no personality to question the land grant of the government. Furthermore, the tax declarations offered by respondent are not direct proof of ownership, unless accompanied by proof of actual possession for the required period. Respondent, however, failed to present evidence of actual possession of the questioned area.^[20] Thus, he sought relief from the CA.

CA's Ruling

The CA granted respondent's appeal, thereby reinstating the May 10, 2006 Decision of the RTC. The appellate court explained that respondent need no longer prove the private character of the land because the issuance of the OCTs in the cadastral proceedings was an affirmation that the lands covered were already private in

character.^[21]

Further, the CA observed from the records that Gabule acted fraudulently in including the subject area in his application for a title. The OCT issued in his favor covered a parcel of land measuring an area of 337 sq. m. However, his testimony during the cadastral proceedings that he acquired a property with an area of 156.25 sq. m., more or less, from Rev. Aenlle, corresponded to the area stipulated in the Deed of Sale executed between him and the latter.

As a result, the CA declared that an implied trust pursuant to Article 1456 of the Civil Code was created in favor of respondent. It held that:

Patently, Lot No. 2857-B-1 was erroneously included in appellees' title. By such erroneous inclusion, **appellees are deemed to hold the title of the property in trust and for the benefit of appellant. Thus, a constructive trust was created between the parties.**^[22] (emphasis supplied)

Moreover, the CA viewed that respondent never lost possession of the subject property even after the issuance of a Certificate of Title in the name of Gabule. Consequently, respondent could file the action for reconveyance at any time, as the action does not prescribe when the plaintiff is in possession of the land to be reconveyed, as in this case.^[23] Thus, the CA ruled that the RTC erred palpably in finding that "there is no evidence of actual possession on the questioned area by the plaintiff"; that respondent successfully established by preponderance of evidence his cause of action for reconveyance. Reconveyance, therefore, lies in his favor.^[24]

Prejudiced by the reversal, petitioners filed a Motion for Reconsideration.^[25] It was, however, denied. Hence, the present petition anchored on the following:

I.

THE ORDER OF THE RTC IN PAGADIAN CITY DISMISSING RESPONDENT'S COMPLAINT FOR RECONVEYANCE AND DAMAGES HAS LONG BECOME FINAL AND EXECUTORY; HENCE, THE COURT A QUO GRAVELY ERRED IN GRANTING RESPONDENT'S APPEAL;

II.

WITH ALL DUE RESPECT, THE COURT A QUO GRAVELY ERRED IN FAILING TO CONSIDER THAT THE COMPLAINT FOR RECONVEYANCE AND DAMAGES FILED BY RESPONDENT IN THE RTC IN PAGADIAN CITY IS ALREADY BARRED BY RES JUDICATA;

III.

WITH ALL DUE RESPECT, RESPONDENT MISERABLY FAILED TO PRESENT ANY PIECE OF EVIDENCE PROVING FRAUD ON THE PART

OF FELICISIMO GABULE IN SECURING TITLE OVER THE SUBJECT PROPERTY, HENCE, IT WAS GRIEVOUS ERROR ON THE PART OF THE COURT A QUO TO RULE THAT FELICISIMO GABULE IS GUILTY OF COMMITTING FRAUD;

IV.

THE COURT A QUO GRAVELY ERRED IN GRANTING RESPONDENT'S APPEAL CONSIDERING THAT:

- A. RESPONDENT JUDICIALLY ADMITTED THAT HE HAD ALREADY SOLD THE SUBJECT LOT TO ONE SEVERINO SALDUA;**
- B. RESPONDENT MISERABLY FAILED TO SUBSTANTIATE HIS CLAIM OF OWNERSHIP OVER LOT NO. 2857, AS HIS OWN EVIDENCE, OCT NO. 1,252 AND THE TESTIMONY OF HIS WITNESS, PERTAINED ONLY TO LOT NO. 2856;**
- C. THERE IS NOTHING IN THE SURVEY REPORT WHICH REMOTELY SUGGESTS THAT LOT NO. 2857-B-1 IS OWNED BY RESPONDENT OR EVEN CAME FROM HIS OCT NO. 1,252; AND**
- D. THE BOUNDARIES OF THE SUBJECT PROPERTY ARE WITHIN, AND CLEARLY DEFINED, IN FELICISIMO GABULE'S OCT NO. 1,817;**

V.

WITH ALL DUE RESPECT, THE COURT A QUO GRAVELY ERRED IN APPLYING THE RULE ON CONSTRUCTIVE TRUST IN GRANTING RESPONDENT'S APPEAL CONSIDERING THAT THE PARAMETERS LAID DOWN BY THE HONORABLE COURT FOR ITS APPLICATION ARE CLEARLY WANTING IN THIS CASE.^[26]

Court's Ruling

The petition is meritorious.

*The RTC order is
final and executory*

It is a hornbook rule that once a judgment has become final and executory, it may no longer be modified in any respect, even if the modification is meant to correct an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land, as what remains to be done is the purely ministerial enforcement or execution of the