

THIRD DIVISION

[G.R. No. 187942, September 07, 2016]

**THE ROMAN CATHOLIC BISHOP OF TUGUEGARAO, PETITIONER,
VS. FLORENTINA PRUDENCIO, NOW DECEASED, SUBSTITUTED
BY HER HEIRS, NAMELY: EXEQUIEL, LORENZO, PRIMITIVO,
MARCELINO, JULIANA, ALFREDO AND ROSARIO, ALL SURNAMED
DOMINGO; AVELINA PRUDENCIO, ASSISTED BY HER HUSBAND
VICTORIANO DIMAYA; ERNESTO PENALBER * AND RODRIGO
TALANG; SPOUSES ISIDRO CEPEDA AND SALVACION DIVINI,
NOW DECEASED, SUBSTITUTED BY HER HEIRS, NAMELY:
MARCIAL, PEDRO AND LINA, ALL SURNAMED CEPEDA,
RESPONDENTS.**

D E C I S I O N

JARDELEZA, J.:

Assailed in this Petition for Review on *Certiorari*^[1] is the October 21, 2008 Decision^[2] and May 11, 2009 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 77100. The CA affirmed with modification the ruling of the Regional Trial Court–Branch 4 of Tuguegarao City (RTC) declaring as null and void the sale to petitioner of 96,926 square meters (sq. m.) of a lot located in Baggao, Cagayan covered by Transfer Certificate of Title (TCT) No. 14306 and ordering petitioner to reconvey the property to Florentina Prudencio, substituted by her heirs, namely: Exequiel, Lorenzo, Primitivo, Marcelino, Juliana, Alfredo and Rosario, all surnamed Domingo; Avelina Prudencio, assisted by her husband Victoriano Dimaya; Ernesto Penalber and Rodrigo Talang (respondents-appellees).^[4]

Facts

Felipe Prudencio (Felipe) married twice during his lifetime. With his first wife, Elena Antonio (Elena), he begot five (5) children, namely: Valentina, Eusebia, Paula, Florentina and Avelina. With his second wife, Teodora Abad (Teodora), he had two (2) children namely: Felipe Prudencio, Jr. (Prudencio, Jr.) and Leonora.^[5]

During the marriage of Felipe and Elena, they acquired a 13.0476 hectares (or 130,476 sq. m.) parcel of land located at Sitio Abbot, Barrio Imurung, Baggao, Cagayan (Cagayan lot), covered by Original Certificate of Title No. 1343.^[6] When Elena died, Felipe and their children became co-owners of the property.

Felipe then died intestate during his second marriage. Upon his death, Teodora, Prudencio, Jr. and Leonora executed a Deed of Extra-Judicial Partition of the Estate of the late Felipe with Waiver of Rights in favor of Teodora (Extra-Judicial Partition). While the Extra-Judicial Partition acknowledged that the Cagayan lot was acquired during the marriage of Felipe and Elena, it stated that Felipe and Elena did not have any children who could inherit the property; hence, Teodora and her children with

Felipe are the only living heirs by operation of law.^[7] The Extra-Judicial Partition also provided that Prudencio, Jr. and Leonora waived their rights over the Cagayan lot in favor of their mother Teodora.^[8] It was published in the Daily Mirror on October 22 and 29, 1969 and November 5, 1969.^[9] Accordingly, title to the Cagayan lot was transferred to Teodora's name under TCT No. 14306.^[10]

On May 16, 1972, Teodora sold the Cagayan lot to respondents Spouses Isidro Cepeda and Salvacion Divini (Spouses Cepeda). TCT No. 14306 was therefore cancelled, and TCT No. 184375 was issued in favor of Spouses Cepeda.^[11]

On August 25, 1972, Spouses Cepeda sold the Cagayan lot to petitioner for P16,500.00.^[12] Thereafter, petitioner was issued TCT No. T-20084.^[13]

On September 15, 1972, respondents-appellees filed a Complaint for Partition with Reconveyance^[14] against petitioner, Spouses Cepeda and Teodora, Prudencio, Jr. and Leonora before the RTC. They alleged that they are the children and grandchildren^[15] of Felipe by his first marriage. They asserted that upon the death of Elena, they became the owners of Elena's conjugal share on the Cagayan lot, while the other undivided half remained with Felipe.^[16] Upon the death of Felipe, respondents-appellees then became owners as well of Felipe's conjugal share in the property, together with Teodora, Prudencio, Jr. and Leonora. The Cagayan lot should, therefore, be distributed as follows:

<i>Florentina Prudencio</i>	- 2.5628 HECTARES;
<i>Avelina Prudencio</i>	- 2.5628 HECTARES;
<i>Ernesto [Penalber]</i>	- 2.5628 HECTARES; and
<i>Rodrigo Talang</i>	- 2.5628 HECTARES;
[Total:	10.2512 hectares]

<i>Teodora Abad Vda. De Prudencio</i>	- .9319 HECTARE;
<i>Leonora Prudencio</i>	- .9219 HECTARE; and
<i>Felipe Prudencio, Jr.</i>	- .9319 HECTARE;
[Total:	2.7857 hectares] ^[17]

Respondents-appellees posited that they were fraudulently deprived of their rightful shares in the estate of Felipe and Elena when the Extra-Judicial Partition declared Teodora as the *sole* owner of the Cagayan lot.^[18] Thus, they prayed that they be declared the owners *pro indiviso* of the undivided portion of 10.2512 hectares of the Cagayan lot, and that this portion be reconveyed to them. They also sought payment of moral and exemplary damages and attorney's fees.^[19]

Petitioner filed an Answer with Cross Claim.^[20] It countered that Spouses Cepeda were in possession of the Cagayan lot at the time they offered it for sale. It denied knowledge of the existence of any defect over Spouses Cepeda's title.^[21] Petitioner stated that in fact, Atty. Pedro R. Perez Jr. (petitioner's lawyer), verified the title and ownership of Spouses Cepeda before it purchased the Cagayan lot.^[22] Thus, it averred that it was an innocent purchaser for value. Nevertheless, petitioner insisted

that Spouses Cepeda should be held liable for the value of the 10.2562 hectares of the Cagayan lot plus interest and damages, or for the rescission of the sale with reimbursement of the purchase price plus interest and damages,^[23] in case the claim for reconveyance of respondents-appellees is successful. It contended that the Deed of Sale between petitioner and Spouses Cepeda expressly stated that the latter shall answer for any claim of any other possible heir who might be deprived of their lawful participation in the estate of the original registered owner.^[24]

Spouses Cepeda maintained that their title over the Cagayan lot was clean and that they had no knowledge that other persons had interest on it because Teodora's title over the property was clean.^[25] They asserted that like petitioner, they were purchasers for value and in good faith. Therefore, petitioner has no cause of action against them.^[26]

RTC Ruling

In its Decision^[27] dated August 15, 2002, the RTC ruled in favor of respondents-appellees, the decretal portion of which reads:

In view of the above consideration, **DECISION** is hereby rendered:

1. Declaring the Deed of Extra Judicial Partition of the Estate of Felipe Prudencio with Waiver of Rights as null and void;
2. Declaring plaintiffs as owners pro indiviso of the undivided portion of 99,924.6 sq. meters of the land in suit;
3. That the Sale with respect to the 99,924.6 sq. meters conveyed by Teodora Abad to defendants Isidro Cepeda and Salvacion Divini and later to the Roman Catholic Bishop of Tuguegarao is declared null and void;
4. Ordering defendant Roman Catholic Bishop of Tuguegarao to reconvey to plaintiffs said portion; and
5. No pronouncement as to costs.

SO ORDERED.^[28]

The RTC held that it was impossible for Teodora and her children to not know that Felipe had children/heirs by his first marriage. It observed that the real property taxes on the Cagayan lot, from 1963 to 1968, were actually paid by respondent-appellee Ernesto Penalber, the grandson of Felipe by her daughter Valentina.^[29] Therefore, the execution of the Extra-Judicial Partition was done in bad faith. In excluding the children of Felipe with Elena, the partition is invalid and not binding upon them.^[30]

The RTC therefore ruled that Teodora can only sell 33,550 sq. m. of the Cagayan lot to Spouses Cepeda. In turn, Spouses Cepeda can only sell that much to petitioner, for a person cannot give what he does not own.^[31] Hence, the sale of the Cagayan lot to Spouses Cepeda and subsequently to petitioner is valid only as to the 33,550 sq. m. share of Teodora. The sale of the remaining 99,924.6 sq. m., which properly belongs to the respondents-appellees, was void. Petitioner was ordered to reconvey 99,924.6 sq. m. of the Cagayan lot to respondents-appellees.^[32]

Both petitioner and respondents-appellees appealed to the CA. However, respondents-appellees' appeal was dismissed outright for failure to file an appellant's brief.^[33]

CA Ruling

The CA found that the sole issue is whether petitioner is a buyer in good faith and for value. In its Decision dated October 21, 2008, the CA resolved the issue in the negative.

The CA noted that petitioner has the burden of proving that it was a purchaser in good faith, which it failed to discharge. While petitioner's lawyer investigated the title and ownership of Spouses Cepeda and the previous owners, he did not look beyond what was declared in the documents and failed to determine if there are other heirs.^[34] Spouses Cepeda were also not in possession of the Cagayan lot at the time of sale, which should have alerted petitioner to inquire further.^[35] The CA held that the fact of fraud on the part of Teodora and her children was admitted by petitioner in its petition, particularly, in its third assignment of error.^[36]

Thus, the CA affirmed with modification the ruling of the RTC. It declared that petitioner shall retain ownership of only 33,550 sq. m. of the Cagayan lot, which is the area equivalent to Teodora's share. The remaining 96,926 sq. m. (as modified by the CA from the RTC's previous ruling of 99,924.6 sq. m.) should be reconveyed to respondents-appellees.^[37]

Petitioner moved for reconsideration, which was denied; hence, this petition^[38] which raises the sole issue of whether the action for partition with reconveyance filed by respondents-appellees against petitioner should prosper.

Our Ruling

We deny the petition.

This is a case of exclusion of the rightful heirs in the partition of the estate of the deceased, followed by the sale of their shares to third persons who claim good faith. Both petitioner and Spouses Cepeda consistently contend that they were not aware that any person, other than the seller, has interest over the Cagayan lot. Thus, they are innocent purchasers for value.

The preliminary question then is whether the excluded heirs could recover what is rightfully theirs from persons who are innocent purchasers for value. *Segura v. Segura*^[39] teaches that the answer would **not** depend on the good faith or bad faith of the purchaser, but rather on the fact of ownership, for no one can give what he does not have—*nemo dat quod non habet*.^[40] Thus, the good faith or bad faith of petitioner is immaterial in resolving the present petition. A person can only sell what he owns or is authorized to sell; the buyer can as a consequence acquire no more than what the seller can legally transfer.^[41]

*The Extra-Judicial Partition is
Not Binding on Respondents-
Appellees*

Petitioner's title over the Cagayan lot was derived from the title of Spouses Cepeda, who in turn obtained their title from Teodora. Teodora, meanwhile, gained title over the entire Cagayan lot on the basis of the Extra-Judicial Partition dated October 20, 1969.^[42] The question therefore is, did that partition validly pass ownership of the Cagayan lot to Teodora so that she had the right to sell the entire lot?

We answer in the negative. Articles 979, 980 and 981 of the Civil Code of the Philippines (Civil Code) state that all the children of the deceased shall inherit from him and by implication should participate in the settlement of his/her estate, to wit:

Art. 979. Legitimate children and their descendants succeed the parents and other ascendants, without distinction as to sex or age, and even if they should come from different marriages.

An adopted child succeeds to the property of the adopting parents in the same manner as a legitimate child.

Art. 980. The children of the deceased shall always inherit from him in their own right, dividing the inheritance in equal shares.

Art. 981. Should children of the deceased and descendants of other children who are dead, survive, the former shall inherit in their own right, and the latter by right of representation.

Thus, the children of Felipe in his two (2) marriages should be included in the execution of the Extra-Judicial Partition. In this case, it is undisputed that respondents-appellees were children of Felipe by his first marriage. Teodora, Prudencio, Jr. and Leonora did not deny respondents-appellees' relation with Felipe. Despite this, however, Teodora, Prudencio, Jr. and Leonora declared in the Extra-Judicial Partition that they are the *only living* heirs of Felipe by operation of law. They claimed that Felipe had no child with his first wife Elena, in effect depriving respondents-appellees of their rightful shares in the estate of their parents. They arrogated upon themselves not only the share of Felipe in the Cagayan lot but also the shares belonging to respondents-appellees.

In this regard, we cite Rule 74, Section 1 of the Rules of Court which reads:

Sec. 1. Extrajudicial settlement by agreement between heirs.—If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the entire estate by means of an affidavit filed in the office of the register of deeds. The parties to an extrajudicial settlement, whether by public instrument or by stipulation in a pending action for partition, or the sole heir who adjudicates the entire estate to himself by means of an affidavit shall file, simultaneously with and as a condition precedent to the filing of the public instrument, or stipulation in the action for partition, or of the affidavit in the office of the register of deeds, a bond with the said register of deeds, in an amount equivalent to the value of the personal property involved as certified to