

## THIRD DIVISION

[ G.R. No. 188417, September 24, 2012 ]

**MILAGROS DE BELEN VDA. DE CABALU, MELITON CABALU, SPS. ANGELA CABALU AND RODOLFO TALAVERA, AND PATRICIO ABUS, PETITIONERS, VS. SPS. RENATO TABU AND DOLORES LAXAMANA, MUNICIPAL TRIAL COURT IN CITIES, TARLAC CITY, BRANCH II, RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This is a "Petition for Review on *Certiorari* (under Rule 45)" of the Rules of Court assailing the June 16, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-GR. CV No. 81469 entitled "Milagros De Belen Vda de Cabalu v. Renato Tabu."

#### **The Facts**

The property subject of the controversy is a 9,000 square meter lot situated in Mariwalo, Tarlac, which was a portion of a property registered in the name of the late Faustina Maslum (*Faustina*) under Transfer Certificate of Title (TCT) No. 16776 with a total area of 140,211 square meters.<sup>[2]</sup>

On December 8, 1941, Faustina died without any children. She left a holographic will, dated July 27, 1939, assigning and distributing her property to her nephews and nieces. The said holographic will, however, was not probated. One of the heirs was the father of Domingo Laxamana (*Domingo*), Benjamin Laxamana, who died in 1960. On March 5, 1975, Domingo allegedly executed a *Deed of Sale of Undivided Parcel of Land* disposing of his 9,000 square meter share of the land to Laureano Cabalu.<sup>[3]</sup>

On August 1, 1994, to give effect to the holographic will, the forced and legitimate heirs of Faustina executed a *Deed of Extra-Judicial Succession with Partition*. The said deed imparted 9,000 square meters of the land covered by TCT No. 16776 to Domingo. Thereafter, on December 14, 1995, Domingo sold 4,500 square meters of the 9,000 square meters to his nephew, Eleazar Tabamo. The document was captioned *Deed of Sale of a Portion of Land*. On May 7, 1996, the remaining 4,500 square meters of Domingo's share in the partition was registered under his name under TCT No. 281353.<sup>[4]</sup>

On August 4, 1996, Domingo passed away.

On October 8, 1996, two months after his death, Domingo purportedly executed a *Deed of Absolute Sale* of TCT No. 281353 in favor of respondent Renato Tabu (Tabu). The resultant transfer of title was registered as TCT No. 286484. Subsequently, Tabu and his wife, Dolores Laxamana (*respondent spouses*),

subdivided the said lot into two which resulted into TCT Nos. 291338 and 291339.<sup>[5]</sup>

On January 15, 1999, respondent Dolores Laxamana-Tabu, together with Julieta Tubilan-Laxamana, Teresita Laxamana, Erlita Laxamana, and Gretel Laxamana, the heirs of Domingo, filed an unlawful detainer action, docketed as Civil Case No. 7106, against Meliton Cabalu, Patricio Abus, Roger Talavera, Jesus Villar, Marcos Perez, Arthur Dizon, and all persons claiming rights under them. The heirs claimed that the defendants were merely allowed to occupy the subject lot by their late father, Domingo, but, when asked to vacate the property, they refused to do so. The case was ruled in favor of Domingo's heirs and a writ of execution was subsequently issued.<sup>[6]</sup>

On February 4, 2002, petitioners Milagros de Belen Vda. De Cabalu, Meliton Cabalu, Spouses Angela Cabalu and Rodolfo Talavera, and Patricio Abus (*petitioners*), filed a case for *Declaration of Nullity of Deed of Absolute Sale, Joint Affidavit of Nullity of Transfer Certificate of Title Nos. 291338 and 291339, Quieting of Title, Reconveyance, Application for Restraining Order, Injunction and Damages* (Civil Case No. 9290) against respondent spouses before the Regional Trial Court, Branch 63, Tarlac City (RTC).<sup>[7]</sup>

In their complaint, petitioners claimed that they were the lawful owners of the subject property because it was sold to their father, Laureano Cabalu, by Domingo, through a Deed of Absolute Sale, dated March 5, 1975. Hence, being the rightful owners by way of succession, they could not be ejected from the subject property.<sup>[8]</sup>

In their Answer, respondent spouses countered that the deed of sale from which the petitioners anchored their right over the 9,000 square meter property was null and void because in 1975, Domingo was not yet the owner of the property, as the same was still registered in the name of Faustina. Domingo became the owner of the property only on August 1, 1994, by virtue of the Deed of Extra-Judicial Succession with Partition executed by the forced heirs of Faustina. In addition, they averred that Domingo was of unsound mind having been confined in a mental institution for a time.<sup>[9]</sup>

On September 30, 2003, the RTC dismissed the complaint as it found the Deed of Absolute Sale, dated March 5, 1975, null and void for lack of capacity to sell on the part of Domingo. Likewise, the Deed of Absolute Sale, dated October 8, 1996, covering the remaining 4,500 square meters of the subject property was declared ineffective having been executed by Domingo two months after his death on August 4, 1996. The fallo of the Decision<sup>[10]</sup> reads:

**WHEREFORE**, in view of the foregoing, the complaint is hereby **DISMISSED**, and the decision is hereby rendered by way of:

1. declaring null and void the Deed of Absolute Sale dated March 5, 1975, executed by Domingo Laxamana in favor of Laureano Cabalu;
2. declaring null and void the Deed of Absolute Sale dated October 8, 1996, executed by Domingo Laxamana in favor of Renato Tabu, and

that TCT Nos. 293338 and 291339, both registered in the name of Renato Tabu, married to Dolores Laxamana be cancelled;

3. restoring to its former validity, TCT No. 16770 in the name of Faustina Maslum subject to partition by her lawful heirs.

*Costs de oficio.*

SO ORDERED.<sup>[11]</sup>

Not in conformity, both parties appealed to the CA. Petitioners contended that the RTC erred in declaring void the Deed of Absolute Sale, dated March 5, 1975. They claimed that Domingo owned the property, when it was sold to Laureano Cabalu, because he inherited it from his father, Benjamin, who was one of the heirs of Faustina. Being a co-owner of the property left by Benjamin, Domingo could dispose of the portion he owned, notwithstanding the will of Faustina not being probated.

Respondent spouses, on the other hand, asserted that the Deed of Sale, dated March 5, 1975, was spurious and simulated as the signature, PTR and the document number of the Notary Public were different from the latter's notarized documents. They added that the deed was without consent, Domingo being of unsound mind at the time of its execution. Further, they claimed that the RTC erred in canceling TCT No. 266583 and insisted that the same should be restored to its validity because Benjamin and Domingo were declared heirs of Faustina.

On June 16, 2009, the CA rendered its decision and disposed as follows:

**WHEREFORE**, in the light of the foregoing, the instant appeal is partially **GRANTED** in that the decision of the trial court is **AFFIRMED WITH MODIFICATION** that sub-paragraphs 2 & 3 of the disposition, which reads:

"2. declaring null and void the Deed of Absolute Sale dated October 8, 1996, executed by Domingo Laxamana in favor of Renato Tabu, and that TCT Nos. 291338 and 291339, both registered in the name of Renato Tabu, married to Dolores Laxamana be cancelled;

3. restoring to its former validity, TCT No. 16776 in the name of Faustina Maslum subject to partition by her lawful heirs,"

are DELETED.

**IT IS SO ORDERED.**<sup>[12]</sup>

In finding Domingo as one of the heirs of Faustina, the CA explained as follows:

It appears from the records that Domingo was a son of Benjamin as apparent in his Marriage Contract and Benjamin was a nephew of

Faustina as stated in the holographic will and deed of succession with partition. By representation, when Benjamin died in 1960, Domingo took the place of his father in succession. In the same vein, the holographic will of Faustina mentioned Benjamin as one of her heirs to whom Faustina imparted 9,000 square meters of her property. Likewise, the signatories to the Deed of Extra-judicial Succession with Partition, heirs of Faustina, particularly declared Domingo as their co-heir in the succession and partition thereto. Furthermore, the parties in this case admitted that the relationship was not an issue.<sup>[13]</sup>

Although the CA found Domingo to be of sound mind at the time of the sale on March 5, 1975, it sustained the RTC's declaration of nullity of the sale on the ground that the deed of sale was simulated.

The CA further held that the RTC erred in canceling TCT No. 266583 in the name of Domingo and in ordering the restoration of TCT No. 16770, registered in the name of Faustina, to its former validity, Domingo being an undisputed heir of Faustina.

Hence, petitioners interpose the present petition before this Court anchored on the following

## **GROUND**

### **(A)**

**THE DEED OF SALE OF UNDIVIDED PARCEL OF LAND EXECUTED ON MARCH 5, 1975 BY DOMINGO LAXAMANA IN FAVOR OF LAUREANO CABALU IS VALID BECAUSE IT SHOULD BE ACCORDED THE PRESUMPTION OF REGULARITY AND DECLARED VALID FOR ALL PURPOSES AND INTENTS.**

### **(B)**

**THE SUBPARAGRAPH NO. 2 OF THE DECISION OF THE REGIONAL TRIAL COURT SHOULD STAY BECAUSE THE HONORABLE COURT OF APPEALS DID NOT DISCUSS THE ISSUE AND DID NOT STATE THE LEGAL BASIS WHY SAID PARAGRAPH SHOULD BE DELETED FROM THE SEPTEMBER 30, 2003 DECISION OF THE REGIONAL TRIAL COURT.<sup>[14]</sup>**

The core issues to be resolved are 1] whether the Deed of Sale of Undivided Parcel of Land covering the 9,000 square meter property executed by Domingo in favor of Laureano Cabalu on March 5, 1975, is valid; and 2] whether the Deed of Sale, dated October 8, 1996, covering the 4,500 square meter portion of the 9,000 square meter property, executed by Domingo in favor of Renato Tabu, is null and void.

Petitioners contend that the Deed of Absolute Sale executed by Domingo in favor of Laureano Cabalu on March 5, 1975 should have been declared valid because it