

FIRST DIVISION

[G.R. No. 135900, August 17, 2007]

**SPOUSES AVELINO AND EXALTACION SALERA, PETITIONERS,
VS. SPOUSES CELEDONIO AND POLICRONIA RODAJE,
RESPONDENTS.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Challenged in this Petition for Review on Certiorari is the Decision^[1] dated October 9, 1998 of the Court of Appeals (Seventeenth Division) in CA-G.R. CV No. 51480, entitled *Spouses Avelino Salera and Exaltacion Salera, plaintiffs-appellees, v. Spouses Celedonio Rodaje and Policronia Rodaje, defendants-appellants*.

On May 7, 1993, spouses Avelino and Exaltacion Salera, now petitioners, filed with the Regional Trial Court (RTC), Branch 11, Calubian, Leyte, a complaint for quieting of title, docketed as Civil Case No. CN-27, against spouses Celedonio and Policronia Rodaje, herein respondents. Petitioners alleged that they are the absolute owners of a parcel of land situated at Basud, San Isidro, Leyte with an area of 448.98 square meters, more or less. They acquired the property from the heirs of Brigido Tonacao as shown by a Deed of Absolute Sale executed on June 23, 1986. They had the document registered in the Registry of Deeds of Iloilo on July 1, 1986. When they asked the Provincial Assessor to declare the property under their names for taxation purposes, they found that Tax Declaration No. 2994 (R-5) in the name of Brigido was already cancelled and another one, Tax Declaration No. 2408, was issued in the names of respondents. Petitioners further alleged that they have been in possession of the property and the house they built thereon because they had paid the purchase price even before the execution of the deed of sale.

In their answer to the complaint, respondents claimed that they are the absolute owners of the same property. They acquired it from Catalino Tonacao, the father of Brigido, in a Deed of Absolute Sale dated June 6, 1986. The sale was registered in the Registry of Deeds of Leyte on June 10, 1986 and Tax Declaration No. 2408 was issued in their names. Prior thereto, or on January 11, 1984, they had a verbal contract of sale with Catalino. They paid him P1,000.00 as downpayment. They agreed that the balance of P4,000.00 shall be paid upon execution of the deed of sale. Since then, they have been exercising their right of ownership over the property and the building constructed thereon peacefully, publicly, adversely and continuously. Apart from being the first registrants, they are buyers in good faith.

On July 17, 1995, the RTC rendered a Decision declaring petitioners the rightful and legal owners of the property, thus:

In view of all the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendants, declaring the plaintiffs the rightful

and legal owners of the property described in paragraph 3 of the complaint; declaring as null and void the sale (Exhibits "1" and "2") made by Catalino Tonacao to herein defendants for lack of capacity to sell; and ordering the cancellation of Tax Declaration No. 2408 issued in favor of Sps. Celedonio Rodaje and Policronia Rodaje by the Provincial Assessor of Leyte and directing defendants to pay the costs.

In declaring null and void the Deed of Absolute Sale between Catalino and herein respondents and ordering the cancellation of Tax Declaration No. 2408 issued in the latter's names, the RTC ratiocinated as follows:

Assessing the validity of the sale in favor of plaintiffs by the heirs of Brigido Tonacao vis-á-vis the sale by Catalino Tonacao, father of Brigido Tonacao, to the defendants of the property, the Court believes that the former must survive over the latter.

To begin with, defendants admit that Brigido Tonacao was the declared owner of the land in question before defendants purchased such land from Catalino Tonacao. Defendants also admit that the wife and children of Brigido Tonacao indeed partitioned the land in question extrajudicially among themselves and that such wife and children of Brigido Tonacao sold the land to plaintiffs although defendants question the capacity of some children to sell the property for being minors.

These admissions tend to establish ownership of the land in question by Brigido Tonacao. Upon his death, therefore, the property subject of the case at bar would by operation of law on succession, pass to the heirs of Brigido Tonacao, namely: to the surviving spouse and his children.

Catalino Tonacao, the father of the deceased Brigido Tonacao, is excluded by operation of law by the presence of the compulsory heirs who are the children of Brigido Tonacao. Whatever sale Catalino Tonacao may have executed in favor of the defendants is a sale by one who has no legal personality or authority to do so. Thus, the sale by Catalino Tonacao to defendants is invalidated by his lack of personality to execute such sale, which conferred no rights to the defendants nor did it impair the right of Brigido Tonacao's heirs to dispose of their inheritance in favor of the plaintiffs.

On appeal, the Court of Appeals, in a Decision dated October 9, 1998, reversed and set aside the trial court's Decision, declaring respondents the true and lawful owners of the property in dispute, thus:

WHEREFORE, the decision, dated July 17, 1995, of the Regional Trial Court (Branch 11) in Calubian, Leyte is hereby REVERSED AND SET ASIDE. Therewithal, another judgment is rendered declaring the order of the trial court null and void, hereby: declaring the defendants-appellants to have the superior right to the property in question and to be the true and lawful owners thereof; directing the Register of Deeds of Leyte to cancel the Deed of Absolute Sale, dated June 23, 1986, in favor of the plaintiffs-appellees and to reinstate the Deed of Absolute Sale in favor of the defendants-appellants and Tax Declaration No. 2408 be issued in favor of spouses Celedonio Rodaje and Policronia Rodaje; and directing

the plaintiffs-appellees and other persons claiming rights under them, and residing in the premises of the land in question, to immediately vacate the same and to remove whatever improvements they had placed in the premises. No pronouncement as to costs.

Hence, this petition.

The issue before us is which of the two contracts of sale is valid.

Petitioners contend that the sale between Catalino and respondents is void because the former was not the owner of the lot, hence "had no legal capacity to sue." The true owner was Brigido as shown by Tax Declaration No. 2994 (R-5) in his name. Thus, his spouse and children, being his successors-in-interest, could validly sell the property to them (petitioners).

On the other hand, respondents insist that they are buyers in good faith. They bought the property, had the deed of sale registered, and took possession thereof ahead of petitioners. They also constructed a house thereon which they used as a store. They paid the real estate taxes corresponding to the period from 1974 up to 1993.

The Court of Appeals, in upholding the validity of the sale in favor of respondents, relied on Article 1544 of the Civil Code on double sale, thus:

As between two purchasers, the one who registered the sale in his favor has a preferred right over the other who has not registered his title, even if the latter is in actual possession of the immovable property (*Tañedo v. Court of Appeals*, 252 SCRA 80). *A fortiori*, the defendants-appellants have a superior right over the contested property inasmuch as they have both actual possession and prior registration of the conveyance (Exhibit "2"; page 6, TSN, August 9, 1994; page 5, TSN, August 23, 1994). *Dominium a possessione cepisse dicitur*. Right is said to have its beginning from possession.

The applicable provision of the New Civil Code provides:

Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

x x x

Since the controversy involves two deeds of sale over the same property,

Article 1544 properly applies thereto (Vda. De Alcantara v. Court of Appeals, 252 SCRA 457). Following the above-quoted provision, the court *a quo* was not justified in according preferential rights to the plaintiffs-appellees, who had registered the sale in their favor later, as against the defendants-appellants.

The Court of Appeals is wrong. Article 1544 of the Civil Code contemplates a case of double sale or multiple sales by a **single vendor**. More specifically, it covers a situation where a single vendor sold one and the same immovable property to two or more buyers.^[2] It cannot be invoked where the two different contracts of sale are made by two different persons, one of them not being the owner of the property sold.^[3] In the instant case, the property was sold by two different vendors to different purchasers. The first sale was between Catalino and herein respondents, while the second was between Brigido's heirs and herein petitioners.

Settled is the principle that this Court is not a trier of facts. In *Gabriel v. Mabanta*^[4] we said that "(t)his rule, however, is not an iron-clad rule." One of the recognized exceptions is when the findings of fact of the Court of Appeals are contrary to those of the trial court, as in this case.

Here, the trial court which had the opportunity to observe the demeanor of the parties and first to consider the evidence submitted by them, concluded that respondents are not purchasers in good faith, thus:

The court finds no merit in the claim of good faith by the defendants in purchasing the land in question. Exhibit "14", which is Tax Declaration No. 2408, shows that such declaration is a transfer from Tax Declaration No. 2994 (R-5) in the name of Brigido Tonacao. Defendants, therefore, knew when they bought the property that they were buying the property from Catalino who is not the registered owner. The Deed of Sale (Exh. "2") showcases defendants' bad faith in that they purchased the property from Catalino Tonacao and Lourdes Tonacao and not from the declared owner, Brigido Tonacao.

In reversing the trial court's findings, the appellate court found, thus:

Since the plaintiffs-appellees had prior knowledge of the sale of the questioned property to the defendants-appellants--and even recognized and respected the latter's possession thereof--they acted with gross and evident bad faith in perfecting a contract of sale in their favor. Accordingly, since it has been proven that the defendants-appellants were the anterior possessors in good faith, ownership of the questioned property vested in them by sheer force of law. Besides, the defendants-appellants subsequently registered the deed of sale in their favor on June 10, 1986. For all intents and purposes, they were the first to register the deed of conveyance. Irrefragably, since they were the first vendees, their registration enjoyed the presumption of good faith.

Good faith is something internal. Actually, it is a question of intention. In ascertaining one's intention, this Court must rely on the evidence of one's **conduct** and **outward acts**.^[5] Good faith, or want of it, is capable of being ascertained only from the acts of one claiming its presence, for it is a condition of the mind which can