

THIRD DIVISION

[G.R. NO. 162045, March 28, 2006]

**SPOUSES MARIO ONG AND MARIA CARMELITA ONG, AND
DEMETRIO VERZANO, PETITIONERS, VS. SPOUSES ERGELIA
OLASIMAN AND LEONARDO OLASIMAN, RESPONDENTS.**

D E C I S I O N

CARPIO MORALES, J.:

By Deed of Sale dated June 1, 1992, Paula Verzano (Paula) sold an unregistered parcel of land covered by Tax Declaration No. 18-270-A ^[1] in her name to her niece Bernandita Verzano-Matugas (Bernandita)-daughter of her brother Isebero. ^[2] The land was particularly described as:

A parcel of land, covered by Tax Dec. No. 18-270-A, situated at Mampas, Valencia, Negros Oriental, bounded on the North by Crisanta Abequibel, 62.00 m.; on the East by Victoria Verzano, 90.00 m.; on the South by Demetrio Abante, 62.00 m.; and, on the West by Vicente Darong, 90.00 m., containing an area of .5518 square meters, more or less. x x x ^[3]

A road traversed the land, dividing it into two lots: **Lot 4080**, Cad. 903, with an area of approximately 3,624 sq. m., covered by Tax Declaration No. 20-020-0174; ^[4] and **Lot 4091**, Cad. 903, with an area of approximately 506 sq. m., covered by Tax Declaration No. 20-020-0214. ^[5]

Bernandita took initial steps to register the land but failed to complete the registration process. ^[6]

On November 26, 1992, Paula died single and without issue. ^[7] She was survived by her siblings herein petitioner Demetrio Verzano (Verzano), Victoria Verzano, and the children of her deceased brother Isebero Verzano, namely Isebero Verzano, Jr., ^[8] Epifanio Verzano, Bernandita and Estrella Verzano. ^[9]

On November 22, 1995, Verzano executed a public document entitled "Extrajudicial Settlement by Sole Heir and Sale" ^[10] wherein he adjudicated exclusively unto himself Lot 4080, Cad. 903 (the questioned lot) and sold it to petitioner Carmelita Ong (Carmelita). Carmelita subsequently caused the cancellation of Tax Declaration No. 20-020-0174 covering the questioned lot and the issuance of Tax Declaration No. 96-020-0316 ^[11] in her own name.

On February 5, 1996, Bernandita, by Deed of Sale of even date, ^[12] sold the questioned lot to respondents spouses Ergelia Olasiman and Leonardo Olasiman.

On November 28, 1997, respondents filed a Complaint ^[13] against petitioners, for annulment of the "Extrajudicial Settlement by Sole Heir and Sale," quieting of title, and damages before the Regional Trial Court (RTC) of Dumaguete City. They alleged, inter alia, that they, through their predecessors-in-interest, have been in actual, continuous and adverse possession of the questioned lot since time immemorial until mid-February 1996 when petitioners spouses Ong disturbed them in their possession by fencing the same; ^[14] and petitioner Verzano executed the "Extrajudicial Settlement by Sole Heir and Sale" fraudulently.

In their Answer (with Affirmative Defenses and Compulsory Counterclaim), ^[15] petitioners alleged that respondents, not being co-heirs, are not the real parties in interest; ^[16] and the RTC has no jurisdiction over the case as their cause of action is more of forcible entry. ^[17]

Applying Article 1544 of the Civil Code which provides:

Article 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first 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, (Underscoring supplied)

and finding petitioners spouses Ong to be buyers in good faith and the first to possess the questioned lot, Branch 41 of the Dumaguete City RTC dismissed respondents' complaint.

Defendant Demetrio Verzano is a compulsory heir [sic] of the deceased Paula Verzano and as the Tax Declaration under the name of the latter had not been cancelled, coupled with the fact that he continued to be in possession of the property in question, defendant Verzano had every reason to believe that the title to the property passed on to him upon Paula's death by operation of law. He had continued paying realty taxes thereon which plaintiffs, thru their predecessor-in-interest had not even bothered to pay. Hence, when defendant Maria Carmelita Ong had established defendant Verzano's relationship with the registered owner [sic] of the property and thereafter secured clearances from the Provincial Agrarian Reform Office, the BIR, the Municipal Agrarian Reform Office, and the Community Environment and Natural Resources Office II, and caused the cancellation of the Tax Declaration in the name of Paula Verzano, and filed an application for free patent, she was no doubt a buyer in good faith. Further being first in the possession of the property, defendant Maria Carmelita Ong must necessarily be preferred as neither of the parties have inscribed their respective Deeds of Sale with the Register of Deeds.

In the case of *Vda. De Laig v. Court of Appeals*, 82 SCRA 294, it was held:

"Where there was no proper inscription of two deeds of sale of the same land, the vendee who in good faith was first in possession will be preferred."

Plaintiffs have not shown an iota of proof that they were first in possession of the property as vendees thereof. Plaintiffs' predecessor-in-interest, Bernandita Matugas contends that her caretaker, Fidela Darong, cultivated the land in question. However, the Agricultural Leasehold Contract shows that Darong cultivated the same as a lessee of the questioned property and not as an agent or caretaker of the buyer thereof. Had plaintiffs Olasimans made further inquiries, they would have known that as early as 23 November 1995, defendant Maria Carmelita Ong had filed her notice and application for free patent. Hence, they were buyers in bad faith.

On the other hand, defendant Maria Carmelita Ong has shown that she had fenced the property and that per certifications of the MARO, the said property has not been cultivated nor tenanted. Between a bare allegation of possession by plaintiffs and a certification from the MARO that the property is untenanted, the latter is given more credence on the presumption that its officers acted in the performance of its duties. Hence, the Contract of Sale executed by Demetrio Verzano in favor of Maria Carmelita Ong should be given effect.

Therefore, it becomes unnecessary to discuss the other issues as without ownership, an action may not be brought to remove such cloud or to quiet title. ^[18] (Underscoring in the original; emphasis supplied)

On appeal by respondents, the Court of Appeals reversed the decision of the trial court by the assailed Decision ^[19] of October 14, 2003. It found the "Extrajudicial Settlement by Sole Heir and Sale" to be void not only because Verzano was not the only heir when he executed the same document, ^[20] but also because "when the deed, by which the property in question was sold by Demetrio Verzano to appellees Carmelita and Mario Ong, was executed on November 22, 1995, the original owner, Paula Verzano, had already disposed of the same in favor of her niece, Bernandita Matugas, on June 1, 1992, by virtue of a Deed of Sale." (Underscoring supplied)

The appellate court thus concluded that **"the second sale was invalid and of no effect because Demetrio Verzano had nothing to convey** and transfer to appellees at the time of the second sale." ^[21] (Emphasis and underscoring supplied)

The trial court's application of Article 1544 of the Civil Code was erroneous, held the appellate court, because the case does not involve a double sale. For respondents bought the questioned lot from Bernandita to whom it was sold by the original owner Paula, whereas petitioners bought it from Verzano whose claim to ownership arose from the "Extrajudicial Settlement by Sole Heir and Sale."