

## THIRD DIVISION

[ G.R. NO. 146550, March 17, 2006 ]

**FELIPA DELFIN, GINA MAALAT, SHIRLEY TAMAYO, RECIO DAÑOS, AND ROBERTO DELFIN, PETITIONERS, VS. PRESENTACION D. BILLONES, ROSARIO D. DEMONARCA (ACCOMPANIED BY HUSBAND PEDRO AND DEMONARCA), WENEFREDO DEGALA (REPRESENTING PEDRO DEGALA), RAMON DELA CRUZ (REPRESENTING HIS DECEASED WIFE MARIA DARADAR DELA CRUZ), TERESITA DALIVA DEVIENTE (DAUGHTER OF ESPERANZA DARADAR DALIVA), AND JOLLY DATAR (REPRESENTING HIS DECEASED MOTHER TRINIDAD D. DATAR) AND THE COURT OF APPEALS, RESPONDENTS**

### DECISION

**TINGA, J.:**

This treats of the petition for review on certiorari assailing the Decision<sup>[1]</sup> and Resolution of the Court of Appeals in CA-G.R. CV No. 54035 entitled *Presentacion D. Billones, et al. v. Felipa Delfin, et al.*, promulgated on 13 October 2000 and 26 December 2000, respectively, which reversed the 27 May 1996 Decision of the Regional Trial Court, Branch 15 of Roxas City.

The antecedents are as follows:

On 29 July 1960, a Deed of Absolute Sale<sup>[2]</sup> over Lot No. 213, covered by RO-5563 (14516) of the Cadastral Survey of Panitan, Capiz, was executed by Teresa Daños, Esperanza Daradar, Estrella Daradar and Maria Daradar, with the marital consent of Cipriano Degala, husband of Teresa Daños, in favor of the spouses Rodolfo Delfin and Felipa Belo (spouses Delfin). The document, so it appears, bore the signatures of Esperanza and Estrella, as well as the thumb marks of Teresa, Maria, and Cipriano, and was acknowledged before a notary public. On 18 November 1980, the spouses Delfin registered the Deed of Absolute Sale with the Register of Deeds of the Province of Capiz. Thereupon, a new title, Transfer Certificate of Title (TCT) No. T-17071, was issued in the name of the spouses Delfin.<sup>[3]</sup>

Meanwhile, on 26 March 1965, an Extra-Judicial Partition and Absolute Deed of Sale<sup>[4]</sup> involving Lot No. 3414 then covered by TCT No. T-16804 was made between Teresa Daños, Trinidad Degala, Leopoldo Degala, Presentacion Degala, Rosario Degala and Pedro

Degala, on one part, and the spouses Delfin, on the other. The deed, bearing either the thumb marks or the signatures of the sellers, was likewise notarized. Said document was registered by the spouses Delfin on 24 June 1980. Thus, TCT No. T-16804 covering Lot No. 3414 was cancelled and a new one, TCT No. T-16805, was

issued in the names of the spouses Delfin on 24 June 1980.<sup>[5]</sup>

The spouses Delfin then consolidated Lots No. 213 and No. 3414 and subdivided the resulting lot into six (6) smaller lots.<sup>[6]</sup> Lot No. 1, covered by TCT No. T-19618, was sold to Roberto Delfin on 21 October 1989; Lot No. 2 covered by TCT No. T-19619 to Recio Daños on 25 April 1985; Lot No. 3 covered by TCT No. T-19620 to Gina Maalat on 14 June 1989, and; Lot No. 4 covered by TCT No. T-19621 to Shirley Tamayo on 11 August 1989. Lot No. 5 remained with the spouses Delfin, while Lot No. 6 was used as an access road.<sup>[7]</sup>

On 12 April 1994, herein respondents, claiming to be the heirs of the former owners of Lots No. 213 and No. 3414, filed an action for annulment, reconveyance, recovery of ownership and possession and damages.<sup>[8]</sup> According to them, it was only in 1989<sup>[9]</sup> when they

discovered that Teresa Daños, sick and in dire need of money, was constrained to mortgage the one-half (1/2) portion of Lot No. 3414 to the spouses Delfin for P300.00 sometime in 1965.<sup>[10]</sup> Taking advantage of her condition, the spouses Delfin made her sign a document purporting to be a mortgage, but which turned out to be an extrajudicial partition with deed of absolute sale. As to Lot No. 213, respondents averred that the Deed of Sale covering the property was fictitious and the signatures and thumb marks contained therein were all forged because three (3) of the signatories therein died before the alleged sale in 1960, namely: Estrella Daradar, who died in 1934, and Esperanza Daradar and Cipriano Degala, who both died in 1946.<sup>[11]</sup> As proof thereof, respondents presented certifications<sup>[12]</sup> on the deaths of Esperanza Daradar and Cipriano Degala by the Local Civil Registrar of Panitan, Capiz.

To counter respondents' arguments, petitioners alleged that respondents' action was already barred by prescription and laches. Further, they argued that the spouses Delfin, as well as the subsequent owners of the subject properties, are innocent purchasers for value and in good faith, whose titles to the lots at the time of the purchase were all clean and free from liens and encumbrances.<sup>[13]</sup> The documents evidencing the conveyance of the properties were personally and unilaterally executed by the vendors-signatories therein without any intervention from the spouses Delfin, and duly acknowledged before a notary public, petitioners averred.<sup>[14]</sup>

Giving credence to the claims of petitioners, the trial court ruled that respondents' claim of ownership over the subject properties was not established by a preponderance of evidence. Compared to respondents' verbal claims of ownership, the spouses Delfin were able to prove that they bought the properties from the original owners, the trial court added. The trial court held that the deeds of sale being duly executed notarial and public documents, they enjoy the presumption of regularity which can only be contradicted by clear and convincing evidence. In addition, respondents' claims based on fraud were barred by prescription, having been filed more than four (4) years from the time the instruments were registered with the Register of Deeds, and they are estopped from annulling the documents by reason of laches, the action having been filed 15 years after the deeds were registered. The trial court also denied respondents' claims for damages.<sup>[15]</sup>

Respondents elevated the case to the Court of Appeals, which reversed the ruling of the trial court. In its Decision,<sup>[16]</sup> the Court of Appeals ruled that while an action for reconveyance based on implied or constructive trust prescribes in ten (10) years from the date of the issuance of the certificate of title over the property, such prescriptive period does not apply if the person claiming to be the owner of the property is in possession thereof, such as respondents in this case.<sup>[17]</sup> Moreover, considering that a similar action for reconveyance was filed by respondents as early as 1989 which was eventually dismissed without prejudice, respondents' action to annul the two (2) deeds on the ground of fraud has not yet prescribed, according to the Court of Appeals.<sup>[18]</sup>

The appellate court annulled the Extra-Judicial Partition and Deed of Sale covering Lot No. 3414. The appellate court noted that: (i) Teresa Daños was a very old and sickly woman; (ii) she and her children lacked formal education to fully comprehend the document to which they affixed their signatures and/or thumb marks; (iii) P300.00 was inadequate consideration for a lot consisting of 1,565 square meters even in 1965; (iv) respondents were allowed to remain in the subject properties; and (v) the questioned document was registered in the name of the spouses Delfin 15 years after the alleged date of its execution, when most of the alleged vendors have already died. These circumstances surrounding the execution of the said document show that the real intention was merely to secure the loan of P300.00. Thus, what took place was in fact, an equitable mortgage and not a sale.<sup>[19]</sup>

As for Lot No. 213, the Court of Appeals held that the Deed of Absolute Sale could not have been executed on 9 July 1960. Relying on the certifications of death presented by respondents, the Court of Appeals ruled that the defense of due execution cannot prevail over the fact that two (2) of the signatories therein have already died prior to said date.<sup>[20]</sup> Roberto Delfin, Recio Daños, Gina Maalat, and Shirley Tamayo, buyers of the subdivided lot, could not be considered as purchasers in good faith nor entitled to be protected in their rights because they were informed by respondents prior to the purchase that they, and not the spouses Delfin, are the real owners of the lots, the appellate court added.<sup>[21]</sup>

The Court of Appeals thus ruled:

WHEREFORE, premises considered, the present appeal is hereby GRANTED. The Decision dated May 27, 1996 of the Regional Trial Court of Roxas City, Capiz, Branch 15 presided over by Judge Roger B. Patricio is hereby REVERSED and SET SIDE and a new one entered:

(1) Annulling the Extra-Judicial Partition and Deed of Absolute Sale dated March 26, 1965 and Deed of Absolute Sale dated July 9, 1960;

(2) Reinstating OCT No. RO-5563 (14516) referring to Lot 213 registered in the names of Teresa Daños (1/2 portion), and the children of Lucia Daños, namely: Esperanza Daradar, Estrella Daradar and Maria Daradar (1/2 pro-indiviso) and OCT No. (4650) RO-5529 referring to Lot 3414 registered in the names of the late spouses Cipriano Degala and Teresa Daños, and canceling the TCTs issued thereafter;

(3) Ordering plaintiffs-appellants, jointly and severally, to pay defendant Felipa Belo Delfin the amount of P300.00 within thirty (30) days from the date of finality of this decision;

(4) Ordering defendants-appellees to free Lots 3414 and 213 from any and all obligations and encumbrances that may have been attached to both lots and thereafter to deliver possession of the same to plaintiffs-appellants; and

(5) Ordering defendants-appellees, jointly and severally, to pay plaintiffs-appellants P10,000.00 as exemplary damages, and [sic] for attorney's fees and P10,000.00 as litigation expenses.

Costs against defendants-appellees.

SO ORDERED.<sup>[22]</sup>

In the present petition for review under Rule 45, petitioners claim that the Court of Appeals erred in finding that respondents retained possession of the subject properties. Moreover, petitioners posit that respondent's allegations of fraud and forgery confine their action to a four (4)-year prescriptive period which has long expired. Additionally, they argue that respondents failed to: (i) prove the inadequacy of the selling price of Lot No. 3414; (ii) prove the frail condition of Teresa Daños; (iii) show that fraud attended the sale of Lot No. 213; (iv) show that Roberto Delfin, Recio Daños, Gina Maalat and Shirley Tamayo are not purchasers in good faith; and (v) overcome the presumption of regularity enjoyed by the notarized deeds of sale. Petitioners also question the award of exemplary damages and attorney's fees in favor of respondents.<sup>[23]</sup> On the other hand, respondents for the most part merely reiterated the ruling of the Court of Appeals.<sup>[24]</sup>

The complete resolution of the issues presented before the Court requires a determination of facts, which this Court, not being a trier of facts, does not normally exercise in an appeal by certiorari.<sup>[25]</sup> This rule, however, is subject to exceptions, such as where the factual findings of the Court of Appeals and the trial court are conflicting or contradictory,<sup>[26]</sup> as in the instant case.

When one's property is registered in another's name without the former's consent, an implied trust is created by law in favor of the true owner.<sup>[27]</sup> Implied trusts are those which, without being expressed, are deducible from the nature of the transaction by operation of law as matters of equity, independently of the particular intention of the parties. Meanwhile, constructive trusts are created in order to satisfy the demands of justice and prevent unjust enrichment. They arise against one who, by fraud, duress or abuse of confidence, obtains or holds the legal right to property which he ought not, in equity and good conscience, to hold.<sup>[28]</sup> An action for reconveyance based upon an implied or constructive trust prescribes in ten (10) years from the registration of the deed or from the issuance of the title, registration being constructive notice to all persons.<sup>[29]</sup> However, an action for reconveyance based on fraud is imprescriptible where the plaintiff is in possession of the property subject of the acts.<sup>[30]</sup>

In essence, petitioners insist that respondents failed to prove that fraud attended the sale of Lots No. 213 and No. 3414. The Court agrees.

A contract or conduct apparently honest and lawful must be treated as such until it is shown to be otherwise by either positive or circumstantial evidence.<sup>[31]</sup> A duly executed contract carries with it the presumption of validity. The party who impugns its regularity has the burden of proving its simulation.<sup>[32]</sup> A notarized document is executed to lend truth to the statements contained therein and to the authenticity of the signatures. Notarized documents enjoy the presumption of regularity which can be overturned only by clear and convincing evidence.<sup>[33]</sup>

As plaintiffs in the action before the trial court, respondents have the burden to establish their case by a preponderance of evidence, or evidence which is of greater weight or more convincing than that which is offered in opposition to it. Hence, parties who have the burden of proof must produce such quantum of evidence, with plaintiffs having to rely on the strength of their own evidence, not on the weakness of the defendant's.<sup>[34]</sup>

As regards Lot No. 3414, respondents specifically alleged that the spouses Delfin "tricked the plaintiffs and their late mother into signing a fictitious and simulated document," and that "TCT No. T-16805 was the product of a fictitious and simulated transaction [that] was obtained through fraud, the same should be declared null and void".<sup>[35]</sup> They claimed that the original owners of Lot No. 3414 did not intend to execute a deed of extra-judicial partition and absolute sale but only a mortgage instrument. However, all that respondents came out with were bare allegations that the said owners were either old and sickly or illiterate; that the purported selling price of P300.00 was unconscionable; and that petitioners failed to eject respondents from the subject land, as respondents were unable to present any evidence to substantiate their claims, much less the charge of fraud.

Respondents did not present any witness to testify on the execution of the deed, nor on the condition of the signatories thereto. At best, their witnesses merely testified as to the identity of the previous owners of the property. Worse, petitioners Presentacion Degala Billones and Rosario Degala Demonarca, both signatories to the subject deed, were not presented to testify on the real circumstances surrounding the assailed transaction. As for the selling price of P300.00, suffice it to say that respondents did not even present a witness to testify as to its alleged unconscionability *vis-a-vis* the prevailing market value of the property at the time of the sale. Meanwhile, the belated registration of the document with the Register of Deeds can be explained by the fact that the original of OCT No. 4650 covering Lot No. 3414 was either lost or destroyed and was reconstituted only in 1971, while the original copy of the deed of sale was lost by Felipa Delfin.<sup>[36]</sup>

Even respondents' claim of possession of the subject properties has not been sufficiently proved. This Court has uniformly held that "the one who is in actual possession of a piece of land claiming to be the owner thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right. His undisturbed possession gives him a continuing right to seek the aid of a court of equity to ascertain and determine the nature of the adverse claim of a third party and its effect on his own title, which right can be claimed only by one who is in