

## THIRD DIVISION

[ G.R. No. 138280, March 10, 2003 ]

**LEON REQUIRON, PETITIONER, VS. PATRICIA, ERNESTO AND ROSALINA, ALL SURNAMED SINABAN; CONRADO, GERTRUDES, ELARIA, FEDELINA, FLORDELIZA AND EMETERIO, ALL SURNAMED JAVELLO; ALFREDO, MIGUEL, OFEMIA, AMBROCIO, NATIVIDAD AND CONCHITA, ALL SURNAMED NICOLAS, PLAINTIFFS-RESPONDENTS.**

**LEONCIA JAVELLO VDA. DE ASUELO, CECILIA, TEODOLFO, VILMA, JIMMY AND TERESITA, ALL SURNAMED ASUELO, DEFENDANTS-RESPONDENTS.**

### D E C I S I O N

**PUNO, C.J.:**

At issue in this Petition for Review on *Certiorari*<sup>[1]</sup> is the validity of a public auction sale of a parcel of land measuring fifty-six thousand six hundred seventy-two (56,672) square meters known as Lot No. 915 and located at Barangay Rizal, Sagay Cadastre, Sagay, Negros Occidental.<sup>[2]</sup> The factual antecedents are as follows:

Lot No. 915 was originally co-owned by Catalino, Mariano, Cristina, Abundia, Segunda and Castor,<sup>[3]</sup> all surnamed Javello.<sup>[4]</sup> Cristina and Castor died without issue and by virtue of intestate succession, their rights and interests in the property were inherited by their surviving brothers and sisters, namely: Catalino, Mariano, Abundia, and Segunda.<sup>[5]</sup> At the start of the legal dispute, all co-owners have already died. **Mariano** died in 1942 and was survived by plaintiffs-respondents Gertrudez, Elaria, Fedelina, Flordeliza and Emeterio, all surnamed Javello. **Segunda** died in 1945 and was survived by plaintiffs-respondents Alfredo, Miguel, Ofemia, Ambrosio, Natividad and Honchita, all surnamed Nicolas. **Catalino** died in 1957 and was survived by plaintiffs-respondents Juanito Javello and Conrado Javello. Juanito later died in 1971 without issue. Meanwhile, **Abundia** died in 1970 and was survived by plaintiffs-respondents Patricia, Rosalina, and Ernesto, all surnamed Sinaban.<sup>[6]</sup>

Since 1950, defendants-respondents have been in possession of Lot No. 915 and executed acts of ownership over the property. They mortgaged the property to Alfredo Maraño from 1952 to 1957,<sup>[7]</sup> leased the same to Napoleon Sandoval from 1966-1971,<sup>[8]</sup> and then to Anita Sandoval from 1971-1975.<sup>[9]</sup> They also paid the land taxes.<sup>[10]</sup>

On May 29, 1972, plaintiffs-respondents filed a Complaint<sup>[11]</sup> to recover ownership and possession of Lot No. 915. The Complaint was docketed as Civil Case No. 946 and was raffled to the former Court of First Instance (CFI), now Regional Trial Court

of San Carlos City, Branch VII, presided by Hon. Judge Jose L. Coscolluela.

Plaintiffs-respondents claimed that in 1952, their predecessors-in-interest leased the property to Teofilo Asuelo, defendants-respondents' predecessor-in-interest, for a period of fifteen (15) years.<sup>[12]</sup> After the alleged verbal lease expired in 1967, plaintiffs-respondents tried to recover the property but the defendants-respondents refused. The latter averred that on September 26, 1950, the late Catalino Javello sold his share of the property to Teofilo Asuelo and executed a Deed of Absolute Sale.<sup>[13]</sup> On March 24, 1951, Abundia Javello, Castor Javello and the other heirs sold their shares of the property to Teofilo Asuelo as evidenced by a document denominated as Declaration of Legal Heirs and Deed of Absolute Sale.<sup>[14]</sup> Following Catalino's demise, the late Abundia Javello and herein plaintiffs-respondents Juanito, Diosdado, Gertrudes, Hilaria, Adelina, Emetrio and Felisa, all surnamed Javello, and Natividad, Miguel and Ofelia, all surnamed Nicolas, confirmed the conveyances through a document denominated as Declaration of Heirship and Confirmation of Sale.<sup>[15]</sup>

Plaintiffs-respondents questioned the authenticity of the Deed of Absolute Sale executed by Catalino Javello in favor of Teofilo Asuelo. They claimed that the late Catalino Javello was illiterate and hence, could not have signed the instrument.<sup>[16]</sup> Plaintiffs-respondents also disputed the authenticity of the Declaration of Heirship and Confirmation of Sale, alleging that the signatures and thumbmarks appearing therein were forged.<sup>[17]</sup> They also noted the discrepancies in the entries on the document; while the Certified National Archives copy of the document revealed that the Declaration of Heirship and Confirmation of Sale was supposed to have been notarized on August 8, 1965, the residence certificates of the persons mentioned therein were dated 1966.<sup>[18]</sup> Thus, petitioners-respondents prayed that said documents be declared void, and that they be returned to their possession of Lot No. 915. They also prayed for the return of the amount of ₱48,000.00 representing the net produce of the land from 1968 up to the institution of the case, the amount of ₱5,000.00 as actual damages, ₱5,000.00 as moral damages, and other relief and remedies available.<sup>[19]</sup>

Defendants-respondents belied the claims of the plaintiffs-respondents. They presented the Dactyloscopic Reports of the Bacolod Police Department<sup>[20]</sup> and the National Bureau of Investigation<sup>[21]</sup> attesting to the genuineness of Emetrio Javello's thumbmark in the Declaration of Heirship and Confirmation of Sale. They also presented a Sworn Declaration<sup>[22]</sup> signed by Catalino Javello, in connection with his free patent application, to disprove his alleged illiteracy. Atty. Tereso Canoy, the notary public who acknowledged all the questioned documents, testified as to the authenticity of the signatures of the plaintiffs-respondents.<sup>[23]</sup> He also explained that the alleged discrepancy in the Declaration of Heirship and Confirmation of Sale was a mere "clerical error."

During the pendency of Civil Case No. 946 in the former CFI of San Carlos, both parties failed to pay the assessed real property taxes on Lot No. 915 totaling ₱1,317.98. Consequently, the Municipal Treasurer of Sagay, Negros Occidental offered the property for public auction. The notice of sale, dated October 15, 1973, indicated that the auction was to be conducted on December 14, 1973 from 10:00

am - 12:00 noon.<sup>[24]</sup>

Upon learning of the scheduled public auction, Mrs. Cecilia Asuelo Ferraro, one of the defendants-respondents, went to the office of Mr. Eduardo Mahilum, then the municipal treasurer of Sagay, and offered a partial payment for the taxes due on Lot No. 915. Mr. Mahilum suggested to Mrs. Ferraro to make the payment to the provincial treasurer. The latter went to the provincial treasurer's office as suggested and tendered the amount of P359.82 as partial payment for the tax delinquency on her property.<sup>[25]</sup> As a result, the provincial treasurer of Negros Occidental, on December 12, 1973, sent a POLCOM Radio message to Mr. Mahilum, suspending the scheduled public auction sale of Lot No. 915, viz:

MESSAGE VIA POLCOM RADIO

December 12, 1973

MUNICIPAL TREASURER  
SAGAY

MRS. CECILIA A. FERRARO MADE PARTIAL PAYMENT OF P359.82 FOR LAND TAXES LOT 915 AND PROMISED TO PAY SUBSTANTIALLY NEXT WEEK STOP MEANTIME SUSPEND SALE AT PUBLIC AUCTION OF SAID LOT END.

Sent by:

(SGD.) TIRSO T. SANTILLAN  
Provincial Treasurer<sup>[26]</sup>

On that same day, December 12, 1973, petitioner went to the office of Mr. Mahilum, and expressed his intention to participate in the public bidding.<sup>[27]</sup> He tendered the amount of ₱1,531.17 covering the unpaid real property taxes on Lot No. 915 and other costs.<sup>[28]</sup> The municipal treasurer accepted the petitioner's payment but refused to give receipt since the auction was yet to be conducted in two days.<sup>[29]</sup> Mr. Mahilum denied that he received the POLCOM message suspending the public auction.<sup>[30]</sup>

On December 14, 1973, the announced date of the auction, no one made a bid on the property.<sup>[31]</sup> On April 1, 1974, plaintiffs-respondents sold the property to the petitioner.<sup>[32]</sup> On March 21, 1975, the municipal treasurer issued a Certificate of Repurchase of Real Property After Sale to the petitioner in behalf of Catalino Javello.<sup>[33]</sup> On February 27, 1976, petitioner filed a Complaint-in-Intervention<sup>[34]</sup> in Civil Case No. 946 claiming that he bought the property in the public auction. Petitioner argued that he obtained superior right of ownership over the disputed property as neither of the parties endeavored to repurchase the property within the reglementary period. He prayed that he be declared the rightful owner of Lot No. 915, and be given the possession of the property to the exclusion of the plaintiffs-respondents and defendants-respondents. In addition, he asked the court to order defendants-respondents to pay the sum of P15,000.00 a year from December 14, 1973 up to the time when the property is given, and the sum of ₱3,000.00 as

attorney's fees.<sup>[35]</sup>

On May 4, 1976, defendants-respondents filed their Opposition to the Complaint-in-Intervention,<sup>[36]</sup> claiming that herein petitioner has no legal right or interest in the property. They argued that the petitioner could not have validly purchased the property since he tendered payment two days earlier than the scheduled auction sale. Defendants-respondents contended that even assuming the validity of the sale, petitioner's right was merely inchoate since the Final Bill of Sale has yet to be issued by the provincial treasurer. More, defendants-respondents argued that the petitioner was merely holding the property in behalf of Catalino Javello as stated in the Certificate of Repurchase After Sale.

On May 11, 1976, Judge Coscolluela issued an Order<sup>[37]</sup> admitting petitioner's Complaint-in-Intervention. Thereupon, the parties presented their respective evidence.

Hearing on the case was held in abeyance on October 29, 1982 due to the reorganization of the judiciary under Executive Order No. 864 and B.P. Blg. 129. The case was subsequently transferred to the RTC, Branch 60 of Cadiz City, Negros Occidental, presided by Judge Adelino H. Ledesma.

While hearing on Civil Case No. 946 was on hold, the Land Registration Commission issued on January 5, 1983, the decree of Lot No. 915 Sagay Cadastre in favor of the plaintiffs-respondents.<sup>[38]</sup> Subsequently on February 17, 1983, the Register of Deeds of Negros Occidental issued OCT No. N-1006, covering Lot No. 915, in the name of the plaintiffs-respondents.<sup>[39]</sup> On that same day, counsel for plaintiffs-respondents filed an unverified ex-parte Motion for Confirmation of Sale of Lot No. 915 in favor of the petitioner with the RTC Branch 60 presided by Judge Ledesma.<sup>[40]</sup> The Motion was approved by Judge Ledesma on February 28, 1983.<sup>[41]</sup> On March 1, 1983, the Register of Deeds of Negros Occidental cancelled OCT No. N-1006 covering Lot No. 915 Sagay Cadastre issued in the name of the plaintiffs-respondents and issued TCT No. T-125258 in the name of the petitioner.<sup>[42]</sup> On April 20, 1983, the petitioner mortgaged the property to the Philippine National Bank for the sum of P129,900.00.<sup>[43]</sup> Defendants-respondents claimed that in all these instances, they were not given notice and consequently, were not able to defend their rights over the property.<sup>[44]</sup>

Hearing on Civil Case No. 946 resumed on July 11, 1984. On September 12, 1986, Judge Abelino H. Ledesma rendered a Decision<sup>[45]</sup> sustaining the petitioner's Complaint-in-Intervention as an alleged buyer in the public auction sale of December 14, 1973. The lower court, however, did not resolve the respective claims of plaintiffs-respondents and defendants-respondents. Pertinent portion of the Decision reads:

The Court, after going over the evidence of all the parties herein, finds that the weight of the evidence tends to show that the intervenor has acquired a superior right over the property in question after it had purchased the lot in question in an auction sale conducted in (*sic*) December 14, 1973 at Sagay, Negros Occidental, by paying the tax delinquency (Exhs. "2" and "2-A", Intervenor); and a "Certificate of

Repurchase After Sale" had been issued he declared the property in his name (Exh. "4", Intervenor) and thereafter paid the land taxes for 1975 to 1984 (Exhs. "5" to "5-k", inclusive, Intervenor).

Indeed, the plaintiffs and the defendants, lost whatever rights they have on the property in question after the same was sold in the auction sale, and the lot in question was awarded to the Intervenor herein.

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the Intervenor and against the plaintiffs and the defendants:

- (1) Dismissing the plaintiffs' complaint;
- (2) Declaring the Intervenor as the legal and the lawful owner of Lot 915, of Sagay Cadastre;
- (3) Ordering all the defendants to vacate the premises of Lot 915 of Sagay Cadastre and deliver the possession thereof to the Intervenor Leon Requiron;
- (4) Ordering the defendant to jointly pay the Intervenor ₱2,000.00 as attorney's fees; and
- (5) Ordering the defendant to pay the costs.

SO ORDERED.<sup>[46]</sup>

The defendants-respondents appealed the lower court's Decision and raised the following issues to the Court of Appeals: (1) whether a public auction sale was conducted on December 14, 1973, (2) assuming that a public auction was conducted, whether said auction sale was valid, (3) whether Leon Requiron bought the property in question for himself or in representation of the heirs of the late Catalino Javello, and (4) whether the document denominated as Declaration of Heirship and Confirmation of Sale dated August 8, 1966 is fictitious.<sup>[47]</sup> Plaintiffs-respondents did not file an appeal.

On April 3, 1998, the Court of Appeals issued a Decision nullifying the auction sale of Lot 915 and declaring defendants-respondents as lawful owners of the property, viz:

WHEREFORE, the appealed decision is hereby REVERSED and another one entered:

1. Declaring the auction sale in favor of intervenor-appellee Leon Requiron as null and void.
2. Declaring defendants-appellants Leoncio Asuelo, et al., as lawful owners of Lot 915 of Sagay Cadastre, Negros Occidental.
3. Ordering the cancellation of TCT No. T-125258 issued to intervenor-appellee Leon Requiron in favor of defendants-appellants, subject to payment of registration fees.
4. Ordering defendants-appellants to reimburse intervenor-appellee the amount he paid for taxes on the lot, with 6% legal interest from date of filing of the complaint-in-intervention.

SO ORDERED.<sup>[48]</sup>