

FIRST DIVISION

[G.R. No. 132810, December 11, 2000]

ESPERANZA SALES BERMUDEZ, PETITIONER, VS. HELEN S. GONZALES, EDGARDO S. GONZALES, MARINA N. GONZALES, ROMANO S. GONZALES, DARIA GONZAGA AND HON. COURT OF APPEALS, RESPONDENTS.

D E C I S I O N

PARDO, J.:

The Case

The case is an appeal^[1] from the decision of the Court of Appeals^[2] dismissing petitioners' special civil action for certiorari which assailed the order of the Regional Trial Court, Tarlac, Tarlac, Branch 65^[3] issuing a writ of demolition in favor of private respondents.

Factual Background

On November 28, 1968, Severo Sales (hereinafter referred to as "Severo") and his daughter, Esperanza Sales Bermudez (hereinafter referred to as "Esperanza") filed with the Court of First Instance, Tarlac, Branch 3 a complaint for "Annulment of Deed" against Leonilo Gonzales (hereinafter referred to as "Leonilo").^[4]

In the complaint, Severo and Esperanza alleged:

(1) That Severo was the owner of an unregistered parcel of land located in the Municipality of Bugallon, Province of Pangasinan with an approximate area of five thousand two hundred and twenty nine (5,229) square meters.

(2) That on December 24, 1968, Severo donated a portion of property (nine hundred (900) square meters) to Esperanza.

(3) That sometime in January 1959, Severo entered into an agreement with the late Ernesto Gonzales for the lease of the remaining portion of the land, with an approximate area of four thousand three hundred thirty nine (4,339) square meters in the amount of P2,700.00.

(4) That pursuant to this lease agreement, Ernesto Gonzales made Severo and his wife, Margarita Ferrer sign a document. They were not

given a copy of this document.

(5) That in the later part of October 1968, Severo received a photostatic copy of a Deed of Sale covering an area of five thousand seven hundred and thirty three (5,733) square meters of the subject land, signed by him and his wife at San Manuel, Tarlac and ratified before a Notary Public.^[5]

Severo claimed that he never signed the deed of sale and that if ever there was a transaction over the subject land, it was one of mortgage and not of sale, thus the complaint for "Annulment of Deed".

Leonilo is the son and predecessor-in-interest of the late Ernesto Gonzales. Before the Court of First Instance, Leonilo claimed:

(1) That the subject land was transferred to him by virtue of the assailed Deed of Sale;

(2) That Severo and Esperanza have been staying on the said land not as its owners but as ordinary occupants, without rent and only because of his tolerance;

(3) That he paid for the real estate taxes on the said land from 1960 to 1968.^[6]

On October 27, 1969, the Court of First Instance^[7] decided the case in favor of Leonilo, stating that the testimonies of Severo and Esperanza were not convincing enough to overthrow the deed of sale as a public document and that convincing evidence did not support the fraud. We quote the dispositive portion:

"WHEREFORE, judgment is hereby rendered in favor of the defendant and against the plaintiffs, ordering the latter.

"1. Ordering the dismissal of the complaint;

"2. Declaring that the defendant is the lawful owner of the land described in Exhibit "2" and "2-A (Same as exhibit "H") and is, therefore, entitled to the possession thereof;

"3. Ordering the plaintiffs, jointly and severally, to pay the defendant the sum of P2,000.00 by way of attorney's fees;

"4. Ordering the plaintiffs, jointly and severally to pay the costs.

"SO ORDERED."^[8]

Unsatisfied, petitioners appealed to the Court of Appeals.^[9]

On October 27, 1972, defendant Leonilo passed away.

On December 19, 1974, the Court of Appeals^[10] promulgated its decision affirming the afore-quoted decision, thus:

"WHEREFORE, the decision appealed from is hereby affirmed with the sole modification that the plaintiffs shall only pay, jointly and severally, the amount of P1,000.00 to the defendant as attorney's fees, without pronouncements as to costs.

"SO ORDERED."^[11]

Again aggrieved, petitioners appealed to the Supreme Court.^[12]

On July 29, 1992, this Court, through the *ponencia* of Associate Justice Flerida Ruth P. Romero,^[13] promulgated a decision upholding the validity of the deed of sale and affirmed the decision of the Court of Appeals.^[14]

On October 28, 1992, the decision of the Supreme Court became final and executory and entry of judgment was made.^[15]

On August 11, 1993, Leonilo's heirs, respondents Helen Santos Gonzales, Edgardo Gonzales, Marina Gonzales and Romano Gonzales (hereinafter referred to by their first names, "Helen", "Edgardo", "Marina", and "Romano" respectively) filed with the trial court a "Notice of Substitution of Parties."^[16]

On August 20, 1993, petitioner received copy of the notice of substitution.^[17]

On March 3, 1994, the trial court granted respondents' "Motion for Execution and Appointment of Special Sheriff."

On October 21, 1994, the Regional Trial Court, Tarlac, Branch 65, through its Branch Clerk of Court, Atty. Enrico G. Barin issued a writ of execution addressed to Special Sheriffs Robert Tuquero and Antonio Leano, Office of the Provincial Sheriff, Regional Trial Court, Tarlac, Tarlac. The writ reads:

"NOW THEREFORE, you are hereby commanded to cause the execution of the aforesaid judgment to levy the goods and chattels of the plaintiffs, except those which are exempt from execution; and to make sale thereof in accordants (*sic*) the procedure outlined by Rule 39, Revised Rules of Court and in such cases made and provided, together with all your lawful fees for the service of this Writ.

"In case sufficient personal property of the plaintiffs cannot be found whereof to satisfy the amount of said judgment you are hereby directed to levy the real property of said plaintiffs and to sell the same or so much thereof in the manner provided for by law for the satisfaction of the said

judgment.

"WITNESS, the HON. RODOLFO V. TOLEDANO, Acting Judge of this Court."^[18]

On June 20, 1995, the trial court issued an "Alias Writ of Execution" in favor of respondents.

On August 3, 1995, Sheriffs Leano and Toquero issued a certification to the effect that respondents were placed in possession of the subject land by virtue of the June 20, 1995, *alias* writ of execution.^[19]

Facts Subject of the Petition

On November 2, 1995, respondents filed with the trial court, a "Petition for Demolition" alleging that Severo and petitioner Esperanza were given thirty (30) days from August 3, 1995, to remove and transfer their house erected on the subject property, but "since then and up to now, there is no visible effort on the part of the said parties to comply with the execution conducted."^[20]

On November 17, 1995, Severo and petitioner filed their opposition to the petition for demolition.^[21]

On June 21, 1996, the trial court issued an order to wit:

"WHEREFORE, let a writ of demolition be issued in favor of defendants, immediately."^[22]

On July 17, 1996, petitioner filed with the trial court a motion for reconsideration of the above-quoted order.

On January 24, 1997, the trial court found the motion for reconsideration to be bereft of merit and denied it.^[23]

On February 27, 1997, petitioner filed with the Court of Appeals a petition for certiorari with prayer for the issuance of a preliminary injunction and temporary restraining order.^[24]

On December 12, 1997, the Court of Appeals dismissed the petition, thus:

"WHEREFORE, the petition for certiorari, is hereby DENIED DUE COURSE and is DISMISSED."^[25]

On January 8, 1998, petitioner filed with the Court of Appeals a motion for reconsideration.

On February 27, 1998, finding no cogent reason to reconsider its decision, the Court