

## THIRD DIVISION

**[ G.R. No. 117609, December 29, 1998 ]**

**HEIRS OF SEVERA P. GREGORIO, REPRESENTED BY ITS  
ADMINISTRATRIX BUENCONSEJO PINEDA VDA. DE VIVAR,  
PETITIONERS, VS. COURT OF APPEALS, RICARDO SANTOS,  
ROSALINA PALOMO, SPOUSES WILSON TAN AND BENITA LUI  
TAN, RESPONDENTS.**

### DECISION

**PURISIMA, J.:**

At bar is an appeal by way of petition for review on certiorari from the decision of the Court of Appeals which reversed the holding of the Regional Trial Court of Quezon City, Branch 79, in Civil Case No. Q-49254, entitled Heirs of Severa P. Gregorio, et al., vs. Rosalina Palomo, vs. spouses Wilson and Benita Lui Tan, nullified the questioned Deed of Absolute Sale, dated July 14, 1971, as falsified, fictitious and forged, and adjudged the defendant spouses, Wilson Tan and Benita Lui Tan, as purchasers/holders in bad faith.

As culled by the Court of Appeals, the facts of the case are, as follows:

"Spouses Wilson Tan and Benita Lui Tan are the registered owners of a 1,381.1 square meter lot located along Quezon Blvd., Quezon City, covered by TCT No. 349788 issued by the register of Deeds of Quezon City.

The lot was previously owned by Severa Gregorio as evidenced by TCT No. 8787 issued to her on January 4, 1949.

Sometime in 1965, Shell company leased the lot from Severa for a period of twenty (20) years.

On September 20, 1976, Severa died intestate leaving behind three (3) legitimate children - Buenconsejo Vivar, Jesusa aGalang and Cecilio Pineda. On March 9, 1982, Cecilio died.

In late September or October, 1986, after the lease with Shell Company expired, Buenconsejo Vivar tried to sell the lot to one Federico Ng. So she asked her son Oliver to get certified true copies of the pertinent documents from the Quezon City Registry of Deeds. Oliver was able to secure certified true copies of (1) deed of absolute sale dated July 18, 1971 executed by Severa Gregorio in favor of Ricardo Santos; (2) deed of absolute sale dated September 17, 1986 executed by Ricardo Santos in favor of spouses Wilson and Benita Tan; and (3) deed of assignment executed by spouses Felicisimo and Rosalina Palomo in favor of spouses Wilson and Benita Tan.

Buenconsejo was shocked to find that her brother's title, TCT No. 8787, was cancelled and that in lieu thereof, TCT No. 349787 was issued to spouses Tan.

Records show that Severa Gregorio sold to Ricardo Santos 2/3 portion of the lot. Santos, in turn, sold the same 2/3 portion to spouses Wilson and Benita Tan for P1,400,000.00.

With respect to the remaining 1/3 portion, it appears that in 1978, spouses Felicisimo and Rosalina Palomo filed with the then Court of First Instance of Caloocan City an action for a sum of money against Jesusa Galang (Severa's daughter) and her husband Victoriano Galang. The court decided the case in favor of the Palomos. On December 20, 1978, the 1/3 undivided share of Jesusa in the lot was sold on execution to the Palomos, being the highest bidders. The Galangs failed to redeem the property within one year. Hence, a final deed of sale in favor of the Palomos was confirmed by the court and recorded in the Quezon City Registry of Deeds.

On September 18, 1986, the Palomos assigned to spouses Wilson and Benita Tan that 1/3 portion of the lot for P800,000.00.

On the same day, September 18, 1986, at the instance of spouses Tan, (1) the deed of sale between Severa Gregorio and Ricardo Santos, (2) the subsequent deed of sale between Ricardo Santos and spouses Tan and (3) the deed of assignment between spouses Palomo and spouses Tan were registered in the Quezon City Registry of Deeds. Consequently, TCT No. 8787 in the name of Severa Gregorio was cancelled and TCT No. 349788 was issued in the name of spouses Tan covering the entire lot.

On October 30, 1986, the heirs of Severa Gregorio filed with the trial court the instant complaint against spouses Tan for cancellation of title and/or reconveyance with damages alleging that the deeds of conveyance were forged and are therefore void.

Thereafter, or on June 11, 1988, a fire gutted the Quezon City Hall Building. The entire records of this case were destroyed. The key documents, such as the original copy of the deed of sale between Severa Gregorio and Ricardo Santos dated July 14, 1971 covering 2/3 portion of the lot; the original copy of the deed of sale between Ricardo Santos and spouses Tan covering the same portion dated September 17, 1986; the original copy of the deed of assignment from spouses Palomo to spouses Tan covering 1/3 portion of the same lot dated September 18, 1986; and the original copy of TCT No. 349788 in the names of spouses Tan were all burned.

On July 10, 1989, the trial court issued an order for the reconstitution of the records. The parties had hardly started the reconstitution when, on September 29, 1989, the heirs of Gregorio filed an amended and/or supplemental complaint which was admitted by the court. The supplemental matters revolved around the signature of Severa Gregorio

affixed to the July 14, 1971 deed of sale between her and Ricardo Santos. On February 12, 1990, spouses Tan filed an answer to the amended complaint alleging that the deed of sale was genuine and that they purchased the property in good faith.

Summons on defendant Ricardo Santos was effected through publication on May 28, June 4, and June 11, 1990. However, Santos did not file any answer. He was accordingly declared in default on September 13, 1990.

During the trial, the heirs of Gregorio presented as their witnesses Bienvenido Albacea, a Questioned Document Examiner of the National Bureau of Investigation (NBI); Dr. Wilhelmina Vibar, daughter of Buenconsejo Vibar; and Viterbo Cahilig, Records Officer, Quezon City Register of Deeds. Spouses Tan presented appellant Wilson Tan; Atty. Jose Ramos Sunga, counsel of spouses Tan; Records Officer Viterbo Cahilig; and June Pangilinan, OIC of the Records Section of the Regional Trial Court in Kalookan.

Defendants Palomo did not present any evidence but adopted all the testimonial and documentary evidence adduced by spouses Tan.

On December 29, 1992, the trial court rendered its decision, the dispositive portion of which reads:

'WHEREFORE, a decision is hereby rendered in this case as follows:

1. Declaring the forged Deed of Sale purportedly signed and executed by Severa P. Gregorio in favor of defendant Ricardo G. Santos dated July 18, 1971 conveying the subject property covered by TCT No. 8787 null and void ab initio;
2. Declaring the Deed of Absolute Sale executed by Ricardo G. Santos in favor of spouses Wilson C. Tan and Benita Lui Tan dated September 17, 1986 conveying 2/3 undivided portion of the subject property covered by TCT No. 8787 null and void ab initio;
3. Declaring and maintaining the validity of the Deed of Assignment executed by Spouses Felicisimo Palomo and Rosalina Palomo in favor of spouses Wilson C. Tan and Benito Lui Tan dated September 18, 1986 regarding 1/3 undivided portion of the subject property covered by TCT No. 8787;
4. Declaring null and void and ordering the cancellation of TCT No. 349788, Quezon City Registry, in the name of spouses Wilson C. Tan and Benita Lui Tan;
5. Declaring null and void and ordering the cancellation of TCT No. 349789, Quezon City Registry, in the name of Ricardo G. Santos;
6. Ordering the Register of Deeds of Quezon City to reinstate TCT No. 8787, Quezon City Registry, in the name of the registered owner Severa P. Gregorio including all the entries in the memorandum of

encumbrances;

7. Ordering the Register of Deeds of Quezon City to annotate the memorandum of encumbrance of TCT No. 8787, the Deed of Assignment of 1/3 undivided share of spouses Felicisimo Palomo and Rosalina Palomo in favor of spouses Wilson C. Tan and Benita Lui Tan dated September 18, 1986;

8. Ordering defendant Ricardo G. Santos to pay plaintiffs' attorney's fees in the sum of P50,000.00;

9. Ordering defendant Ricardo G. Santos to pay and return to spouses Wilson C. Tan and Benita Lui Tan the purchase price of 2/3 portion of the subject property in the sum of P1,400,000.00 with legal rate of interest to be computed from the date of the filing of this case until it is fully paid;

10. Ordering defendant Ricardo G. Santos to pay spouses Wilson C. Tan and Benita Lui Tan P100,000.00 moral damages and P50,000.00 attorney's fees;

11. Ordering the plaintiffs to pay spouses Wilson C. Tan and Benita Lui Tan the sum of P69,946.41 by way of reimbursement of the taxes paid for the subject property by spouses Tan."<sup>[1]</sup>

From the aforesaid Decision, both the plaintiffs and defendant spouses Tan appealed to the Court of Appeals - the plaintiffs with respect to the ruling below (a) ordering them to reimburse the spouses Tan the sum of P69,946.41 representing unpaid realty taxes allegedly paid by the latter for the property, (b) declaring as valid the deed of assignment between the spouses Palomo and defendant spouses Tan over the 1/3 undivided portion of subject lot, and (c) disallowing the removal and/or demolition of whatever improvements plaintiffs may have introduced on the property. Defendants appealed with respect to the finding by the trial court that they were not innocent purchasers for value of the 2/3 undivided portion or interest in the property and that the notarized Deed of Sale dated July 14, 1971 was falsified and forged.

On April 29, 1994, the Twelfth Division of the Court of Appeals came out with a decision<sup>[2]</sup> reversing the aforementioned findings of the trial court, and disposing, thus:

"WHEREFORE, the questioned decision of the trial court is hereby REVERSED and SET ASIDE. The ownership and title of spouses Wilson Tan and Benita Lui Tan over the entire disputed lot are declared valid. Costs against the plaintiffs-appellants heirs of Severa Gregorio.

SO ORDERED."<sup>[3]</sup>

Hence, the appeal by the heirs of Severa Gregorio assigning as errors, that:

A. RESPONDENT COURT OF APPEALS ERRED IN NOT GIVING DUE WEIGHT TO THE TESTIMONY OF THE NBI HANDWRITING EXPERT FOR