

## **SPECIAL EIGHTEENTH DIVISION**

**[ CA-G.R. CV. NO. 03035, September 30, 2014 ]**

**DELIA TATAD-CAINGLET ASSISTED BY HER HUSBAND BERT CAINGLET, SPS. LORENZO AND DARIA CAMPANILLA, SPS. FLORENCIO AND SALUD BANLUTA, SPS. ALBERTO SAJULAN AND ESTRELLITA SAJULAN, AND HEIRS OF FELISA PARTOSA DINSAY, NAMELY: CORNELIA PAHANG, FRANK DINSAY, CECILBIANA TORIBIO, FELISA REGNER, PLACIDO DINSAY, RUDY TOSCANANINI TRIGO, JR., RUDYARD RAUL TRIGO, RALPH STEVEN TRIGO, REPRESENTED BY GENE AMISTOSO, AND MANUEL CARAGAN, <sup>ø</sup> PLAINTIFF-APPELLANTS, VS. SPS. BOLER BINAMIRA AND SHIRLEY BINAMIRA, DEFENDANT-APPELLEES. JOSEFINA M. JACINTO ASSISTED BY HER HUSBAND JACINTO JACINTO, SPS. ABRAHAM CHIU, SR., AND EVELYN CHIU, PLAINTIFF-APPELLANTS VS. SPS. BOLER BINAMIRA AND SHIRLEY BINAMIRA, RIZAL COMMERCIAL AND BANKING CORPORATION, TAGBILARAN BRANCH, REPRESENTED BY MR. DIOSCORO UY, DEFENDANT-APPELLEES.**

### **D E C I S I O N**

**INGLES, G. T., J.:**

#### **THE CASE**

This is an appeal to the Joint Judgment<sup>[1]</sup> dated 1 April 2009 of the Regional Trial Court, 7<sup>th</sup> Judicial Region, Branch 49, City of Tagbilaran in Civil Case Nos. 6403 and 6633, the dispositive portion whereof reads,

"WHEREFORE, judgment is hereby rendered:

1. In CIVIL CASE NO. 6403, ordering:

- a) The dismissal of the case with costs against the plaintiffs;
- b) Plaintiffs to pay jointly and severally to defendant-spouses Boler Binamira and Shirley Binamira the amount of Php100,000.00 as moral damages; Php10,000.00 as actual litigation expenses and Php25,000.00 as attorney's fees.

2. In CIVIL CASE NO. 6633. ordering:

- a) the dismissal of the case with costs against the plaintiffs;
- b) PLAINTIFFS to pay jointly and severally to defendant-spouses Boler Binamira and Shirley Binamira in the amount of Php100,000.00 as moral damages; Php10,000.00 as actual litigation expenses and Php25,000.00, as attorney's fees;
- c) PLAINTIFFS to pay jointly and severally the defendant RIZAL COMMERCIAL BANKING CORPORATION the amount of Php10,000.00 as litigation expenses and Php20,000.00 as attorney's fees.

SO ORDERED."

The subject matter of the instant controversy are portions of Lot No. 6745 (formerly Lot No. 775-D) located in the City of Tagbilaran originally covered by Original Certificate of Title (OCT) No. D-54<sup>[2]</sup> of the Register Deeds of Tagbilaran City under the names of the heirs of Hilarion [C]aragan, namely: Bonifacia, Vicente and Januaria. OCT No. D-54 was entered pursuant to Decree No. N-211529 issued in the Decisions dated August 26, 1992 and August 24, 1993 of the Regional Trial Court of Bohol, 7th Judicial Region, Branch 1, City of Tagbilaran in Cadastral Case No. 6, LRA Cadastral Record No. Rec. No. 1083. Subsequently, Transfer Certificate of Title No. T-40483 was issued over Lot No. 6745 (formerly Lot No. 775-D) under the names of Spouses Boler Binamira and Shirley Loquillano Binamira. The said spouses caused the subdivision of Lot No. 6745 into eleven (11) lots and the issuance of corresponding certificates of title.

### **THE ANTECEDENTS**

#### *Civil Case No. 6403*

On 23 April 1979, Restituto, Anastacio, Policarpo and Martina, all surnamed Caragan, sold<sup>[3]</sup> to Sps. Alberto and Estrellita Sajulan a portion of Lot No. 6745 designated as Lot No. 6745-F containing 218 square meters.

On 6 November 1979, Restituto Caragan with his wife's consent sold<sup>[4]</sup> to Sps. Florencio and Salud Banluta another portion of Lot No. 6745 designated as Lot No. 6745-H containing 207 square meters.

On 29 February 1980, Restituto Caragan with the consent of his wife sold another portion of Lot No. 6745 designated as Lot No. 6745-E containing 274 square meters thereof to the late Margarito Tatad survived by his wife Delia (now Cainglet).

On 6 September 1980, Restituto Caragan with his wife's consent sold<sup>[5]</sup> another portion of Lot No. 6745 designated as Lot No. 6745-A containing 400 square meters to Felisa Partosa Dinsay.

Then, again, on 1 December 1981, Restituto Caragan with the consent of his wife sold<sup>[6]</sup> another portion designated as Lot No. 6745-J-1 containing 100 square meters to Spouses Lorenzo Campanilla and Daria Sarahina Campanilla.

On 14 April 1992, Manuel A. Caragan, Policarpo D. Caragan, Perfecta D. Caragan, Martina D. Caragan and Anastacio Caragan executed an "Extrajudicial Settlement of Estate Among Heirs with Simultaneous Sale".<sup>[7]</sup> The said deed pertinently states, that,

"WHEREAS, on the 24<sup>th</sup> day of June 1975, BONIFACIA CARAGAN died intestate in the City of Tagbilaran, on the 3<sup>rd</sup> day of October 1942 VICENTE CARAGAN died intestate in the City of Tagbilaran; and on the 24<sup>th</sup> day of November, 1971, JANUARIA CARAGAN died intestate in the City of Tagbilaran leaving a certain parcel of land, more particularly bounded and described as follows:

x x x x

WHEREAS, Manuel A. Caragan is the only child of the late Bonifacia Caragan of her single blessedness; Policarpo, Perfecta and Martina all surnamed Caragan are the only children of the late spouses Vicente Caragan and Sebastiana Diez; and while Anastacio Caragan, is the only child of the late Januaria Caragan also of single blessedness, are the sole and only heirs of the above named deceased persons;

WHEREAS, the above-described parcel of land designated as Lot No. 775-D covered by Tax Dec. No. 3-823 has a pending petition for issuance of Decree and Title filed with the Regional Trial Court of Bohol;

WHEREAS, it is to the best interest of said heirs; who are all of legal ages, to settle the estate of the deceased among themselves extra-judicially, in the form and manner hereinafter set forth;

NOW THEREFORE, for and in consideration of the premises and invoking the provisions of Section 1, Rule 74 of the Rules of Court, said heirs above named do by these presents a [g]ree to settle the estate of the deceased extra-judicially and to this effect do hereby partition and adjudicate the same among themselves equally, the foregoing inheritance to be subject, however, to the liabilities imposed by Sec. 4, Rule 74 of the Rules of Court;

AND WITNESSETH FURTHER

That for and in consideration of the sum of FORTY-FIVE THOUSAND PESOS (P45,000.00), Philippine Currency, the receipt whereof i[s] hereby acknowledged, said HEIRS/VENDORS do by these presents SELL, CEDE, TRANSFER and CONVEY, unto the VENDEES, Spouses BOLER B. BINAMIRA and SHIRLEY LOQUILLANO BINAMIRA, both of legal age, Filipinos and residents of Burgos St., Tagbilaran City, Philippines, the

above described parcel of land inherited by them, agreeing further to warrant and forever defend to whatsoever claim by any other persons;

x x x x."

This extra-judicial settlement with simultaneous sale was annotated in the Original Certificate of Title No. D-54<sup>[8]</sup>. Pursuant to this extra-judicial settlement, etc., Transfer Certificate of Title No. T-40483<sup>[9]</sup> was issued over Lot No. 6745 (formerly Lot No. 775-D) under the names of Spouses Boler B. Binamira and Shirley Loquillano Binamira.

Subsequent transfer certificates of title were issued to the Spouses Binamira over some portions of Lot No. 6745, to wit: TCT No. T-48455<sup>[10]</sup> over Lot No. 6745-F; TCT No. T-48457<sup>[11]</sup> over 6745-H; TCT No. 48454<sup>[12]</sup> over 6745-E; TCT No. 48450<sup>[13]</sup> over Lot No. 6745-A and TCT No. T-48459<sup>[14]</sup> over Lot No. 6745-J.

A complaint was filed with Barangay Poblacion III by Delia Cainglet, Gene Amistoso, Lorenzo and Daria Campanilla, Florencio Banluta, Alberto Sajulan and Fe Ecamen against Boler Binamira for "Land Dispute Lot No. 6745, Psd 25359" docketed as Barangay Case No. 54-99.

After failure by the herein parties to amicably settle before the barangay, a Certification to File Action<sup>[15]</sup> was issued on 4 August 1999. By virtue of this certification, Delia Tatad-Cainglet assisted by her husband, Bert Cainglet, Sps. Lorenzo and Daria Campanilla, Sps. Florencia and Salud Banluta, Sps. Alberto Sajulan and Estrellita Sajulan, Heirs of Felisa Partosa Dinsay, and Manuel Caragan filed on September 2, 1999 a complaint for "Annulment of Extra-judicial Settlement with Deed of Absolute Sale and the Corresponding Titles, Quieting of Titles, Damages and Preliminary Injunction and Damages" against Sps. Boler Binamira and Shirley Binamira before the Regional Trial Court docketed as Civil Case No. 6403.

On 27 September 1999, the defendant-spouses filed their Answer with Affirmative Defense and Counterclaim.<sup>[16]</sup>

The parties then filed their respective pre-trial brief.

Subsequently, the plaintiffs amended<sup>[17]</sup> their complaint with prayer for preliminary injunction to implead a fellow plaintiff Manuel [C]Karagan as defendant.

In their amended complaint, the plaintiffs impleaded Manuel Caragan, a fellow plaintiff in the original complaint, as defendant reasoning that Manuel Caragan suddenly turned hostile while the instant case was progressing. They reiterated their main allegation that long before the issuance of OCT No. D-54, they have already presented to defendant Atty. Boler Binamira their respective claim of ownership over the portions they purchased from the heirs of the co-owners as shown in the deeds of sale attached thereto. They continued that despite his knowledge of their respective claim over the portions of the subject property, defendant Atty. Boler Binamira still went on to purchase the entire subject property from the

heirs/vendors Policarpio, Perfecta, Manuel, Martina and Anastacio, all surnamed Caragan. The plaintiffs added that the defendant-spouses caused the subdivision of Lot No. 6745 into eleven (11) lots – some of which have already been sold to the following: Sps. Sajulan (Lot No. 6745-F), Sps. Banluta (Lot No. 6745-H), Sps. Silos/Cainglet (Lot No. 6745-E), F. Dinsay (Lot No. 6745-A) and Sps. Campanilla (Lot No. 6745-J-1). The plaintiffs averred that the defendant-spouses have already sought assistance from government agencies to eject plaintiff-spouses Bert Cainglet and Delia Cainglet from the lot they purchased and to demolish their house erected thereon way back in 1984. Finally, they prayed to reconvey the subject lots to the plaintiffs and accordingly, annul/revoke the transfer certificates of title issued therefor, to pay damages, and to issue a writ of preliminary injunction.

By Order<sup>[18]</sup> dated 15 June 2000, the RTC, *inter, alia*, admitted the amended complaint and directed the defendant-spouses to manifest whether or not they would adopt the answer they filed to the original complaint.

The plaintiffs moved<sup>[19]</sup> to declare Manuel Caragan in default but the RTC in its Order<sup>[20]</sup> dated 20 November 2000 denied the motion for non-compliance with Section 3, Rule 9 Of the Rules. However, on reconsideration, the RTC in its Order<sup>[21]</sup> dated 29 January 2001 granted the plaintiffs' motion.

After the pre-trial conference, it was agreed that the following are the issues to be resolved, to wit:

- "1. Whether or not plaintiffs have a valid cause of action against the defendants in instituting this instant case;
2. Whether or not the contending parties are entitled to their respective claim for damages."<sup>[22]</sup>

By Notice,<sup>[23]</sup> Atty. Alberto Y. Bautista withdrew as counsel for the defendant-spouses.

Upon the parties' agreement, the RTC a quo ordered<sup>[24]</sup> the joint reception of evidence in Civil Case Nos. 6403 and 6633. will be heard jointly.

#### *Civil Case No. 6633*

On 11 April 1979, Restituto Caragan, Policarpo Caragan, Martina Caragan, Perfecta Caragan and Anastacio Caragan sold<sup>[25]</sup> two (2) portions of Lot No. 6745 (formerly (Lot No. 775-D) to Josefina Maputol of Guindulman, Bohol, denominated as Lot No. 6745-B measuring 239 sq. m. and Lot No. 6745-G measuring 286 sq. m., totaling to (525) square meters.

On 16 October 1986, Restituto Caragan sold<sup>[26]</sup> to Spouses Abraham Chiu, Sr. and Evelyn Partosa Chiu another portion of Lot 6745 denominated as Lot No. 6745-J-2 consisting of two hundred four (204) square meters.