

THIRTEENTH DIVISION

[CA-G.R. CV No. 101211, November 24, 2014]

**ELENA G. ANDALIS, PLAINTIFF-APPELLEE, VS. VIRGINIA
CAMILA ANDALIS AND SALVE ANDALIS-BALMEDINA,
DEFENDANTS-APPELLANTS.**

DECISION

LIBREA-LEAGOGO, J.:

Before this Court is an appeal under Rule 41 of the Rules of Court, assailing the Decision^[1] dated 20 February 2013 of the Regional Trial Court, National Capital Judicial Region, Branch 271, Pasig City in the case entitled "*Elena G. Andalis v. Virginia Camila Andalis and Salve Andalis-Balmedina*," docketed as Civil Case No. 72160-TG, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

*1.) The Deed of Sale of (sic) 16 June 1996 between Mauro Andalis and Virginia Andalis is hereby declared **NULL AND VOID**(;)*

2.) The plaintiff Elena Andalis and her children with Mauro Andalis are the heirs of Mauro Andalis and they have the right to claim portions of the property in accordance with the laws of succession;

3.) Plaintiff Elena Andalis have (sic) the right to one half (sic) (½) of the property as part of her conjugal partnership share; and

4.) The plaintiff and children of Elena and Mauro Andalis, Virginia Andalis and Salve Andalis-Balmedina are hereby ordered to choose from the three (3) options delineated by this Court on the last pages of this (D)ecision and to notify the Court thereof within fifteen (15) days from receipt of this (D)ecision otherwise the Court will require Virginia Andalis and Salve Andalis-Balmedina to vacate the entire property and to turn over its possession to Elena Andalis and her children with Mauro Andalis and to require Elena Andalis and the children of Mauro Andalis to reimburse Virginia Andalis so much of the property as to be considered within the free disposal of Mauro Andalis's (sic) estate.

SO ORDERED."^[2]

Defendants-appellants filed their Brief^[3] dated 25 May 2014. Plaintiff-appellee then filed her Appellee's Brief^[4] dated 22 August 2014. Per JRD verification,^[5] no reply

brief was filed as per docket book entry. Thus, the case is submitted for decision.

FACTUAL ANTECEDENTS

Plaintiff Elena G. Andalis ("Elena," for brevity) filed a Complaint^[6] dated 08 June 2009 against defendants Virginia Camila Andalis ("Virginia," for brevity) and Salve Andalis-Balmedina ("Salve," for brevity) for declaration of nullity of the Deed of Sale of Residential Lot and Deed of Transfer/Waiver of Rights and recovery of possession with damages, before the Regional Trial Court of Pasig City, docketed as *Civil Case No. 72160-TG*.

It was alleged, *inter alia*, that: Virginia is her mother-in-law; Salve is her sister-in-law; she was married to Mauro Andalis ("Mauro," for brevity) on 25 October 1980; their marriage was not annulled, thus, existing until the death of Mauro; Mauro died on 31 January 2002; during Mauro's lifetime, they acquired a parcel of subdivision lot at Signal Village, Taguig, Metro Manila by way of purchase from the Republic of the Philippines through the Land Management Bureau; said property is thus their conjugal property; they, through funds exclusively obtained by her from GSIS loans, had a modest house erected on the subject lot; they and their children occupied the residential house; after Mauro's death, she followed up Mauro's application for titling of the said property and came to know of an alleged sale of the same in favor of Virginia; said sale is an outright nullity because she never gave her consent to such sale over the real property belonging to their conjugal partnership; her purported signature appearing on the Deed of Absolute Sale is not hers and is a forgery; her name is Elena and not Helen as it appeared in said Deed; she never appeared before Atty. Dolorsindo Paner to attest to the said sale; Mauro occupied and resided at the subject property; she and her children resided therein during summer breaks and holidays; she had to travel regularly between Taguig and Legaspi City to attend to her job; sometime in 1991, Mauro was assigned in Bulan, Sorsogon as a member of the Sorsogon Philippine National Police (PNP); they designated Leonardo de Vera as the caretaker of the subject property and this fact was known to their neighbors; given Mauro's reassignment in Bulan, Sorsogon and that their children were in school in Legaspi City, she allowed their relatives to stay in the subject property; realizing the subject property has not yet been titled, she went to the Land Management Bureau in Binondo, Manila to follow up the application; she learned that Mauro supposedly executed a Deed of Transfer/Waiver of Rights over the subject property in favor of Virginia; said Deed of Transfer/Waiver is a total nullity since it lacks the written consent of the spouse, considering that the object of the waiver is a part of their conjugal property; Mauro could not have signed and personally appeared before Atty. Tomas M. Perez ("Perez," for brevity) because Mauro was incarcerated at the Naga City District Jail from 18 January 1999 until his death; Virginia and Salve have occupied the subject property illegally since 1996, to her and her children's prejudice and damage; she and her children are entitled to receive as rentals the amount of Php2,500.00 per month, commencing from April 1996 or the total amount of Php397,500.00 as actual damages; she has been surreptitiously and unlawfully deprived of the occupancy, use and enjoyment of the subject property; and she is entitled to moral damages of Php100,000.00 and exemplary damages of Php50,000.00, as well as attorney's fees and litigation expenses.

Defendants Virginia and Salve filed their Answer with Counterclaim^[7] dated 25

September 2009, admitting the personal circumstances of the parties including the death of Mauro, the Deed of Absolute Sale dated 16 June 1996, the fact that plaintiff and her children stayed at the subject property during summer breaks and holidays, and the Deed of Transfer/Waiver. They averred, *inter alia*, that: during Mauro's lifetime, he acquired the subject property out of his own exclusive funds, thus, it is his capital property; the house constructed thereon is from the exclusive funds of Mauro and loans obtained by the latter from financial institutions; it was only Mauro who lived in the subject property while plaintiff lived in Legazpi City and made casual visits thereto; Mauro entrusted the possession of the subject property to Salve; and they occupied the subject property with just title, having bought it from Mauro, and have been in possession thereof in the concept of owners for more than ten years.

By way of Affirmative Defenses and Counterclaim, defendants alleged, *inter alia*, that: the parties are close relatives and the Complaint failed to state that earnest efforts have been exerted towards a compromise; plaintiff has no cause of action against them because Virginia is a purchaser in good faith and for value and the subject sale is an exclusive property of Mauro; plaintiff attached a false Certification against forum-shopping because she had filed a similar complaint before the Regional Trial Court of Legazpi City and a criminal case for falsification of public documents against them before the Provincial Prosecution Office, which were already dismissed; the Complaint failed to implead indispensable parties, namely, plaintiff's children who are now of legal age; by reason of the malicious filing of the Complaint, they suffered serious anxiety and mental anguish in the amount of Php100,000.00; and to forestall similar practices of filing unfounded suits, plaintiff should be liable for exemplary damages of Php100,000.00, as well as attorney's fees and litigation expenses.

Plaintiff and defendants filed their Pre-Trial Briefs dated 30 October 2009^[8] and 31 October 2009,^[9] respectively. The parties agreed to a mediation,^[10] but the same was unsuccessful.^[11]

Pre-trial was held.^[12] A Pre-Trial Order^[13] dated 18 February 2010 was issued, which stated, *inter alia*, that the parties stipulated on the following facts, *viz*: Mauro died on 31 January 2002 in Naga City; the marriage between Mauro and plaintiff on 25 October 1980 subsisted until Mauro's death; there was no pre-nuptial agreement between Mauro and plaintiff; the subject property is a house and lot located at Lot 55, Signal Village, Taguig City, which is 239 sq.m.; Virginia is the mother of Mauro and plaintiff's mother-in-law; plaintiff filed *Civil Case No. 10313* against defendants in the Regional Trial Court, Legazpi, Branch 3, which was dismissed for improper venue; plaintiff filed another case against defendants for falsification of public document at the Office of the Public Prosecutor, which was dismissed; and Salve was the sister of Mauro and plaintiff's sister-in-law. Both parties agreed to conduct a reverse trial.

Trial ensued.

The defense presented defendant Salve^[14] as a witness. Defendant Virginia was deemed to have waived her right to testify.^[15]

Defendants filed their Formal Offer of Exhibits^[16] dated 02 September 2010, submitting Exhibits "1" to "3", to which plaintiff filed her Comment^[17] dated 13 September 2010. In an Order^[18] dated 21 September 2010, Exhibits "1" to "3" with submarkings were admitted for the purposes for which they were offered.

On 23 September 2010, plaintiff testified.^[19] On 10 February 2011, plaintiff was cross-examined.^[20] On 07 July 2011, plaintiff's counsel presented Jerlyn Valencia as a witness.^[21] Plaintiff was recalled as a witness.^[22]

Plaintiff filed her Formal Offer^[23] dated 08 August 2011, submitting Exhibits "A" to "I". In an Order^[24] dated 13 December 2011, Exhibits "A" to "I" and submarkings were admitted for the purposes for which they were offered. Defendants did not present rebuttal evidence.^[25]

Plaintiff filed her Memorandum^[26] dated 08 November 2012. Defendants also filed their Memorandum^[27] dated 10 November 2012.

The trial court rendered the assailed Decision^[28] dated 20 February 2013, the dispositive portion of which was earlier quoted.^[29] Defendants filed a Notice of Appeal^[30] dated 11 July 2013, which was given due course in the Order^[31] dated 06 August 2013.

Hence, this appeal.

RULING

Defendants-appellants assign the following errors, viz:

"I – THAT THE TRIAL COURT ERRED IN NOT RULING ON THE DEED OF TRANSFER/WAIVER OF RIGHTS BETWEEN MAURO ANDALIS AND VIRGINIA ANDALIS;

II – THAT THE TRIAL COURT ERRED IN ORDERING THE PARTITION OF THE SUBJECT PROPERTY WHICH IS STILL OWNED BY THE STATE AMONG THE HEIRS OF MAURO ANDALIS; and

III – THAT THE TRIAL COURT HAS NO JURISDICTION TO DECIDE WHO SHALL BE ENTITLED TO THE POSSESSION OF THE SUBJECT PROPERTY PENDING APPROVAL OF THE APPLICATION WITH THE BUREAU OF LANDS."^[32]

Defendants-appellants contend, *inter alia*, that: the Complaint seeks the declaration of the Deed of Sale and Deed of Transfer/ Waiver as null and void; the trial court correctly ruled that the Deed of Sale is null and void because as per admission of defendant-appellant Salve, the same was not accepted by the Bureau of Lands (now Land Management Bureau) because it was not valid, however, they were advised to secure a waiver of rights; the land described in the Deed of Sale is Lot 55, while in

the Deed of Transfer/Waiver, it is Lot 53; however, in the testimonies of both parties, it refers to one and the same lot applied for by Mauro; the subject land is a public land, applied for by Mauro during his lifetime with the Bureau of Lands; to date, no award has been issued and no title was issued to Mauro; the rights of Mauro over the land is only that provided by the law as a *bona fide* applicant of public land; during his lifetime, Mauro executed a Deed of Transfer/ Waiver in favor of defendant-appellant Virginia; since it was only Mauro who applied for the subject property and pending its approval, the property still belongs to the State, thus, it cannot be considered as a conjugal property because they are not the owners thereof; it was acquired because of the membership of Mauro in the Philippine Constabulary under Proclamation No. 172; being a grant from the government by reason of the military service of Mauro, said property shall be considered as exclusive property and not conjugal; as regards the Deed of Transfer/Waiver, it is valid and binding; plaintiff-appellee cannot recover the possession of the subject property because she has no rights over the same; the rights of Mauro has been validly waived and transferred in favor of defendant-appellant Virginia; the subject land is still owned by the State and it is only the latter that can recover from the same from the actual occupant; the trial court cannot order its partition because whatever rights Mauro may have over the subject property had already been transferred to defendant-appellant Virginia during his lifetime; plaintiff-appellee and her children can only inherit the properties of Mauro which are existing at the time of his death; being an indispensable party, plaintiff-appellee's children should have been impleaded as party-plaintiffs; the jurisdiction as to whom the land would be given is a question within the jurisdiction of the Bureau of Lands; since the application of Mauro has not yet been granted, the trial court has no jurisdiction to rule on the matter under the doctrine of primary administrative jurisdiction.

Plaintiff-appellee respondent ripostes, *inter alia*, that: defendants-appellants misread or probably ignored the 2nd and 3rd paragraphs of page 19 of the Decision that the lot transferred and waived by Mauro in favor of his mother, defendant-appellant Virginia, is different from the lot allegedly applied for by Mauro; if the lot applied for is that which is reflected in the Deed of Absolute Sale that is actually the lot subject of this case, then they could not have any right to the same as they admitted that it is in violation of Proclamation No. 172, and null and void; if the lot applied for by Mauro is the lot described in the Deed of Transfer/Waiver then the said lot is not the subject matter of the case as it is not the one that is in accordance with the admission of the parties as to the identity of the subject property; it is not the one described by her in the Complaint; the Deed of Transfer/Waiver is a total nullity as she never gave her written consent thereon as the same is conjugal property; Mauro could not have signed the Deed of Transfer/Waiver before Atty. Perez last April 1999 because he was incarcerated at that time at the Naga City District City Jail from 1^[9] January 1999 until his death on 31 January 2002; the deeds presented by defendants-appellants are mere fabrications and forged; the *obiter dictum* found in the Decision was provided simply to show who is entitled to apply for the title to the land after Mauro's death; and after submitting to the authority of the trial court and undergoing 3 years of agonizing trial, it is too late for defendants-appellants to question the trial court's jurisdiction.

In civil cases, the burden of proof is on the party who would be defeated if no evidence is given on either side. The burden of proof is on the plaintiff if the