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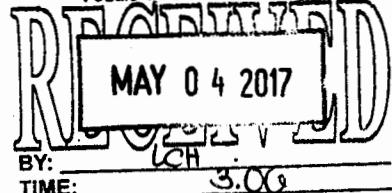
Republic of the Philippines

Supreme Court

Manila

THIRD DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



FELIX B. TIU,

Petitioner,

G.R. No. 200285

Present:

- versus -

SPOUSES JACINTO JANGAS
AND PETRONILA MERTO-
JANGAS, MARIA G. ORTIZ,
MELENCO ORTIZ, MERLA M.
KITANE, PACITO KITANE,
CANDELARIA RUSIANA,
RODRIGO RUSIANA, JUANA T.
JALANDONI, ADELAIDA P.
RAGAY and TEOFISTO RAGAY,
SR.,

Respondents.

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
REYES,
JARDELEZA, and
TIJAM, JJ.

Promulgated:

March 20, 2017

Mis. PDC Batt

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DECISION

REYES, J.:

Before this Court is a petition for review on *certiorari*¹ seeking to annul and set aside the Decision² dated August 31, 2010 and the Resolution³ dated December 6, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 00284, which affirmed the Decision⁴ dated June 21, 2004 of the Regional

¹ *Rollo*, pp. 13-37.

² Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Edgardo L. Delos Santos and Eduardo B. Peralta, Jr. concurring; id. at 40-50.

³ Id. at 52-53.

⁴ Rendered by Judge Victor C. Patrimonio; id. at 72-91.

Trial Court (RTC) of Dumaguete City, Negros Oriental, Branch 35, in Civil Case No. 10278.

Facts of the Case

This case stemmed from a Complaint⁵ dated August 6, 1992 for reconveyance of property filed by Spouses Jacinto and Petronila Merto-Jangas (Spouses Jangas) against Felix Tiu (petitioner) and Rural Bank of Amlan, Inc. (RBAI).

The subject of this petition is a parcel of land designated as Lot No. 480-A, originally owned by Gregorio Pajulas (Gregorio), with an area of 25,340 square meters, located in Salag, Siaton, Negros Oriental.⁶

The records of the case show the following sequence of events:

- a) During Gregorio's lifetime, he owned a parcel of land known as Lot No. 480. He then gave a portion of the land (Lot No. 480-B) to his granddaughter Lulihala Pajulas who took care of him;⁷
- b) In 1956, Gregorio died and was survived by his three daughters, namely, Adelaida, Bruna and Isabel (Pajulas sisters), who adjudicated in 1958 the remaining portion of the land (Lot No. 480-A) unto themselves and declared the same in their names under Tax Declaration (TD) No. 17560;⁸
- c) In 1962, the Pajulas sisters agreed to divide Lot No. 480-A equally among themselves;⁹
- d) Upon the death of Isabel, her share was inherited by her heirs, namely: her husband and children Iluminada Gadiane (Iluminada), Norma Gadiane (Norma) and Maria Gadiane-Ortiza (Maria) (Gadiane sisters);¹⁰
- e) On August 5, 1974, Norma sold to Spouses Jangas a portion of her share with an area of 1,462 sq m, which the latter declared in the name of Petronila under TD No. 21-827;¹¹

⁵ Id. at 54-56.

⁶ Id. at 40-41.

⁷ Id.

⁸ Id. at 41.

⁹ Id.

¹⁰ Id.

¹¹ Id.

f) On December 31, 1981, Iluminada and Norma sold to the Spouses Jangas another portion with an area of 912 sq m, which was later also declared in the name of Petronila under TD No. 21-1064;¹²

g) Thereafter, Iluminada made subsequent sales as follows: (1) 288 sq m to Candelaria Rusiana (Candelaria); (2) 3,243 sq m to Merla Macalipay-Kitane (Merla); and (3) 288 sq m to Juana Jalandoni (Juana);¹³

h) Sometime in 1962, Bruna sold her one-third-share of Lot No. 480-A to Spouses Gaudencio Delayco (Gaudencio) and Lucia Amigo-Delayco (Spouses Delayco);¹⁴

i) On January 8, 1980, the heirs of Gaudencio, represented by Bridiana Delayco (Bridiana), applied for and was granted a free patent over the entire Lot No. 480-A. Consequently, Original Certificate of Title (OCT) No. FV-29932 under Free Patent (FP) No. (VII-3) 9852 was issued in the name of the heirs of Gaudencio;¹⁵

j) Subsequently, Bridiana transferred the title over Lot No. 480-A to her name alone, and was issued Transfer Certificate of Title (TCT) No. FT-4925 on September 26, 1985. She also declared the subject property under her name for taxation purposes evidenced by TD No. 21-1031;¹⁶

k) In March of 1990, Bridiana sold the subject property to the petitioner;¹⁷ and

l) On August 24, 1990, TCT No. FT-5683 was issued to Spouses Felix and Evelyn Tiu (Spouses Tiu), who also had the subject property declared in their names under TD No. 21-1097 (A). Then, in 1991, the Spouses Tiu mortgaged the subject property with the RBAI.¹⁸

A summary of the transfer of the property is as follows:

¹² Id.

¹³ Id.

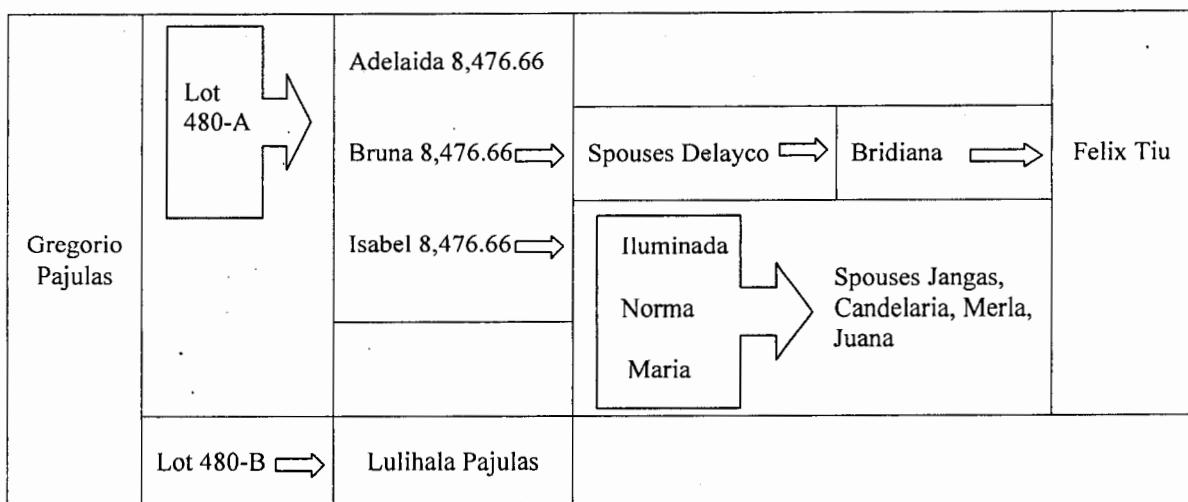
¹⁴ Id.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 42.



The aforementioned events prompted the Spouses Jangas to file a complaint¹⁹ for reconveyance and damages against the petitioner and RBAI on August 6, 1992.

A motion for leave to intervene and complaints in intervention was filed, on March 31, 1993, by Spouses Maria and Melencio Ortiz (Spouses Ortiz), Spouses Merla and Pacito Kitane (Spouses Kitane), Spouses Candelaria and Rodrigo Rusiana (Spouses Rusiana) and Juana, who contended that they are now the owners of different portions of Lot No. 480-A, having bought the same from the Gadiane sisters. The complaints in intervention were later amended to include Spouses Adelaida and Teopisto Ragay, Sr. (Spouses Ragay), who assailed that they owned one-third-share of Lot No. 480-A, since Adelaida is the daughter of Gregorio.²⁰

After trial, the court *a quo* rendered its judgment in favor of Spouses Jangas, Spouses Ortiz, Spouses Kitane, Spouses Rusiana, Juana and Spouses Ragay (collectively, the respondents). The trial court dismissed the petitioner's claim of ownership over the subject property taking note that the sale and transfer effected by Bruna in favor of the Spouses Delayco was merely her one-third-share of the subject property. Thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring [Spouses Jangas] part owners of Lot 480-A of Plan Csd-07-03-000548 to the extent of 2,374 square meters located at the eastern portion;
2. Declaring [Spouses Tiu] as owners of one-third portion of the same Lot No. 480-A located in between the shares of Adelaida and Isabel, both surnamed Pajulas as indicated in

¹⁹ Id. at 54-56.

²⁰ Id. at 42.

the rough sketch plan (Exh. "B") [and] which portion is the only portion being mortgaged by them to [RBAI];

3. Declaring the Heirs of [Adelaida], namely intervenors Marilyn Ragay, married to Casiano Palamos and a resident of Bondo Siaton, Negros Oriental; Melyn Ragay married to Judy Taganile and a resident of Guihulngan, Negros Oriental; Carolina Ragay, married to Efren Bangcairen and a resident of Piapi, Dumaguete City; Teopisto Ragay, Jr., married to Gerfrodes Pahulas and a resident of Mantuyop, Siaton, Negros Oriental, and Susan Ragay, married to Isabelito Guevara, a resident of Siaton, Negros [Oriental], all Filipinos and of legal ages as owners of one-third portion of the same Lot No. [480]-A, which portion is located on the western side of the land;
4. Declaring the Heirs of [Isabel] as owners to the extent of 6,099 square meters plus over the same land and which share is located at the eastern portion; [and]
5. As a consequence, TCT No. FT-5683 covering said Lot No. [480]-A has to be cancelled partially in order to reflect the foregoing lawful and legitimate owners of the said parcel of land and the Register of Deeds for the Province of Negros Oriental, Dumaguete City is directed to effect such partial cancellation.

Plaintiffs' claim for damages as well as defendants' counter-claim is ordered dismissed.

No pronouncement as to costs.

SO ORDERED.²¹

On August 31, 2010, the CA, in its Decision²² denied the petitioner's appeal and affirmed *in toto* the findings of the RTC. In sustaining the RTC's decision, the appellate court ratiocinated:

In the instant case, Bruna owned 1/3 of Lot 480-A, the same 1/3 share is what she can validly transfer to [S]pouses Delayco and not the whole lot. *Nemo dat quod non habet* – no one can give what one does not have. Accordingly, one can sell only what one owns or is authorized to sell, and the buyer can acquire no more than what the seller can transfer legally. Such being the case, the Delaycos could not validly transfer the whole of Lot 480-A to themselves and sell the same to [S]pouses Tiu.

Although the fact of sale of Bruna's share to the [S]pouses Delaycos was not an issue, this Court however, could not actually determine the extent of the property sold by Bruna to them as there was no deed of sale found in the records. Even assuming *arguendo* that Bruna

²¹ Id. at 89-90.

²² Id. at 40-50.

sold the entire Lot 480-A to the Delaycos, the said sale is not null and void. This only made the Delaycos co-owner of the property which pertains to the share of Bruna.²³

Aggrieved by the foregoing disquisition, the petitioner moved for reconsideration but it was denied by the CA in its Resolution²⁴ dated December 6, 2011. Hence, he filed this petition for review.

The Issue Presented

WHETHER THE PETITIONER IS ENTITLED TO THE RECONVEYANCE OF THE SUBJECT PROPERTY.

Ruling of the Court

The petition lacks merit.

In this case, the petitioner's cause of action for reconveyance is grounded on his alleged ownership of the subject property which he merely purchased from Bridiana. He mainly argues that he acquired the subject property in good faith and for value, and had it recorded in the Registry of Property, since he was unaware of any prior sale over the subject property, and Bridiana's title was free from any liens or encumbrances that could have aroused his suspicion.

The respondents, however, rebut this claim by contending that: (1) Lot No. 480-A was adjudicated among the heirs of Gregorio, who declared the same in their names under TD No. 17560 and later orally partitioned the same; (2) the heirs of Isabel sold an equivalent of 2,374 sq m to Spouses Jangas, in separate notarized deeds of sale while the other respondents also claimed that portions of the share of Isabel had been sold to them by Isabel's heirs; (3) the Spouses Jangas alleged that they had been in possession of the land since 1972; and (4) Bruna sold her one-third-share to the Spouses Delayco, however, the latter caused the titling of the whole Lot No. 480-A in their name.²⁵

The main issue to be discussed is whether the petitioner is entitled to reconveyance of the subject property. Consequently, the bone of contention is whether the petitioner is a buyer in good faith.

²³ Id. at 45.

²⁴ Id. at 52-53.

²⁵ Id. at 141.

The determination of whether the petitioner is a buyer in good faith is a factual issue, which generally is outside the province of this Court to determine in a petition for review. Although this rule admits of exceptions, none of these apply to this case. There is no conflict between the factual findings and legal conclusions of the RTC and the CA, both of which found the petitioner to be a buyer in bad faith and not entitled to reconveyance of the subject property.

It is undisputed that the subject property was originally owned by Gregorio, and upon his death, the subject property was transmitted by succession to his heirs, as confirmed by the issuance of TD No. 17560 issued in 1961 where the owner described therein were Gregorio's daughters, Adelaida, Bruna and Isabel. Thereafter, the Pajulas sisters equally partitioned the subject property among themselves. Thus, Bruna is entitled to only one-third of the subject property.

A scrutiny of the records established the fact that the property sold to the Spouses Delayco was the one-third share only of Bruna over Lot No. 480-A. However, it was clearly ascertained that the heirs of Spouses Delayco, represented by Bridiana, applied for and was granted an FP over the whole Lot No. 480-A as evidenced by OCT No. FV-29932. Furthermore, Bridiana transferred the title to her name alone and was then issued TCT No. FT-4925.

As correctly emphasized by the lower courts, the petitioner's right in the subject property is limited only to Bruna's share in the co-owned property. When the subject property was sold to the Spouses Delayco, they merely stepped into the shoes of Bruna and acquired whatever rights and obligations appertain thereto.

The petitioner mistakenly relied upon the title of Bridiana to conclude that the latter was a possessor in good faith and with just title who acquired the subject property through a valid deed of sale. Neither can the petitioner benefit from the contract of sale of the subject property, executed by Bridiana in his favor, to support his claim of possession in good faith and with just title.

Be that as it may, the rights of the respondents as owners of their respective shares of the subject property were never alienated from them despite having the whole Lot No. 480-A titled under Bridiana's name. Neither does the fact that the petitioner had bought the subject property from Bridiana and having a new title issued in his name displaced the existing ownership of the respondents. Besides, it seems that the petitioner knew of the fact that there were other occupants of the subject property. In fact, during cross examination, the petitioner testified that when he visited the

subject property for surveying he already saw two structures that were built thereon, thus, he already knew that someone else besides his seller has possession over the same. As the appellate court expressly pointed out:

In, the instant case, We found that [the petitioner] had actual knowledge that other persons were in actual possession of the lot. [The petitioner] testified during his cross examination that he saw two (2) structures (nipa hut/house) in Lot 480-A during his relocation survey. He admittedly knew the owner of the first structure as a certain Botit Bangay but he did not know the owner of the second one. [The petitioner] admitted that he did not inquire who is the owner thereof. The mere fact that [the petitioner] did not investigate as to the ownership of the land after he knew that other persons other than the seller were in possession thereof only means that he was not an innocent purchaser for value of said land.²⁶

The Court has repeatedly emphasized that one who purchases real estate with knowledge of a defect or lack of title in his vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or of an interest therein; and the same rule must be applied to one who has knowledge of facts which should have put him upon such inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor.²⁷

When a piece of land is in the actual possession of persons other than the seller, the buyer must be wary and should investigate the rights of those in possession. Without making such inquiry, one cannot claim that he is a buyer in good faith.²⁸ As in this case, the failure of buyer to take the ordinary precautions which a prudent man would have taken under the circumstances, especially in buying a piece of land in the actual, visible and public possession of another person, other than the vendor, constitutes gross negligence amounting to bad faith.²⁹

Far from being prudent, it is clear that the petitioner chose to close his eyes to facts which should have put a reasonable man on his guard. Consequently, he cannot now claim that he acted in good faith on the belief that there was no defect in the title of his predecessor-in-interest. The fact that Bridiana was the first to apply for an FP over the subject property will not help the petitioner's cause.

²⁶ *Id.* at 46-47.

²⁷ *Tan v. Ramirez, et al.*, 640 Phil. 370, 382 (2010), citing *Leung Yee v. F. L. Strong Machinery Co. and Williamson*, 37 Phil. 644, 651 (1918).

²⁸ *Rosaroso, et al.'v. Soria, et al.*, 711 Phil. 644, 658 (2013).

²⁹ *Id.* at 659, citing *Spouses Sarmiento v. CA*, 507 Phil. 101, 128 (2013).

Moreover, the petitioner cannot rely on his TCT No. FT-5683 as an incontrovertible evidence of his ownership over the subject property. The fact that he was able to secure a title in his name does not operate to vest ownership upon him of the subject property. As the Court reiterated in *Hortizuela v. Tagufa*:³⁰

Registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership. A certificate of title is merely an evidence of ownership or title over the particular property described therein. It cannot be used to protect a usurper from the true owner; nor can it be used as a shield for the commission of fraud; neither does it permit one to enrich himself at the expense of others. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.³¹

The petitioner's reliance on the doctrine that mere possession cannot defeat the right of a holder of a registered Torrens title over property is misplaced, considering that the respondents were almost deprived of their rights over the subject property through fraud and with evident bad faith. The petitioner and Bridiana's failure and intentional omission to disclose the fact of actual physical possession by another person during registration proceedings constitutes actual fraud.³² Hence, the alleged incontrovertibility of title cannot be successfully invoked by the petitioner because certificates of title merely confirm or record title already existing and cannot be used as a shield for the commission of fraud.

Applying these parameters, the Court is convinced that the petitioner cannot be considered a buyer and registrant in good faith and for value. It is apparent from the records of this case that the respondents have been in actual possession and occupation of the subject property at the time that it was sold by Bridiana to the petitioner. Thus, the petitioner did not acquire any right from Bridiana over two-thirds of the subject property since the latter was no longer the owner of the same at the time the sale was made to the petitioner. The ownership over the two-thirds-portion of the subject property had already been vested to the respondents prior to such sale. Hence, reconveyance of the subject property to the petitioner is unwarranted.

WHEREFORE, the petition is **DENIED**. The Decision dated August 31, 2010 and the Resolution dated December 6, 2011 of the Court of Appeals in CA-G.R. CV No. 00284 are **AFFIRMED**.

³⁰ G.R. No. 205867, February 23, 2015, 751 SCRA 371.

³¹ Id. at 387, citing *Naval v. CA*, 518 Phil. 271, 282-283 (2006).

³² *Dy v. Yu*, G.R. No. 202632, July 8, 2015, 762 SCRA 357, 385, citing *Alba Vda. De Raz v. CA*, 372 Phil. 710, 738 (1999).

SO ORDERED.

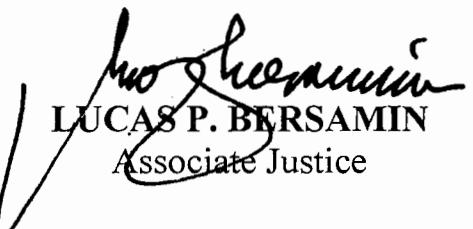


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



NOEL G. TJAM
Associate Justice

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice

Wilfredo S. Santos
WILFREDO S. SANTOS
Division Chairperson
Third Division
MAY 03 2017