



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MILAGROS DE BELEN VDA.
DE CABALU, MELITON
CABALU, SPS. ANGELA
CABALU and RODOLFO
TALAVERA, and PATRICIO
ABUS,
Petitioners,

G.R. No. 188417

Present:

VELASCO, JR., J., Chairperson,
BRION,*
PEREZ,**
MENDOZA, and
PERLAS-BERNABE,*** JJ.

- versus -

SPS. RENATO TABU and
DOLORES LAXAMANA,
Municipal Trial Court in Cities,
Tarlac City, Branch II,
Respondents.

Promulgated:

24 September 2012

X

DECISION

MENDOZA, J.:

This is a "Petition for Review on *Certiorari* (under Rule 45)" of the Rules of Court assailing the June 16, 2009 Decision¹ of the Court of Appeals

* Designated acting member, per Special Order No. 1299-E, dated August 28, 2012.

** Designated additional member, in lieu of Associate Justice Diosdado M. Peralta, per Raffle dated August 31, 2011.

*** Designated additional member, in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1320, dated September 21, 2012.

¹ Annex "A" of Petition, *rollo*, pp. 13-23. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justice Andres B. Reyes, Jr. and Associate Justice Fernanda Lampas Peralta, concurring.

(CA) in CA-GR. CV No. 81469 entitled “Milagros De Belen Vda de Cabalu v. Renato Tabu.”

The Facts

The property subject of the controversy is a 9,000 square meter lot situated in Mariwalo, Tarlac, which was a portion of a property registered in the name of the late Faustina Maslum (*Faustina*) under Transfer Certificate of Title (TCT) No. 16776 with a total area of 140,211 square meters.²

On December 8, 1941, Faustina died without any children. She left a holographic will, dated July 27, 1939, assigning and distributing her property to her nephews and nieces. The said holographic will, however, was not probated. One of the heirs was the father of Domingo Laxamana (*Domingo*), Benjamin Laxamana, who died in 1960. On March 5, 1975, Domingo allegedly executed a *Deed of Sale of Undivided Parcel of Land* disposing of his 9,000 square meter share of the land to Laureano Cabalu.³

On August 1, 1994, to give effect to the holographic will, the forced and legitimate heirs of Faustina executed a *Deed of Extra-Judicial Succession with Partition*. The said deed imparted 9,000 square meters of the land covered by TCT No. 16776 to Domingo. Thereafter, on December 14, 1995, Domingo sold 4,500 square meters of the 9,000 square meters to his nephew, Eleazar Tabamo. The document was captioned *Deed of Sale of a Portion of Land*. On May 7, 1996, the remaining 4,500 square meters of Domingo’s share in the partition was registered under his name under TCT No. 281353.⁴

² Id. at 14.

³ Id. at 14-15.

⁴ Id. at 15.

On August 4, 1996, Domingo passed away.

On October 8, 1996, two months after his death, Domingo purportedly executed a *Deed of Absolute Sale* of TCT No. 281353 in favor of respondent Renato Tabu (*Tabu*). The resultant transfer of title was registered as TCT No. 286484. Subsequently, Tabu and his wife, Dolores Laxamana (*respondent spouses*), subdivided the said lot into two which resulted into TCT Nos. 291338 and 291339.⁵

On January 15, 1999, respondent Dolores Laxamana-Tabu, together with Julieta Tubilan-Laxamana, Teresita Laxamana, Erlita Laxamana, and Gretel Laxamana, the heirs of Domingo, filed an unlawful detainer action, docketed as Civil Case No. 7106, against Meliton Cabalu, Patricio Abus, Roger Talavera, Jesus Villar, Marcos Perez, Arthur Dizon, and all persons claiming rights under them. The heirs claimed that the defendants were merely allowed to occupy the subject lot by their late father, Domingo, but, when asked to vacate the property, they refused to do so. The case was ruled in favor of Domingo's heirs and a writ of execution was subsequently issued.⁶

On February 4, 2002, petitioners Milagros de Belen Vda. De Cabalu, Meliton Cabalu, Spouses Angela Cabalu and Rodolfo Talavera, and Patricio Abus (*petitioners*), filed a case for *Declaration of Nullity of Deed of Absolute Sale, Joint Affidavit of Nullity of Transfer Certificate of Title Nos. 291338 and 291339, Quieting of Title, Reconveyance, Application for Restraining Order, Injunction and Damages* (Civil Case No. 9290) against respondent spouses before the Regional Trial Court, Branch 63, Tarlac City (*RTC*).⁷

⁵ Id. at 15-16.

⁶ Id. at 16.

⁷ Id. at 16-17.

In their complaint, petitioners claimed that they were the lawful owners of the subject property because it was sold to their father, Laureano Cabalu, by Domingo, through a Deed of Absolute Sale, dated March 5, 1975. Hence, being the rightful owners by way of succession, they could not be ejected from the subject property.⁸

In their *Answer*, respondent spouses countered that the deed of sale from which the petitioners anchored their right over the 9,000 square meter property was null and void because in 1975, Domingo was not yet the owner of the property, as the same was still registered in the name of Faustina. Domingo became the owner of the property only on August 1, 1994, by virtue of the Deed of Extra-Judicial Succession with Partition executed by the forced heirs of Faustina. In addition, they averred that Domingo was of unsound mind having been confined in a mental institution for a time.⁹

On September 30, 2003, the RTC dismissed the complaint as it found the Deed of Absolute Sale, dated March 5, 1975, null and void for lack of capacity to sell on the part of Domingo. Likewise, the Deed of Absolute Sale, dated October 8, 1996, covering the remaining 4,500 square meters of the subject property was declared ineffective having been executed by Domingo two months after his death on August 4, 1996. The *fallo* of the Decision¹⁰ reads:

WHEREFORE, in view of the foregoing, the complaint is hereby **DISMISSED**, and the decision is hereby rendered by way of:

1. declaring null and void the Deed of Absolute Sale dated March 5, 1975, executed by Domingo Laxamana in favor of Laureano Cabalu;
2. declaring null and void the Deed of Absolute Sale dated October 8, 1996, executed by Domingo Laxamana in favor of Renato Tabu, and that TCT Nos. 293338 and

⁸ Id. at 25.

⁹ Id.

¹⁰ Id. at 24-34.

291339, both registered in the name of Renato Tabu, married to Dolores Laxamana be cancelled;

3. restoring to its former validity, TCT No. 16770 in the name of Faustina Maslum subject to partition by her lawful heirs.

Costs de officio.

SO ORDERED.¹¹

Not in conformity, both parties appealed to the CA. Petitioners contended that the RTC erred in declaring void the Deed of Absolute Sale, dated March 5, 1975. They claimed that Domingo owned the property, when it was sold to Laureano Cabalu, because he inherited it from his father, Benjamin, who was one of the heirs of Faustina. Being a co-owner of the property left by Benjamin, Domingo could dispose of the portion he owned, notwithstanding the will of Faustina not being probated.

Respondent spouses, on the other hand, asserted that the Deed of Sale, dated March 5, 1975, was spurious and simulated as the signature, PTR and the document number of the Notary Public were different from the latter's notarized documents. They added that the deed was without consent, Domingo being of unsound mind at the time of its execution. Further, they claimed that the RTC erred in canceling TCT No. 266583 and insisted that the same should be restored to its validity because Benjamin and Domingo were declared heirs of Faustina.

On June 16, 2009, the CA rendered its decision and disposed as follows:

WHEREFORE, in the light of the foregoing, the instant appeal is partially **GRANTED** in that the decision of the trial court is **AFFIRMED WITH MODIFICATION** that sub-paragraphs 2 & 3 of the disposition, which reads:

"2. declaring null and void the Deed of Absolute Sale dated October 8, 1996, executed by Domingo Laxamana in favor of

¹¹ Id. at 32-33.

Renato Tabu, and that TCT Nos. 291338 and 291339, both registered in the name of Renato Tabu, married to Dolores Laxamana be cancelled;

3. restoring to its former validity, TCT No. 16776 in the name of Faustina Maslum subject to partition by her lawful heirs,”

are DELETED.

IT IS SO ORDERED.¹²

In finding Domingo as one of the heirs of Faustina, the CA explained as follows:

It appears from the records that Domingo was a son of Benjamin as apparent in his Marriage Contract and Benjamin was a nephew of Faustina as stated in the holographic will and deed of succession with partition. By representation, when Benjamin died in 1960, Domingo took the place of his father in succession. In the same vein, the holographic will of Faustina mentioned Benjamin as one of her heirs to whom Faustina imparted 9,000 square meters of her property. Likewise, the signatories to the Deed of Extra-judicial Succession with Partition, heirs of Faustina, particularly declared Domingo as their co-heir in the succession and partition thereto. Furthermore, the parties in this case admitted that the relationship was not an issue.¹³

Although the CA found Domingo to be of sound mind at the time of the sale on March 5, 1975, it sustained the RTC's declaration of nullity of the sale on the ground that the deed of sale was simulated.

The CA further held that the RTC erred in canceling TCT No. 266583 in the name of Domingo and in ordering the restoration of TCT No. 16770, registered in the name of Faustina, to its former validity, Domingo being an undisputed heir of Faustina.

Hence, petitioners interpose the present petition before this Court anchored on the following

¹² Id. at 22.

¹³ Id. at 19-20.

GROUND

(A)

THE DEED OF SALE OF UNDIVIDED PARCEL OF LAND EXECUTED ON MARCH 5, 1975 BY DOMINGO LAXAMANA IN FAVOR OF LAUREANO CABALU IS VALID BECAUSE IT SHOULD BE ACCORDED THE PRESUMPTION OF REGULARITY AND DECLARED VALID FOR ALL PURPOSES AND INTENTS.

(B)

THE SUBPARAGRAPH NO. 2 OF THE DECISION OF THE REGIONAL TRIAL COURT SHOULD STAY BECAUSE THE HONORABLE COURT OF APPEALS DID NOT DISCUSS THE ISSUE AND DID NOT STATE THE LEGAL BASIS WHY SAID PARAGRAPH SHOULD BE DELETED FROM THE SEPTEMBER 30, 2003 DECISION OF THE REGIONAL TRIAL COURT.¹⁴

The core issues to be resolved are 1] whether the Deed of Sale of Undivided Parcel of Land covering the 9,000 square meter property executed by Domingo in favor of Laureano Cabalu on March 5, 1975, is valid; and 2] whether the Deed of Sale, dated October 8, 1996, covering the 4,500 square meter portion of the 9,000 square meter property, executed by Domingo in favor of Renato Tabu, is null and void.

Petitioners contend that the Deed of Absolute Sale executed by Domingo in favor of Laureano Cabalu on March 5, 1975 should have been declared valid because it enjoyed the presumption of regularity. According to them, the subject deed, being a public document, had in its favor the presumption of regularity, and to contradict the same, there must be clear, convincing and more than preponderant evidence, otherwise, the document should be upheld. They insist that the sale transferred rights of ownership in favor of the heirs of Laureano Cabalu.

¹⁴ Id. at 89-90.

They further argue that the CA, in modifying the decision of the RTC, should not have deleted the portion declaring null and void the Deed of Absolute Sale, dated October 8, 1996, executed by Domingo in favor of Renato Tabu, because at the time of execution of the said deed of sale, the seller, Domingo was already dead. Being a void document, the titles originating from the said instrument were also void and should be cancelled.

Respondent spouses, in their Comment¹⁵ and Memorandum,¹⁶ counter that the issues raised are not questions of law and call for another calibration of the whole evidence already passed upon by the RTC and the CA. Yet, they argue that petitioners' reliance on the validity of the March 5, 1975 Deed of Sale of Undivided Parcel of Land, based on presumption of regularity, was misplaced because both the RTC and the CA, in the appreciation of evidence on record, had found said deed as simulated.

It is well to note that both the RTC and the CA found that the evidence established that the March 5, 1975 Deed of Sale of Undivided Parcel of Land executed by Domingo in favor of Laureano Cabalu was a fictitious and simulated document. As expounded by the CA, *viz*:

Nevertheless, since there are discrepancies in the signature of the notary public, his PTR and the document number on the lower-most portion of the document, as well as the said deed of sale being found only after the plaintiffs-appellants were ejected by the defendants-appellants; that they were allegedly not aware that the said property was bought by their father, and that they never questioned the other half of the property not occupied by them, it is apparent that the sale dated March 5, 1975 had the earmarks of a simulated deed written all over it. The lower court did not err in pronouncing that it be declared null and void.¹⁷

Petitioners, in support of their claim of validity of the said document of deed, again invoke the legal presumption of regularity. To reiterate, the

¹⁵ Dated December 7, 2009, id. 41-43.

¹⁶ Dated December 30, 2010, id. at 70-81.

¹⁷ Id. at 21.

RTC and later the CA had ruled that the sale, dated March 5, 1975, had the earmarks of a simulated deed, hence, the presumption was already rebutted. Verily and as aptly noted by the respondent spouses, such presumption of regularity cannot prevail over the facts proven and already established in the records of this case.

Even on the assumption that the March 5, 1975 deed was not simulated, still the sale cannot be deemed valid because, at that time, Domingo was not yet the owner of the property. There is no dispute that the original and registered owner of the subject property covered by TCT No. 16776, from which the subject 9,000 square meter lot came from, was Faustina, who during her lifetime had executed a will, dated July 27, 1939. In the said will, the name of Benjamin, father of Domingo, appeared as one of the heirs. Thus, and as correctly found by the RTC, even if Benjamin died sometime in 1960, Domingo in 1975 could not yet validly dispose of the whole or even a portion thereof for the reason that he was not the sole heir of Benjamin, as his mother only died sometime in 1980.

Besides, under Article 1347 of the Civil Code, “No contract may be entered into upon future inheritance except in cases expressly authorized by law.” Paragraph 2 of Article 1347, characterizes a contract entered into upon future inheritance as void. The law applies when the following requisites concur: (1) the succession has not yet been opened; (2) the object of the contract forms part of the inheritance; and (3) the promisor has, with respect to the object, an expectancy of a right which is purely hereditary in nature.¹⁸

In this case, at the time the deed was executed, Faustina’s will was not yet probated; the object of the contract, the 9,000 square meter property, still

¹⁸ *Arrogante v. Deliarde*, G.R. No. 152132, July 24, 2007, 528 SCRA 63, 69-70, citing Tolentino, *Civil Code of the Philippines Commentaries and Jurisprudence*, Vol. IV, p. 525, 1985.

formed part of the inheritance of his father from the estate of Faustina; and Domingo had a mere inchoate hereditary right therein.

Domingo became the owner of the said property only on August 1, 1994, the time of execution of the Deed of Extrajudicial Succession with Partition by the heirs of Faustina, when the 9,000 square meter lot was adjudicated to him.

The CA, therefore, did not err in declaring the March 5, 1975 Deed of Sale null and void.

Domingo's status as an heir of Faustina by right of representation being undisputed, the RTC should have maintained the validity of TCT No. 266583 covering the 9,000 square meter subject property. As correctly concluded by the CA, this served as the inheritance of Domingo from Faustina.

Regarding the deed of sale covering the remaining 4,500 square meters of the subject property executed in favor of Renato Tabu, it is evidently null and void. The document itself, the Deed of Absolute Sale, dated October 8, 1996, readily shows that it was executed on August 4, 1996 more than two months after the death of Domingo. Contracting parties must be juristic entities at the time of the consummation of the contract. Stated otherwise, to form a valid and legal agreement it is necessary that there be a party capable of contracting and a party capable of being contracted with. Hence, if any one party to a supposed contract was already dead at the time of its execution, such contract is undoubtedly simulated and false and, therefore, null and void by reason of its having been made after the death of the party who appears as one of the contracting parties therein. The death of a person terminates contractual capacity.¹⁹

¹⁹ *Gochan and Sons Realty Corp. v. Heirs of Raymundo Baba*, 456 Phil. 569, 578, (2003).

The contract being null and void, the sale to Renato Tabu produced no legal effects and transmitted no rights whatsoever. Consequently, TCT No. 286484 issued to Tabu by virtue of the October 8, 1996 Deed of Sale, as well as its derivative titles, TCT Nos. 291338 and 291339, both registered in the name of Renato Tabu, married to Dolores Laxamana, are likewise void.

The CA erred in deleting that portion in the RTC decision declaring the Deed of Absolute Sale, dated October 8, 1996, null and void and canceling TCT Nos. 291338 and 291339.

WHEREFORE, the petition is partially **GRANTED**. The decretal portion of the June 16, 2009 Decision of the Court of Appeals is hereby **MODIFIED** to read as follows:

1. The Deed of Absolute Sale, dated March 5, 1975, executed by Domingo Laxamana in favor of Laureano Cabalu, is hereby declared as null and void.


2. The Deed of Absolute Sale, dated October 8, 1996, executed by Domingo Laxamana in favor of Renato Tabu, and TCT No. 286484 as well as the derivative titles TCT Nos. 291338 and 291339, both registered in the name of Renato Tabu, married to Dolores Laxamana, are hereby declared null and void and cancelled.

3. TCT No. 281353 in the name of Domingo Laxamana is hereby ordered restored subject to the partition by his lawful heirs.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.

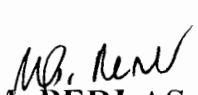
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice




JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest 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, Third Division

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
Chief Justice