



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

**SPS. ESMERALDO D. VALLIDO
and ARSENIA M. VALLIDO,
rep. by ATTY. SERGIO C.
SUMAYOD,**

Petitioners,

- versus -

**SPS. ELMER PONO and
JULIET PONO, and
PURIFICACION CERNA-
PONO and SPS.
MARIANITO PONO and
ESPERANZA MERO-
PONO,**

Respondents.

G.R. No. 200173

Present:

VELASCO, JR., *J.*, Chairperson,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

APR 15 2013

Mendoza

X -----X

DECISION

MENDOZA, J.:

This is a petition for review on certiorari assailing the December 8, 2011 Decision of the Court of Appeals (CA) which reversed and set aside the July 20, 2004 Decision of the Regional Trial Court, Branch 12, Ormoc City (RTC), a case involving a double sale of a parcel of land.

It appears that Martino Dandan (*Martino*) was the registered owner of a parcel of land in Kananga, Leyte, with an area of 28,214 square meters, granted under Homestead Patent No. V-21513 on November 11, 1953 and covered by Original Certificate of Title (*OCT*) No. P-429.

On January 4, 1960, Martino, who was at that time living in Kananga, Leyte, sold a portion of the subject property equivalent to 18,214 square meters to respondent Purificacion Cerna (*Purificacion*). Upon execution of the Deed of Absolute Sale, Martino gave Purificacion the owner's copy of OCT No. P-429. The transfer, however, was not recorded in the Registry of Deeds.

On May 4, 1973, Purificacion sold her 18,214 square meter portion of the subject property to respondent Marianito Pono (*Marianito*) and also delivered OCT No. P-429 to him. Marianito registered the portion he bought for taxation purposes, paid its taxes, took possession, and allowed his son respondent Elmer Pono (*Elmer*) and daughter-in-law, Juliet Pono (*Juliet*), to construct a house thereon. Marianito kept OCT No. P-429. The transfer, however, was also not recorded in the Registry of Deeds.

Meanwhile, Martino left Kananga, Leyte, and went to San Rafael III, Noveleta, Cavite, and re-settled there. On June 14, 1990, he sold the whole subject property to his grandson, petitioner Esmeraldo Vallido (*Esmeraldo*), also a resident of Noveleta, Cavite. Considering that Martino had delivered OCT No. P-429 to Purificacion in 1960, he no longer had any certificate of title to hand over to Esmeraldo.

On May 7, 1997, Martino filed a petition seeking for the issuance of a new owner's duplicate copy of OCT No. P-429, which he claimed was lost. He stated that he could not recall having delivered the said owner's duplicate copy to anybody to secure payment or performance of any legal obligation. On June 8, 1998, the petition was granted by the RTC, Branch 12 of Ormoc City. On September 17, 1999, Esmeraldo registered the deed of sale in the Registry of Deeds and Transfer Certificate of Title (*TCT*) No. TP-13294 was thereafter issued in the name of the petitioners.

Subsequently, the petitioners filed before the RTC a complaint for quieting of title, recovery of possession of real property and damages against the respondents. In their Answer, respondents Elmer and Juliet averred that their occupation of the property was upon permission of Marianito. They included a historical chronology of the transactions from that between Martino and Purificacion to that between Purificacion and Marianito.

On July 20, 2004, the RTC promulgated a decision¹ favoring the petitioners. The RTC held that there was a double sale under Article 1544 of the Civil Code. The respondents were the first buyers while the petitioners were the second buyers. The RTC deemed the petitioners as buyers in good faith because during the sale on June 4, 1990, OCT No. P-429 was clean and free from all liens. The petitioners were also deemed registrants in good faith because at the time of the registration of the deed of sale, both OCT No. P-429 and TCT No. TP-13294 did not bear any annotation or mark of any lien or encumbrance. The RTC concluded that because the petitioners registered the sale in the Register of Deeds, they had a better right over the respondents.

Aggrieved, the respondents filed their Notice of Appeal on August 27, 2004.

In the assailed Decision,² dated December 8, 2011, the CA ruled in favor of the respondents. The CA agreed that there was a double sale. It, however, held that the petitioners were neither buyers nor registrants in good faith. The respondents indisputably were occupying the subject land. It wrote that where the land sold was in the possession of a person other than the vendor, the purchaser must go beyond the certificate of title and make inquiries concerning the rights of the actual possessors. It further stated that mere registration of the sale was not enough as good faith must concur with the registration. Thus, it ruled that the petitioners failed to discharge the burden of proving that they were buyers and registrants in good faith.

¹ *Rollo*, pp. 52-60, penned by Presiding Judge Francisco C. Gedorio, Jr.

² *Id* at 61-70, penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Edgardo L. Delos Santos and Ramon Paul L. Hernando of the Nineteenth Division, Cebu City.

Accordingly, the CA concluded that because the sale to Purificacion took place in 1960, thirty (30) years prior to Esmeraldo's acquisition in 1990, the respondents had a better right to the property.

Hence, this petition.

The petitioners argue that the CA erred in ruling in favor of the respondents. Primarily, they contend that the Appellant's Brief was filed beyond the 30-day extension period granted by the CA and that the findings of fact of the RTC were no longer subject to review and should not have been disturbed on appeal.

They invoke that they are buyers and registrants in good faith. They claim that the title of the land was clean and free from any and all liens and encumbrances from the time of the sale up to the time of its registration. They also aver that they had no knowledge of the sale between Martino and Purificacion on July 4, 1960 as they have been residents of Noveleta, Cavite, which is very far from Brgy. Masarayao, Kananga, Leyte. When Esmeraldo confronted his grandfather, Martino, about the July 4, 1960 sale to Purificacion, he took as gospel truth the vehement denial of his grandfather on the existence of the sale. The latter explained that the transaction was only a mortgage. These facts show that indeed they were buyers and registrants in good faith. Thus, their right of ownership is preferred against the unregistered claim of the respondents.

The petition is without merit.

On the procedural aspect, it was the ruling of the CA that the respondents were deemed to have filed their Appellant's Brief within the reglementary period.³ The Court accepts that as it was merely a technical issue.

³ Id. at 305-306.

The core issue in this case is whether the petitioners are buyers and registrants in good faith.

It is undisputed that there is a double sale and that the respondents are the first buyers while the petitioners are the second buyers. The burden of proving good faith lies with the second buyer (petitioners herein) which is not discharged by simply invoking the ordinary presumption of good faith.⁴

After an assiduous assessment of the evidentiary records, this Court holds that the petitioners are NOT buyers in good faith as they failed to discharge their burden of proof.

Notably, it is admitted that Martino is the grandfather of Esmeraldo. As an heir, petitioner Esmeraldo cannot be considered as a third party to the prior transaction between Martino and Purificacion. In *Pilapil v. Court of Appeals*,⁵ it was written:

The purpose of the registration is to give notice to third persons. And, privies are not third persons. The vendor's heirs are his privies. Against them, failure to register will not vitiate or annul the vendee's right of ownership conferred by such unregistered deed of sale.

The non-registration of the deed of sale between Martino and Purificacion is immaterial as it is binding on the petitioners who are privies.⁶ Based on the privity between petitioner Esmeraldo and Martino, the petitioner as a second buyer is charged with constructive knowledge of prior dispositions or encumbrances affecting the subject property. The second buyer who has actual or constructive knowledge of the prior sale cannot be a registrant in good faith.⁷

⁴ *Spouses Rayos v. Reyes*, 446 Phil. 32, 50-51 (2003).

⁵ 321 Phil. 156, 166 (1995).

⁶ *Rollo*, p. 63.

⁷ *Spouses Limon v. Spouses Borrás*, 452 Phil. 178, 207 (2003)

Moreover, although it is a recognized principle that a person dealing on a registered land need not go beyond its certificate of title, it is also a firmly settled rule that where there are circumstances which would put a party on guard and prompt him to investigate or inspect the property being sold to him, such as the presence of occupants/tenants thereon, it is expected from the purchaser of a valued piece of land to inquire first into the status or nature of possession of the occupants. As in the common practice in the real estate industry, an ocular inspection of the premises involved is a safeguard that a cautious and prudent purchaser usually takes. Should he find out that the land he intends to buy is occupied by anybody else other than the seller who, as in this case, is not in actual possession, it would then be incumbent upon the purchaser to verify the extent of the occupant's possessory rights. The failure of a prospective buyer to take such precautionary steps would mean negligence on his part and would preclude him from claiming or invoking the rights of a "purchaser in good faith."⁸ It has been held that "the registration of a later sale must be done in good faith to entitle the registrant to priority in ownership over the vendee in an earlier sale."⁹

There are several indicia that should have placed the petitioners on guard and prompted them to investigate or inspect the property being sold to them. *First*, Martino, as seller, did not have possession of the subject property. *Second*, during the sale on July 4, 1990, Martino did not have the owner's duplicate copy of the title. *Third*, there were existing permanent improvements on the land. *Fourth*, the respondents were in actual possession of the land. These circumstances are too glaring to be overlooked and should have prompted the petitioners, as prospective buyers, to investigate or inspect the land. Where the vendor is not in possession of the property, the prospective vendees are obligated to investigate the rights of one in possession.¹⁰

When confronted by Esmeraldo on the alleged previous sale, Martino declared that there was no sale but only a mortgage. The petitioners took the declaration of Martino as gospel truth or *ex cathedra*.¹¹ The petitioners are

⁸ *PNB v. Militar*, G.R. No. 16480, June 30, 2006, 494 SCRA 308, 315.

⁹ *Uraca v. Court of Appeals*, 344 Phil. 253, 265.

¹⁰ *Orduna v. Fuentebella, et. al.*, G.R. No. 176841, June 29, 2013.

¹¹ *Rollo*, p. 45.

not convincing. Glaringly, Martino gave conflicting statements. He stated in his Petition for Issuance of New Owner's Duplicate Copy of OTC¹² that he could not recall having delivered the owner's duplicate copy to anybody to *secure payment or performance of any obligation*. Yet, when confronted by Esmeraldo, Martino stated that he mortgaged the land with Purificacion. The claims of Martino, as relayed by the petitioners, cannot be relied upon.

As the petitioners cannot be considered buyers in good faith, they cannot lean on the indefeasibility of their TCT in view of the doctrine that the defense of indefeasibility of a torrens title does not extend to transferees who take the certificate of title in bad faith.¹³ The Court cannot ascribe good faith to those who have not shown any diligence in protecting their rights.¹⁴

Lastly, it is uncontroverted that the respondents were occupying the land since January 4, 1960 based on the deed of sale between Martino and Purificacion. They have also made improvements on the land by erecting a house of mixed permanent materials thereon, which was also admitted by the petitioners.¹⁵ The respondents, without a doubt, are possessors in good faith. Ownership should therefore vest in the respondents because they were first in possession of the property in good faith.¹⁶

WHEREFORE, the petition is DENIED.


JOSE CATRAL MENDOZA
Associate Justice

¹² Id. at 278.


¹³ *Baricuatro, Jr. v. Court of Appeals*, 382 Phil. 15, 34 (2000).

¹⁴ *Rufloe v. Burgos*, G.R. No. 143573, January 30, 2009, 577 SCRA 264, 275.

¹⁵ *Rollo*, p. 23.

¹⁶ *Bergado v. CA*, 255 Phil. 477, 486 (1989).

WE CONCUR:



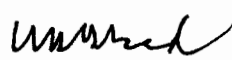
PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson



DIOSDADO M. PERALTA

Associate Justice



ROBERTO A. ABAD

Associate Justice

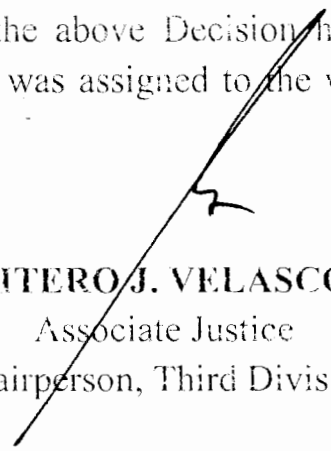


MARVIC MARIO VICTOR F. LEONEN

Associate Justice

A T T E S T A T I O N

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