



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

***HOSPICIO D. ROSAROSO,
ANTONIO D. ROSAROSO,
MANUEL D. ROSAROSO,
ALGERICA D. ROSAROSO,
and CLEOFE R. LABINDAO,**

Petitioners,

- versus -

G.R. No. 194846

Present:

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

**LUCILA LABORTE SORIA,
SPOUSES HAM SOLUTAN
and **LAILA SOLUTAN,
and MERIDIAN REALTY
CORPORATION,**

Respondents.

Promulgated:

JAN 15 2013

Macapang

X ----- X

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the December 4, 2009 Decision¹ of the Court of Appeals (CA), in CA G.R. CV No. 00351, which reversed and set aside the July 30, 2004 Decision² of the Regional Trial Court, Branch 8, 7th Judicial Region, Cebu City (RTC), in Civil Case No. CEB-16957, an action for declaration of nullity of documents.

* The name does not appear in the petition but appears in all the pleadings beginning with Motion for Extension (*Rollo*, p. 3).

** "Leila" in the title of the petition but records of RTC, CA and pleadings of respondents show it is "Laila."

¹ *Rollo*, pp. 51-65. Penned by Associate Justice Rodil V. Zalameda with Associate Justice Amy C. Lazaro-Javier and Associate Justice Samuel H. Gaerlan, concurring.

² *Id.* at 28-49. Penned by Judge Antonio T. Echavez.

The Facts

Spouses Luis Rosaroso (*Luis*) and Honorata Duazo (*Honorata*) acquired several real properties in Daan Bantayan, Cebu City, including the subject properties. The couple had nine (9) children namely: Hospicio, Arturo, Florita, Lucila, Eduardo, Manuel, Cleofe, Antonio, and Angelica. On April 25, 1952, Honorata died. Later on, Luis married Lourdes Pastor Rosaroso (*Lourdes*).

On January 16, 1995, a complaint for Declaration of Nullity of Documents with Damages was filed by Luis, as one of the plaintiffs, against his daughter, Lucila R. Soria (*Lucila*); Lucila's daughter, Laila S. Solutan (*Laila*); and Meridian Realty Corporation (*Meridian*). Due to Luis' untimely death, however, an amended complaint was filed on January 6, 1996, with the spouse of Laila, Ham Solutan (*Ham*); and Luis' second wife, Lourdes, included as defendants.³

In the Amended Complaint, it was alleged by petitioners Hospicio D. Rosaroso, Antonio D. Rosaroso (*Antonio*), Angelica D. Rosaroso (*Angelica*), and Cleofe R. Labindao (*petitioners*) that on November 4, 1991, Luis, with the full knowledge and consent of his second wife, Lourdes, executed the Deed of Absolute Sale⁴ (*First Sale*) covering the properties with Transfer Certificate of Title (*TCT*) No. 31852 (Lot No. 8); TCT. No. 11155 (Lot 19); TCT No. 10885 (Lot No. 22); TCT No. 10886 (Lot No. 23); and Lot Nos. 5665 and 7967, all located at Daanbantayan, Cebu, in their favor.⁵

They also alleged that, despite the fact that the said properties had already been sold to them, respondent Laila, in conspiracy with her mother, Lucila, obtained the Special Power of Attorney (*SPA*),⁶ dated April 3, 1993, from Luis (*First SPA*); that Luis was then sick, infirm, blind, and of unsound mind; that Lucila and Laila accomplished this by affixing Luis' thumb mark on the SPA which purportedly authorized Laila to sell and convey, among others, Lot Nos. 8, 22 and 23, which had already been sold to them; and that on the strength of another SPA⁷ by Luis, dated July 21, 1993 (*Second SPA*), respondents Laila and Ham mortgaged Lot No. 19 to Vital Lending

³ Id. at 52-53.

⁴ Records, pp. 21-24.

⁵ *Rollo*, p. 53.

⁶ Records, p. 25.

⁷ Id. at 130-131.

Investors, Inc. for and in consideration of the amount of ₱150,000.00 with the concurrence of Lourdes.⁸

Petitioners further averred that a second sale took place on August 23, 1994, when the respondents made Luis sign the Deed of Absolute Sale⁹ conveying to Meridian three (3) parcels of residential land for ₱960,500.00 (*Second Sale*); that Meridian was in bad faith when it did not make any inquiry as to who were the occupants and owners of said lots; and that if Meridian had only investigated, it would have been informed as to the true status of the subject properties and would have desisted in pursuing their acquisition.

Petitioners, thus, prayed that they be awarded moral damages, exemplary damages, attorney's fees, actual damages, and litigation expenses and that the two SPAs and the deed of sale in favor of Meridian be declared null and void *ab initio*.¹⁰

On their part, respondents Lucila and Laila contested the First Sale in favor of petitioners. They submitted that even assuming that it was valid, petitioners were *estopped* from questioning the Second Sale in favor of Meridian because they failed not only in effecting the necessary transfer of the title, but also in annotating their interests on the titles of the questioned properties. With respect to the assailed SPAs and the deed of absolute sale executed by Luis, they claimed that the documents were valid because he was conscious and of sound mind and body when he executed them. In fact, it was Luis together with his wife who received the check payment issued by Meridian where a big part of it was used to foot his hospital and medical expenses.¹¹

Respondent Meridian, in its Answer with Compulsory Counterclaim, averred that Luis was fully aware of the conveyances he made. In fact, Sophia Sanchez (*Sanchez*), Vice-President of the corporation, personally witnessed Luis affix his thumb mark on the deed of sale in its favor. As to petitioners' contention that Meridian acted in bad faith when it did not endeavor to make some inquiries as to the status of the properties in question, it countered that before purchasing the properties, it checked the titles of the said lots with the Register of Deeds of Cebu and discovered therein that the First Sale purportedly executed in favor of the plaintiffs was not registered with the said Register of Deeds. Finally, it argued that the suit against it was filed in bad faith.¹²

⁸ *Rollo*, pp. 53-54.

⁹ *Record*, pp. 26-28.

¹⁰ *Rollo*, p. 54.

¹¹ *Id.* at 54-55.

¹² *Id.* at 55.

On her part, Lourdes posited that her signature as well as that of Luis appearing on the deed of sale in favor of petitioners, was obtained through fraud, deceit and trickery. She explained that they signed the prepared deed out of pity because petitioners told them that it was necessary for a loan application. In fact, there was no consideration involved in the First Sale. With respect to the Second Sale, she never encouraged the same and neither did she participate in it. It was purely her husband's own volition that the Second Sale materialized. She, however, affirmed that she received Meridian's payment on behalf of her husband who was then bedridden.¹³

RTC Ruling

After the case was submitted for decision, the RTC ruled in favor of petitioners. It held that when Luis executed the second deed of sale in favor of Meridian, he was no longer the owner of Lot Nos. 19, 22 and 23 as he had already sold them to his children by his first marriage. In fact, the subject properties had already been delivered to the vendees who had been living there since birth and so had been in actual possession of the said properties. The trial court stated that although the deed of sale was not registered, this fact was not prejudicial to their interest. It was of the view that the actual registration of the deed of sale was not necessary to render a contract valid and effective because where the vendor delivered the possession of the parcel of land to the vendee and no superior rights of third persons had intervened, the efficacy of said deed was not destroyed. In other words, Luis lost his right to dispose of the said properties to Meridian from the time he executed the first deed of sale in favor of petitioners. The same held true with his alleged sale of Lot 8 to Lucila Soria.¹⁴ Specifically, the dispositive portion of the RTC decision reads:

IN VIEW OF THE FOREGOING, the Court finds that a preponderance of evidence exists in favor of the plaintiffs and against the defendants. Judgment is hereby rendered:

- a. Declaring that the Special Power of Attorney, Exhibit "K," for the plaintiffs and Exhibit "3" for the defendants null and void including all transactions subsequent thereto and all proceedings arising therefrom;
- b. Declaring the Deed of Sale marked as Exhibit "E" valid and binding;

¹³ Id. at 55-56.

¹⁴ Id. at 48.

- c. Declaring the Deed of Absolute Sale of Three (3) Parcels of Residential Land marked as Exhibit “F” null and void from the beginning;
- d. Declaring the Deed of Sale, Exhibit “16” (Solutan) or Exhibit “FF,” null and void from the beginning;
- e. Declaring the vendees named in the Deed of Sale marked as Exhibit “E” to be the lawful, exclusive and absolute owners and possessors of Lots Nos. 8, 19, 22, and 23;
- f. Ordering the defendants to pay jointly and severally each plaintiff ₱50,000.00 as moral damages; and
- g. Ordering the defendants to pay plaintiffs ₱50,000.00 as attorney’s fees; and ₱20,000.00 as litigation expenses.

The crossclaim made by defendant Meridian Realty Corporation against defendants Soria and Solutan is ordered dismissed for lack of sufficient evidentiary basis.

SO ORDERED.”¹⁵

Ruling of the Court of Appeals

On appeal, the CA reversed and set aside the RTC decision. The CA ruled that the first deed of sale in favor of petitioners was void because they failed to prove that they indeed tendered a consideration for the four (4) parcels of land. It relied on the testimony of Lourdes that petitioners did not pay her husband. The price or consideration for the sale was simulated to make it appear that payment had been tendered when in fact no payment was made at all.¹⁶

With respect to the validity of the Second Sale, the CA stated that it was valid because the documents were notarized and, as such, they enjoyed the presumption of regularity. Although petitioners alleged that Luis was manipulated into signing the SPAs, the CA opined that evidence was wanting in this regard. Dr. Arlene Letigio Pesquira, the attending physician of Luis, testified that while the latter was physically infirmed, he was of sound mind when he executed the first SPA.¹⁷

¹⁵ Id. at 49.

¹⁶ Id. at 60.

¹⁷ Id. at 61.

With regard to petitioners' assertion that the First SPA was revoked by Luis when he executed the affidavit, dated November 24, 1994, the CA ruled that the Second Sale remained valid. The Second Sale was transacted on August 23, 1994, before the First SPA was revoked. In other words, when the Second Sale was consummated, the First SPA was still valid and subsisting. Thus, "Meridian had all the reasons to rely on the said SPA during the time of its validity until the time of its actual filing with the Register of Deeds considering that constructive notice of the revocation of the SPA only came into effect upon the filing [of the] Adverse Claim and the aforementioned Letters addressed to the Register of Deeds on 17 December 1994 and 25 November 1994, respectively, informing the Register of Deeds of the revocation of the first SPA."¹⁸ Moreover, the CA observed that the affidavit revoking the first SPA was also revoked by Luis on December 12, 1994.¹⁹

Furthermore, although Luis revoked the First SPA, he did not revoke the Second SPA which authorized respondent Laila to sell, convey and mortgage, among others, the property covered by TCT T-11155 (Lot No. 19). The CA opined that had it been the intention of Luis to discredit the Second Sale, he should have revoked not only the First SPA but also the Second SPA. The latter being valid, all transactions emanating from it, particularly the mortgage of Lot 19, its subsequent redemption and its second sale, were valid.²⁰ Thus, the CA disposed in this wise:

WHEREFORE, the appeal is hereby GRANTED. The Decision dated 30 July 2004 is hereby REVERSED AND SET ASIDE, and in its stead a new decision is hereby rendered:

1. DECLARING the Special Power of Attorney, dated 21 July 1993, as valid;
2. DECLARING the Special Power of Attorney, dated 03 April 1993, as valid up to the time of its revocation on 24 November 1994;
3. DECLARING the Deed of Absolute [sale], dated 04 November 1991, as ineffective and without any force and effect;
4. DECLARING the Deed of Absolute Sale of Three (3) Parcels of Residential Land, dated 23 August 1994, valid and binding from the very beginning;

¹⁸ Id. at 62.

¹⁹ Id.

²⁰ Id. at 63.

5. DECLARING the Deed of Absolute Sale, dated 27 September 1994, also valid and binding from the very beginning;
6. ORDERING the substituted plaintiffs to pay jointly and severally the defendant-appellant Meridian Realty Corporation the sum of Php100,000.00 as moral damages, Php100,000.00 as attorney's fee and Php100,000.00 as litigation expenses; and
7. ORDERING the substituted plaintiffs to pay jointly and severally the defendant-appellants Leila Solutan et al., the sum of Php50,000.00 as moral damages.

SO ORDERED.²¹

Petitioners filed a motion for reconsideration, but it was denied in the CA Resolution,²² dated November 18, 2010. Consequently, they filed the present petition with the following

ASSIGNMENT OF ERRORS

I.

THE HONORABLE COURT OF APPEALS (19TH DIVISION) GRAVELY ERRED WHEN IT DECLARED AS VOID THE FIRST SALE EXECUTED BY THE LATE LUIS ROSAROSO IN FAVOR OF HIS CHILDREN OF HIS FIRST MARRIAGE.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT SUSTAINING AND AFFIRMING THE RULING OF THE TRIAL COURT DECLARING THE MERIDIAN REALTY CORPORATION A BUYER IN BAD FAITH, DESPITE THE TRIAL COURT'S FINDINGS THAT THE DEED OF SALE (First Sale), IS GENUINE AND HAD FULLY COMPLIED WITH ALL THE LEGAL FORMALITIES.

III.

THE HONORABLE COURT OF APPEALS FURTHER ERRED IN NOT HOLDING THE SALE (DATED 27 SEPTEMBER 1994), NULL AND VOID FROM THE VERY BEGINNING SINCE LUIS ROSAROSO ON NOVEMBER 4, 1991 WAS NO LONGER THE OWNER OF LOTS 8, 19, 22 AND 23 AS HE HAD EARLIER DISPOSED SAID LOTS IN FAVOR OF THE CHILDREN OF HIS (LUIS ROSAROSO) FIRST MARRIAGE.²³

²¹ Id. at 64-65.

²² Id. at 67-68.

²³ Id at 15-16.

Petitioners argue that the second deed of sale was null and void because Luis could not have validly transferred the ownership of the subject properties to Meridian, he being no longer the owner after selling them to his children. No less than Atty. William Boco, the lawyer who notarized the first deed of sale, appeared and testified in court that the said deed was the one he notarized and that Luis and his second wife, Lourdes, signed the same before him. He also identified the signatures of the subscribing witnesses.²⁴ Thus, they invoke the finding of the RTC which wrote:

In the case of *Heirs of Joaquin Teves, Ricardo Teves versus Court of Appeals, et al.*, G.R. No. 109963, October 13, 1999, the Supreme Court held that a public document executed [with] all the legal formalities is entitled to a presumption of truth as to the recitals contained therein. In order to overthrow a certificate of a notary public to the effect that a grantor executed a certain document and acknowledged the fact of its execution before him, mere preponderance of evidence will not suffice. Rather, the evidence must (be) so clear, strong and convincing as to exclude all reasonable dispute as to the falsity of the certificate. When the evidence is conflicting, the certificate will be upheld x x x .

A notarial document is by law entitled to full faith and credit upon its face. (*Ramirez vs. Ner*, 21 SCRA 207). As such it ... must be sustained in full force and effect so long as he who impugns it shall not have presented strong, complete and conclusive proof of its falsity or nullity on account of some flaw or defect provided against by law (*Robinson vs. Villafuerte*, 18 Phil. 171, 189-190).²⁵

Furthermore, petitioners aver that it was erroneous for the CA to say that the records of the case were bereft of evidence that they paid the price of the lots sold to them. In fact, a perusal of the records would reveal that during the cross-examination of Antonio Rosaroso, when asked if there was a monetary consideration, he testified that they indeed paid their father and their payment helped him sustain his daily needs.²⁶

Petitioners also assert that Meridian was a buyer in bad faith because when its representative visited the site, she did not make the necessary inquiries. The fact that there were already houses on the said lots should have put Meridian on its guard and, for said reason, should have made

²⁴ Id. at 18.

²⁵ Id. at 47.

²⁶ Id. at 19-20.

inquiries as to who owned those houses and what their rights were over the same.²⁷

Meridian's assertion that the Second Sale was registered in the Register of Deeds was a falsity. The subject titles, namely: TCT No. 11155 for Lot 19, TCT No. 10885 for Lot 22, and TCT No. 10886 for Lot 23 were free from any annotation of the alleged sale.²⁸

After an assiduous assessment of the records, the Court finds for the petitioners.

The First Deed Of Sale Was Valid

The fact that the first deed of sale was executed, conveying the subject properties in favor of petitioners, was never contested by the respondents. What they vehemently insist, though, is that the said sale was simulated because the purported sale was made without a valid consideration.

Under Section 3, Rule 131 of the Rules of Court, the following are disputable presumptions: (1) private transactions have been fair and regular; (2) the ordinary course of business has been followed; and (3) *there was sufficient consideration for a contract*.²⁹ These presumptions operate against an adversary who has not introduced proof to rebut them. They create the necessity of presenting evidence to rebut the *prima facie* case they created, and which, if no proof to the contrary is presented and offered, will prevail. The burden of proof remains where it is but, by the presumption, the one who has that burden is relieved for the time being from introducing evidence in support of the averment, because the presumption stands in the place of evidence unless rebutted.³⁰

In this case, the respondents failed to trounce the said presumption. Aside from their bare allegation that the sale was made without a consideration, they failed to supply clear and convincing evidence to back up this claim. It is elementary in procedural law that bare allegations,

²⁷ Id. at 23-24.

²⁸ Id. at 25.

²⁹ *Surtida v. Rural Bank of Malinao (Albay), Inc.*, G.R. No. 170563, December 20, 2006, 511 SCRA 507, 519.

³⁰ Id. at 519-520.

unsubstantiated by evidence, are not equivalent to proof under the Rules of Court.³¹

The CA decision ran counter to this established rule regarding disputable presumption. It relied heavily on the account of Lourdes who testified that the children of Luis approached him and convinced him to sign the deed of sale, explaining that it was necessary for a loan application, but they did not pay the purchase price for the subject properties.³² This testimony, however, is self-serving and would not amount to a clear and convincing evidence required by law to dispute the said presumption. As such, the presumption that there was sufficient consideration will not be disturbed.

Granting that there was no delivery of the consideration, the seller would have no right to sell again what he no longer owned. His remedy would be to rescind the sale for failure on the part of the buyer to perform his part of their obligation pursuant to Article 1191 of the New Civil Code. In the case of *Clara M. Balatbat v. Court Of Appeals and Spouses Jose Repuyan and Aurora Repuyan*,³³ it was written:

The failure of the buyer to make good the price does not, in law, cause the ownership to revert to the seller unless the bilateral contract of sale is first rescinded or resolved pursuant to Article 1191 of the New Civil Code. Non-payment only creates a right to demand the fulfillment of the obligation or to rescind the contract.
[Emphases supplied]

**Meridian is Not a
Buyer in Good Faith**

Respondents Meridian and Lucila argue that, granting that the First Sale was valid, the properties belong to them as they acquired these in good faith and had them first recorded in the Registry of Property, as they were unaware of the First Sale.³⁴

³¹ *Filipinas Port Services, Inc. v. Go*, G.R. No. 161886, March 16, 2007, 518 SCRA 453, 469.

³² *Rollo*, p. 60,

³³ G.R. No. 109410, August 28, 1996, 329 Phil 870.

³⁴ *Id.* at 116.

Again, the Court is not persuaded.

The fact that Meridian had them first registered will not help its cause. In case of double sale, Article 1544 of the Civil Code provides:

ART. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in possession; and, in the absence thereof; to the person who presents the oldest title, provided there is good faith.

Otherwise stated, ownership of an immovable property which is the subject of a double sale shall be transferred: (1) to the person acquiring it who in good faith first recorded it in the Registry of Property; (2) in default thereof, to the person who in good faith was first in possession; and (3) in default thereof, to the person who presents the oldest title, provided there is good faith. The requirement of the law then is two-fold: acquisition in good faith and registration in good faith. Good faith must concur with the registration. If it would be shown that a buyer was in bad faith, the alleged registration they have made amounted to no registration at all.

The principle of *primus tempore, potior jure* (first in time, stronger in right) gains greater significance in case of a double sale of immovable property. When the thing sold twice is an immovable, the one who acquires it and first records it in the Registry of Property, both made in good faith, shall be deemed the owner. Verily, the act of registration must be coupled with good faith— that is, the registrant must have no knowledge of the defect or lack of title of his vendor or must not have been aware 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.)³⁵ [Emphases and underlining supplied]

³⁵ *San Lorenzo Development Corporation v. Court of Appeals*, 490 Phil 7, 23 (2005).

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.* When a man proposes to buy or deal with realty, his duty is to read the public manuscript, that is, to look and see who is there upon it and what his rights are. A want of caution and diligence, which an honest man of ordinary prudence is accustomed to exercise in making purchases, is in contemplation of law, a want of good faith. The buyer who has failed to know or discover that the land sold to him is in adverse possession of another is a buyer in bad faith.³⁶ In the case of *Spouses Sarmiento v. Court of Appeals*,³⁷ it was written:

Verily, every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go behind the certificate to determine the condition of the property. Thus, the general rule is that a purchaser may be considered a purchaser in good faith when he has examined the latest certificate of title. An exception to this rule is when there exist important facts that would create suspicion in an otherwise reasonable man to go beyond the present title and to investigate those that preceded it. Thus, it has been said *that a person who deliberately ignores a significant fact which would create suspicion in an otherwise reasonable man is not an innocent purchaser for value. A purchaser cannot close his eyes to facts which should put a reasonable man upon his guard, and then claim that he acted in good faith under the belief that there was no defect in the title of the vendor. As we have held:*

The failure of appellees to take the ordinary precautions which a prudent man would have taken under the circumstances, specially 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.

In this connection, it has been held that where, as in this case, the land sold is in the possession of a person other than the vendor, the purchaser is required to go beyond the certificate of title to ma[k]e inquiries concerning the rights of the actual possessor. Failure to do so would make him a purchaser in bad faith. (Citations omitted).

³⁶ Id.

³⁷ 507 Phil. 101,127-129 (2005).

One who purchases real property which is in the actual possession of another should, at least make some inquiry concerning the right of those in possession. The actual possession by other than the vendor should, at least put the purchaser upon inquiry. He can scarcely, in the absence of such inquiry, be regarded as a bona fide purchaser as against such possessors. (Emphases supplied)

Prescinding from the foregoing, the fact that private respondent RRC did not investigate the Sarmiento spouses' claim over the subject land despite its knowledge that Pedro Ogsiner, as their overseer, was in actual possession thereof means that it was not an innocent purchaser for value upon said land. Article 524 of the Civil Code directs that possession may be exercised in one's name or in that of another. In herein case, Pedro Ogsiner had informed RRC that he was occupying the subject land on behalf of the Sarmiento spouses. **Being a corporation engaged in the business of buying and selling real estate, it was gross negligence on its part to merely rely on Mr. Puzon's assurance that the occupants of the property were mere squatters considering the invaluable information it acquired from Pedro Ogsiner and considering further that it had the means and the opportunity to investigate for itself the accuracy of such information. [Emphases supplied]**

In another case, it was held that if a vendee in a double sale registers the sale after he has acquired knowledge of a previous sale, the registration constitutes a registration in bad faith and does not confer upon him any right. *If the registration is done in bad faith, it is as if there is no registration at all, and the buyer who has first taken possession of the property in good faith shall be preferred.*³⁸

In the case at bench, the fact that the subject properties were already in the possession of persons other than Luis was never disputed. Sanchez, representative and witness for Meridian, even testified as follows:

x x x; that she together with the two agents, defendant Laila Solutan and Corazon Lua, the president of Meridian Realty Corporation, went immediately to site of the lots; that the agents brought with them the three titles of the lots and Laila Solutan brought with her a special power of attorney executed by Luis B. Rosaroso in her favor but she went instead directly to Luis Rosaroso to be sure; that the lots were pointed to them and she saw that there were houses on it but she did not have any interest of the houses because her interest was on the lots; that Luis Rosaroso said that the houses belonged to him; that he owns the property and that he will sell the same because he is very sickly and he wanted to buy

³⁸ *San Lorenzo Development Corporation v. Court of Appeals*, supra note 35, citing *Abarquez v. Court of Appeals*, G.R. No. 95843, September 2, 1992, 213 SCRA 415.

medicines; that she requested someone to check the records of the lots in the Register of Deeds; that one of the titles was mortgaged and she told them to redeem the mortgage because the corporation will buy the property; that the registered owner of the lots was Luis Rosaroso; that in more or less three months, the encumbrance was cancelled and she told the prospective sellers to prepare the deed of sale; that there were no encumbrances or liens in the title; that when the deed of absolute sale was prepared it was signed by the vendor Luis Rosaroso in their house in Opra x x x.³⁹ (Underscoring supplied)

From the above testimony, it is clear that Meridian, through its agent, knew that the subject properties were in possession of persons other than the seller. Instead of investigating the rights and interests of the persons occupying the said lots, however, it chose to just believe that Luis still owned them. Simply, Meridian Realty failed to exercise the due diligence required by law of purchasers in acquiring a piece of land in the possession of person or persons other than the seller.

In this regard, great weight is accorded to the findings of fact of the RTC. Basic is the rule that the trial court is in a better position to examine real evidence as well as to observe the demeanor of witnesses who testify in the case.⁴⁰

WHEREFORE, the petition is **GRANTED**. The December 4, 2009 Decision and the November 18, 2010 Resolution of the Court of Appeals, in CA-G.R. CV No. 00351, are **REVERSED** and **SET ASIDE**. The July 30, 2004 Decision of the Regional Trial Court, Branch 8, 7th Judicial Region, Cebu City, in Civil Case No. CEB-16957, is hereby **REINSTATED**.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice


³⁹ *Rollo*, p. 44.

⁴⁰ *Ferrer v. Court of Appeals*, G.R. No. 98182, March 1, 1993, 219 SCRA 302, 307.

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

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