



Republic of the Philippines  
**Supreme Court**  
Manila

**THIRD DIVISION**

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

**G.R. No. 261278 (SPOUSES DELIA P. IBAÑEZ and NESTOR R. IBAÑEZ, NOVA I. AQUINO, and THE REGISTER OF DEEDS OF MARIKINA CITY, Petitioners, v. HERMINIA S. ASTORGA, Respondent.)** – The Court resolves to:

- (1) **GRANT** petitioner Nova I. Aquino's Motion for Extension of Time to Comply with the Order of the Honorable Court dated August 3, 2022 dated September 18, 2022, through Atty. Fortuno, counsel for petitioners, for an additional ten (10) days from September 28, 2022 within which to submit a soft copy of the motion for extension of time to file petition;
  
- (2) **NOTE:**
  - (a) said Compliance dated September 26, 2022, submitting the soft copy of the motion for extension in portable document format; and
  
  - (b) Comment/Opposition dated October 10, 2022, filed by Atty. Rio Espiriru of Espiritu Espiritu & Lim Law Offices, counsel for respondent, to the petition for review on *certiorari*, and **GRANT** the Substitution of Parties by the heirs of respondent Herminia Astorga [namely: Ronaldo S. Astorga, Ariel S. Astorga and Raquel S. Astorga], who died on June 18, 2021, during the pendency of this case (with attached Certificate of Death) and praying that copies of all pleadings, notices and other court processes in this case be sent to the said heirs at 678 General Luna St., Brgy. Maly, San Mateo, Rizal; and

- (3) **DEFER ACTION** on the Notice of Withdrawal of Appearance dated September 19, 2022, filed by Atty. Vivencio S. Baclig of The Law Firm of Baclig & Villanueva, as counsel for petitioner Aquino, stating that the latter would like to hire another counsel to represent her in the subsequent proceedings of this case and praying that he be relieved from whatever obligations which he may have in connection with the instant case.

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court assailing the Decision,<sup>2</sup> dated December 1, 2020, of the Court of Appeals (CA), in CA-G.R. CV No. 112617. The assailed Decision and Resolution affirmed the Decision of the Regional Trial Court (RTC) of San Mateo, Rizal, Branch 76, dated January 5, 2018, declaring the Deed of Absolute Sale in favor of petitioner Delia P. Ibañez (**Delia**) as null and void, the cancellation of Transfer Certificate of Title (TCT) No. 435315 in Delia's name, and the revival of TCT No. 380870 in the name of Delfin Pagkatipunan (**Delfin**).

### *The Facts*

On August 6, 2009, Herminia Astorga (**Herminia**) filed a Complaint against Spouses Delia and Nestor Ibañez (**Spouses Ibañez**) for Declaration of Nullity of Title and Deed of Absolute Sale (**DOAS**).

According to Herminia, she executed a DOAS with Delfin on June 3, 2000, over a parcel of land in Maly, San Mateo, Rizal, covered by TCT No. 380870 under Delfin's name. Delfin transferred all his rights and interests over the subject property to Herminia and allowed her to occupy and build improvements thereat. Delfin was unable to deliver the owner's duplicate of the title, which he believed was missing. Still, he instituted an action to cancel the title in his name so that another could be issued in Herminia's name.

The respondents, the Spouses Ibañez, are first cousins of Herminia. They were aware of the transaction with Delfin as they allegedly saw the DOAS.

Unknown to them, Delfin's sister, Delia, was able to obtain possession of the title of the subject property. She forged Delfin's signature on a DOAS of Undivided Share of Land and made it appear that Delfin sold them the property for PHP 200,000.00. With the DOAS, the Spouses Ibañez were able to cause the cancellation of the TCT under Delfin's name and obtain a new title over the subject property in their names.

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<sup>1</sup> *Rollo*, pp. 10-21.

<sup>2</sup> *Id.* at 22-38. Penned by Associate Justice Ramon M. Bato, Jr., and concurred in by Associate Justices Jhosep Y. Lopez (now a Member of the Court) and Bonifacio S. Pascua.

Herminia continued to be in open and public possession of the subject property until the death of Delfin on November 17, 2008, after which the Spouses Ibañez declared their intention to take over the property pursuant to the falsified title. Herminia demanded the surrender of the falsified title, yet the Spouses Ibañez refused, prompting Herminia to file a complaint before the RTC.

Nova Ibañez Aquino (Nova) filed a Motion to Intervene and to Admit Answer-in-Intervention as the present owner of the subject property, having bought the same from her mother, Delia. Essentially, Nova claimed that if there was indeed a sale between Herminia and Delfin, Herminia should have, at least, caused its annotation or taken steps to report and cause the inscription of the fact that the owner's duplicate of the TCT under Delfin's name has been lost, stolen, missing and/or destroyed to prevent third persons from dealing therewith. Further, Nova insisted that since the alleged sale between Herminia and Delfin was never registered, it would not bind the subject property, and that the registered sale between Delia and Delfin prevails over the alleged unregistered sale of the latter.<sup>3</sup>

### *The Ruling of the RTC*

On January 5, 2018, the RTC ruled in favor of Herminia, declaring the title issued in the name of Delia as null and void:

WHEREFORE, premises considered, judgment is rendered as follows:

- 1) Declaring the subject Deed of Absolute Sale purportedly executed by Delfin Pagkatipunan in favor of the defendant Delia P. Ibañez NULL and VOID;
- 2) The Register of Deeds of Marikina City is hereby ordered to cancel Transfer Certificate of Title (TCT) No. 435315 in the name of Delia P. Ibañez, married to Nestor Ibañez;
- 3) Ordering the Register of Deeds of Marikina City to reinstate and revive TCT No. 380870 in the name of Delfin Pagkatipunan;
- 4) Ordering the defendants to pay attorney's fees in the amount of ₱ 50,000.00, including appearance fees.

SO ORDERED.<sup>4</sup>

### *The Ruling of the CA*

On appeal, the CA found no reversible error in the Decision of the RTC:

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<sup>3</sup> *Id.* at 25-26.

<sup>4</sup> *Id.* at 153-154.

WHEREFORE, the instant appeal is DENIED for lack of merit. The Decision dated January 5, 2018, of the Regional Trial Court of San Mateo, Rizal, Branch 76, in Civil Case No. 2313, is AFFIRMED.

SO ORDERED.<sup>5</sup>

In upholding the findings of the RTC, the CA agreed that Delia and Nova acted with gross and evident bad faith in registering the DOAS and obtaining a TCT registered in Delia's name. The latter failed to discharge their burden to prove they had no prior knowledge that the subject property had already been sold to Herminia. Mere registration of the sale is not enough. Good faith must concur with the registration. Bad faith, as held by the CA, renders the registration nothing but an exercise in futility.<sup>6</sup>

The CA likewise affirmed the RTC's order to pay Herminia attorney's fees and appearance fees, as she was compelled and constrained to litigate and secure the services of a counsel.<sup>7</sup>

Aggrieved, Nova moved for reconsideration of the CA Decision, but the CA concluded that the arguments raised were a mere rehash of the submissions it previously passed upon. Thus, the CA denied their Motion for Reconsideration.<sup>8</sup>

Hence, this recourse, positing that the CA erred in ruling that the DOAS between Delia and Delfin is null and void, in canceling the title of Delia, and in ordering the payment of attorney's fees and appearance fees in favor of Herminia.

#### *The Issue*

Should the rule on double sale apply to the DOAS between Delia and Delfin and on the basis of which declare the same invalid?

#### *The Ruling of the Court*

The Petition is bereft of merit.

At the outset, it must be underscored that this Court is not a trier of facts. Subject to well known exceptions, none of which obtains in this case, the

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<sup>5</sup> *Id.* at 38.

<sup>6</sup> *Id.* at 36-37.

<sup>7</sup> *Id.* at 37.

<sup>8</sup> *Id.* at 41-42.

Court is bound by the factual findings of the CA, especially where such factual findings, as found herein, are in accord with the RTC's findings.<sup>9</sup>

Well settled is the rule that conclusions and findings of fact by the trial court are entitled to great weight on appeal and should not be disturbed unless for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as to observe the demeanor of the witnesses while testifying in the case.<sup>10</sup>

Nova's contention is anchored on the principle of *prior tempore, potior jure* (first in time, stronger in right) as the DOAS between her mother, Delia, and her uncle Delfin had been registered first. The Court disagrees.

The rule on double sales under Article 1544 of the New Civil Code of the Philippines<sup>11</sup> (**Civil Code**) applies only to purchasers in good faith and disqualifies any purchaser in bad faith.<sup>12</sup> Here, the RTC correctly found that the Spouses Ibañez cannot claim to be in good faith:

However, defendants Delia P. Ibañez and Nestor R. Ibañez can hardly claim to be innocent purchasers for value or purchasers in good faith. The plaintiff was able to prove by preponderance of evidence that she constructed a building on the subject property after having purchased the same on June 3, 2000. The property was subsequently leased to Cesar E. Caseñas. Therefore, defendant Delia P. Ibañez knew or was at least expected to know that a third person other than Delfin Pagkatipunan has an interest over the subject property. This is borne by the fact that the seller, Delfin Pagkatipunan, was not in possession of the lot when it was sold to the second buyer, defendant Delia P. Ibañez, on November 5, 2002. With respect to defendant-intervenor Nova I. Aquino, she knew that plaintiff Astorga has a claim over the property when the latter visited their house in Quezon City. Besides, the defendant-intervenor is deemed to have constructive knowledge of the previous sale to plaintiff Astorga by virtue of her relationship to both Delfin Pagkatipunan and defendant Delia P. Ibañez."<sup>13</sup>

x x x x

In the instant case, it is evident that Delfin Pagkatipunan was not in possession of the property since his house was demolished after the first

<sup>9</sup> *Taina Manigque-Stone v. Cattleya Land, Inc.*, 794 Phil 340 (2016).

<sup>10</sup> *Insurance Services and Commercial Traders, Inc. v. Court of Appeals*, 395 Phil. 791 (2000), citing *Chase v. Buencamino, Sr.*, 221 Phil. 65-96 (1985).

<sup>11</sup> 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 taken 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 the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

<sup>12</sup> *De Leon v. Ong*, 625 Phil. 221 (2010).

<sup>13</sup> *Rollo*, p. 32.

sale on June 3, 2000, the prospective vendees are therefore obliged to inquire as to the rights of the one in possession. Regrettably, the defendants did not investigate the rights of plaintiff Astorga and her lessee, Cesar E. Caseñas, who were in actual possession thereof at the time of the second sale on November 5, 2002. Here the rule of *caveat emptor* applies. Consequently, the registration of defendant Delia P. Ibañez is considered a registration in bad faith and will not confer upon her any right.<sup>14</sup>

As observed by the CA and the RTC, Nova's witnesses, Luzviminda S. Francisco and Rolando T. Pagkatipunan (Delfin's son), both testified that Delfin's house on the subject property was demolished and, in its place, Herminia constructed an auto repair shop.<sup>15</sup> Thus, Delia knew, or was, at least, expected to, that a third person other than her brother Delfin may have an interest in the subject property, as he no longer occupied or possessed the disputed lot. Nova, for her part, knew of Herminia's claim over the property when the latter visited her.<sup>16</sup>

Further, Herminia's act of paying real property taxes is a strong *indicum* of possession in the concept of an owner. After all, no one in his right mind would be paying taxes for a property not in his actual or, at least, constructive possession.

The Court agrees with the CA's findings that the Spouses Ibañez are not purchasers in good faith. Well settled is the rule that where there are circumstances that would put a party on guard and prompt him or her to investigate or inspect the property being sold to him or her, 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 or she find out that the land he or she 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 or her part and would preclude him or her from claiming or invoking the rights of a "purchaser in good faith."<sup>17</sup>

Finally, the Court underscores that Nova's title conferred no better right than the void title of the Spouses Ibañez for the spring cannot rise higher than its source.<sup>18</sup>

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<sup>14</sup> *Id.* at 36.

<sup>15</sup> *Id.* at 159.

<sup>16</sup> *Id.* at 32.

<sup>17</sup> *Spouses Vallido v. Spouses Pono*, 709 Phil. 371, 378, (2013), citing *PNB v. Militar*, 494 SCRA 308, 315 (2006).

<sup>18</sup> *Berico v. Court of Appeals*, 296-A Phil. 482, 495 (1993).

All in all, the Court finds no reason to disturb the findings of the lower courts and thus **DENIES** the Petition for Review for lack of merit and **AFFIRMS** the Decision, dated December 1, 2020, of the Court of Appeals in CA-G.R. CV No. 112617.

**SO ORDERED.**

By authority of the Court:

*MisDc Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *3/2023*

Atty. Mike Luke C. Pavico  
THE LAW FIRM OF BACLIG & VILLANUEVA  
Counsel for Petitioner  
Suites 204 & 214, 2/F Eagle Court  
Condominium, 26 Matalino St., Central  
Diliman, 1101 Quezon City

COURT OF APPEALS  
CA-G.R. CV No. 112617  
1000 Manila

Atty. Bernardita S. Fortunato  
DOMINGUEZ DELANI DOMINGUEZ & FORTUNATO  
LAW OFFICES  
Counsel for Respondent  
21-G, F. Castillo St., Project 4  
1100 Quezon City

Atty. Rio T. Espiritu  
Counsel for Respondent  
48-C Malakas St., Brgy. Pinyahan  
1100 Quezon City

The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 76, San Mateo  
1850 Rizal  
(Civil Case No. 2313)

THE REGISTER OF DEEDS  
1800 Marikina City

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[research\_philja@yahoo.com]

**G.R. No. 261278**

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