

**ALICIA DE SANTOS, PETITIONER, VS. THE HONORABLE
INTERMEDIATE APPELLATE COURT (SPECIAL THIRD CIVIL CASE
DIVISION), MAXIMO PINO (DECEASED SUBSTITUTED BY HEIRS) AND
PENINSULA RESOR...**

G.R. No. L-69591. January 25, 1988

Ponente: PARAS, J.

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PARAS, J.:

The parcel of land in question is Lot No. 5659 of the Opon Cadastre, situated in the Barrio of Marigondon, Opon (now Lapu-Lapu City) Island of Mactan, Cebu, consisting of 27,193 square meters. It was originally registered pursuant to Decree No. 526850 way back, on March 19, 1934, in the names of “Spouses Serapio Aton and Eustaquia Arong, 1/2 share; and the Spouses Silverio Casiban and Teodora Aton, 1/2 share, in undivided interests.” However, the Original Certificate of Title issued pursuant to said Decree No. 526850 and on file with the Registry of Deeds of Lapu-Lapu City, as well as the owner’s duplicate certificate of title was lost during the last world war.

On May 3, 1962, Domingo Sulliano, in representation of his parents-in-law, spouses Serapio Aton and Eustaquia Arong, sold the undivided one-half (1/2) share of the said spouses to Eleuteria Pino who petitioned for the reconstitution of the lost certificate of title in the names of the original co-owners, Spouses Serapio Aton and Eustaquia Arong, one-half (1/2) share, and Spouses Silverio Casiban and Teodora Aton, one-half (1/2) share. On October 1, 1962, an order for the reconstitution of the original certificate for subject Lot 5659 was issued in the names of the original owners. Pursuant thereto, Original Certificate of Title No. RO- 0034 was issued on November 15, 1962 in the names of Spouses Serapio Aton and Eustaquia Arong, 1/2 share, and Spouses Silverio Casiban and Teodora Aton, one-half (1/2) share. Thereafter, the said original owners effected an oral division, whereby Eleuteria Pino as the successor-in-interest of the spouses Serapio Aton and Eustaquia Arong, was awarded the northern portion of the said Lot 5659.

On November 3, 1962, an extrajudicial declaration of heirs was executed by the heirs of Serapio Aton and Eustaquia Arong, namely Marcelina, Raymunda, Alejandra, Anatolio, Julian and Maria, all surnamed Aton wherein each of them received equal shares of 2.264 square meters each of the northern portion of Lot No. 5659. This document was registered and annotated in Original Certificate of Title No. RO-0034 on November 15, 1962. The Deed of Absolute Sale dated May 3, 1962 executed by Domingo Sulliano in favor of Eleuteria Pino was registered and duly annotated on November 5, 1962. On November 16, 1962, Original Certificate of Title No. RO-0034 was cancelled and in lieu thereof, Transfer Certificate of Title No. T-0034 was issued in the name of Eleuteria Pino, one-half (1/2) share; spouses Silverio Casiban and Teodora Aton one-half (1/2) share. Eleuteria Pino occupied this northern portion and paid the taxes thereon.

On November 30, 1966, spouses Silverio Casiban and Teodora Aton sold their undivided one-half (1/2) share of Lot No. 5659 to Spouses Espiritu Bunagan and Felicidad de los Angeles. Thereafter, Espiritu Bunagan also filed a

Petition for the judicial reconstitution of the lost certificate of title covering Lot No. 5659 and after hearing the lost certificate of title was reconstituted as Original Certificate of Title No. RO-0769 in the names of the Spouses Serapio Aton and Eustaquia Arong one-half (1/2) share and Spouses Silverio Casiban and Teodora Aton one-half (1/2) share. On November 30, 1966 the Deed of Sale executed by the Spouses Silverio Casiban and Teodora Aton in favor of the spouses Espiritu Bunagan and Felicidad de los Angeles was registered and Original Certificate of Title No. RO-0769 was cancelled and Transfer Certificate of Title No. 1766 was issued in the names of spouses Espiritu Bunagan and Felicidad de los Angeles one-half (1/2) share and spouses Serapio Aton and Eustaquia Arong one-half (1/2) share. Purchaser Espiritu Bunagan had Lot No. 5659 subdivided on November 18, 1977 into Lot No. 5659-A (Northern portion) and Lot No. 5659-B (Southern portion). The subdivision survey plan together with the technical description was approved by the Land Registration Commission sometime on December 23, 1977, The Bunagans and the heirs of spouses Serapio Aton and Eustaquia Arong executed a partition agreement over Lot No. 5659 wherein Espiritu Bunagan was adjudicated Lot No. 5659-A (this is the northern portion which was in 1962 adjudicated to Eleuteria Pino per the verbal partition/ subdivision of the original co-owners) containing an area of 13,596 square meters more or less, and Serapio Aton and Eustaquia Arong was adjudicated Lot No. 5659-B containing an area of 13.597 more or less. This partition agreement was duly annotated in Transfer Certificate of Title No. 1766 as Entry No. 594-V-III-D.B. On December 31, 1977, the Bunagans ceded, sold and conveyed absolutely and forever Lot No. 5659- A to Alicia de Santos (herein petitioner) who registered the deed, surrendering Transfer Certificate of Title No. 1766, and in lieu thereof Transfer Certificate of Title No. 8433 covering Lot No. 5659-A was issued by the Register of Deeds of Lapu-Lapu City in the name of Alicia de Santos married to Roberto Rosa.

On April 25, 1978, Maximo Pino, attorney-in-fact of Eleuteria Pino, caused the annotation in Transfer Certificate of Title No. 8433 of an "Affidavit of Adverse Claim" as Entry No. 859-V-5-III D.B.

On June 28, 1978, Alicia de Santos filed with the Court of First Instance of Cebu, Civil Case No. 355-A against Maximo Pino, for "Quieting of Title and Damages."

Pending hearing of said Civil Case No. 355-A, Maximo Pino in his capacity as attorney-in-fact of Eleuteria Pino executed on July 31, 1978, in favor of Peninsula Resort Corporation, a document entitled "Exclusive Option to Purchase."

With this "Exclusive Option to Purchase" as basis, Peninsula Resort Corporation filed in Civil Case No. 335-A, a Motion for Leave to Intervene which was granted by the lower court in its Order dated December 11, 1978.

After trial, the lower court rendered its decision, the dispositive portion of which reads as follows:

"WHEREFORE, judgment is hereby rendered as follows:

- (1) Dismissing plaintiffs complaint;
- (2) Declaring Eleuteria Pino as the owner and entitled to possession of Lot No. 5659-A, containing an area of 13,596 square meters;
- (3) Declaring plaintiff as the owner and entitled to possession of Lot No. 5659-B; containing an area of 13,597 square meters;
- (4) Directing the Register of Deeds of Lapu-Lapu City to cancel all certificates of title derived from Original Certificate of Title No. RO-0769 as well as this reconstituted certificate of title;
- (5) Directing the Register of Deeds of Lapu-Lapu City to transfer the registration of all instruments and encumbrances affecting the portion owned by Silverio Casiban and Teodora Aton to Transfer Certificate No. T-0034, and for him to issue separate certificates of title to plaintiff for Lot No. 5659-B and to Eleuteria Pino

for Lot No, 5659-A;

(6) Directing the City Assessor of Lapu-Lapu City to cancel all tax declaration which are contrary to this judgment, and for him to issue new ones in accordance hereof;

(7) Lifting the preliminary injunction issued in favor of the plaintiff;

(8) Dismissing the counterclaims of the defendant and the intervenor.

Without pronouncement as to costs.

SO ORDERED.

Plaintiff appealed to the Intermediate Appellate Court (AC G.R. CV No. 00698) and on September 13, 1984, the said court promulgated its Decision, affirming in toto the decision of the lower court.

Plaintiffs motion for reconsideration having been denied, she now comes to Us on a petition for review contending that respondent appellate court erred —

- in not holding that petitioner was a purchaser in good faith and for value of Lot 5659-A;
- in holding that petitioner “is deemed to have knowledge of the existence of a public record that of the prior reconstituted title on file covering the same land in question.”
- in cancelling/annulling the duly reconstituted original certificate of title No. RO-0769, as well as the certificates of title derived therefrom;
- in holding that the evidence established pursuant to the order of the Court of First Instance of Cebu dated August 28, 1967 in the Espiritu Bunagan initiated 1967 judicial reconstitution proceeding “is obviously and patently false;
- in affirming the alleged 1964 — ‘Verbal Partition’ of Lot 5659 with Lot 5659-A being adjudicated to Eleuterio Pino and Lot 5659-B as being adjudicated to Silverio Casiban in not holding that the only actual partition and subdivision of Lot 5659 into Lot 5659-A and Lot 5659-B was in 1977 when said lot was partitioned/surveyed/subdivided by surveyor Espiritu Bunagan;
- in misapprehending the import of the receipt of acceptance by Maximo Pino (Exh. X-Court) of the LRC-approved subdivision survey plan of Lot 5659 into two (2) lots and the LRC-approved technical description of Lot 5659-B” and in not holding that by his acceptance Maximo Pino is estopped from questioning said subdivision survey as it amounted to his acquiescence to the same;
- in not holding that appellee, Peninsula Resort Corporation, was a purchaser in bad faith of Portion of Lot 5659;
- in holding that your petitioner was not in actual, open, peaceful and adverse possession of Lot 5659-A upon her purchase of the same on Dec. 31, 1977.

Essentially, the issue boils down to which particular portion of Lot 5659 belongs to petitioner Alicia de Santos and which portion of the same lot belongs to respondent heirs and successors-in-interest of Eleuteria Pino. Both claim to be the owners of Lot 5659-A, the northern portion thereof.

The most striking factual revelation in this case is the existence of two (2) certificates of title, apparently both genuine and valid, over the same parcel of land in the Registry of Deeds of the City of Lapu-Lapu. One is TCT No. T-0043 in the name of Eleuteria Pino 1/2 share, and the spouses Silverio Casiban and Teodora Aton 1/2 share, covering the whole of Lot 5659. The other title is TCT No. 8433, in the name of petitioner Alicia de Santos. This

title is derived from TCT No. 1766 in the name of Espiritu Bunagan.

The question therefore is — which of the two is valid and genuine and which is not. Certainly under the Land Registration Act, one must necessarily be void and of no effect.

It is not disputed that petitioner's certificate of title, TCT No. 8433 was derived from the title of Espiritu Bunagan, TCT No. 1766, issued on January 4, 1968. This TCT No. 1766 was a transfer from OCT No. RO-0769, a judicially reconstituted title issued on December 28, 1967 by order of the court dated August 28, 1967 upon petition of Espiritu Bunagan. Clearly then, this later reconstitution proceeding had no legal effect and validity because there was already a prior reconstitution of the original certificate of title covering the same lot way back in 1962. We are here dealing with a property registered under the Torrens System and all parties are deemed to have constructive notice of these public documents registered in the office of the Register of Deeds. The fact that there already existed a perfectly valid reconstituted title, TCT No. T-0043 in the name of Eleuteria Pino and the spouses Silverio Casiban and Teodora Aton, will make subsequent petition for reconstitution void and without any force and effect. Needless to state, all subsequent certificates of title including petitioner's TCT No. 8433 for Lot 5659-A, issued on February 27, 1978 are also void because of the legal truism that the spring cannot rise higher than its source.

But cannot petitioner be considered a purchaser in good faith and for value of Lot 5659-A?

A purchaser in good faith and for value is one who buys property of another, without notice that some other person has a right to or interest in such property and pays a full and fair price for the same, at the time of such purchase or before he has notice of the claims or interest of some other person in the property. The element of—"without notice that some other person has a right to or interest in such property" — is absent in this case. Petitioner is deemed to have knowledge of a public record, that is, there is a prior reconstituted title on file with the Registry of Deeds of Lapu-Lapu City. Besides, petitioner should know that respondent was in actual possession of this portion of Lot 5659.

The other errors assigned by petitioner refer to the factual findings of the Court of Appeals.

As a rule the findings of facts of the Court of Appeals are final and conclusive and cannot be reviewed on appeal by this Court (*Amigo vs. Teves*, 96 Phil. 252) except in certain instances not present here.

On the contrary, it is well established that from the time Eleuteria Pino purchased the 1/2 portion in 1962, she and her co-owners, the Casibans, agreed that the portion towards the north shall belong to Eleuteria Pino. Since then, the evidence on record shows that she was in open, public, continuous and uninterrupted possession of this northern portion.

As early as 1964, two (2) tax declarations were issued covering Lot No. 5659. One is Tax Declaration No. 00388 in the name of Eleuteria Pino with an area of 13,596 square meters (Exhs. 15 and 15-A) with the following boundaries:

North

—

Manuela Dano

South

—

SilverioCasiban

East

—

Agus River or Hilutungan Channel

West

—

Zacarias Espinosa.

The other is Tax Declaration No. 00389 (Exh. 4-A) in the name of her co-owner Silverio Casiban with the following boundaries:

North

—

Domingo Solliano

South

—

Esteban Malubay

East

—

Hilutungan Channel

West

—

Zacarias Espinosa

It is abundantly clear from the above boundary descriptions, taking into account the sketch plan of the property (Exh. 8), that the portion adjudicated to and occupied by Eleuteria Pino is the northern portion of Lot 5659 while the southern portion of Lot 5659 was the one assigned to the Casibans, the immediate predecessor-in-interest of Espiritu Bunagan and his wife. The Domingo Solliano mentioned in Tax Declaration No. 00389 is the son-in-law, representative and attorney-in-fact of spouses Eustaquia Arong from whom Eleuteria Pino acquired her 1/2 portion.

Even after the sale in favor of Espiritu Bunagan, tax declarations issued in his name invariably point to the fact that what was acquired by him is the portion towards the south. Tax Declarations No. 00431 (Exh. 6 and 6-A), Tax Declaration No. 00478 (Exh. 7) and Tax Declaration No. 00781 (Exh. 12), all issued in the name of Espiritu Bunagan confirmed respondent and intervenor's contention beyond any shadow of doubt that what he acquired was the southern portion. Being a geodetic engineer, Engineer Bunagan cannot feign ignorance as to which portion of the property was purchased by him. Besides, on the basis of the above tax declaration, he paid taxes on the property, proving beyond doubt that he knew that what he had bought was the southern portion of the property. This southern portion was the one he sold to petitioner.

WHEREFORE, the petition is DENIED. Costs against petitioner.

SO ORDERED.

Teehankee, C.J., Narvasa, Cruz, and Gancayco, J.J., concur.

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