

HEIRS OF BIENVENIDO AND ARACELI TANYAG, NAMELY: ARTURO TANYAG, AIDA T. JOCSON, AND ZENAIDA T. VELOSO, PLAINTIFFS-APPELLANTS, VS. SALOME E. GABRIEL, NESTOR R. GABRIEL, LUZ GABRIE...

Ponente: DIMARANAN-VIDAL, J.

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DIMARANAN-VIDAL, J.:

Before Us is an Appeal of the Decision[1] dated 19 November 2003 of the Regional Trial Court (RTC), National Capital Judicial Region, Branch 267, Pasig City, Metro Manila in Civil Case No. 67846 for Declaration of Nullity of Original Certificate of Title No. 1035, Reconveyance and Damages.

THE FACTS

As culled from the evidentiary records

Herein Appellants ARTURO TANYAG, AIDA TANYAG JOCSON and ZENAIDA TANYAG VELOSO (hereinafter Appellants) are seeking the declaration of nullity of Original Certificate of Title (OCT) No. 1035[2] under the names of the Appellees SALOME E. GABRIEL, NESTOR R. GABRIEL, LUZ GABRIEL ARNEDO married to ARTURO ARNEDO, NORA GABRIEL CALINGO married to FELIX CALINGO, PILAR M. MENDIOLA, MINERVA GABRIEL NATIVIDAD married to EUSTAQUIO NATIVIDAD, ERLINDA VELASQUEZ married to HERMINIO VELASQUEZ (hereinafter Appellees). Appellants further prayer for the reconveyance of such title in their favor as true owners thereof, as well as the award of damages. OCT No. 1035 was issued on 20 September 1996 pursuant to Judicial Decree No. N-219177 granted by the RTC, National Capital Judicial Region, Taguig, Metro Manila, Branch 74 in Land Registration Case No. N-11260.[3] The OCT covers 1,560 square meters, more or less.

APPELLANTS' VERSION

The Appellants allege that the said OCT was fraudulently procured by the Appellees. They proffered the following version of the antecedent facts: OCT No. 1035 covers two parcels of land allegedly owned by the Appellants, a 686 square-meter lot covered by Tax Declaration No. 1603[4] under the name of JOSE GABRIEL (Lot 1 for brevity) and the adjoining lot originally owned by AGUEDA DINGUINBAYAN (Lot 2 for brevity). Despite the fact that the tax declaration for Lot 1 was under the name of JOSE GABRIEL, the actual owner thereof was BENITA GABRIEL who inherited the same from her father, MATEO GABRIEL.[5] On 28 June 1944, BENITA GABRIEL sold the said parcel of land to the spouses GABRIEL SULIT and CORNELIA SANGA. The Affidavit[6] executed by BENITA GABRIEL and dated 28 June 1944 contained the following provisions as follows:

Na sarili ko at tunay na pag-aari ang isang lagay na lupang kawayanan na sapagkat ito'y kabahagui ko sa aking kapatid na [J]ose Gabriel, na ito'y mana ko sa aking nasirang ama Mateo Gabriel xxx

Na, alang alang sa halagang SYAMNAPO AT ANIM (P96.00) na pisong salaping guinagamit dito sa Filipinas na bago dumating ang sandaling itoy tinanggap ko at ibinayad sa akin ng buong kasiyahang loob ko ng magasawang GABRIEL SULIT AT CORNELIA SANGA, mga Filipinos may karapatang gulang mga naninirahan sa nayon ng Calzada, Tagig, Rizal, ngayon ay inalipat ko at ipinagbili ng bilingang tuluyan (Venta real saluta) ang isinasaysay kong lupang kawayanan sa itaas nito ng sasabin halagang SIYAMNAPO AT ANIM (P96.00) na Pisong at sa nagbanguit na magasawang GABRIEL SULIT AT CORNELIA SANGA, gayon din sa lahat ng mga taga pagmana nila, ngayong mga arao na ito ay ang may hawak at namamahala ng lupang itoy ang mga nakabili sa akin na mag-asawang GABRIEL SULIT AT CORNELIA SANGA.[7]

GABRIEL SULIT and CORNELIA SANGA passed on the aforecited lot to their son, ELISEO SULIT who was married to FLORENCIA SULIT.[8] The latter inherited the said parcel of land upon the death of her husband.[9] Subsequently, FLORENCIA SULIT sold the said parcel of land to BIENVENIDO TANYAG on 14 October 1964 for a consideration of P1,000.00.[10] The Deed of Sale dated 14 October 1964 contained the following pertinent portions:

A bamboo land covered by Tax Declaration No. 1603 for the year 1949 in the name of JOSE GABRIEL, bounded on the North by Estero Ruhale and Vicente Bunyi; on the East by Felipe Pagkalinawan; on the South by Juan Flores; and on the West by Apolonio Okol. That the above-described bamboo land was bought from JOSE GABRIEL by my father-in-law, the late GABRIEL SULIT who in turn gave it to me as my inheritance xxx[11]

From then on, BIENVENIDO TANYAG was in open, continuous, adverse possession of the parcel of land. He fenced the subject property and introduced improvements thereon through his tenant and caretaker JUANA QUINONES.[12] After the death of BIENVENIDO TANYAG, his wife ARACELI TANYAG paid the taxes due on the parcel of land.[13]

As regards Lot 2, Appellants alleged in their complaint, supra, that the said lot, which had an area of 147 square meters was originally owned by AGUEDA DINGUINBAYAN.[14] The latter sold the same to ARACELI TANYAG on 22 October 1968[15] and after the said sale, Lot 2 was declared for tax purposes by ARACELI TANYAG under her name.[16]

Appellants further alleged that in 1980, the Appellees, through fraudulent means, caused Lots 1 and 2 to be included in Tax Declaration No. 120-014-01013[17] under the name of JOSE GABRIEL, Appellees' father. The Appellees were never in possession of the entire area comprising Lots 1 and 2, unlike the Appellants who were in actual, open, continuous, adverse and notorious possession of the same. From the foregoing, the Appellants contend that OCT No. 1035 under the name of the Appellees, which covers Lot 1 and 2, is null and void.

APPELLEE'S VERSION

The subject lot was originally owned by the Appellee's father, JOSE GABRIEL, who inherited the same from his father MATEO GABRIEL.[18] Tax declarations covering the subject lot, with the earliest Tax Declaration (TD) extant in the record being TD No. 1603 registered on 31 August 1948,[19] identified JOSE GABRIEL as the owner thereof. The area declared by JOSE GABRIEL was increased from 686 square meters in TD No. 1603 and TD No. 6425 to 1,763 square meters in TD No. 120-014-01013 after an actual survey of the property ascertained the covered area.[20]

Upon the death of JOSE GABRIEL on 23 June 1987,[21] his wife VICENTA GABRIEL and his children, the Appellees herein, inherited the subject lot, as shown by the Extrajudicial Settlement of Estate of Jose Gabriel.[22]

JOSE GABRIEL allegedly caused the preparation of Approved Plan No. EP-04-002253 in 1979[23] and his daughter SALOME GABRIEL commissioned the preparation of Approved Plan No. PSD-00-054249 on 18

March 2000.[24] After initiating titling proceedings in the RTC, OCT No. 1035 was issued in favor of the Appellees on 20 September 1996.[25]

On 20 March 2000, Appellants filed a Complaint[26] for the Declaration of Nullity of Original Certificate of Title No. 1035, Reconveyance and Damages which was raffled to Branch 267.

On 19 November 2003, the RTC rendered its Decision,[27] the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered DISMISSING the instant complaint filed by the plaintiff Heirs of Bienvenido and Araceli Tanyag, namely, Arturo Tanyag, Aida T. Jocson and Zenaida T. Veloso as against the defendants Salome E. Gabriel, Nestor R. Gabriel, Luz Gabriel Arnedo married to Arturo Arnedo, Nora Gabriel Calingo married to Eustaquio Natividad, Erlinda Velasquez married to Herminio Velasquez.

However, anent the counterclaim for damages of defendants, the same is denied considering that the same was not sufficiently proven. Moreover, any person who seeks to be awarded damages due to acts of another has the burden of proving that the latter acted in bad faith or with ill-motive (Chua vs. Court of Appeals 242 SCRA 341). Attorney's [fees] cannot likewise be recovered as part of damages because of the policy that no premium should be placed on the right to litigate (PAL vs. Miano, 242 SCRA 235).[28]ASSIGNMENT OF ERRORS

FIRST ASSIGNED ERROR

THE LOWER COURT SERIOUSLY ERRED IN NOT FINDING THAT IT IS THE PLAINTIFFS-APPELLANTS WHO ARE THE TRUE OWNERS OF THE SUBJECT PROPERTIES[;]

SECOND ASSIGNED ERROR

THE LOWER COURT SERIOUSLY ERRED WHEN IT RULED THAT THE PLAINTIFFS-APPELLANTS FAILED TO PROVE THAT THE PROPERTY WAS IRREGULARLY AND UNLAWFULLY PROCURED BY THE DEFENDANTS-APPELLEES THROUGH FRAUD[;]

THIRD ASSIGNED ERROR

THE LOWER COURT SERIOUSLY ERRED WHEN IT FOUND THAT OCT NO. 1035 AND VARIOUS TAX DECLARATIONS ISSUED UNDER THE NAME OF THE DEFENDANTS-APPELLEES ARE CONCLUSIVELY PRESUMED TO BE VALID AND THE DEFENDANTS-APPELLEES HAVE PROVEN THAT THEY ARE THE OWNERS OF THE SUBJECT PROPERTIES[;]

FOURTH ASSIGNED ERROR

THE LOWER COURT FAILED TO AWARD DAMAGES TO THE PLAINTIFFS-APPELLANTS.

OUR RULING

The Appeal is bereft of merit.

We shall discuss the issues jointly as they are interrelated.

Both parties came to court armed with their respective testimonial and documentary evidence. The record is rife with Tax Declarations coupled with respective claims of possessory acts from both parties, which the court a quo succinctly summarized in its decision.

In the absence of fraud or bad faith, however, what must prevail is the indefeasibility of the Torrens Title vested in the Appellees. In *Cureg vs. Intermediate Appellate Court*, the Supreme Court held that:

[A]s against an array of proofs consisting of tax declarations and/or tax receipts which are not conclusive

evidence of ownership nor proof of the area covered therein, an original certificate of title indicates true and legal ownership by the registered owners over the disputed premises.[29] (emphasis provided)

In a litany of cases, the Supreme Court upheld the fundamental principle in land registration that a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein.[30] Further, the Supreme Court held in *Bishop et al vs. CA and Spouses Salang*[31] that the presumption of regularity applies to the issuance of [a] certificate [of title].

The remedy of reconveyance is provided by Sec. 53, paragraph 3 of P.D. 1529, which states, thus:

In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder of the decree of registration on the original petition or application, any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.

Instances of fraud contemplated by Sec. 53 of P.D. 1529 are such circumstances where the person who obtains a certificate of title in his name over a land belonging to another must be presumed to have had full knowledge of the rights of the true owner, or even a case wherein applicant for registration includes in his application through mistake the land belonging to another and succeeds in registering the same in his name but has not taken possession thereof nor held it adversely against the true owner. [32]

Fraud must be proved by clear and convincing evidence.[33] To establish their claim that JOSE GABRIEL was guilty of fraud, Appellant ARTURO TANYAG testified that JOSE GABRIEL borrowed documents pertaining to the subject property from ARACELI TANYAG, the Appellants' mother, and subsequently consolidated Lots 1 and 2 in one tax declaration under his name and also declared an area larger than the one he originally claimed, i.e., from 686 square meters to 1,763 square meters.[34] The uncorroborated statement made by ARTURO TANYAG can be easily concocted, and deserves scant consideration, especially since the deceased JOSE GABRIEL is unavailable as a witness and cannot refute the statements. Assuming *arguendo* that JOSE GABRIEL indeed borrowed pertinent documents from ARACELI TANYAG, there is no showing that the same documents were used to secure TD No. 120-014-01013, nor that the issuance of the said Tax Declaration was only made possible by the use of the borrowed documents.

Evidently, JOSE GABRIEL never relinquished his claim of ownership over the land. Apart from the Affidavit executed by BENITA GABRIEL in 1944 wherein she claimed that she inherited the parcel of land from their father, MATEO GABRIEL, there is no evidence that she, not JOSE GABRIEL, was the true owner thereof. There is also no showing that JOSE GABRIEL sold the land to any of the Appellants' predescesors-in-interest. In 1948, four years after BENITA GABRIEL's sale of the subject property to the Spouses SULIT, JOSE GABRIEL declared the same under his name for tax purposes, paying the corresponding taxes. It was only in 1968 that the land was declared in another party's name, i.e. ARACELI TANYAG. However, in 1980, JOSE GABRIEL again paid the taxes due on the land. The Municipal Assessor of Taguig testified that his office allowed the reconstitution of the Tax Declaration in JOSE GABRIEL's name upon a finding that the the person who sold the property to ARACELI TANYAG, FLORENCIA SULIT, was not the legal owner thereof and had no right to convey the same and that the Deed of Sale between ARACELI TANYAG and FLORENCIA SULIT, *supra*, recognized JOSE GABRIEL as the owner thereof.[35]

Anent the allegation of bad faith, it is axiomatic that good faith is always presumed. Instructive on this point is the pronouncement of the Supreme Court in *Arra Realty Corporation et al vs. Guarantee Development Corporation et al*[36] that:

Good faith is presumed and he who alleges bad faith has the duty to prove the same. Good faith refers to the

state of the mind which is manifested by the acts of the individual concerned. It consists of the intention to abstain from taking an unconscionable and unscrupulous advantage of another. Bad faith, on the other hand, does not simply connote bad judgment to simple negligence. It imports a dishonest purpose or some moral obliquity and conscious doing of a wrong, a breach of known duty due to some motive or interest or ill-will that partakes of the nature of fraud.[37]

In the instant case, the Appellants failed to discharge the burden of proof required to sustain a finding of bad faith. They merely alleged the following:

6.3 In fact, the defendants were in bad faith when they acquired the subject properties. The aforesaid Tax Declaration No. 120-014-01013 contains the following inscription, “Note: Portions of this Property is also Declared (sic) in the name of Araceli C. Tanyag under T.D. #120-014-00858-686 sq. m.”

6.4 Also, the defendants-appellees executed an Extrajudicial Settlement of Estate of Jose P. Gabriel dated 5 October 1988 claiming that they inherited the subject properties allegedly covered under Tax Declaration No. B-014-00643 shows an inscription stating that the subject properties was (sic) also declared for tax purposes by the plaintiffs-appellants' mother, Ms. Araceli C. Tanyag. The aforesaid inscription states, “Portion of this property is also declared in the name of Araceli C. Tanyag under T.D. #120-014-00858 with an area of 686 sq. m.”[38]

Incidentally, the case before Us does not involve a double sale wherein a buyer is considered in bad faith when, despite a showing that the land sold is in the possession of a person other than the vendor, such buyer fails to make inquiries concerning the rights of the actual possessor.[39] Neither are the Appellees second buyers whose knowledge of the first sale defeats their rights even if they are first to register, since such knowledge taints their registration with bad faith.[40] Instead, the Appellees are successors-in-interest of the owner of the land, who have the right to have their title to ownership quieted by registering the same. Thus, the knowledge of the Appellees of the Appellants' adverse claim by virtue of the annotation in their Tax Declarations, does not taint their registration with bad faith.

We find that the court a quo's findings that the Appellants in this case failed to establish their right to the reliefs prayed for is aptly supported by the evidence on record. Well-settled is the rule that findings and factual conclusions of the trial court are given great weight and the highest degree of respect by the appellate court.[41] They should not be disturbed except for cogent and strong reasons.[42] No persuasive reason exists in the instant case to warrant the reversal of the findings of the court a quo.

WHEREFORE, premises considered, the instant APPEAL is DENIED. The assailed decision is AFFIRMED in toto.

SO ORDERED.

De Los Santos and Lampas-Peralta, JJ., concur.

[1] Rollo, pp. 90-99

[2] Records, p. 33

[3] Ibid.

[4] Records, p. 214

[5] Records, p. 9

[6] Ibid.

[7] Ibid.

[8] Rollo, p. 93

[9] Ibid.

[10] Records, p. 10

[11] Ibid.

[12] Records, p. 4; JUANA QUINONES is identified as JUANA QUITANES in the RTC Decision and some of the pleadings.

[13] Records, p. 4

[14] Ibid.

[15] Records, p. 5

[16] See Records, pp. 12-20

[17] Records, p. 212

[18] Rollo, p. 95

[19] Records, p. 214

[20] Rollo, p. 96

[21] Records, p. 199

[22] Records, p. 199-202

[23] Records, p. 182. Exhibit "11" was offered and admitted as evidence (See Order dated 4 April 2002, Records, p. 224) but is not attached to the Records.

[24] Records, p. 203

[25] *supra* note 2

[26] Records, pp. 2-7

[27] Rollo, pp. 253-262

[28] Rollo, pp. 261-262

[29] 177 SCRA 313

[30] Ken Martin Clemente, et al. v. Antonio Razo, et al., G.R. No. 151245, March 4, 2005, 452 SCRA 769, citing Vda. de Retuerto v. Barz, 423 Phil. 1008, 1016 (2001).

[31] G.R. No. 86787. May 8, 1992.

[32] Noblejas, p. 196, citing Jamora vs. Duran, No. VIII, Lawyer's Journal, 149 and Angeles vs. Samia, 37 O.G. 303

[33] Dy vs. CA, et. al., G.R. No. 92989. July 8, 1991

[34] Rollo, pp. 69-72

[35] TSN, 6 November 2001, pp. 22-24

[36] G.R. No. 142310. September 20, 2004.

[37] Citations omitted

[38] Rollo, pp. 77-78

[39] Sps. Honorio Santiago and Estrelita Santiago vs. CA et al, G.R. No. 117014. August 14, 1995.

[40] Astorga vs. CA, G.R. No. 58530, 26 December 1984

[41] People vs. Escalante, 417 SCRA 21

[42] Gatmaitan vs. CA., G.R. No. 76500, August 2, 1991, citing Baliwag Transit, Inc. vs. CA., 147 SCRA 82 (1987).

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