

**DR. REMEDIOS R. AMISTAD AND GLORIA R. VILLAFLOR,
PLAINTIFFS-APPELLEES, VS. ELPIDIO QUINDATAN, LYDIA
ALEJANDRO, BUENAFE PARAS. DEFENDANTS-APPELLANTS.**

Ponente: SADANG, J.

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SADANG, J.:

Appealed to this Court is the Decision,[1] dated April 20, 2010, of the Regional Trial Court (RTC) of Tuguegarao City, Cagayan, Branch 4, in Civil Case No. 4854.

It appears that on February 3, 1995, plaintiffs-appellees Dr. Remedios Amistad and Gloria Villaflor (hereafter, appellees) filed a Complaint[2] for annulment of conveyance and cancellation of title with damages against defendants-appellants Elpidio Quindatan, Lydia Alejandro, Buenafe Paras, and the Register of Deeds of Tuguegarao, Cagayan alleging that: they are the only direct heirs of Gregorio Reyes (Gregorio) under the law of intestacy; during his lifetime, Gregorio was the absolute owner of the southern one-half (½) portion of Lot No. 2574, designated as Lot No. 2574-D, originally covered by Original Certificate of Title (OCT) No. 6829[3] in the name of Justo Quindatan ; Gregorio inherited said portion from his father, Marcelo Reyes, who bought it from Domingo Quindatan, Bernardo Quindatan, and Isabel Quindatan on September 7, 1944; by virtue of the Decision,[4] dated July 16, 1975, of the Court of First Instance (CFI) of Cagayan in Civil Case No. 2042, entitled "Gregorio Reyes, et al. v. Justo Danao, et al." the southern half of Lot No. 2574 was adjudicated to Gregorio and said decision was affirmed in toto by the Court of Appeals in CA-G.R. No. 63712[5] which became final and executory;[6] on October 28, 1994, Elpidio Quindatan (Elpidio) caused the cancellation of OCT No. 6829 and the issuance of TCT No. T-95404 in his name by virtue of an alleged deed of waiver of rights executed in his favor on September 17, 1992 by the heirs of Justo Quindatan, the original owner of Lot 2574; as he was fully aware of appellees' adverse claim over the lot and he had earlier filed a petition for quieting of title against Dr. Amistad, Elpidio's act of securing title in his name while said action was pending was in bad faith and in wanton disregard of appellees' rights; subsequently, Elpidio sold the lot to Lydia Alejandro and TCT No. T-95758 was issued in the name of Alejandro; this conveyance is void for being fraudulent and without basis; previous to the sale to Alejandro, a one-third (1/3) portion of the lot was allegedly sold to Buenafe Paras and the sale was annotated on TCT No. T-95758; this transaction is also null and void for being fraudulent and without basis.[7]

In his Answer,[8] Elpidio alleged that: appellees have no cause of action, and even if they did, it has already prescribed; the purported sale executed on September 7, 1944 in favor of Marcelo Reyes was not registered and did not bind him; except for the present case and Civil Case No. 1852, he was not privy to any case involving the land in question; there is a presumption of regularity in the performance of the official duties of the Register of Deeds in the issuance of TCT No. T-95404 in his name and TCT No. T-95758 in the name of Alejandro.

For her part, Alejandro alleged that: she is a buyer in good faith and for value; appellees have never been in actual or constructive possession of the property; the cancellation of the transfer certificate of title in her name is not an available recourse in law and the appellees are guilty of laches, estoppel, and forum shopping.[9]

Buenafe admitted that one-third (1/3) portion of the land was sold to her but claimed that she is a buyer in good faith because she did not have prior notice of any defect in the instrument of conveyance and in the title of the vendor. She alleged that she was never informed by Elpidio of the existence of any decided or pending case involving the subject property. She pointed out that appellees did not allege that she committed actual fraud.[10]

On April 20, 2010, the trial court rendered a Decision in favor of appellees. The fallo reads:[11]

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of plaintiffs Dra. Remedios R. Amistad and Gloria R. Villaflo and hereby orders the following:

1. Annulment of the conveyance in favor of defendants Elpidio Quindatan, Lydia Alejandro and Buenafe Paras with regard to Lot No. 2574 originally covered by OCT No. 6829;
2. Ordering the Registry of Deeds of Cagayan to cancel TCT No. T-95404 and TCT No. T-95758 in the name of defendants Elpidio Quindatan and Lydia Alejandro; and the annotation of the sale to defendant Buenafe Paras on TCT No. T-95758;
3. Ordering defendants jointly and severally to pay the amount of P50,000.00 as attorney's fees plus cost of this suit.

SO ORDERED.

Elpidio, Alejandro and Paras (hereafter, appellants) filed a Notice of Appeal[12] which was given due course in the trial court's Order dated June 15, 2010.

Appellants raise the following assignment of errors[13] :

- A. The lower court erred in applying the principle of res judicata and judicial notice in finding and establishing Marcelo Reyes' right and interest over Lot No. 2574-D and in laying credence to plaintiffs-appellees' cause of action
- B. The lower court erred in finding and holding that:
 - B-1. Elpidio Quindatan committed fraud and misrepresentation in obtaining title over Lot No. 2574-D in his name;
 - B-2. There is no evidence showing Lydia Alejandro has actually paid the agreed consideration for the acquisition of Lot No. 2574-D from Elpidio Quindatan;
 - B-3. Lydia Alejandro and Buenafe Paras were not transferees in good faith and for value; and
- C. The lower court erred in failing to dismiss the case based on prescription and laches.

RULING

The appeal is not meritorious.

Records show that the entire Lot 2574 was the subject of Civil Case No. 2042, entitled "Gregorio Reyes, et al. v. Justo Danao, et al." of the CFI of Tuguegarao, Cagayan, Branch V. Plaintiff Gregorio Reyes sought the annulment of the extrajudicial settlement executed by the defendants over portions of the lot, the deeds of sale executed by Justo Danao in favor of defendants Tito Dupaya and Vicente Limquenco, and the donation of the lot in favor of the Bureau of Public Schools. In its Decision, the CFI ruled thus:

WHEREFORE, judgment is hereby rendered dismissing the case and declaring the division of Lot 2574 legal and valid. The partition of the northern half is recognized. Lot 2574-A having been purchased by Alejandro Nonato from the rightful owners is declared the owner thereof; Lot 2574-B and the remaining portion of Lot

2574-C are declared to be rightfully belonging to Justo Danao; the sale executed in favor of Vicente Limqueco, Jr., and Tito Dupaya, covering 2,000 square meters on the western portion of Lot 2574-C is declared valid; the donation effected having been duly accepted is likewise declared valid. No pronouncement as to cost.

SO ORDERED.

The decision of the CFI was affirmed in toto by the Court of Appeals[14] and became final and executory.

It may be gathered from the CFI Decision that Lot 2574 was originally owned by and titled in the name of "Justo Quindatan, married to Romana Badajos" under OCT No. 6829. Justo and Romana had seven children, namely, Maria, Ana, Domingo, Antonia, Bernardo, Isabel, and Epifania. Upon the death of Justo and Romana, the property was inherited by their children. Later, Epifania died single and without issue and her share devolved on her brothers and sisters. On September 7, 1944, Domingo, Bernardo (appellant Elpidio's father), and Isabel sold their shares in Lot 2574 to Marcelo Reyes, Gregorio's father, and Marcelo took possession of the lot. In June, 1967, the defendants, who are the children and heirs of Justo Quindatan and Romana Badajos who did not participate in the sale to Marcelo filed an action for partition of Lot 2574 against Gregorio and Bernardo. This case was later dismissed without prejudice; however, during the pendency the case, the defendants executed a deed of extrajudicial settlement and filed a petition for issuance of second owner's duplicate of OCT No. 6829. Thereafter, defendant Justo Danao was able to subdivide the lot and sold the western portion to Limqueco and Dupaya who, in turn, donated the property to the Bureau of Public Schools as a school site.

There is absolutely no merit in the contention of appellants that the lower court erred in taking judicial notice of the decisions of the CFI and the Court of Appeals. Obviously, the lower court loosely used the term judicial notice. What is important is that the certified copies of these decisions were presented by the appellees and formally offered in evidence[15] as Exhibits E and F;[16] hence, the lower court correctly considered them in resolving the case.

Appellants contend that the CFI decision covers only the northern and western portions of Lot No. 2574. They claim that Elpidio also acquired his rights over the lot not only by intestate succession but through the waivers of his co-heirs on April 4, 1972 which antedates the 1975 decision of the CFI.

The contention is untenable. A reading of the CFI decision shows that Marcelo Reyes was also claiming the northern and western portions of the lot but the CFI ruled otherwise. Nevertheless, Marcelo Reyes' ownership of the southern portion of the lot was sustained by the CFI thus:

"The sale (in favor of Marcelo Reyes) that was made on September 7, 1944, by Domingo Quindatan can only be valid therefore in so far as it pertains to that portion which pertains to him, 1/6 of Lot 2574. However, taking into consideration that his brother Bernardo Quindatan and sister Isabel ratified the sale and waived all their rights, interests and participation in the property in favor of the Vendee, that waiver has to be sustained. In sum, what was sold and ceded to the spouses Marcelo Reyes and Leonarda M. Reyes was no more than 3/6 or ½ of Lot 2574." [17]

There can therefore be no question that the southern portion of Lot 2574 belongs to Marcelo Reyes. This is the same portion that was inherited by Gregorio, the predecessor-in-interest of appellees. The contention of appellants that appellees failed to introduce the deed of sale in favor of Marcelo is a non-issue in view of the judgment of the CFI upholding the validity of the sale to Marcelo of the southern portion, a judgment that has long become final and executory.

It is also clear from the CFI decision that Bernardo ratified the 1944 sale to Marcelo Reyes and had thereby waived his share in the southern portion of the lot, thus, his son, Elpidio, could not have inherited said share from him. The same may be said of Elpidio's sisters who had nothing to waive in his favor. No one can sell what he

does not own[18].

Appellants contend that "since the judgment in Civil Case No. 2042 has been barred by the statute of limitations the issue of how much of Lot No. 2574 Marcelo Reyes has bought cannot be res judicata in a sense because the judgment in Civil Case No. 2042 is extinct." Appellants' contention is discombobulated as it puts together the statute of limitations and res judicata which are entirely different concepts. They add that appellees' demand for reconveyance has been rendered stale because of their "unexplained inaction to have the 1975 CFI decision executed."

Perhaps, by "statute of limitations" appellants have in mind the rule that a judgment can be executed by motion within five (5) years from its finality and by a new action after said period[19]. In which case, the rule does not apply. The present case is not for the execution of the decision in Civil Case No. 2042 but for annulment of sale and cancellation of title.

On the issue of res judicata, the judgment in Civil Case No. 2042 is certainly res judicata in this case insofar as it settled the ownership of Marcelo Reyes of the southern portion of the lot. To repeat, in Civil Case No. 2042, the CFI had ruled that Bernardo, father of Elpidio, ratified the sale of his share to Marcelo Reyes and thereby waived his rights thereto. That Elpidio was not himself a party in Civil Case No. 2042 does not make the decision any less binding on him. It is settled that when a right or fact has been judicially tried and determined by a Court of competent jurisdiction it is conclusive not only on the parties in the case but also on those in privity with them in law or estate[20].

We are not convinced that appellees slept on their rights and are guilty of laches. Laches has been defined as the failure or neglect for an unreasonable and unexplained length of time to do that which by exercising due diligence, could or should have been done earlier, or to assert a right within a reasonable time, warranting a presumption that the party entitled thereto has either abandoned it or declined to assert it. Thus, the doctrine of laches presumes that the party guilty of negligence had the opportunity to do what should have been done, but failed to do so. Conversely, if the said party did not have the occasion to assert the right, then, he cannot be adjudged guilty of laches. Laches is not concerned with the mere lapse of time, rather, the party must have been afforded an opportunity to pursue his claim in order that the delay may sufficiently constitute laches.[21]

In this case, Dr. Amistad sufficiently explained why the title to their portion of the lot was not transferred in the name of their predecessor-in-interest pursuant to the CFI decision. She testified that when the issue of ownership was finally settled in 1982, their attempts to transfer title over Lot No. 2574-D in their names were impeded by Justo Danao who refused to lend them the owner's duplicate of OCT No. 6829. Their efforts were further stymied when Elpidio filed the case of quieting of title in 1993 against her (Dr. Amistad).[22] This case was dismissed on motion of Elpidio[23] but not before he was able to surreptitiously cause the cancellation of OCT No. 6829 and the issuance of TCT No. T-95404 in his name during the pendency of said case.

The Court notes that Elpidio did not present evidence to prove his defense in spite of several opportunities given to him. He did not present the the alleged deed of extrajudicial settlement over the lot as well as the alleged waiver executed by his co-heirs in his favor over Lot 2574-D. Consequently, the RTC, in its Order,[24] dated February 24, 1999, declared that he has waived his right to present evidence. Although he later testified as witness for Alejandro, his direct testimony was stricken off the records after he failed to finish it.[25] In fine, Elpidio's allegation that he owns Lot 2574-D remains what it is, a mere allegation.

Contrary to appellant Elpidio's contention, the evidence shows that the transfer of title in his name was fraudulent. The evidence shows that the 1982 CFI Decision was annotated by Justo Danao on OCT No. 6829 on December 19, 1984. The evidence also shows that Elpidio filed a Complaint, dated August 31, 1993, for quieting of title

against Dr. Amistad in the RTC of Tuguegarao, Cagayan. In his Complaint, Elpidio alleged that he acquired the lot pursuant to an extrajudicial settlement (Annex A) and a waiver of rights in his favor (Exhibit A) but when he tried to transfer title in his name, he was told that the lot is owned by the defendant Amistad.[26] Nonetheless, on October 28, 1994, he was issued TCT No. T-95404 (Exhibit B) in lieu of OCT No. 6829 which was cancelled.

It is clear from the foregoing that at the time he obtained title over the lot, Elpidio had constructive notice of the 1982 Decision annotated on OCT No. 6829 and actual notice of Amistad's adverse claim over Lot 2574-D. Notwithstanding such constructive and actual notice, he still caused the cancellation of OCT No. 6829 and the issuance of title in his name. A title will be considered void if it is procured through fraud, as when a person applies for registration of the land under his name although the property belongs to another. Registration should not be a shield for fraud in securing title.[27]

Finally, we find no merit in the contention that appellants Alejandro and Paras are buyers in good faith and for value. One is considered a purchaser in good faith if he buys the property without notice that some other person has a right to or interest in such property and pays its fair price before he has notice of the adverse claims and interest of another person in the same property.[28] As a general rule, 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 beyond the certificate to determine the condition of the property.[29] However, this principle admits of exceptions, one of which is when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of the title of the property in litigation. One who falls within the exception can neither be denominated an innocent purchaser for value nor a purchaser in good faith; and hence, does not merit the protection of the law.[30]

In this case, the evidence shows that TCT No. T-95404, the subject of the sale to Alejandro and Paras, was in the name of Elpidio only. Moreover, Alejandro and Paras were partners in purchasing the property. This was admitted by Paras in her testimony.[31] Alejandro also executed, on December 1, 1994, a Deed of Waiver of Rights of a Portion of Registered Land wherein she ceded one-third (1/3) of her rights over Lot 2574-D in favor of Paras. The following day, December 2, 1994, TCT No. T-95758 was issued to Alejandro and her waiver was annotated on said title.

The Acknowledgment Receipt,[32] dated September 28, 1994 (Exhibit 3), shows that Paras paid Marcelina Quindatan-Suyu the amount of P109,092.00, which "represents the share of the HEIRS OF DOMINGO QUINDATAN (Lorenza Quindatan-Gacias, Emigdio Quindatan, Ortencia Quindatan-Darilag, Gabriel Quindatan, Honorio Quindatan, and Marcelina Quindatan-Suyu) from the total purchase price of P200,000.00 in the Deed of Absolute Sale over Lot 2574-D." This shows that Paras and Alejandro were made to believe that, aside from Elpidio, there were other persons who had a claim over the lot and based on that representation they paid said claimants. The September 28, 1994 receipt further states that Lot 2574-D is covered by OCT No. 6829. It is not difficult to imagine that a copy of said title was shown to Paras and Alejandro and they should have noticed that OCT No. 6829 is in the name of Julio Quindatan and that the CFI decision is annotated therein. Thus, when Elpidio presented to them TCT No. T-95404 which was issued on October 28, 1994, or just a month after they paid Marcelina, Paras and Alejandro should have inquired from him why he (Elpidio) is named in the title as the sole owner and why the claimants whom they had paid are not included as co-owners. They should have inquired from the Register of Deeds as to how and from whom Elpidio acquired title to the property.

Having failed to do what a reasonably cautious man would have done under the situation, Paras and Alejandro cannot be considered as innocent purchasers for value or buyers in good faith and the sale in their favor does not deserve the protection of the law. The defense of indefeasibility of a Torrens title does not extend to a transferee

who takes it with notice of a flaw in the title of his transferor. A holder in bad faith of a certificate of title is not entitled to the protection of the law, for the law cannot be used as a shield for fraud.[33]

What is more, the September 28, 1994 receipt (Exh. 3) states that the total purchase price for Lot No. 2574-D is P200,000.00; however, the November 17, 1994 Deed of Absolute Sale[34] between Paras and Elpidio shows a different purchase price of P300,000.00. This discrepancy was not explained by Paras and Alejandro. The discrepancy raises doubts on the real agreement between the parties.

WHEREFORE, the appeal is DENIED. The Decision dated April 20, 2010 of the Regional Trial Court, Branch 4, Tuguegarao, Cagayan in Civil Case No. 4854 is AFFIRMED.

SO ORDERED.

Librea-Leagogo, (Chairperson), and Diamante, JJ., concur.

[1] Record, pp. 485-499.

[2] Id at 1-5.

[3] Exhibit A and A-1, Folder of Exhibits.

[4] Exhibit E, Id.

[5] Exhibit F, Id.

[6] Record, pp. 1-2.

[7] Id at 2-3.

[8] Id at 29-34.

[9] Id at 53-57.

[10] Id at 24-28.

[11] Id at 499.

[12] Id at 500-501.

[13] Rollo, pp. 46-48.

[14] Supra note 5.

[15] Records, p. 149.

[16] Id at 192.

[17] Folder of Exhibits, p. 9 of Decision

[18] Loreta Cervantes, et al. v. Court of Appeals, et al., G.R. No. 118982, February 19, 2001.

[19] Sec. 6, Rule 39, revised Rules of Court.

[20] Sps. Noceda v. Arbizo-Directo, G.R. No. 178495, July 26, 2010 citing Cruz v. CA, G.R. No. 164797, February 13, 2006.

[21] Juco v. Heirs of Tomas Siy Chung Fu, G.R. No. 150233, February 16, 2005, 451 SCRA 464, 471-472

[22] TSN, November 20, 1996, pp. 14-15, 27-28.

[23] Exhibit I, Folder of Exhibits.

[24] Records, p. 216.

[25] *Id* at 281-282.

[26] Paragraphs 3, 4, and 5 of Complaint, see Folder of Exhibits

[27] *Republic v. Manogtara*, G.R. Nos. 170375, 170505, 173355-56, 173401, 173563-64, 178779 and 178894, July 7, 2010 citing *Republic v. Court of Appeals*, G.R. No. 60169, March 23, 1990, 183 SCRA 620, 626-629.

[28] *Spouses Pudadera v. Magallanes, et al.*, G.R. No. 170073, October 18, 2010. citing *Hemedes v. Court of Appeals*, 374 Phil. 692, 719-720 (1999).

[29] *Id*.

[30] *Isabelita Cunanan, et al. v. Jumping Jap Trading Corporation*, G.R. No. 173834, April 24, 2009. citing *Sandoval v. Court of Appeals*, 329 Phil. 48 (1996).

[31] TSN, September 6, 2004, pp. 8-9.

[32] Exhibit 3, Records, p. 423.

[33] *Adoracion Rosales Rufloe, et al. vs. Leonarda Burgos*, G.R. No. 143573, January 30, 2009 citing *Samonte v. Court of Appeals*, G.R. No. 104223, July 12, 2001, 361 SCRA 173, 183.

[34] Exhibit 2, Records, p. 422.

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