

**DIONISIO DEMONTAÑO, GERVASIO DEMAISIP, MARIA D. DEMAISIP
AND SOFONIAS DOCDOCIL, PETITIONERS, VS. THE HON. COURT OF
APPEALS, ROSALIO CARTECIANO, AND THE DEVELOPMENT BANK
OF THE ...**

G.R. No. L-30764. January 31, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an appeal from the decision of the Court of Appeals in CA-G.R. No. 21118-R entitled "Dionisio Demontaño, et al. versus Rosalio Carteciano, et al.", the dispositive part of which reads:

"ACCORDINGLY, the petitions to reopen the decree of registration in the name of Bernardina Dusaban, to annul O.C.T. 190, T.C.T. 11895 of Rosalio Carteciano and the mortgage in favor of the RFC (now DBP), are hereby dismissed. The judgment appealed from, in so far as it is not in conflict with this pronouncement, is affirmed. Without cost.

IT IS SO ORDERED."[1]

The petitioners assign the following errors:

"I

THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE PETITIONERS-APPELLANTS HAVE NO PERSONALITY TO BRING THIS SUIT;

II

THE RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT THE LAND'S LEASE BY THE PETITIONERS-APPELLANTS NOT HAVING BEEN REGISTERED IN THE REGISTRY OF PROPERTY IS SHORT OF AN ESTATE OR INTEREST IN THE AREA TO GIVE THEM PERSONALITY TO BRING THIS SUIT CONTEMPLATED BY SECTION 38 OF ACT 496 WHICH WHEN DEPRIVED IS A GROUND TO REOPEN THE DECREE OF REGISTRATION;

III

THE RESPONDENT COURT OF APPEALS ERRED IN APPLYING TO THE CASE OF THE PETITIONERS-APPELLANTS THE PROVISIONS OF ART. 1648 OF THE NEW CIVIL CODE WHICH READS - 'EVERY LEASE OF REAL ESTATE MAY BE RECORDED IN THE REGISTRY OF PROPERTY. UNLESS A LEASE IS RECORDED, IT SHALL NOT BE BINDING UPON THIRD PERSONS.'

IV

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT THE LEASE IN FAVOR OF THE PETITIONERS-APPELLANTS OF THE LAND IN DISPUTE FOR OVER 16 YEARS ALTHOUGH NOT REGISTERED IN THE REGISTRY OF PROPERTY CREATED IN THEIR FAVOR REAL RIGHTS;

V

THE RESPONDENT COURT OF APPEALS ERRED IN NOT HOLDING THAT PUBLIC LANDS ONCE THEIR OWNERSHIP ARE ADJUDICATED, THE SAME (OWNERSHIP) CAN NOT BE THE SUBJECT OF ANOTHER ADJUDICATION;

VI

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT THE CADASTRAL HEARING OF THE LAND IN QUESTION (LOT NO. 449) THEN PRESIDED BY THE HON. JUDGE ROMAN IBAÑEZ IN 1951 WHICH RESULTED IN THE LAND'S ADJUDICATION IN FAVOR OF BERNARDINA DUSABAN WAS A RE-ADJUDICATION OF THE SAME;

VII

THE RESPONDENT COURT OF APPEALS ERRED IN MAKING ITS FINDING OF FACT WHICH LED TO ITS CONCLUSION THAT BERNARDINA DUSABAN DID NOT COMMIT ACTUAL FRAUD WITHOUT ANY SHOWING OF A FACT OF WEIGHT OR INFLUENCE WHICH HAS BEEN OVERLOOKED BY THE TRIAL COURT;

VIII

THE COURT OF APPEALS ERRED IN NOT FINDING THAT THE CADASTRAL COURT THEN PRESIDED BY THE HON. JUDGE ROMAN IBAÑEZ IN 1951 WAS WITHOUT JURISDICTION TO HAVE ENTERTAINED THE CLAIM OF BERNARDINA DUSABAN FOR AN ADJUDICATION TO HER OF THE LAND IN QUESTION, AS ITS ADJUDICATION WAS PREVIOUSLY EFFECTED ON MARCH 27, 1926 BY THE CADASTRAL COURT, THEN PRESIDED BY THE HON. JUDGE LEOPOLDO ROVIRA, PER HIS HONOR'S DECISION, KNOWN IN THE RECORDS OF THIS CASE AS EXH. LL-DOCDOCIL;

IX

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT THE DECISION OF THE CADASTRAL COURT, THEN PRESIDED BY THE HON. JUDGE LEOPOLDO ROVIRA IN 1926 WAS NOT MERELY A DENIAL OF THE CLAIM OF THEN RESPONDENT BERNARDINA DUSABAN, BUT ONE OF A FINAL JUDGMENT AGAINST HER CLAIM AND CONCLUSIVE AS TO HER ALLEGED RIGHTS;

X

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT LOT NO. 449 IS A GOVERNMENT LAND SUBJECT TO A PRIVATE RIGHT (LEASE) IN FAVOR OF PETITIONER DIONISIO DEMONTAÑO IN 1943 UP TO 1951; IT FURTHER ERRED IN NOT FINDING THAT SAID LAND WAS SUBJECT TO A PRIVATE RIGHT OF THE LATE TOMAS DOCDOCIL AS ITS SUB-LESSEE FROM 1951 TO 1953 WHEN ON THE LATTER DATE, PETITIONER DIONISIO DEMONTAÑO SOLD HIS LEASE RIGHTS TO SAID NOW DECEASED TOMAS DOCDOCIL; AND THEREFORE THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT IN 1951 SUBJECT PROPERTY WAS NOT A PUBLIC LAND;

XI

THE RESPONDENT COURT OF APPEALS ERRED IN NOT FINDING THAT THE COURT THEN PRESIDED BY THE HON. JUDGE ROMAN IBAÑEZ WAS WITHOUT JURISDICTION OVER THE PERSONS OF PETITIONER-APPELLANT DIONISIO DEMONTAÑO, AND THE THEN PETITIONER TOMAS DOCDOCIL;

XII

THE RESPONDENT COURT OF APPEALS ERRED IN FINDING THAT THE DECISION (EXH. C) DECLARED THE AREA IN QUESTION A PUBLIC LAND; IT THEREFORE ERRED IN NOT FINDING SAID DECISION (EXH. C) TO BE AN ADJUDICATION OF LOT NO. 449 IN FAVOR OF THE INSULAR GOVERNMENT AS THE LATTER'S PROPERTY IN ITS PROPRIETARY CHARACTER.

XIII

THE RESPONDENT COURT OF APPEALS ERRED IN NOT DECLARING ORIGINAL CERTIFICATE OF TITLE NO. 0-190 WHICH WAS ISSUED TO BERNARDINA DUSABAN NULL AND VOID; IT ERRED TOO, IN NOT DECLARING CANCELLED TRANSFER CERTIFICATE OF TITLE NO. T-11895 WHICH WAS ISSUED TO RESPONDENT-APPELLEE ROSALIO CARTECIANO;

XIV

THE RESPONDENT COURT OF APPEALS ERRED IN MAKING CONCLUSIONS TO BE ITS JUDGMENT JUST ON THE BASIS OF FACTS ALLEGED IN THE PLEADINGS AND ARGUMENTS OF COUNSELS. IT THEREFORE ERRED IN NOT MAKING ITS JUDGMENT ON THE BASIS OF THE EVIDENCE ON RECORD;

XV

THE RESPONDENT COURT OF APPEALS ERRED TOO IN NOT DECLARING NULL AND VOID THE REAL ESTATE MORTGAGE OF THE LAND IN QUESTION IN FAVOR OF THE RESPONDENT DEVELOPMENT BANK OF THE PHILIPPINES; AND,

XVI

THE RESPONDENT COURT OF APPEALS ERRED IN NOT REOPENING THE DECREE OF REGISTRATION OF LOT NO. 449 WITH THE VIEW TO ANNUL IT; AND IT ERRED IN NOT RESTORING THE LAND TO BE THE PROPERTY OF THE INSULAR GOVERNMENT IN ITS PROPRIETARY CHARACTER, SUBJECT TO THE LEASE RENEWED BY THE LATTER IN FAVOR OF THE PETITIONERS-APPELLANTS, MARIA D. DEMAISIP, GERVASIO DEMAISIP AND SOFONIAS DOCDOCIL."^[2]

In Cadastral Case No. 34, G.L.R.O. Record No. 621 of the Court of First Instance of Iloilo, the title to Lot No. 449 of the Cadastral Survey of Dumangas was ordered registered in the name of Bernardina Dusaban, 90 years old, Filipino, of legal age, widow and a resident of Dumangas, Iloilo on October 17, 1951; that Original Certificate of Title No. 190 covering Lot No. 449 was subsequently issued to said Bernardina Dusaban; that on April 29, 1952, Bernardina Dusaban sold the said land to Rosalio Carteciano in consideration of P10,000.00; that as a consequence of the sale, Transfer Certificate of Title No. 11895 was issued in the name of Rosalio Carteciano over Lot No. 449 of the Cadastral Survey of Dumangas; that on May 5, 1952 Rosalio Carteciano and his wife mortgaged the land to Enrique Lazaro to guarantee a loan of P3,500.00; that on July 21, 1952, Rosalio Carteciano and his wife mortgaged the land in question to the PNB to secure a loan of P6,000.00; that on October 22, 1952, the said spouses again mortgaged the land to the RFC (now DBP) to secure a loan of P6,600.00; that all these encumbrances starting from the mortgage to Enrique Lazaro were all annotated at the back of Transfer Certificate of Title No. 11895 in the name of Rosalio Carteciano; that on March 26, 1953, Dionisio Demontaño and Tomas

Docdocil filed a petition to reopen or review the decree, alleging that in 1925 the land in question was applied for registration under the Cadastral Law by Bernardina Dusaban, but the cadastral court dismissed her application and instead declared the land to be public land; that in 1937 Bernardina Dusaban's husband, Melquiades Deliarde, secured a fishpond permit over the said land from the Department of Agriculture; that in 1943, with knowledge and consent of Bernardina Dusaban, her husband, Melquiades Deliarde, sold his right as a fishpond permittee to Dionisio Demontaño, who, in turn, with permission from the Department of Agriculture, in 1952 leased, and in 1953 sold, his own right to Tomas Docdocil; that thereafter, the Department of Agriculture issued a new permit to Docdocil; that in a separate civil case between Demontaño and Dusaban, the right of Demontaño over the land in question was sustained by the lower court; that knowing fully well that the land belonged to the public domain and possession thereof has been with Demontaño for more than nine (9) years as a fishpond permitted, Bernardina Dusaban succeeded by means of actual fraud in registering title to said land in her name; that subsequently, Dusaban sold the same land to Carteciano for P10,000.00, but said sale was only simulated and Carteciano is not an innocent purchaser for value; and that after Carteciano had obtained his own certificate of title, he mortgaged the land to Enrique Lazaro, then to the PNB and then to the RFC (now DBP) but these mortgagees are not innocent purchasers for value. The petitioners asked that the decree of registration and Original Certificate of Title No. 190 of Dusaban, and the transfer certificate of title in the name of Rosalio Carteciano and all the encumbrances on the land be annulled and that the land be declared re-verted to the public domain; and that the right of the heirs of Tomas Docdocil as fishpond permittees be respected.[3]

The Bureau of Fisheries also filed on March 30, 1953 a petition to review the decree of registration on the ground that Bernardina Dusaban was guilty of actual fraud in procuring O.C.T. No. 190.

The Court of Appeals held that the petitioners Dionisio Demontaño and the heirs of Tomas Docdocil have no personality to file the petition for review inasmuch as they have admitted the public character of the land in dispute.

Moreover, neither the lease of Dionisio Demontaño nor that of Tomas Docdocil was registered. Under Article 1648 of the Civil Code of the Philippines, the lease is not binding upon third persons.

The Court of Appeals brushed aside the contention of the Bureau of Fisheries,[*] the only proper party, that since the land in dispute was already adjudged in 1925 as a public land, the same cannot again be subject to another adjudication because (a) the authenticity of the copy of the alleged decision marked as Exhibit C declaring the land as public land was not duly established; and (b) assuming that there was such a decision declaring the land public, the same had not acquired finality.

The Court of Appeals found that Bernardina Dusaban did not commit actual fraud because:

"The decision of the cadastral court (Exh. 16) decreeing the land to Dusaban came about after filing of Dusaban's motion captioned 'Motion To Set Aside Order Of General Default'. In this motion, Dusaban expressly mentioned that the land was cadastrally surveyed in her behalf in the name of her husband, that an answer was filed by her on March 27, 1925, and that the land was declared public land. We note that annexed to this motion as Annex A is a certification (now marked Exh. AA-Docdocil) by public land officer De Castro stating, among others, that the land is presently covered by a fishpond permit of Dionisio Demontaño.

It is at once obvious that Dusaban did not conceal in her motion the fact that the land was already a public land and that the same was covered by Demontaño's permit. But this is not all. As shown by the last page of her said motion (Exh. 8), Dusaban even copy-furnished (with notice that the motion will be heard on October 16, 1951,

at 8 a.m.) the Provincial Forester, the Provincial Land Officer and the Provincial Fiscal (representing the Bureau of Fisheries), but to no avail because none of these public officials appeared at the hearing. For its part, the cadastral court found as a fact in its decision (Exh. 16) that due notice was given to these public officials, but also to no avail, thus:

'When the motion to set aside order of General Default was called for hearing, nobody appeared to oppose the motion on the part of the government notwithstanding the fact that the Provincial Fiscal, the Provincial Land Officer and Provincial Forester, all of Iloilo Province were duly notified of the hearing of said motion.' (p. 49 record on appeal)

We cannot see our way clear to believing that if Dusaban had a fraudulent intent to register the land in her name, she would have to state categorically in her motion that the land was a public land and that it was covered by a fishpond permit of Demontaño, and then copy furnished the Provincial Land Officer, the Provincial Forester and the Provincial Fiscal, representing the Bureau of Fisheries.

Indeed, upon the authority of the case of *Frias vs. Esquivel*, supra, it is only the lack of notice of Dusaban's motion to set aside the default that may give rise to a case of actual fraud, for, if no notice thereof was given which prevented any of the said public officials to appear then, the decree in favor of Dusaban can be set aside. But even if we regard as useless the effort of Dusaban in personally notifying these public officials by delivering a copy of her motion, as above, the finding made by the cadastral court that they were duly notified establishes said fact of notice. For it is surprising that if this very finding is not true, both the appellant and the other petitioners, either in their petitions for review of the decree or in their other pleadings, have not assailed this finding of fact made by the cadastral court, much less have they denied receipt of said notice or the authority of said public officials to represent the Government. We have ourselves reviewed the entire evidence on record, and we do not find anything to belie this particular finding made by the cadastral court. It is the settled rule that in the absence of any showing that a fact of weight or influence has been overlooked by the trial court, its finding of fact must be given great weight.

It follows that Dusaban has not committed actual fraud, hence the decree which led to the issuance of her O.C.T. 190 cannot be reopened."^[4]

The established facts support the finding of the Court of Appeals that Bernardina Dusaban did not commit actual fraud. Hence, even if the present petitioners have a personality to file a petition for review, they have not established a valid ground to set aside the decree of registration and Original Certificate of Title. No. 190 issued pursuant thereto in the name of Bernardina Dusaban.

Moreover, there is no allegation by the petitioners, much less have they proved, that when Rosalio Carteciano bought the land in question for a consideration of P10,000.00, he had knowledge of any flaw in the title of Bernardina Dusaban. Considering the legal presumption of good faith, Rosalio Carteciano is an innocent purchaser for value.

Rosalio Carteciano mortgaged the land in question to one Enrique Lazaro and then to the PNB. On October 22,

1952, he again mortgaged the said land to the RFC to secure a loan of P6,600.00.

It is not disputed that after the RFC received the application for real estate mortgage of Rosalio Carteciano, it followed the established procedure. The RFC sent out a representative to inspect the land offered as collateral and the title of Rosalio Carteciano thereto. The representative, after completing his inspection and verification, submitted his report. Having thus satisfied itself that Rosalio Carteciano is the absolute owner of the land and that the same was subject then only to the mortgage to the PNB annotated at the back of the transfer certificate of title, the RFC approved the loan and released the proceeds hereof. Under these facts, there is no doubt that the RFC approved the loan in the honest belief that Rosalio Carteciano is the absolute owner of the land, subject only to the lien of the PNB.

In view of the foregoing, the Court of Appeals correctly held that the reopening of the decree in favor of Bernardina Dusaban cannot prosper.

It is well settled that in order for a petition to review the decree to prosper, the land must not have passed on to an innocent purchaser for value.[5]

The decree issued in favor of Bernardina Dusaban is conclusive upon and against all persons, including the insular government and all the branches thereof whether mentioned by name in the application notice, or citation, or included in the general description "To all whom it may concern." [6]

WHEREFORE, the decision of the Court of Appeals appealed from is hereby affirmed, with costs against the petitioners-appellants.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.

[1] Rollo, p. 35. The decision was written by Justice Jose S. Rodriguez and concurred in by Justice Carmelino G. Alvendia and Justice Ruperto G. Martin.

[2] Brief for the Petitioners-Appellants, pp. A-F, Rollo, p. 57.

[3] Rollo, pp. 15-19.

[*] The Director of Fisheries was a party in the Court of Appeals but did not join in this petition for review.

[4] Rollo, pp. 29-31.

[5] Caladiao vs. Vda. de Blas, L-19063, April 29, 1964, 10 SCRA 691.

[6] Section 38, Act 496, as amended.

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