

**SPOUSES CRISPIN C. PAJARON AND CERES G. PAJARON,
PLAINTIFFS-APPELLANTS, VS. DIRECTOR OF THE BUREAU OF
LANDS, REGIONAL OFFICE NO. VIII, THE REGISTER OF DEEDS,
PEREGRINE C. DINGCO...**

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

THE CASE

In this Appeal,[2] plaintiffs-appellants seek the reversal of the Decision[3] of the Regional Trial Court, Branch 17, Palompon, Leyte dated January 9, 2006, in Civil Case No. PN-0120, which dismissed their complaint against herein defendants-appellees.

THE ANTECEDENT FACTS

This case commenced in 1990 when plaintiffs-appellants spouses Crispin Pajaron, Jr. and Ceres Pajaron (“plaintiffs-appellants”) filed a Complaint[4] for Quieting of Title and Damages with Injunction, which was later amended to a case for Declaration of Nullity and Annulment of Free Patent, Relocation Survey, and Original Certificate of Title (OCT) No. P-36420, Mandamus, Declaratory Relief/Quieting of Title, Injunction and Damages,[5] which impleaded not only the original defendants, Ildefonso Laurente, Sr., Pacita, Daniel, Victor, Carlos, Luz, Alfonso, Mario, Ranie, and Hernante, all surnamed Laurente (“the Laurentes”), but also Wenceslao P. Alcuino (a private surveyor), the Director of the Bureau of Lands, Regional Office No. VIII, the Register of Deeds Peregrine G. Dingcong of the Province of Leyte, DENR Officer Edgardo O. Galeon, and Investigator Mario R. Costa (“public defendants”).

The controversy stemmed from the issuance of OCT No. P-36420[6] (“subject OCT”) as a result of the award of a Free Patent covering Cadastral Lot No. 1316, with an area of 10,759 square meters, situated in Sitio Buaya, Sabang, Palompon Leyte, in the name of Ildefonso P. Laurente, Sr.

The Amended Complaint[7] filed by the plaintiffs-appellants basically seeks the nullification of the subject OCT because the same allegedly encroached an area of 658 square meters on their land, Lot No. 1116 (“litigated portion”). They anchor their prayer for the nullification of OCT No. P-36420 on the following summary of their allegations:

- 1) that the Laurentes caused a relocation survey of Lot No. 1316 and encroached the litigated portion and included the same in their property surreptitiously and without notice to plaintiffs-appellants who are adjoining owners;[8]
- 2) that defendant-appellee Wenceslao Alcuino, who conducted the survey, maliciously designed the survey in order to grab the litigated portion;[9]
- 3) that the public defendants never took action on the protests the plaintiffs-appellants made when the survey

was conducted;[10]

4) that public defendants caused the issuance of the free patent and the certificate of title even though the applicant, Laurente Sr., was never qualified to be granted the same because he made untruthful statements in the narration of facts in his application, and that the area of Lot No. 1316 included not only plaintiffs-appellants' litigated portion but also included therein a government pond or "Liga".[11]

According to plaintiffs-appellants, they trace their ownership of Lot No. 1116 with a total area of 2,649 square meters from Luis Memales, who originally owned such lot and sold the same to Arcadio Molon, Sr., who, in turn, sold the same property to plaintiffs-appellants. They proffer that the litigated portion encroached by the Laurentes is part of Lot No. 1116. The area of the litigated portion plus the area of Lot No. 1116, according to plaintiffs-appellants sums up to a total of 2,649 square meters.[12]

To prove their ownership of Lot No. 1116, which includes the area of 658 square meters that was allegedly encroached by Lot No. 1316 covered by the subject OCT, plaintiffs-appellants presented a Deed of Absolute Sale[13] dated February 14, 1990 executed by the heirs of Arcadio Molon, Sr. in favor of plaintiffs-appellants. They also presented an Affidavit[14] dated October 13, 1990 executed by the heirs of Molon, Sr. to prove that Lot No. 1116, which the heirs ceded to the plaintiffs-appellants, has a total land area of 2,649 square meters. With these, they claim that the area indicated in the Deed of Sale, that is 1,991 square meters based on Tax Declaration No. 12831 issued in the name of Arcadio Molon, Sr. is not controlling.

In addition to the Affidavit of the heirs of Molon Sr., plaintiffs-appellants also presented a Sketch Plan,[15] which showed the survey conducted by Engineer Nestorio Encenzo and identified the litigated portion as Lot No. 1316-B.

On the part of the Laurentes, they basically claimed that Lot No. 1116 only has an area of 1,991 square meters as appearing in the Cadastral Survey of Palompon conducted in 1981.[16] They countered that it is the plaintiffs-appellants who encroached their property by enclosing and fencing the litigated portion and claiming interest over the same.[17] They also averred that their property, Lot No. 1316, did not include a natural pond or "liga" because when the cadastral survey was conducted, the same was a dry land, and it was only later on that Laurente Sr. developed the same as a fish pond.[18]

Defendant-appellee Alcuino, meanwhile averred, in gist, that he only followed the Cadastral Survey of Palompon as approved by the Bureau of Lands.[19]

Public defendants, on their part, filed an Omnibus Motion to Dismiss[20] on the following grounds: a) that the complaint lacked a cause of action as plaintiffs had no personality to file the instant suit; b) that the suit is a suit against the State; c) and that there was no exhaustion of administrative remedies. But this omnibus motion was denied by the trial court.

After trial, the court a quo dismissed the complaint by ruling that it cannot annul the free patent and the certificate of title covering Lot No. 1316, considering that the Torrens title is indefeasible. It held that the plaintiffs-appellants could not be real parties-in-interest because the alleged violation of the Public Land Law could only be prosecuted by the State, through the Solicitor General, in an action for reversion. With this finding, coupled with the finding that plaintiffs-appellants failed to substantiate their allegations that the inclusion of the litigated portion was illegal and fraudulent, the trial court held the litigated portion as part of Lot No. 1316, and not of Lot No. 1116. The trial court, thus, disposed the case in this wise:

"WHEREFORE, decision is hereby rendered as follows:

1. dismissing plaintiffs' complaint;

2. declaring the litigated portion of 658 square meters as part and parcel of Cadastral Lot No. 1316 and owned by defendants Laurentes;
3. directing the plaintiffs to pay the defendants Laurentes the following sums:
 - (a) P100,000.00 as moral damages;
 - (b) P37,000.00 as attorney's fees, plus the sum of P2,000.00 per appearance of defendants Laurentes' counsel in court;
 - (c) P20,000.00 as litigation expenses; and,
 - (d) costs.

SO ORDERED.”[21]

Not able to accept the above ruling, the plaintiffs-appellants filed this appeal to Us and assigned to the trial court the following errors:

“The trial court gravely erred:

- I. IN HOLDING THAT THE FREE PATENT ON LOT 1316 OF ILDEFONSO LAURENTE, SR., AND OCT P-36420 CANNOT BE DECLARED NULL AND VOID.
- II. IN HOLDING THAT THE LITIGATED PORTION OF 658 SQUARE METERS IS PART AND PARCEL OF LOT NO. 1316 AND THAT, THE COURT HAS NO POWER TO ANNUL THE APPLICATION FOR FREE PATENT OF DEFENDANT ILDEFONSO LAURENTE, SR. AND THE CORRESPONDING TITLE INCORPORATING THE LITIGATED PORTION OF 658 SQUARE METERS AS PART AND PARCEL OF LOT NO. 1316.
- III. IN HOLDING THAT A WRIT OF MANDAMUS CANNOT BE ISSUED AGAINST PUBLIC RESPONDENTS DIRECTING THEM TO CANCEL THE FREE PATENT AND ORIGINAL CERTIFICATE OF TITLE NO. P-36420 AND TO ACCEPT, IN TURN, PROCESS THE APPLICATION OF PLAINTIFFS-APPELLANTS FOR THEIR LOT NO. 1116 WITH AN AREA OF 2,649 SQUARE METERS.
- IV. IN HOLDING THAT THE COURT CANNOT DECLARE PLAINTIFFS-APPELLANTS AS ABSOLUTE OWNERS AND POSSESSORS OF CADASTRAL LOT NO. 1116 WITH AN AREA OF 2,649 SQUARE METERS AND REMOVE ALL CLOUDS OF DOUBT TO THEIR TITLE AS SUCH.
- V. IN HOLDING PLAINTIFFS-APPELLANTS LIABLE TO PRESENT (SIC) DEFENDANTS-APPELLEES TO PAY MORAL DAMAGES, ATTORNEY'S FEES AND LITIGATION EXPENSES IN THE AMOUNTS STATED IN THE QUESTIONED DECISION.”[22]

As found by the trial court, it is undisputed that “plaintiffs-appellants are the owners of Cadastral Lot No. 1116 while defendants-appellees are the owners of Cadastral Lot No. 1316. Both lots adjoin each other and are located at Sitio Buaya, Sabang, Palompon, Leyte. Lot 1116 used to be declared in the name of the late Luis Memales under Tax Declaration No. 14523 (Exhibit “C”) and in the name of the late Arcadio Molon, Sr. under Tax Declaration No. 12831 (Exhibit “4”). Plaintiffs[-appellants] purchased Lot 1116 from the heirs of Arcadio Molon, Sr. on February 14, 1990 as evidenced by a Deed of Absolute Sale (Exhibit “A”). Lot 1316 is covered by Original Certificate of Title (OCT) No. P-36420 in the name of Ildefonso Laurente, Sr. (Exhibit “I” for the Plaintiffs and Exhibit “1” for the Defendants.”[23]

THE ISSUE

The meat of the controversy basically must lead to the resolution of who has the better right over the litigated portion, that is, the area of 658 square meters, and whether the same is part of Lot No. 1116 or part of Lot No. 1316.

OUR RULING

Plaintiffs-appellants are partly correct in arguing that they are real parties-in-interest but only in so far as the Litigated Portion is concerned.

As to the first assignment of error, We are inclined to partly agree with the plaintiffs-appellants.

It must be noted that plaintiffs-appellants seek the nullification of the whole OCT No. P-36420 covering Lot No. 1316 and the litigated portion. The bases of this nullification are that: a) the OCT encroached on the litigated portion, which, according to plaintiffs-appellants, is part of their property Lot No. 1116; and, b) Lot No. 1316 could not be subjected to a free patent considering that fifty percent of the same is covered by water and forms part of a natural pond or “liga”.

The trial court ruled that it cannot nullify the subject OCT because the proper action should have been a direct action for reversion, and plaintiffs-appellants did not have personality to file the same. It considered the amended complaint filed by plaintiffs-appellants as a collateral attack and thus ruled, “unless and until the land is reverted to the State by virtue of a judgment of a court of law in a direct proceedings for reversion, the Torrens Certificate of title thereto remains valid and binding against the whole world.”[24]

The Laurentes and the Solicitor General, in their respective briefs,[25] bolster this ruling of the trial court and stressed that the action should be one for reversion, so plaintiffs-appellants have no personality to file this case.

On this issue, whether plaintiffs-appellants have personality to file this case, We partly agree with the plaintiffs-appellants.

The case of *Heirs of Ambrocio Kionisala v. Heirs of Honorio Dacut*[26] distinguished an action for reversion from an action for declaration of nullity of free patents and certificates of title as follows:

“An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land. Hence in *Gabila v. Barriga* where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant’s title because even if the title were cancelled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.

On the other hand, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff’s ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant’s fraud or mistake, as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title obtained therefor is consequently void ab initio. The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant. x x x.”

As will be observed from plaintiffs-appellants' Amended Complaint, they alleged ownership of the litigated portion through their predecessors-in-interest. They assert that the portion of 658 square meters included in Lot No. 1316 by the subject OCT is actually part of Lot No. 1116, which property has been in their and their predecessors'-in-interest possession publicly, continuously, adversely, in the concept of an owner for more than thirty (30) years.

Preceding from this allegation, the Court rules that the plaintiffs-appellants are the real parties-in-interest in their action to annul the free patent and its corresponding OCT issued in the name of Ildefonso Laurente, Sr., as the same maybe considered as a an action for reconveyance.

We, however, qualify that plaintiffs-appellants are real parties-in-interest only in so far as the litigated portion is concerned. It is worth noting that plaintiffs-appellants claim ownership of only a portion of Lot No. 1316, the litigated portion, and not the whole Lot No. 1316.

As alleged by the plaintiffs-appellants, the other part of Lot No. 1316 is a natural pond or "liga". They do not claim ownership on the other portions of Lot No. 1316. They sought its nullification on the basis of the alleged fraudulent acts of the late Laurente Sr. in securing the free patent and the OCT. Considering this claim and in accordance with the doctrinal pronouncement in the Heirs of Kionisala, the action for nullification of the rest of the Lot No. 1316 should be initiated by the Director of Lands through the Solicitor General in an action for reversion. The other parts of Lot No. 1316 being alleged as a natural pond, it is only the State who has interest in the reversion of such land to the government.

Hence, plaintiffs-appellants are correct when it filed the case for declaration of nullity of free patent and the subject OCT, but their action is limited to the interest they claim over the litigated portion.

As regards the rest of Lot No. 1316, which are not claimed by plaintiffs-appellants, they cannot be considered as parties-in-interest to file an action to nullify the free patent and the certificate of title. As such, the trial court's ruling that it cannot annul the free patent and the subject OCT because the same could only be done through a direct action for reversion can only be applied to this portion, which is not claimed by plaintiffs-appellants.

Considering these, the trial court may, if it finds clear and convincing evidence, partly annul the free patent and the subject OCT only to the extent of the litigated portion. The other portions of Lot No. 1316, meanwhile, should be subjected to a separate proceeding for reversion, which should be initiated only by the real party-in-interest, the State, through the Solicitor General.

In this light, We now limit the discussion of the appeal in so far as the litigated portion is concerned. Consequently, any allegations and evidence in support of the nullification of the rest of Lot No. 1316 will not anymore be considered in order not to pre-empt any issue which could be appropriately threshed out in an action for reversion in case there is one to be filed.

The Trial Court correctly ruled that the Litigated Portion is part of Lot No. 1316, covered by a Certificate of Title, and not of Lot No. 1116.

We now discuss the second and fourth assignment of errors jointly to resolve the question: Can the free patent and the corresponding OCT be partly annulled in so far as the litigated portion is concerned on the basis of the claim of ownership by plaitiffs-appellants, and consequently hold plaintiffs-appellants owners thereof?

We answer in the negative.

We find that plaintiffs-appellants failed to proffer clear and convincing evidence that Lot No. 1316 as covered by the subject OCT encroached a part of Lot No. 1116. They failed to prove that the litigated portion is part of Lot

No. 1116 and not of Lot No. 1316. They miserably failed to establish their alleged ownership of such litigated portion.

Plaintiffs-appellants presented the Deed of Absolute Sale[27] dated February 14, 1990 between plaintiffs-appellants and the heirs of Molon Sr. in order to prove ownership of Lot No. 1116. Such instrument clearly indicates that the property sold was a certain lot covered by Tax Declaration No. 12831 in the name of Arcadio Molon, Sr. with an area of 1,991 square meters. The said tax declaration reveals that the lot is Cadastral Lot No. 1116 with the same boundaries as indicated in the Deed of Absolute Sale. But, plaintiffs-appellants now claim that Lot No. 1116 has a total area of 2,649 square meters and must include the litigated portion allegedly encroached upon by the Laurentes.

As previously mentioned, to prove that Lot 1116 has a total area of 2,649 square meters and not only 1,119 square meters because it should include the litigated portion of 658 square meters, plaintiffs-appellants presented the Affidavit[28] of the heirs of Molon Sr. dated October 13, 1990, which states the following:

“xxxx

2. xxx that the actual area of the land under Tax Decl. No. 12831 which we sold to the spouses Crispin Pajaron, Jr. and Ceres G. Pajaron is 2,649 square meters more or less although in said Tax Decl. No. 12831 the area indicated therein is 1,991 square meters;

3. This we know because few days before we sold the land, the spouses Crispin Pajaron, Jr. and Ceres G. Pajaron requested us to measure and survey the land before they are going to buy said land. This we did and found out actually that the area of the land, according to the established boundaries is 2,649 square meters.”[29]

However, during the testimony of Rosalita Molon-Viovicente, one of the sellers of Lot No. 1116 and one of those who executed the Affidavit, she admitted that they know the area of Lot No. 1116 to be 2,649 square meters because she together with her brother and a sister measured the land using meter sticks.[30]

With this admission, it would be apparent that the area claimed by the heirs of Molon Sr. in their Affidavit was not certified by an expert as they only used meter sticks in determining the actual area of the land they sold to plaintiffs-appellants.

Moreover, the claim that the heirs of Molon Sr. measured the land before they sold the same to plaintiffs-appellants is belied by the following affidavits which were earlier executed than the Affidavit dated October 13, 1990:

a) Affidavit of Vendor[31] and Affidavit of Vendee[32] both dated April 26, 1990, which identified the property sold to plaintiffs-appellants to be the property covered by Tax Declaration No. 12831, that is, Lot No. 1116 with an area of 1,991 square meters;

b) Affidavit[33] dated February 9, 1990, which was executed by the heirs of Molon Sr. requesting the Municipal Assessor to restore the Tax Declaration of Cadastral Survey No. 1116 with an area of 1,991 square meters in the the name of Arcadio Molon, Sr; and,

c) Affidavit of Publication[34] dated May 3, 1990, which shows that the sale of Lot No. 1116 by the heirs of Molon Sr. in favor of plaintiffs-appellants was published in a newspaper, and the same publication indicated that the property sold was the lot covered by Tax Declaration No. 12831 with an area of 1,991 square meters.

As can be gleaned from the above affidavits, the heirs of Molon Sr. were consistent in claiming that the property they sold was the lot covered by Tax Declaration No. 12831, that is, Lot No. 1116 with an area of 1,991 square meters. If indeed, they measured such property and found that the same actually had an area of 2,649 square

meters before they sold the same to plaintiffs-appellants on February 14, 1990, they could have indicated this allegedly correct area in the above affidavits. The affidavit of publication itself announces to the whole world the identity of Lot No. 1116, thus the heirs of Molon Sr. are already estopped from claiming that Lot No. 1116 had a different area.

Thus, credence cannot be given to the Affidavit dated October 13, 1990, as the same appears to be merely an after-thought.

Plaintiffs-appellants also presented a Sketch Plan,[35] which traced the encroached or litigated portion of Lot No. 1116. Such Sketch Plan indicates that the litigated portion as Lot. No. 1316-B with an area of 658 square meters. The same plan, however, cannot be given due weight because it does not bear any approval from the Bureau of Lands. Further, the engineer, Nestorio Encenzo, who was presented as witness for plaintiffs-appellants testified that when he prepared the Sketch Plan, he indicated therein the litigated portion as Lot No. 1316-B as claimed by plaintiffs-appellants but admitted that when he verified the records of the DENR or the Bureau of Lands, there is no such land known as Lot No. 1316-A and 1316-B. He then admitted that it was only he who made such classification.[36] Based on his verification, Engr. Encenzo also testified that there was only Lot No. 1316 owned by Ildefonso Laurente, Sr. appearing in the records of the agencies he mentioned.[37] Furthermore, he testified that he informed plaintiff-appellant Ceres Pajaron that her lot is only that which is within the boundaries of Lot No. 1116 and does not include part of Lot No. 1316, but the latter insisted that her property is up to the portion indicated in the Sketch Plan as Lot No. 1316-B.[38] Considering these, any reference to such Plan could not be given credence because the same is unreliable.

Using this unapproved Sketch Plan, plaintiffs-appellants' witnesses, Pacita Mamales[39] and Rosalita Molon-Viovicente[40], who testified that they were the previous owners of Lot No. 1116, traced the portion where their houses were previously built. They pointed at the part of the litigated portion that is labeled as Lot No. 1316-B.[41] However, this demonstration cannot persuade because the said Sketch Plan was clearly drawn to make it appear that Lot No. 1316 was divided into two parts, 1316-A and 1316-B. Hence, the Sketch Plan itself leads the witnesses on where to point. No further evidence was presented to clearly establish where the houses of such witnesses were situated. Even the pictures,[42] which allegedly show where the houses were built, did not clearly show that these photographed portions were indeed part of the supposed Lot No. 1316-B.

Considering that they have the burden to prove that Lot No. 1116 stretches out to cover the litigated portion, plaintiffs-appellants should have presented as evidence an approved Survey Plan or the original Cadastral Survey Plan of Palompon, which traces the boundaries of the property they are claiming. But, they did not present this vital document. Thus, this creates doubt on the validity of the claim of ownership by the plaintiffs-appellants on the litigated portion. As held in one case,[43] the non-presentation of any approved survey plan would raise a presumption that if presented, such piece of evidence would be adverse to their claim.

On the other end, the Laurentes presented the subject OCT which describes the metes and bounds of Lot No. 1316. The dorsal portion of the subject OCT reveals that the boundaries and areas indicated therein were in accordance with the survey conducted by one Engr. M. Atienza on April 1, 1981 and approved on April 12, 1983.[44] The subject OCT was issued pursuant to the award of free patent to Ildefonso Laurente, Sr. covering Lot No. 1316, Case-5, CAD 519-D.[45]

Between the subject OCT and the pieces of evidence presented by plaintiffs-appellants, the former deserves credible weight. A certificate of title issued pursuant to a public land patent partakes of the nature of a certificate of title issued through judicial proceeding. It has in its favor the presumption of regularity.[46] This presumption of regularity was clearly not rebutted by plaintiffs-appellants because they failed to present clear and convincing

evidence to categorically prove that the issued certificate of title encroached on their property.

It has been a established legal principle that in cases of annulment and/or reconveyance of title, a party seeking it should establish not merely by a preponderance of evidence but by clear and convincing evidence that the land sought to be reconveyed is his.[47]

Considering that the pieces of evidence presented by plaintiffs-appellants do not lend support to their claim that Lot No. 1116 has a total area of 2,649 square meters and that a portion of Lot No. 1316 is owned by them, the subject OCT remains as it is – an indefeasible evidence of ownership of Lot No. 1316 with an area of 10,759 square meters by the registered owner Ildefonso Laurente, Sr.

Hence, the trial court correctly ruled that the litigated portion is part of Lot No. 1316 and not of Lot No. 1116. As such, it cannot be declared that plaintiffs-appellants are the absolute owners of such litigated portion. Although, without doubt, plaintiffs-appellants are the absolute owners of Lot 1116 with an area of only 1,991 square meters as appearing in Tax Declaration No. 12831.

A Writ of Mandamus cannot be issued to compel a discretionary act.

As regards, the third assignment of error, We rule that the prayer for Mandamus cannot be granted to direct the public defendants to cancel the Free Patent and OCT No. P-36420 and to accept, in turn, and process the application of plaintiffs-appellants for Lot No. 1116 with an area of 2,649 square meters.

In so far as the litigated portion is concerned and after ruling that such portion is part of Lot No. 1316, which, at the same time, is covered by a certificate of title, We cannot grant the prayer for Mandamus to cancel the Free Patent and OCT No. P-36420. Moreover, We cannot compel the public defendants to process plaintiffs-appellants' application for free patent because such act is not ministerial but discretionary.

The trial Court correctly held that “mandamus lies only to compel an officer to perform a ministerial duty and not a discretionary act. xxx A duty is ministerial when the discharge of the same requires neither the exercise of official discretion or judgment.”[48] And, as aptly argued by the Solicitor General, “mandamus may not be availed to direct the exercise of judgment or discretion in a particular way, or to retract or reverse an action already taken in the exercise of either.”[49]

Indeed, the following acts sought to be compelled by plaintiffs-appellants through a writ of mandamus – (1) to cancel in their books, registers, and records Free Patent No. 083740 and OCT No. P-36420; (2) to accept and process the appellants' application for a free patent over Lot No. 1116 with an area of 2,649 square meters; (3) to grant an original certificate of title in favor of plaintiffs-appellants over Lot No. 1116; and, (4) to register said patent and certificate of title in their respective books, registers, or records – are mainly acts which require the exercise of discretion. The same involves judgment on the part of public defendants in examining the documents presented to them before they perform these actions.

The Trial Court properly awarded attorney's fees and litigation expenses to the Laurentes.

The trial court awarded attorney's fees and litigation expenses to the Laurentes on the basis that they were forced to go to court because of the filing of this case.

We hold that the trial court correctly awarded the attorney's fees and litigation expenses considering that the Laurentes were compelled to litigate even if they already have a certificate of title in their favor. Normally, once a certificate of title is issued, the owner of the property may rest secure, as the same is his indefeasible and competent proof of ownership.

However, despite this certificate of title, plaintiffs-appellants insisted to claim part of the property covered by

such certificate without competent and credible proof. Clearly, the action they filed was unfounded because their own evidence belies their allegations. Thus, pursuant to paragraphs 2 and 4 of Article 2208 of the Civil Code, the Laurentes are entitled to attorney's fees and expenses of litigation.[50]

And, because this case dragged on for almost sixteen (16) years from the time the Amended Complaint was filed until the date of the trial court's Decision, We find the amounts of attorney's fees, appearance fee for the counsel, and the litigation expenses awarded to the Laurentes reasonable.

We also award interest of six percent (6%) on the total award from the finality of this Decision until the total award is fully paid, in accordance with the recent ruling of the Supreme Court modifying the amount of legal interest and pegging the same at six percent (6%) when an award of sum of money becomes final and executory, regardless of the source of obligation, to conform with BSP-MB Circular No. 799.[51]

The award of moral damages must be deleted.

We find no basis on the award of moral damages. Both the records and the trial court decision fail to show any basis for the award of moral damages. Hence, the same must be deleted.

We conform with the Solicitor General's apt observation in his brief, thus:

“Although the trial court did not err in dismissing the appellants' complaint for lack of merit, no evidence was presented to justify the award of moral damages in favor of appellees. The filing alone of a civil action should not be a ground for an award of moral damages in the same way that a clearly unfounded civil action is not among the grounds for moral damages. In *Crystal v. Bank of the Philippine Islands*, the Supreme Court discussed that the law never intended to impose a penalty on the right to litigate so that the filing of an unfounded suit does not automatically entitle the defendant to moral damages, viz:

The spouses' complaint against BPI proved to be unfounded, but it does not automatically entitle BPI to moral damages. Although the institution of a clearly unfounded civil suit can at times be a legal justification for an award of attorney's fees, such filing, however, has almost invariably been held not to be a ground for an award of moral damages. The rationale for the rule is that the law could not have meant to impose a penalty on the right to litigate. Otherwise, moral damages must every time be awarded in favor of the prevailing defendant against an unsuccessful plaintiff.”[52]

WHEREFORE, the Decision of the Regional Trial Court, Branch 17, Palompon, Leyte dated January 9, 2006 in Civil Case No. PN-0120 is hereby **AFFIRMED** with **MODIFICATIONS** that the award of moral damages to private defendants-appellees Laurentes is **DELETED** and that herein plaintiffs-appellants spouses Crispin and Ceres Pajaron are **ORDERED TO PAY** private defendants-appellees Laurentes six percent (6%) interest on the total monetary award from the finality of this Decision until such award is fully paid.

SO ORDERED.

Hernando, and Francisco,[1] JJ., concur.

[1] Acting Junior Member per Office Order No. 15-14-GTI dated June 30, 2014.

[2] Through a Notice of Appeal dated March 6, 2006, Records, p. 399.

[3] Records, pp. 379-397.

[4] Records, pp. 1-4.

[5] Records, pp. 52-86.

- [6] Exhibits Folder, p.39.
- [7] Records, pp. 52-86.
- [8] See Amended Complaint, Records, p. 61.
- [9] Ibid, pp. 61-62.
- [10] Ibid, pp. 63-64.
- [11] Ibid, pp. 65-69.
- [12] Ibid, pp. 58-60.
- [13] Exhibits Folder, p. 1.
- [14] Exhibits Folder, p. 3.
- [15] Exhibits Folder, p. 21.
- [16] See Answer to Amended Complaint, Records, pp. 99-100.
- [17] Ibid, p. 101.
- [18] Id.
- [19] See Answer With Counterclaim and Damages, Records, p. 90.
- [20] Records, pp. 111-124.
- [21] Records, p. 397.
- [22] Rollo, p. 49.
- [23] Records, p. 379.
- [24] Records, p. 393.
- [25] Defendants-appellees Laurentes' Brief, Rollo, pp.84-104; Solicitor General's Brief, Rollo, pp.150-166.
- [26] G.R. 147379, February 27, 2002.
- [27] Exhibits Folder, p. 1.
- [28] Exhibits Folder, p. 3.
- [29] Ibid.
- [30] TSN dated December 10, 1991, pp. 124-126.
- [31] Exhibits Folder, p. 67.
- [32] Exhibits Folder, p. 72.
- [33] Exhibits Folder, p. 68.
- [34] Exhibits Folder, p. 71.
- [35] Exhibits Folder, p. 21.
- [36] TSN dated February 6, 1996, p. 55.

[37] Ibid.

[38] TSN dated February 6, 1996, pp. 71-73 and pp. 81-82.

[39] TSN dated December 10, 1991, pp. 21-22.

[40] TSN dated December 10, 1991, p. 78.

[41] Exhibits Folder, “R-2” and “R-4”, p. 21.

[42] Exhibits Folder, p. 20.

[43] Notarte v. Notarte, G.R. No. 180614, August 29, 2012.

[44] Exhibits Folder, p. 39 (dorsal portion).

[45] Exhibits Folder, p. 81.

[46] AGCAOILI, O., Property and Registration Decree and Related Laws, 2011 Ed., p. 693.

[47] Silvestre v. Court of Appeals, G.R. Nos. L-32694 & L-33119, July 16, 1982.

[48] See Decision dated January 9, 2006, Records, p. 395. Citations omitted.

[49] See Appellees' Brief of the Solicitor General, Rollo, p. 163. Citations omitted.

[50] CIVIL CODE, Art. 2208. - In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

“xxx

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

xxx

(4) In case of a clearly unfounded civil action or proceeding against the plaintiff;

xxx

xxx”

[51] Nacar v. Gallery Frames, G.R. 189871, August 13, 2013.

[52] See Appellees' Brief of the Solicitor General, Rollo, p. 163-164. Citations omitted.

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