

## **CONSUELO MALALUAN VDA. DE RECINTO, PETITIONER, VS. RUPERTO INCIONG AND COURT OF APPEALS, RESPONDENTS.**

*G.R. No. L-26083. May 31, 1977*

Ponente: MARTIN, J.

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### **MARTIN, J.:**

Petition for review on certiorari of the decision of the Court of Appeals which reversed the decision of the trial court in a suit for recovery of possession of a parcel of land.

Ruperto Inciong (hereinafter referred to as private respondent) is the registered owner of a parcel of land located in Barrio Santol, Mataasnakahoy, Batangas, with an area of 34,263 square meters covered by Transfer Certificate of Title No. Rt-379 (T-211) of the Register of Deeds of Batangas. The land was formerly identified as Lot No. 8151 of the Cadastral Survey in the area during the cadastral proceedings from 1936 to 1940. Private respondent acquired this land in 1946 by purchase from Matias Amurao. In 1961, after a relocation survey of the land was effected it was discovered that its southern boundary covering an area of 8,591 square meters was in the possession of petitioner, Consuelo Malaluan Vda. de Recinto. In due time private respondent filed an action for recovery of possession of the portion held by the petitioner. In her answer to private respondent's complaint, petitioner claimed to be the owner of the area in question and as counter-claim demanded its reconveyance from the private respondent.

After trial, the lower court rendered judgment declaring the petitioner to be the lawful owner of the land in question and ordering private respondent to execute a deed of reconveyance over the same in favor of petitioner. However, on appeal said judgment was reversed by the Court of Appeals in a decision the dispositive portion of which, reads:

"WHEREFORE, the judgment rendered by the trial court is hereby ordered reversed, and another one entered, by ordering defendant-appellee to return that portion of 8,591 square meters of the land in question to plaintiff-appellant; to pay damages in the sum of P100.00 a month from the time of the filing of the action until the property is returned; to pay further the sum of P1,000.00 for attorney's fees; and for defendant to pay the costs in both instances."

A motion to reconsider said decision proved unavailing. Hence, this petition for review, petitioner faulting the Court of Appeals –

I. IN NOT CONSIDERING THAT IT WAS THRU ERROR THAT THE AREA IN DISPUTE WAS INCLUDED IN THE TITLE OF RESPONDENT RUPERTO INCIONG AND HIS PREDECESSORS, AND THAT THE DECREE OF REGISTRATION WAS NULL AND VOID AB INITIO WITH RESPECT TO SAID AREA;

II. IN NOT CONSIDERING THAT THE LAND IN QUESTION WAS NOT INCLUDED IN THE SALE BY MATIAS AMURAO TO RESPONDENT RUPERTO INCIONG, AND THAT IT HAS NOT YET PASSED INTO THE HANDS OF AN "INNOCENT PURCHASER FOR VALUE";

III. IN NOT SEEING THAT RESPONDENT RUPERTO INCIONG, IN CLAIMING THE LAND IN QUESTION, IS ACTING IN BAD FAITH AND TRYING TO ENRICH HIMSELF AT THE EXPENSE OF PETITIONER;

IV. IN DECLARING IN EFFECT THAT PETITIONER'S EXHIBIT "4", DEED OF DONATION PROPTER NUPTIAS AND EXHIBIT "3-A", DEED OF SALE, ARE INVALID AND WITHOUT LEGAL FORCE AND EFFECT;

V. IN REVERSING THE DECISION OF THE TRIAL COURT.

It is evident from the records that the area in dispute is a part of the land formerly owned by Petronilo Acar. On March 11, 1918, Petronilo Acar sold the same to the spouses Mariano Recinto and Marta Magsumbol (Exhibit 3-A). On July 2, 1931, said spouses conveyed the said property by way of a donation propter nuptias to petitioner Consuelo Malaluan Vda. de Recinto and her late husband, Juanario Recinto. Since then, petitioner and her late husband have been in open, public and continuous possession of the entire property including that portion now in question which adjoins private respondent's land on the north. The adjoining lands have since then been separated by a fence consisting of morado, madre cacao, antipolo and other kinds of living trees. The land north of the disputed area which is now in the name of the private respondent was previously owned by Norberto Leyesa, the Templos, Atty. Ponciano Hernandez and Matias Amurao. All of these previous owners of the land admitted that they recognized the fence of the property in question and disclaimed any interest or right over the disputed portion. Private respondent acquired his land from Matias Amurao while the latter purchased the same from Atty. Ponciano Hernandez. Atty. Hernandez disclosed that the area he acquired from his predecessor-in-interest was only that parcel north of the disputed area separated by the fence (Exhibit I) and that he never exercised nor claimed any right over the land in question. Said land was the same piece of land that he sold to Matias Amurao who also had only occupied the same area and did not go over the dividing line. The only boundary that Matias Amurao could point to the private respondent as separating the land that he was then selling from that owned by petitioner was the fence (Exhibit I). It was also the same parcel of land which Matias Amurao conveyed to private respondent in 1946. During the ocular inspection conducted by the trial court it was found out that the disputed portion and the land adjoining it on the north (private respondent's) are separated by a long fence consisting of morado, madre cacao, antipolo and other kinds of trees which could not be less than 25 years old, with a single line of a rusty barbed wire. Inside the disputed area were coconut trees and other plants similar to those found in the land of the petitioner but different from those improvements in the land of the private respondent. As found by the trial court the preponderance of evidence shows that the area in question has been erroneously included in the cadastral survey of Lot No. 8151 and in the original certificate of title without the knowledge of the parties concerned. As a result, the same description in the original certificate of title was carried over into the succeeding transfer certificates of title of the subsequent owners covering the same parcel of land. This is confirmed by the fact that private respondent's predecessors-in-interest and later, private respondent himself, have all along treated the area in question as belonging to the petitioner. What seemed to have prompted private respondent to get interested over the disputed area was when he came to learn after the relocation survey in 1961 that said disputed area was included in his title. Obviously then, the inclusion of said area in the title of Lot No. 8151 is void and of no effect for a land registration Court has no jurisdiction to decree a lot to persons who have put no claim in it and who have never asserted any right of ownership over it.[1] The Land Registration Act as well as the Cadastral Act protects only the holders of a title in good faith and does not permit its provisions to be used as a shield for the commission of fraud, or that one should enrich himself at the expense of another. Resort to the provisions of said Acts do not give one a better title than he really and lawfully has.[2] In the case at bar, private respondent could not have acquired an area more than what was actually conveyed to him by Matias Amurao which extended only as far as the dividing fence on the south thereof (Exhibit I). The mere possession of a certificate of title under the

Torrens system does not necessarily make the possessor a true owner of all the property described therein for he does not by virtue of said certificate alone become the owner of the land illegally included.[3] It is evident from the records that the petitioner owns the portion in question and therefore the area should be conveyed to her. The remedy of the land owner whose property has been wrongfully or erroneously registered in another's name is, after one year from the date of the decree, not to set aside the decree, but, respecting the decree as incontrovertible and no longer open to review, to bring an ordinary action in the ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages.[4] This was what petitioner did. But was private respondent an innocent purchaser for value? We can hardly consider private respondent one because at the time he purchased the land covered by the certificate of title now in his hands he was aware that the disputed portion was not included in the area conveyed to him by Matias Amurao. This is clearly evident when he acknowledged as the true boundary the one (Exhibit I) pointed to him by Matias Amurao between his land and the disputed portion by not raising any question about it and not disturbing the possession of the petitioner over the area in dispute for almost 15 years. A purchaser in good faith is one who buys the 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 claim or interest of some other person in the property.[5]

In its decision, the Court of Appeals underscored the alleged defects in the deed of sale executed by Petronilo Acar in favor of the spouses Marta Magsumbol and Mariano Recinto in 1918 (Exhibit 3-A) and of the donation propter nuptias made by the latter in favor of the petitioner and her late husband, Juanario Recinto, in 1931 as having substantially weakened the case of the latter. It appears that the deed of sale executed by Petronilo Acar was not registered in the office of the Register of Deeds and that the donation propter nuptias was only embodied in a private instrument. We note, however, that said alleged defects were not raised in issue by the private respondent before the trial court. Hence, it was improper for the Court of Appeals to have considered them as the same could not have even been raised for the first time on appeal.[6]

As to the claim of private respondent that petitioner's action for reconveyance of the land in the form of a counterclaim has long been barred by prescription, suffice it to state that private respondent and his predecessors-in-interest have never possessed the land in question nor claimed it to be their own and if private respondent ever claimed it after fifteen (15) years from the time he acquired the land covered by his title, it was because the same was erroneously included in his title.[7] Moreover, the defense of prescription interposed by the private respondent cannot be entertained as it has been raised only for the first time in this instance.[8]

IN VIEW OF ALL THE FOREGOING, the decision of the respondent Court of Appeals is hereby reversed and set aside and another one entered, ordering private respondent to return to petitioner the disputed portion of the land in question covering an area of 8,591 square meters; to pay petitioner damages in the sum of P100.00 a month from the time of the filing of the action until the property is returned and the sum of P1,000.00 for attorney's fees. The Register of Deeds of Batangas is further ordered to segregate said disputed portion from the entire portion embraced by Transfer Certificate of Title No. Rt-379 (T-211) and issue a new certificate of title in favor of petitioner over said disputed portion and another new certificate of title over the remaining portion of the land in question in favor of private respondent after cancelling Transfer Certificate of Title No. Rt-379 (T-211). With costs against private respondent.

### **SO ORDERED.**

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

- [1] Director of Lands vs. Abache, 73 Phil. 117, citing P.I. vs. Triño, 50 Phil. 708.
- [2] Angeles vs. Samia, 66 Phil. 444, citing Gustilo vs. Maravilla, 48 Phil. 442; Angelo vs. Director of Lands, 49 Phil. 838.
- [3] Ledesma vs. Municipality of Iloilo, 49 Phil. 769.
- [4] Marta Quiñano vs. Court of Appeals, et al., 39 SCRA 221, citing Cabanos vs. Register of Deeds, 92 Phil. 826. Cf. Avecilla vs. Yatco, 103 Phil. 666; Nebrada vs. Heirs of Alivio, 104 Phil. 126; Roco vs. Gimeda, 104 Phil. 1011; Aragon vs. Aragon, 105 Phil. 365; Republic vs. Heirs of Carle, 105 Phil. 1227; Moldero vs. Yandoc, 3 SCRA 246; Alzona vs. Capunitan, 4 SCRA 450; Juan vs. Zuñiga, 4 SCRA 1221; J.M. Tuazon & Co. vs. Macalindong, 6 SCRA 938; Gonzales vs. Jimenez, 13 SCRA 80; also Palma vs. Cristobal, 77 Phil. 713; Manarpac vs. Cabanatan, 21 SCRA 743, citing Casilan vs. Espartero, 95 Phil. 799; Caladiao vs. Vda. de Blas, 10 SCRA 691.
- [5] Cui and Joven vs. Henson, 51 Phil. 606; Fule vs. De Legare, 7 SCRA 351.
- [6] Ng Chio Cio vs. Ng Diong, 1 SCRA 275; City of Manila vs. Ebay, 1 SCRA 1086; Republic vs. Aricheta, 2 SCRA 469; Zambales Chromite Mining Co. vs. Robles, 2 SCRA 1051; Republic vs. Albert, 4 SCRA 173; Ferrer vs. Commissioner of Internal Revenue, 5 SCRA 1022; Rebodos vs. WCC, 6 SCRA 717; J.M. Tuazon vs. Macalindong, 6 SCRA 938; Mendoza vs. Melia, 17 SCRA 788; Dirige vs. Biranya, 17 SCRA 840; Ramos vs. Pepsi-Cola Bottling Co., 19 SCRA 289; Sumerariz vs. DBP, 21 SCRA 1374; Manila Port Service vs. Court of Appeals, 22 SCRA 1364; San Miguel Brewery vs. Joves, 23 SCRA 1093; Luzon Surety vs. De Garcia, 30 SCRA 111; De Tanedo vs. De la Cruz, 32 SCRA 63; Atlas Consolidated Mining and Development Corp. vs. WCC, 33 SCRA 132; Reparations Commission vs. Northern Lines, 34 SCRA 203; National Marketing Corp. vs. Federation of United Namarco Distributors, 49 SCRA 238; Arangco vs. Baloso, 49 SCRA 296.
- [7] Angeles vs. Samia, *supra*.
- [8] J.M. Tuason vs. Macalindong, 6 SCRA 938; Phil. Iron Mines vs. Abear, 21 SCRA 652; Blanco vs. WCC, 29 SCRA 8.

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