

SILVESTRA GALARPE DE MELGAR, PETITIONER, VS. ADORACION PAGAYON, ET AL., RESPONDENTS.*G.R. No. L-22731. November 15, 1967*

Ponente: FERNANDO, J.

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In this petition for review and certiorari of a decision of respondent Court of Appeals, the pivotal question was succinctly summed up by its then Presiding Justice, now Justice Bengzon of this Court: "The facts thus presented bring us to the question of who has a better right to the disputed property. [Are they, the other respondents, hereinafter referred to as the Pagayons] whose predecessor-in-interest, Salvador Pagayon, acquired the land by purchase from Basilia Paccial, the registered owner? Or is it [petitioner now, then defendant-appellant] whose right thereto, if any, emanates from Eladio Palomillo, who claims to have acquired the land by virtue of Basilia's failure to repurchase the same within the stipulated period of three years?"[1] The decision being in favor of the Pagayons, this matter was elevated to us for review by petitioner.

The facts clearly show that the land was originally owned by a certain Basilia Paccial, who, on December 6, 1924, sold it to one Palomillo subject to the right of repurchase within a period of three years. The period expired without such a right being exercised. Petitioner, on April 18, 1950, acquired whatever rights, interests and participation in the aforesaid lot Palomillo had for the sum of P300.00. Earlier on January 30, 1925, however, the Court of First Instance of Iloilo rendered judgment in Cadastral Case No. 31 decreeing the registration in the above lot in favor of vendor Basilia Paccial, it being noted that it was encumbered to the aforesaid Palomillo "for the sum of TEN PESOS (P10.00); . . ."[2] Thereafter, on October 20, 1925, Original Certificate of Title No. 27663 "was issued in the name of Basilia Paccial with the foregoing encumbrances and conditions annotated thereon (Exhibit 2)."[3] On October 7, 1949, Salvador Pagayon, the predecessor-in-interest of the other respondents in this proceeding acquired the property for the sum of P2,000.00. The Deed of Sale was registered, and the next day Transfer Certificate of Title No. T-6904 "was issued in the name of Salvador Pagayon which cancelled the Original Certificate of Title" in favor of Paccial.

The situation presented then is that of a vendee relying on a Torrens title as against another vendee allegedly having in his favor a sale with pacto de retro executed before the registration of the property. The Court of Appeals, as already noted, sustained the right of the vendee who did purchase registered land, thereafter securing the issuance of the corresponding title in his name. That is as it should be. There is no ground for reversal.

How does petitioner attempt to impart a degree of plausibility to a contrary view? As noted in her Brief: "According to the Court of Appeals, 'it is not disputed that the sale a retro between Basilia Paccial and Eladio Palomillo took place on December 6, 1924, or prior to the decree of registration (January 30, 1925) and the issuance of the corresponding certificate of title (October 20, 1925).' It is also an undisputed fact that the possession of the land in question was transferred to Eladio Palomillo upon the execution of the pacto de retro sale thereof, and that, Basilia Paccial had failed to repurchase the same within the stipulated period of three years and consequently, Eladio Palomillo had consolidated his ownership thereof."[4] Then the Brief continues: "It is

true that the sale pacto de retro to Eladio Palomiilo does not appear in the Original Certificate of Title of the land in question because, Basilia Paccial had concealed this fact in her Answer in the Cadastral Case or in the hearing thereof when she obtained judgment on January 30, 1925. But this did not destroy the fact that Eladio Palomiilo was already the owner of the disputed land as of December 6, 1924." [5]

From which she would predicate a right in her favor on the alleged authority of *Cabanos v. Register of Deeds*, [6] a 1920 decision, which did indeed speak to the effect that while "the consolidation of title could not take place, because the vendor has obtained a certificate of title which has become indefeasible and absolutely binding against the whole world and could no longer be reviewed by reason of the expiration of the period for review, nevertheless, the decree of registration has not annulled the contract of pacto de retro sale which still subsists without any alteration and still remains valid and binding against the vendor, the latter's certificate of title not having rescinded nor destroyed the validity of the sale a retro." [7]

This is to misconstrue the *Cabanos* holding. It is true that subsequently *Cabanos* was invoked in later decisions. [8] Not one of the cases citing such a ruling went that far though. Nor could they, considering the categorical and explicit language of Section 38 of the Land Registration Act and the consistent application thereof in adjudications by this Court. From 1906 in *Jones v. The Insular Government* [9] to *Gestosani v. Insular Development*, [10] decided less than two months ago, the conclusiveness of a decree of registration has been stressed. As former Chief Justice Arellano so emphatically stated: "[It] shall remain in full force and effect forever." [11] No other conclusion would do in the opinion of former Chief Justice Araullo as "Section 38 of Act No. 498 ... is very plain and conclusive." [12] The Torrens title then "issued after the necessary judicial proceedings [possesses] an absolute and conclusive character." [13] Nor does the law say, as was so clearly expressed by Justice Romualdez that "the effects of the decree of registration cease to exist when the title is transferred to a successor." [14] Well worth remembering is this admonition from Justice Malcolm: "The interests of the Philippines will best be served by a strict adherence to the provision of the Land Registration Law." [15]

If it were otherwise, much of the stability that it is the purpose of the Torrens system to maintain would be a thing of the past. It is a fact well-worth mentioning that in the latest decision on the subject, *Gestosani v. Insular Development*, [16] the well-written and exhaustive opinion being penned by Justice Dizon, *Cabanos v. Register of Deeds* was precisely cited to sustain the principle of what Justice Fisher called "the incontestable and absolute character of the Torrens title." [17]

According to Justice Dizon: "At the risk of stating what is obvious, We say that land registration proceedings under Act 496 are in rem and that such proceedings, as well as the title issued as a result thereof, are binding and conclusive upon the whole world. Upon the expiration of one year within which a petition to review the decree of registration may be filed, said decree and the title issued pursuant thereto become incontrovertible (Section 38, Act 496), and the same may no longer be changed, altered or modified, much less set aside (*Director of Lands v. Gutierrez David*, 50 Phil. 797). This has to be the rule, for if even after the ownership of a property has been decreed by a land registration court in favor of a particular person and title issued may still be annulled, changed, altered or modified after the lapse of the one year period fixed by the legal provision mentioned above, the object of the Torrens system, namely, to guarantee the indefeasibility of the title to the property, would be defeated (*Cabanos v. Register of Deeds*, 40 Phil. 620). In the instant case the above doctrine has passed from the hands of the original registered owner into those of clearly innocent third parties."

Another opinion of this Court, this time from the then Justice, later Chief Justice, Bengzon in *Beriones v. Court of Appeals*, [18] is equally indicative of the failure of petitioner to appreciate the true import of the *Cabanos* holding. Thus: "... He alleged ownership thru failure of the vendor a retro to repurchase in time. He had to prove such allegation. The defendants had a right to rely on the Torrens title issued in their name. If such

repurchase was an essential step for the registration and confirmation of their ownership, the issuance of the certificate of title in their names gives rise to the presumption that it had been duly taken. . . . The result of the foregoing observations is that the precedents claimed by petitioner as practically foursquare with this, do not control the situation. There-fore he failed to establish any right superior to the conclusive title of defendants under the Torrens system."

With the above controlling pronouncements of this Court, this petition could be disposed of. Three of the five errors assigned being based on a misinterpretation of the Cabanos doctrine are clearly unfounded. One other alleged error, namely the alleged bad faith of Salvador Pagayon, being a factual matter cannot be inquired into. Nor in view of the title having legitimately passed to the Pagayons would there be any point to discussing whether there is any merit to the alleged error of respondent Court in holding that ten years having elapsed since December 6, 1927, neither the vendee a retro nor his transferee, petitioner, could still compel vendor Paccial to execute an absolute deed of sale, the action being barred by Section 43 of the Code of Civil Procedure.

Wherefore, the decision of respondent Court of Appeals of February 4, 1964 is affirmed with costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, and Angeles, JJ., concur.

Judgment affirmed.

[1] Decision, Appendix to Petitioner's Brief.

[2] Decision, Appendix to Appellant's Brief, b.

[3] Decision, Appendix to Appellant's Brief, b.

[4] Petitioner's Brief, p. 11.

[5] Petitioner's Brief, pp. 11-12.

[6] 40 Phil. 620.

[7] Petitioner's Brief, p. 13.

[8] Sotto v. Sotto (1922) 43 Phil. 688; Severino v. Severino (1923) 44 Phil. 343; Paguio v. Manlapid (1928) 52 Phil. 534.

[9] 6 Phil. 122.

[10] L-21166, prom. September 15, 1967.

[11] De la Cruz v. Fabie (1916) 35 Phil. 144.

[12] Villarosa v. Sarmiento (1923) 46 Phil. 814.

[13] Yuson v. Diaz (1921) 42 Phil. 22, per Villamor, J.

[14] Manlapas v. Llorente (1925) 48 Phil. 298.

[15] Hawaiian Philippine Co. v. Hemaiez (1924) 45 Phil. 746. This too as he pointed out in an earlier case "even at the cost of possible cruelty which may result in exceptional cases ..." (Govt. v. Abural [1919] 39 Phil. 996, 1000).

[16] L-21166, September 15, 1967.

[17] De los Reyes v. Razon (1918) 38 Phil. 480.

[18] L-5980, March 22, 1954.

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