

ELIAS O. BALIDO, SR., LUCIANO BALIDO REN, LEONARDO BALIDO, CECILIA BALIDO SAN JUAN, ERLINDA BALIDO, MILAGROS BALIDO, GERTRUDES BALIDO RANQUE, FLORENTINO BALIDO, DIVINA BALIDO AN...

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

In this appeal[1] under Rule 41 of the Rules of Court, herein plaintiffs-appellants assail the Decision[2] dated September 10, 2012, of the Regional Trial Court, Branch 39, Sogod, Southern Leyte in Civil Case No. R-087-C, for Declaration of Nullity or Annulment or Nullification of OCT No. 41772, Free Patent No. (VIII) 086405-97-11711 in the name of Heirs of Mateo Edillo, rep. by Epifania Edillo, Cancellation of Owner's Duplicate Copy, Reversion of Lots 875 and 878, Reconveyance, Transfer or Quieting of Title and Recovery with Damages. The dispositive portion of this assailed Decision reads:

“WHEREFORE, finding more preponderance of evidence in favor of the defendants and against the plaintiffs, this court hereby renders judgment:

1) DISMISSING plaintiffs' complaint for lack of cause of action for reasons of Estoppel and that the action is barred by the Statute of Limitations, Failure to exhaust administrative remedies and lack of personality to file this action.

2) ON THE COUNTERCLAIM: ORDERING the plaintiffs to pay the Defendants:

- The sum of 5,000 acceptance and 1,200.00 per appearance as reasonable Attorney's fees;
 - The sum of P30,000 as moral damages;
 - The sum of P10,000 as exemplary damages;
 - The sum of P10,000 as litigation expenses; and
- To pay the costs of the suit.

SO ORDERED.”[3]

The antecedents of the instant case involve the following facts:

Plaintiffs-appellants claim ownership and possession of a parcel of agricultural land situated at Dahican, Talisay, Libagon, Southern Leyte, described as follows:

“It is a certain parcel of land, covered by Tax Declaration No. 5501 (New, beginning 1964) in the name of Elias Balido with an area of .6448 Hectare, located at Dahican, Talisay, Libagon, Southern Leyte, more or less bounded as follows:

North- by a brook, a land of Alipio Balaba and a Brgy. Boundary of Bogasong;
East- by the land of Flaviano Engalan
South- by that of Mateo Edillo; and

West- by that of Marcos Silimbahon and Mateo Edillo”[4]

In 1984, a cadastral survey was conducted in the Municipality of Libagon, Southern Leyte, and a barangay road was constructed that traversed the above-described land claimed by plaintiffs-appellants. Hence, such parcel of land was divided into two and now described as follows:

(Lot A)

“It is a parcel of land located at Dahican, Talisay, Libagon, Southern Leyte, covered by ARP No. 05002-00030, (Beginning year 1994), in the name of Elias Balido, with an area of 1.6203 Hectares, more or less, assessed at P3,690.00, designated as Lot No. 875, bounded:

North- by a Barangay boundary- and Lot No. 5530, Rosario Edillo

East- by Lot No. 876- Flaviano Engalan;

South- by a Brgy. Road; and Lot No. 874- Nene Edillo; and

West- by Lot No. 873, Heirs of Victorino Edillo.”

(Lot B)

“It is a parcel of land located at Dahican, Talisay, Libagon, Southern Leyte, covered by ARP No. 05002-00031 (Beginning year 1994), in the name of Elias Balido, with an area of 0.987 Hectare, more or less, assessed at P300.00 designated as Lot No. 878, bounded:

North- by a Brgy. Road; East- by Lot No. 877- Flaviano Engalan; South- by Lot No. 879- Julio Escabillas (before: Marcos Silimbajon); and West- by Lot No. 736 (before: Mateo Edillo).”[5]

Plaintiffs-appellants alleged that the two parcels of land above-described designated as Lot No. 875 and Lot No. 878 have been in their peaceful, open, continuous, public, and adverse possession in the concept of owners since 1950. They cultivated and introduced improvements to these lands and enjoyed exclusively the produce thereof while they religiously paid realty taxes for such lands. They presented tax declarations beginning the year 1965, when their predecessor, Elias Balido declared the lands for taxation for the first time.

They alleged that their adverse possession and open claim of ownership of the said lands, particularly Lot No. 875, were not disturbed until, in 2002, their payment of realty taxes was not allowed as they were informed that Lot No. 875 was not anymore in the name of Elias Balido, but already under the name of Heirs of Mateo Edillo pursuant to OCT No. 41772 issued by the Register of Deeds. Thus, plaintiffs-appellants' tax declaration was cancelled in favor of the Heirs of Mateo Edillo.

Plaintiffs-appellants then went to the Community Environment and Natural Resources Office (CENRO) of Maasin City in order to file a protest against the issuance of title in favor of defendants-appellees. They stated in their protest that defendants-appellees were not the ones in possession of the Lots Nos. 875 and 878, and never tilled, cultivated, nor paid realty taxes thereon.

Plaintiffs-appellants also claimed that it was for the first time they saw the defendants-appellees' owners duplicate copy of OCT No. 41772 in a confrontation before the office of the Barangay Captain of Oticon Libagon, Southern Leyte. They learned, at that time, that the land covered by the said OCT was only Lot No. 875. Lot No. 878, meanwhile, was not yet covered by any certificate of title.

Based on the foregoing allegations, plaintiffs-appellants, in their Complaint, prayed for the trial court to declare them as the lawful owners of the subject lands, Lot No. 875 and Lot No. 878; and, to declare OCT No. 41772 as void, among others.

Defendants-appellees, meanwhile, deny the allegations of plaintiffs-appellants as the former asserted that they are the lawful owners of Lot No. 875 considering that such land is already covered by OCT No. 41772 issued in their

names. They also asserted being the lawful possessors of such lot and are possessing the same publicly, peacefully and adversely against the whole world. Moreover, they presented tax declarations beginning as early as 1918 to prove that their possession and occupation of the land covered by OCT No. 41772 was even prior to that of the plaintiffs-appellants'.

They also interposed as defense that plaintiffs-appellants failed to exhaust administrative remedies; that their action was a collateral attack on OCT No. 41772; and that their causes of action had already prescribed.

On September 10, 2012, the court a quo rendered the assailed Decision against plaintiffs-appellants. The trial court ruled that defendants-appellees presented the best proof of ownership, that is, OCT No. 41772 issued in their names, and that the same became indefeasible one year from its issuance, thus, the trial court concluded that it has no jurisdiction to order its cancellation and to order reconveyance of the property covered by such certificate of title. It also held that the issuance of OCT No. 41772 enjoyed a presumption of regularity which plaintiffs-appellants failed to rebut, hence it concluded that the allegation of fraud has no basis. And, assuming that fraud existed, the trial court ruled that plaintiffs-appellants cause of action already prescribed considering that they filed their complaint more than four years from the alleged discovery of the fraud. The trial court also added that plaintiffs-appellants failed to exhaust their administrative remedies, so their action basically is a collateral attack on the validity of title. Finally, it ruled that plaintiffs-appellants had no personality to file a cancellation of title considering that the land covered by the free patent was part of the public domain.[6]

Hence, plaintiffs-appellants filed this appeal.

Plaintiffs-appellants argued that the trial court should have ruled in their favor considering that their evidence clearly shows their ownership and possession of the Lot No. 875, while the defendants-appellees showed their ownership of the land through tax declarations which pertain to a different parcel of land, that is, Lot No. 725 situated in Ilaya, and not Lot No. 875 situated in Dahican, Talisay, Southern Leyte. Accordingly, they assigned the following errors allegedly committed by the trial court, thus:

“I

THE TRIAL COURT ERRED IN RULING THAT THERE IS PREPONDERANCE OF EVIDENCE IN FAVOR OF THE DEFENDANTS AND AGAINST THE PLAINTIFF;

II

THE TRIAL COURT ERRED IN RULING THAT PLAINTIFF HAS NO PERSONALITY TO ESTABLISH A CAUSE OF ACTION;

III

THE TRIAL COURT ERRED IN RULING THAT PLAINTIFF FAILED TO EXHAUST ADMINISTRATIVE REMEDIES WHICH IS SINE QUA NON TO THE FILING OF THIS CASE SINCE A CERTIFICATE OF TITLE CANNOT BE ATTACKED COLLATERALLY;

IV

THE TRIAL COURT ERRED IN RULING THAT THE PLAINTIFF'S CAUSE OF ACTION IS ALREADY BARRED BY THE STATUTE OF LIMITATIONS.”[7]

Defendants-appellees, meanwhile, failed to file their appellee's brief despite notice.[8]

Based on the above assigned errors, plaintiffs-appellants' appeal present these main issues: (i) Whether plaintiffs-appellants have legal standing to file a complaint for declaration of nullity of title, reconveyance, and quieting of title; (ii) Whether plaintiffs-appellants action is a collateral attack on defendants-appellees' certificate of title; (iii) Whether plaintiffs-appellants' cause of action had been barred by prescription; and, (iv) whether there

is preponderance of evidence to cause the cancellation or annulment of OCT No. 41772 and the reconveyance of Lot No. 875 covered by such certificate of title.

On the first issue, We rule that plaintiffs-appellants have legal standing and are real parties-in-interest to file the instant action. Their complaint clearly alleges pre-existing right of ownership over the land in question, thus, the action filed is not for reversion, wherein only the State could be the real party-in-interest.

An action for declaration of nullity of free patents and certificates of title have been jurisprudentially differentiated in this wise:

“xxx. 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. xxx 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.”[9]

When the plaintiffs-appellants claimed that they were the prior possessors of the Lot No. 875, an agricultural land, and alleged that they have exercised dominion and occupation on the same since the 1950's and declared the same for taxation in the 1960's before the such lot was covered by an original certificate of title through a free patent, clearly, plaintiffs-appellants cause of action was hinged on their pre-existing right of ownership, which is not an action for reversion.

Hence, the trial court erred in holding that plaintiffs-appellants have no personality to file the instant action.

Anent the second issue, We hold that the trial court seriously erred in ruling that plaintiffs-appellants failed to exhaust administrative remedies, thus, their attack on the validity of OCT No. 41772 is considered a collateral attack.

Indeed, as a rule, a certificate of title becomes indefeasible after one year from its issuance. Section 48 of PD 1529 (Property Registration Decree) even provides that a certificate of title shall not be subject to collateral attack and cannot be altered, modified, or cancelled except in a direct proceeding. However, in an action for reconveyance, the same respects the decree of registration as incontrovertible but seeks the transfer of property, which has been wrongfully or erroneously registered in other persons' names, to its rightful and legal owners, or to those who claim to have a better right.[10] All that must be alleged in the complaint are two (2) facts which admitting them to be true would entitle the plaintiff to recover title to the disputed land, namely, (1) that the plaintiff was the owner of the land and, (2) that the defendant had illegally dispossessed him of the same.[11]

A perusal of the plaintiffs-appellants' Complaint clearly reveals that plaintiffs-appellants claim pre-existing ownership on and prior possession of Lot No. 875 and that they were dispossessed of such land when OCT No. 41772 was issued in the names of defendants-appellees. And, it has been ruled that if a free patent had already been issued through fraud or mistake and has been registered, the remedy of a party who has been injured by the fraudulent registration is an action for reconveyance.[12]

Not only that the instant action was for reconveyance, but also the allegations reveal that the same also include an action for quieting of title “as they are intended to procure the cancellation of an instrument constituting a claim on petitioners' alleged title which was used to injure or vex them in the enjoyment of their alleged title.”[13]

An attack on the title is considered direct when the object of the action is to nullify the title, and thus challenge the judgment or proceeding pursuant to which the title was decreed. The attack is direct when the object of an action is to annul or set aside such judgment, or enjoin its enforcement.[14]

Clearly, the action for declaration of nullity of OCT No. 41772, reconveyance, and quieting of title as causes of action in plaintiffs-appellants' Complaint constitute a direct attack on the certificate of title.

On the third issue, the trial court again erred in ruling that the cause of action of plaintiffs-appellants already prescribed by reasoning that action for declaration of nullity of a certificate of title on the ground of fraud prescribes in four years.

Evidence reveal, however, that plaintiffs-appellants were the ones in possession of Lot No. 875, and when a plaintiff is in actual possession of a property sought to be reconveyed, the action for reconveyance is considered to be in the nature of quieting of title, which is imprescriptible.

The case of *Lasquite v. Victory Hills, Inc.* [15] is instructive on this point, to wit:

“xxx we have ruled that to determine when the prescriptive period commenced in an action for reconveyance, the plaintiff’s possession of the disputed property is material. An action for reconveyance based on an implied trust prescribes in 10 years. The reference point of the 10-year prescriptive period is the date of registration of the deed or the issuance of the title. The prescriptive period applies only if there is an actual need to reconvey the property as when the plaintiff is not in possession of the property. However, if the plaintiff, as the real owner of the property also remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him. In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.”

In this case, plaintiffs-appellants have enough evidence showing that they were the ones in possession of Lot No. 875. Thus, prescription will not run against them. Moreover, plaintiffs-appellants' claim of ownership of the said lot and its illegal inclusion in the free patent and in the original certificates of title issued in the names of defendants-appellees have been established, hence, the same amounts to an action for quieting of title, which is imprescriptible.

Finally, on the issue whether there is preponderance of evidence to cause the cancellation or annulment of OCT No. 41772 and the reconveyance of Lot No. 875 covered by such certificate of title, We rule for the plaintiffs-appellants.

In proving their ownership of Lot No. 875, defendants-appellees presented OCT No. 41772 as evidence to prove their title to the property. And, to disprove plaintiffs-appellants' claim of prior possession, defendants-appellees presented tax declarations, beginning the year 1918, on the property they claim to be theirs, which is now covered by OCT No. 41772.

It is well to emphasize, however, that aside from a copy of OCT No. 41772, no other proof of ownership was presented by defendants-appellees to prove their ownership of Lot No. 875.

The pieces of evidence of defendants-appellees, instead, reveal that defendants-appellees were claiming ownership of a different lot and not Lot No. 875. This fact is even clear in defendants-appellees' Answer which admits ownership of a different parcel of land situated in Ilaya, Talisay and not that of Lot No. 875, which is situated in Dahican, Talisay, to wit:

“That Mateo Edillo is the legal owner and possessor of a parcel of agricultural land which is described hereunder:

A parcel of agricultural land situated at Ilaya, Talisay, Libagon, Southern Leyte, declared in the name of Mateo

Edillo under Tax Declaration No. 2575 effective 1918; revised by TD No. 943 for the year 1948; revised by TD No. 3423 for the year 1974; revised by TD No. 1488 for the year 1980; revised by TD No. 4565 for the year 1985; & revised by ARP No. 05002-00129 effective 1994, all in the name of Mateo Edillo. Bounded: On the North, by Loabon Creek; East, by Lot 724- Bartolome Escabillas; South, by Lot No. 715- Margarita Edillo & West, by Lot 729- Macario Escamis; It has an area of 16,203 hectares and assessed at P2,100.00.

It is covered by Original Certificate of Title No. 41772, Free Patent No. 086405-11711 issued to Hrs. of Mateo Edillo Rep. by Epifania Edillo issued on Feb. 28, 1997.”[16]

The tax declarations[17] presented by defendants-appellees also pertain to the above-described parcel of land, situated in Ilaya, Talisay, which was revealed to be designated as Lot No. 725 in the rebuttal evidence presented by plaintiffs-appellants.

Rebuttal evidence of plaintiffs-appellants established that the tax declarations presented by defendants-appellees pertain to Lot No. 725 which is situated in Ilaya, Libagon, Southern Leyte, while Lot No. 875 is situated in Dahican, Libagon, Southern Leyte.[18] The testimony of Norman Victor Ortiz[19], Provincial Assessor of Southern Leyte, revealed that the history of payment of realty taxes of Mateo Edillo pertains to Lot No. 725[20] which was evidenced by the tax declarations presented by defendants-appellees. On the other hand, the history of payment of realty taxes of Elias Balido pertains to Lot No. 875.[21] These lots are actually located in different sitios.

Verily, it is apparent from defendants-appellees' own evidence and plaintiffs-appellants' evidence during rebuttal that the property defendants-appellees are claiming ownership of is Lot No. 725 and not Lot No. 875. Defendants-appellees conveniently claim ownership of Lot No. 875, considering that the same is now covered by OCT No. 41772 which was issued in their names, but their evidence points ownership to a different parcel of land, that is, Lot No. 725.

The trial court clearly failed to pass upon the identity of the litigated parcel of land, when it conveniently ruled in favor of defendants-appellees based on the certificate of title alone despite the glaring pieces of evidence showing that defendants-appellees tried to prove ownership of a different parcel of land.

Defendants-appellees conveniently claim ownership of Lot No. 875 because it is now covered by OCT No. 41772 issued in their names. However, We bear to emphasize that that fact alone did not operate to vest ownership upon them of Lot No. 875. This is anchored on the rule that “registration of a piece of land under the Torrens System does not create or vest title, because it is not a mode of acquiring ownership.”[22]

As already discussed, evidence of ownership presented by defendants-appellees pertained to a different property. Hence, it is surprising why a free patent and, later on, a certificate of title were issued in the names of defendants-appellees which covered Lot No. 875, which was openly and adversely possessed and owned by plaintiffs-appellants.

As against the evidence of defendants-appellees, plaintiffs-appellants' evidence, composed of tax declarations and testimonies of witnesses, clearly points to the fact that plaintiffs-appellants were the ones who possessed and cultivated Lot No. 875. It was established that Lot No. 875 is a private property of plaintiffs-appellants since 1950. They were in adverse possession of the same in the concept of an owner and they have declared the same for taxation.

It has been held that “although tax declarations or realty tax payment of property are not conclusive evidence of ownership, nevertheless, they are good indicia of possession in the concept of owner, for no one in his right mind would be paying taxes for a property that is not in his actual or constructive possession. They constitute at least

proof that the holder has a claim of title over the property. The voluntary declaration of a piece of property for taxation purposes manifests not only one's sincere and honest desire to obtain title to the property and announces his adverse claim against the State and all other interested parties, but also the intention to contribute needed revenues to the Government. Such an act strengthens one's bona fide claim of acquisition of ownership.”[23]

Accordingly, it cannot be gainsaid that plaintiffs-appellants had already acquired a vested right over Lot No. 875. “An open, continuous, adverse and public possession of a land of the public domain from time immemorial by a private individual personally and through his predecessors confers an effective title on said possessors whereby the land ceases to be public, to become private property, at least by presumption.”[24]

Considering the open, continuous, exclusive and notorious possession and occupation of the Lot No. 875 by plaintiffs-appellants and their predecessors in interests, they are deemed to have acquired, by operation of law, a right to a government grant without the necessity of a certificate of title being issued. The land was thus segregated from the public domain and the Director of Lands had no authority to issue a patent. Hence, the free patent covering Lot No. 875, a private land, and the certificate of title issued pursuant thereto, are void.[25]

The settled rule is that a free patent issued over a private land is null and void, and produces no legal effects whatsoever. Private ownership of land – as when there is a prima facie proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants – is not affected by the issuance of a free patent over the same land, because the Public Land law applies only to lands of the public domain. The Director of Lands has no authority to grant free patent to lands that have ceased to be public in character and have passed to private ownership. Consequently, a certificate of title issued pursuant to a homestead patent partakes of the nature of a certificate issued in a judicial proceeding only if the land covered by it is really a part of the disposable land of the public domain.[26]

Accordingly, plaintiffs-appellants rights to ask for reconveyance of Lot No. 875, covered by OCT No. 41772 and to ask the nullification of OCT No. 41772 issued in the names of defendants-appellees are undoubtedly established by preponderance of evidence. However, We find applicable the ruling of the Supreme Court in *Heirs of Santiago v. Heirs of Santiago*[27], which stated that “notwithstanding the Court’s declaration that Lot No. 2344 (in this case Lot No. 875) is a private property and not a part of the public domain, the parties’ title to the said lot is imperfect and is still subject to the rules on confirmation of title under Section 48 (b) of the Public Land Act (or Section 14 of the Property Registration Decree). Nevertheless, this imperfect title is enough to defeat the free patent and certificate of title issued over the said lot.”

WHEREFORE, the instant appeal is GRANTED. The September 10, 2012 Decision of the Regional Trial Court, Branch 39, Sogod, Southern Leyte in Civil Case No. R-087-C is REVERSED and SET ASIDE and a new judgment is entered:

1. Declaring Free Patent No. 086405-11711, OCT No. 41772 and the owner's duplicate copy of OCT No. 41772, in the names of Heirs of Mateo Edillo as null and void. ;
2. Declaring plaintiffs-appellants, the heirs of Elias O. Balido, as owners and holders of imperfect title over Lot No. 875 and Lot No. 878 ; and,
3. Ordering the Provincial Assessor of Southern Leyte to amend the tax declaration issued in the names of Heirs of Mateo Edillo for Lot No. 875 by reverting the same in the name of Elias O. Balido;

Costs against defendants-appellees.

SO ORDERED.

Hernando, J., Chairperson, and [*] Lopez, JJ., concur.

[*] Vice Justice Marie Christine Azcarraga-Jacob, Office Order No. 01-15-GTI, January 22, 2015.

[1] Rollo, pp. 6-23.

[2] Record, pp. 370-400.

[3] Records, pp. 400.

[4] Records, 2.

[5] Ibid.

[6] Supra, note 2.

[7] Rollo, p. 14.

[8] See Resolution dated May 14, 2014, Rollo, p. 89.

[9] Heirs of Kionisala v. Heirs of Dacut, G.R. No. 147379, February 27, 2002.

[10] Heirs of Concha, Sr. v. Spouses Lumocso, G.R. No. 158121, December 12, 2007.

[11] Supra, note 9.

[12] Lorzano v. Tabayag, Jr., G.R. No. 189647, February 6, 2012, citing Roco, et al. v. Gimeda, 104 Phil 1011, 1958.

[13] Supra, note 10.

[14] Heirs of Santiago v. Heirs of Santiago, G.R. No. 151440, June 17, 2003.

[15] G.R. No. 175375, June 23, 2009.

[16] Records, p. 46.

[17] Records, pp. 303-317.

[18] See Exhibits “A Rebuttal”, “B Rebuttal”, and “C Rebuttal”, records, pp. 347-349.

[19] TSN dated January 18, 2012, pp. 328-353.

[20] See Exhibit “F Rebuttal”, records, p. 352

[21] See Exhibit “D”, records, p. 218.

[22] Naval v. Court of Appeals, G.R. No. 167412, February 22, 2006.

[23] Supra, note 14.

[24] Supra, note 12.

[25] Heirs of Santiago v. Heirs of Santiago, Supra note 14.

[26] Ibid.

[27] Id.

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