

C. N. HODGES, PETITIONER, VS. DY BUNCIO & CO., INC. AND THE COURT OF APPEALS, RESPONDENTS.*G. R. No. L-16096. October 30, 1962*

Ponente: PADILLA, J.

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Under Rule 46 C. N. Hodges seeks reversal of a judgment rendered on 21 August 1959 by the Court of Appeals (CA-G. R. No. 22306-R) which affirmed that rendered by the Court of First Instance of Iloilo declaring the respondent Dy Buncio & Co., Inc. owner of the parcel of land subject of the litigation (civil case No. 3395).

The trial court and the Court of Appeals found that on 13 July 1927 Veronica Bareza sold to Go Po a parcel of land identified or known as Lot No. 3329 of the cadastral survey of Iloilo (Cad. Case No. 1, G.L.R.O. Cad. Rec. No. 1), described in original certificate of title No. 15327 issued in her name by the Registrar of Deeds in and for the province of Iloilo. Original certificate of title No. 15327 was cancelled and in lieu thereof transfer certificate of title No. 5254 was issued in the name of Go Po. On 31 October 1929 Go Po sold the parcel of land to Go Lao alias Diwa to whom transfer certificate of title No. 9767 was issued in lieu of transfer certificate of title No. 5254. In a case pending in the same court where Dy Buncio & Co., Inc. was plaintiff and Go Lao alias Diwa, defendant (civil No. 9599), on 31 August 1933 the said parcel of land was attached and thereafter sold at public auction on 3 January 1936 to Dy Buncio & Co., Inc. On 10 January 1936 transfer certificate of title No. T-15148 was issued in the name of Dy Buncio & Co., Inc., later on changed as to number only to T-4768 when the numbers of land titles in Iloilo City were revised.

On 5 January 1950, in the Court of First Instance of Iloilo acting as cadastral court, Veronica Bareza filed a motion averring that she is the registered owner of Lot No. 3329 of the cadastral survey of Iloilo described in original certificate of title No. 15327; that on 7 July 1931, for and in consideration of P2,025 payable in installment, she sold the parcel of land to Go Lao alias Diwa in whose name transfer certificate of title No. 9767 was issued in lieu of her original certificate of title No. 15327; that Go Lao alias Diwa paid P500 only and desisted from paying the balance of the purchase price, and for that reason he resold the parcel of land to her; that she lost the deed of sale executed in her favor by Go Lao alias Diwa during the war; that the purchase at public auction sale of the parcel of land by Dy Buncio & Co., Inc. was not known to her; that she and not Dy Buncio & Co., Inc. always had been in possession of the parcel of land; that while in possession of Dy Buncio & Co., Inc. transfer certificate of title No. T-15148 was perhaps lost; and that Dy Buncio & Co., Inc. did not exist in Iloilo City; and praying that a duplicate of the lost or missing transfer certificate of title No. 15148 in the name of Dy Buncio & Co., Inc. be issued and thereafter cancelled and a new transfer certificate of title be issued in her name. On 11 February 1950 the trial court ordered that the petition be published, as it was published, in the "Liberator," a newspaper of general circulation in the City and Province of Iloilo, once a week for three consecutive weeks on 15 and 22 February and 1 March 1950 so that any person interested in Lot No. 3329 may appear on 4 March and show cause why the motion of Veronica Bareza should not be granted (Exhibit 2). On 6 March 1950 Veronica Bareza testified in support of her motion. On 15 March 1950 the trial court directed the Registrar of Deeds in and

for the City of Iloilo to issue another owner's duplicate of certificate of title No. 15148 in the name of Dy Buncio & Co., Inc. in lieu of the one lost and thereafter to cancel it and issue another in its stead in the name of Veronica Bareza. On 17 March 1950 transfer certificate of title No. T-4769 was issued in the name of Veronica Bareza. On 18 April 1950, for and in consideration of P6,100, Veronica Bareza sold the parcel of land to C. N. Hodges and her transfer certificate of title No. T-4769 was cancelled and another T-4847 issued in the name of C. N. Hodges. The parcel of land was subdivided into four lots numbered 3329-A, 3329-B, 3329-C and 3329-D, for which transfer certificates of title Nos. T-6545, T-6546, T-6547 and T-6548, respectively, were issued in the name of C. N. Hodges. The parcel of land was in possession of Yao Chuan, the manager of Dy Buncio & Co., Inc., from 1936 to 1949, when Yao Chuan died. It paid realty tax on the parcel of land from then to 1941 when war broke out, and from 1945 to 1950.

In 1954 Dy Buncio & Co., Inc. went to the City Treasurer of Iloilo to pay the realty tax on the parcel of land described in transfer certificate of title No. T-4768 but was informed that C. N. Hodges already had paid them. Upon learning this, on 15 February 1955 Dy Buncio & Co., Inc. brought an action against C. N. Hodges and Veronica Bareza for the annulment of the order entered by the Court of First Instance on 11 February 1950 ordering the publication in the newspaper of the petition filed by Veronica Bareza and that entered on 15 March 1950 directing the Register of Deeds in and for the City of Iloilo to issue another owner's duplicate of transfer certificate of title No. 15148 in the name of Dy Buncio & Co., Inc. and, after cancelling it, to issue another in the name of Veronica Bareza, and of all subsequent transactions and transfer of ownership to C. N. Hodges; for a declaration that the plaintiff is the owner of the parcel of land described in transfer certificate of title No. 15148; for an order to C. N. Hodges to pay to the plaintiff a monthly sum of P100 until the possession of the parcel of land shall have been restored to it, and to the defendants, jointly and severally, to pay the plaintiff the sum of P1,000 as attorney's fees and expenses of litigation, and the costs; and for any other just and equitable remedy.

On 18 February 1955 C. N. Hodges filed an answer, amended on 28 September 1956, with a counterclaim of P15,000 for moral damages and P1,000 as attorney's fees, together with a cross-claim against his co-defendant Veronica Bareza of P15,000 for moral damages and attorney's fees, she having warranted title to the parcel of land she had sold to him. On 25 October 1955 the defendant Veronica Bareza filed an answer, amended on 6 September 1956, claiming and alleging that she was the owner of the parcel of land when she sold it to her co-defendant and praying for moral damages and attorney's fees in the sum of P3,500 and the dismissal of the complaint. On 22 February 1955 the plaintiff answered the counter-claim set up by the defendant C. N. Hodges and on 31 October 1955 that set up by the defendant Veronica Bareza, praying that both be dismissed. On 8 November 1955 Veronica Bareza answered the cross-claim filed against her by her co-defendant C. N. Hodges. After trial, the court rendered judgment—

* * * declaring Transfer Certificates of Title Nos. 6545, 6546, 6547 and 6548, in the name of defendant Hodges, and Transfer Certificate of Title No. 4769 in the name of defendant Veronica Bareza, null and void and orders the Register of Deeds of Iloilo to cancel said certificates.

The Court declares that Transfer Certificate of Title No. T-4768 (T-15148) in the name of plaintiff Dy Buncio & Co., Inc. as valid, efficacious and subsisting and the Register of Deeds is ordered to reinstate said titles as it was before its cancellation.

Defendant Veronica Bareza is condemned to pay attorney's fees to the plaintiff in the amount of P600.00 and costs.

Defendant Veronica Bareza is ordered to return to her co-defendant C. N. Hodges the amount of P6,100.00 which she had received as purchase price for the land, with interest at the legal rate from April 18, 1950 until fully paid, and to pay C. N. Hodges as exemplary or corrective damages the amount of P2,000.00 and costs.

On appeal the Court of Appeals affirmed the judgment of the trial court. Hence this appeal by certiorari as stated at the outset of this opinion.

As a major premise the petitioner lays down the proposition that as the action brought by the respondent Dy Buncio & Co., Inc. arose from fraud claimed to have been committed by the defendant Veronica Bareza, the same is barred after four years from the time the right of action accrued, for section 43, paragraph 3, of Act No. 190 provides that—

Civil actions other than for the recovery of real property can only be brought within the following periods after the right of action accrues:

* * *

3. Within four years: * * * An action for relief on the ground of fraud, but the right of action in such case shall not be deemed to have accrued until the discovery of the fraud; * * *

As a minor premise he states that from 17 March 1950, when transfer certificate of title No. T-4769 was issued in the name of Veronica Bareza, to 15 February 1955, when the respondent Dy Buncio & Co., Inc. brought the action against her and petitioner C. N. Hodges, more than four years already had elapsed. And he concludes his syllogism that the respondent's action is barred by the statute of limitations. Conversely, the respondent Dy Buncio & Co., Inc. contends that its action is based not on fraud but on lack or want of jurisdiction of the cadastral court in ordering the cancellation of transfer certificate of title No. T-4768 issued in the name of Dy Buncio & Co., Inc. and the registration and issuance of another No. T-4769 in the name of Veronica Bareza and in support of its contention invokes section 40 of Act No. 190 which provides that—

An action for recovery of title to, or possession of, real property, or an interest therein, can only be brought within ten years after the cause of such action accrues.

The Court of Appeals upheld the respondent's contention when it said:

* * * We have here a true action for recovery of title to real property, which plaintiff could attain not only through its averment of fraud on the part of defendant Veronica Bareza, but primarily through the issue of jurisdiction of the Cadastral Court. It might not be amiss to state that in almost all reindicatory cases that have passed judicial scrutiny fraud has a hand in the transmission or deprivation of rights. * * *

The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to the same parcel of land did not exist. The respondent had a valid title (transfer certificate of title No. T-15148 later on changed to No. T-4768) to the parcel of land (Lot No. 3329) issued to it on 10 January 1936 after purchasing the parcel of land at public auction sale. It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested of their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system. Veronica Bareza perpetrated the fraud by making false representations in her petition and the title issued to her being the product of fraud could not vest in her valid and legal title to the parcel of land in litigation. As she had no title to the parcel of land, in the same way that a thief does not own or have title to the stolen goods, she could not transmit title which she did not have nor possess. Moreover, the petitioner cannot claim not to be at fault in the purchase of the parcel of land from his co-defendant Veronica Bareza, to say it mildly, or he cannot be deemed to be a purchaser in good faith and for value, because as correctly found by the

Court of Appeals he is not an innocent purchaser:

* * * appellant insists that he had exercised prudence in ascertaining the right of Veronica Bareza. True, appellant, had exercised prudence before he bought the land from Bareza, but the evidence would show that his prudence had yielded certain facts sufficient to put him upon his guard and to delve deeper into Bareza's acquisition. As aptly concluded by the lower court, "Had he done so he could have avoided the situation in which he is in now." Ruth Deocaris admitted that appellant sent her to see said appellant's lawyer about Bareza's offer. Appellant's lawyer advised Deocaris to examine Bareza's title in the office of the Register of Deeds of Iloilo. Deocaris was informed by Vicente G. Cabardo, after going over the records with Deocaris besidehim, that the land in question "was formerly the property of Dy Buncio & Co., Inc.," that Bareza had acquired the same "by purchase before the war"; and, that title was transferred in Bareza's name "by Court's order" (Exhibit 1). Deocaris also admitted that she found out that the land is still declared in the name by (of) Dy Buncio & Co. (Exhibit D-2, for the year 1948), and that she imparted this information to appellant C. N. Hodges together with Cabardo's certificate (Exhibit 1). The lower court acted correctly in rejecting appellant's pretense of good faith.

This finding of fact cannot be reviewed.

Before concluding, this Court wishes to state that the court that acted as cadastral court was remiss in its duty to scrutinize the allegations made by Veronica Bareza in her motion. Had it done so, it would not have fallen into the error it committed. The allegations in her motion that she sold the parcel of land to Go Lao alias Diwa who paid her P500 only; that her original certificate of title No. 15327 was cancelled and transfer certificate of title No. 9767 was issued to Go Lao alias Diwa; that the latter desisted from paying the balance of P2,025, the purchase price, so he resold the parcel of land to her; that she lost the deed of resale during the war; that she did not know the purchase of the parcel of land at public auction sale made by the respondent Dy Buncio & Co., Inc. that had never been in possession of the parcel of land but that she alone had been in possession thereof; that transfer certificate of title No. T-15148 issued in the name and in possession of Dy Buncio & Co., Inc. was perhaps lost, were sufficient to put the court on guard and rigidly scrutinize the evidence or the testimony of the movant Veronica Bareza. How could the court believe that transfer certificate of title No. 9767 was issued in the name of Go Lao alias Diwa when transfer certificate of title No. T-15148 later on changed to T-4768 of the same parcel of land was issued in the name of the respondent Dy Buncio & Co., Inc.? This apparent anomaly should have led a conscientious judge to inquire from the Registrar of Deeds the reason for the issuance of two certificates of title on the same parcel of land in the names of two different owners. And how could she allege that transfer certificate of title No. T-15148 in the possession of Dy Buncio & Co., Inc. was lost? The least that the court could have done is to order that notice of the motion be served personally or by registered mail on Dy Buncio & Co., Inc., the one holding the owner's duplicate of the certificate of title to the parcel of land, in the same way that actual notice of an application for registration is served upon "all persons who appear to have interest in or claims to the land included in the application. Notice to such persons by mail shall be by registered letter if practicable." [1]

The judgment appealed from is affirmed, with costs against the petitioner.

Bengzon, C.J., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon and Regala, JJ., concur.

[1]Section 32, Act no. 496, as amended by Republic Act No. 96

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