

HEIRS OF JULIAN CALIO-CALIO, REPRESENTED BY JOVITA CALIO-CALIO RAMOS, PLAINTIFFS-APPELLEES, V. CATALINA CALARAMO ALNAS, VICTORIA CALARAMO, AND SPS. ROGELIO MANGLICMOT AND PERPET...

Ponente: BARZA, J.

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BARZA, J.:

On appeal before the Court is the decision[1] dated July 3, 2012 rendered by the Regional Trial Court of Bangui, Ilocos Norte, Branch 19, which granted appellees' complaint[2] for annulment of titles and reconveyance against defendants-appellants Catalina Calaramo Alnas, Victoria Calaramo and spouses Rogelio and Perpetua Manglicmot. The antecedent facts of the case as gleaned from the appealed decision are, as follows:

"The plaintiffs are the heirs of the late Julian Calio-Calio, (herein referred to as Julian for brevity). In their complaint, they alleged that Apolonio Calio-Calio is the only child of the spouses Julian and Florencia Calaramo. Apolonio was survived by his legal and mandatory heirs, namely: Jovita, Clarifina, Angeles, Mariano and Felicitas. They are the co-owners of an undivided parcel of land situated at Pagudpud No. 10, Bangui (now Brgy. 2, Poblacion, Pagudpud), Ilocos Norte now the first subject of this suit and more particularly described as follows:

'A parcel of land-HUERTA. Bounded on the North, by Julian Pante; on the East, by Pascual Garcia; on the South, by Lorenzo Abian; and on the West, by Fernando Reyes y Joaquin Cabasaan, containing an aggregate area of 4,664 sq.mts., more or less, covered with Tax Declaration No. 27756 with Assessed Value of Php 170.00 in the year 1921.'

On the said lot was a residential house which was built as early as 1930 by Julian and which up to this time is still existing with improvements. Sometime in the year 1950's, defendant Catalina Calaramo-Alnas asked permission to reside on the said house of Julian over a portion of a lot specifically described as follows:

'A parcel of land-HUERTA. Bounded on the North, by Vereda/Julian Pante; on the East, by Lorenzo Agullana Pascual Garcia; on the South, by Lorenzo Abian; and on the West, by Fernando Reyes y Joaquin Cabasaan, now containing an aggregate area of 3,879 sq.mts., more or less, covered with Tax Declaration No. 014771 with Total Assessed Value of Php 190.00 in the year of 1949.'

While Catalina was allowed to stay on the said house, she executed an Affidavit dated April 29, 1961 alleging that she had acquired by inheritance from her alleged grandfather Julian Calio-Calio, the subject lot and desired to have it segregated from the bigger lot and be declared in the name of her sister Victoria Calaramo. By virtue of the affidavit, the tax declaration in the name of Julian was cancelled and a new one was issued as appearing in Tax Declaration No. 002410. Subsequently, a tax declaration was issued in the name of Catalina Calaramo and Victoria Calaramo over the other half of the lot with the following boundaries: on the North, by Julian Pante; on the East, by Lorenzo Abian; on the South, by Gerardo Manegdeg; and on the West, by Aquilino Ganoo, containing an area of 1,833 sq.mts. The other half of the property remained in the name of Julian as evidenced by Tax Declaration No. 012010 with an area of 1,813 square meters.

Despite the classification of the lot as residential, the defendants Catalina and Victoria were able to secure a Free Patent Title covering Lot No. 966, Cad 738-D containing an area of 541 square meters. Another Free Patent Title was also issued over Lot No. 964, Cad 738-D covering an area of 406 square meters Free Patent Title with Original Certificate of Title No. P-66106 in favor of Victoria Calaramo. Also Free Patent Title was issued covering Lot No. 967, Cad 738-D containing an area of 578 square meters was issued (sic) in the name of Victoria Calaramo.

Victoria Calaramo-Alnas (sic) then conveyed the three (3) parcels of land to her daughter and son-in-law, defendant spouses Rogelio and Perpetua Calaramo-Manglicmot. Transfer Certificates of Title No. (sic) TCT No. T-21218, T-21217 and T-21216 were issued in their favor.

During the meeting held before the Barangay Lupon, defendants are (sic) willing to surrender all the said parcels of land provided that they will be reimbursed of their expenses in the titling of the lots but failed to comply.

In their answer, they alleged that Catalina together with her sister Victoria as early as 1950 have occupied the lots in question in the concept of an owner, openly, continuously, exclusively and adversely and had it together with her sister formally declared in April 29, 1961. They denied having admitted before the Lupon to surrender the lots in question. Defendant spouses Manglicmot are innocent purchasers for value and the transfer certificates of title were issued in the year 2000 or almost seven (7) years have elapsed, hence the decree of registration becomes indefeasible after the lapse of one year from the date of entry.”

At the pre-trial of the case, the parties stipulated on the following facts:

1. That defendants Catalina Calaramo Alnas is not one of the heirs of Julian Calaramo;
2. The existence of the affidavit executed by defendant Catalina Calaramo Alnas with respect to the whole landholding in suit wherein she stated that she is one of the heirs of Julian Calio-Calio;
3. That the said affidavit was utilized in the issuance of a tax declaration over ½ of the property in suit in the name of defendant Catalina Calaramo Alnas and her sister defendant Victoria Calaramo;
4. That the said ½ portion of the lot was subdivided into three (3) lots which are applied for administrative titling at the DENR-Bangui despite their classification as residential landholdings;
5. That the DENR issued titles to the said three (3) lots;
6. That after the issuance of the titles by the DENR, defendant Victoria Calaramo conveyed the said properties to her daughter and son-in-law, herein defendants Rogelio Manglicmot and Perpetua Calaramo-Manglicmot;
7. That there was a conference or confrontation between the parties in the Barangay Lupon of Pob. No. 2, Pagudpud, Ilocos Norte;
8. That after the said conference, a written report of the proceedings was issued which was signed by defendant Victoria Calaramo;
9. That another meeting before the Barangay Lupon of the subject controversy was held on June 1, 2002 at 4:00 o'clock as indicated in a document, the existence of which was admitted by the defendants;
10. That the three lots in question are presently covered by TCT No. T-21216, T-21217 and T-21218;
11. That the said lots were previously registered in the name of Victoria Calaramo under OCT Nos. P-66104, P-66105 and P-66106, the existence of which are admitted by the defendants; and
12. That it was in 1993 that the lots were titled in the name of Victoria Calaramo.

The parties also stipulated on the following issues:

1. Whether or not there is any cause of action for the plaintiffs considering that it is already a titled property;
2. Whether or not the action for annulment of title has already prescribed;
3. Whether or not the defendants committed fraud in the titling of the subject landholding;
4. Whether or not plaintiffs are entitled to damages;
5. Granting that the defendants committed fraud, whether or not the present action for annulment of title is proper; and
6. Whether or not the administrative titling of the said landholding is proper.

During trial, the appellees presented as their witnesses Jovita Calio-Calio Ramos, Clarifina Abian and Horacio Garvida.

Jovita Calio-Calio Ramos testified that she is the granddaughter of Julian Calio-Calio. Julian owned a parcel of land situated in Brgy. 2, Poblacion, Pagudpud, Ilocos Norte, covered by a tax declaration in his name and on which her grandfather's house stood where she lived with her family and grandfather. When her family moved out, her elder sister Clarifina Abian stayed behind and the house was converted into a bungalow.

On cross examination, Jovita revealed that a portion of the lot owned by Julian were subdivided into three lots which were now covered by OCT Nos. P-66104,[3] P-66105[4] and P-66106[5] all issued in the name of appellant Victoria Calaramo. The other half of Julian's property, however, remained in her grandfather's name. Jovita furthered that their side would pay taxes on the portion of the property they occupied while appellants paid taxes on the rest. As for any relation between her grandfather and appellants, Jovita said that appellants are not related at all to Julian. However, she admitted that her grandmother, Julian's wife, was named Florencia Calaramo but she denied that her family is related to appellants Catalina Calaramo Alnas and Victoria Calaramo.

Clarifina Abian, sister of Jovita, testified that she is presently staying at the house of her grandfather Julian, that she does not know appellants and that she was not aware if there was a partition made of the landholding which she is presently occupying.

Horacio Garvida was the chairman of the Lupon ng Tagapamayapa when appellees brought their case to the Lupon for mediation in 2002. He testified that the proceedings of the meeting between the parties before the Lupon were recorded. He identified the minutes of the said meeting in court.

On the other hand, appellant Perpetua Manglicmot was the sole witness for appellants. She testified that she has known the properties in dispute because her mother, appellant Catalina Calaramo Alnas and her aunt, appellant Victoria Calaramo have been in possession of the properties since 1962. She was only 11 years old at that time. She claimed to be the present owner of the three subdivided lots in question because the titles thereof have been transferred to her name after Victoria sold the said properties to her. She furthered that her grandmother Marciana Calaramo had a two-storey house constructed on one of the lots. According to Perpetua, Florencia Calaramo, grandmother of Jovita and Clarifina, is the sister of her (Perpetua) grandfather Felix Calaramo who is the husband of Marciana. Therefore, she is related to appellees.

On cross-examination, she admitted that she knew Clarifina Abian because she lived just within the vicinity of her (Perpetua) lot. She was also the one who facilitated the transfer of the lots in dispute to her name. She also admitted that at the time of sale of the lots between her and her aunt Victoria, the latter was already 84 years old, blind and senile. The sale was witnessed by her mother Catalina, who was already 74 years old and had poor

eyesight and a weak body.

On July 3, 2012, the trial court rendered the appealed decision declaring TCT Nos. T-21216,[6] T-21217[7] and T-21218[8] in the name of the spouses Rogelio and Perpetua Manglicmot null and void. The trial court found (1) that the lot in question is a private land and cannot be made subject of a free patent, thus, appellees had a cause of action against appellants because the free patent titles were null and void, (2) that the action commenced by appellees had not prescribed because the nullity of the free patent titles produces no legal effect, (3) that appellants committed fraud in the titling of the properties, (4) that appellants failed to prove entitlement to damages and (5) that the administrative titling of the property is improper considering that the Bureau of Lands had no authority to issue titles over private lands such as the property involved.

Appellants, thus, come before the Court seeking a review of the trial court's judgment with the following assigned errors:

- I. The trial court erred in ruling that there is a cause of action for the plaintiffs-appellees and for finding preponderance of evidence in their favor.
- II. The trial court erred in declaring that the lots subject of the suit cannot be subject of administrative titling and in declaring that defendants-appellants committed fraud in the process.
- III. The trial court erred in ordering the reconveyance of the land in suit.

On October 21, 2013, the Court submitted the case for decision sans the appellees' brief.[9]

Anent the first assigned error, the Court finds that appellees have a cause of action against appellants.

A cause of action, broadly defined, is an act or omission of one party in violation of the legal right of the other. Its elements are the following: (1) the legal right of plaintiff; (2) the correlative obligation of the defendant, and (3) the act or omission of the defendant in violation of said legal right.[10] In their complaint, appellees were asserting their ownership of the land covered by appellants' certificates of title which the former seek to be nullified on the basis of fraud committed by the latter in securing such titles. It must be emphasized that the action before the trial court filed by the appellees is an ordinary civil action for declaration of nullity of free patents and certificates of title and not an action for reversion. This is apparent from the allegations in appellees' complaint. In *Heirs of Ambrosio Kionisala vs. Heirs of Honorio Dacut*,[11] it was held -

“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 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 vs. 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.”

On the second issue, We agree with the trial court that the lot involved cannot be subject of an administrative titling. At the onset Catalina and Victoria knew and acknowledged the possession and ownership of Julian Calio-calio over the disputed lot. This is evident from the affidavit[12] (Exhibit “E”) executed by Catalina on April 29, 1961 where she appropriated for herself and Victoria the subdivided lots from the bigger portion of Julian Calio-Calio's landholding by feigning blood relation with the latter. While they claim that the affidavit was never used to fraudulently obtain the free patent over the subdivided lots, appellants admit that the same affidavit was used to segregate half of the area from the bigger portion of the land so that a tax declaration in the names of Catalina and Victoria could be issued. This only means that Catalina and Victoria recognize Julian Calio-Calio's ownership of the land, belying their own assertion that they have been in prior possession of the property since time immemorial. Otherwise, if Catalina and Victoria had been in prior possession of the lot since time immemorial there would have been no need for them to subdivide Julian Calio-Calio's landholding and appropriate for themselves a portion thereof through an affidavit claiming to be heirs of Julian Calio-Calio.

That appellants claim that Catalina's affidavit was never used to obtain the free patent all the more bolsters the finding of fraud and misrepresentation in securing the free patent titles. Apparently, they failed to state in their application that Julian Calio-Calio or his heirs were also in possession of the subject land, a clear act of concealment on appellants' part. In *Heirs of Carlos Alcaraz vs. Republic of the Philippines, et al.*, [13] the Supreme Court held -

“In this connection, Section 91 of Commonwealth Act No. 141, as amended, provides:

The statements made in the application shall be considered as essential conditions and parts of any concession, title, or permit issued on the basis of such application, and any false statement therein or omission of facts altering, changing, or modifying the considerations of facts set forth in such statements, and any subsequent modification, alteration, or change of material facts set forth in the application shall ipso facto produce the cancellation of the concession, title, or permit granted.

Doubtless, petitioner's failure to state in their free patent application that private respondents, as representatives of the heirs of Timotea and Igmedio, are also in possession of the land subject thereof clearly constitutes a concealment of a material fact amounting to fraud and misrepresentation within the context of the aforementioned provision, sufficient enough to cause ipso facto the cancellation of their patent and title. For sure, had only petitioners made such a disclosure, the Director of Lands would have had second thoughts in directing the issuance of petitioners' patent and title.

With the recognition of the fact that petitioners' free patent application was attended with fraud and misrepresentation, the trial court and the Court of Appeals correctly applied the law when they declared the nullity of petitioners' Free Patent No. (III-6) 000705 and the title issued pursuant thereto, and directed the cancellation of the same.”

Moreover, as correctly held by the trial court, a private land cannot be subject of a free patent. In *Heirs of Margarito Pabaus vs. Heirs of Amanda Yutiamco*, [14] it was held -

“Indeed, we have ruled that if the land covered by free patent was a private land, the Director of Lands has no jurisdiction over it. Such free patent and the subsequent certificate of title issued pursuant thereto are a nullity. The aggrieved party may initiate an action for cancellation of such title. In the recent case of *De Guzman v. Agbagala*, the Court reiterated:

“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.”

Appellants also raise the defense that they have validly acquired the lot through prescription under Art. 1137 of the Civil Code. Appellants cannot raise the issue of acquisitive prescription for the first time on appeal. Apparently, this matter is not one of the issues stipulated by the parties at the trial court. Basic is the rule that issues not raised below cannot be raised for the first time on appeal. Points of law, theories, issues and arguments not brought to the attention of the lower court need not be, and ordinarily will not be, considered by the reviewing court, as they cannot be raised for the first time at that late stage. Basic considerations of due process impel the adoption of this rule.[15]

Finally, the Court finds no error in the reconveyance of the lot to appellees.

It has long been established that the sole remedy of the landowner whose property has been wrongfully or erroneously registered in another's name is to bring an ordinary action in an ordinary court of justice for reconveyance or, if the property has passed into the hands of an innocent purchaser for value, for damages. "It is one thing to protect an innocent third party; it is entirely a different matter and one devoid of justification if deceit would be rewarded by allowing the perpetrator to enjoy the fruits of his nefarious deed". Reconveyance is all about the transfer of the property, in this case the title thereto, which has been wrongfully or erroneously registered in another person's name, to its rightful and legal owner, or to one with a better right. Evidently, petitioners, being the rightful owners of the subject property, are entitled to the reconveyance of the title over the same.[16] It must be stressed that the action filed before the trial court is one of declaration for nullity of title and reconveyance. The reconveyance of the property to appellees is a consequence of the finding that the rightful owners of the lot involved are appellees.

Lastly, like the issue of acquisitive prescription raised by appellants, the matter of whether or not appellant spouses Manglicmot are innocent purchasers for value cannot be raised for the first time on appeal.

WHEREFORE, in view of the foregoing premises, the Court finds the appeal bereft of merit and hereby DENIES the same. The appealed decision of the trial court is hereby AFFIRMED.

SO ORDERED.

Abdulwahid (Chairperson) and Cruz, JJ., concur.

[1] Original Records, pp. 217-223.

[2] Ibid., pp. 1-6.

[3] Ibid., p. 19.

[4] Ibid., p. 18.

[5] Ibid., p. 17.

[6] Ibid., p. 24.

[7] Ibid., p. 22.

[8] Ibid., p. 20.

[9] See last three pages of Rollo.

[10] Heirs of the Late Faustina Adalid vs. Court of Appeals, et al., G.R. No. 122202, May 26, 2005.

[11] G.R. No. 147379, February 27, 2002.

[12] Original Records, p. 12.

[13] G.R. No. 131667, July 28, 2005.

[14] G.R. No. 164356, July 27, 2011.

[15] Sime Darby Pilipinas, Inc. vs. Goodyear Philippines, Inc., et al., G.R. No. 182148, June 8, 2011.

[16] Spouses Emma Ver Reyes and Ramon Reyes vs. Irene Montemayor, et al., G.R. No. 166516, September 3, 2009.

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