

GUILLERMO JAVIER, PETITIONER, VS. COURT OF APPEALS (15TH DIVISION), DEMETRIO CARINGAL, SPOUSES DIONISIO CAAY AND NAZARIA CARINGAL, RESPONDENTS.

G.R. No. 101177. March 28, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

PETITIONER GUILLERMO JAVIER seeks reversal of the decision of the Court of Appeals[1] in CA-G.R. CV No. 13112 dated 26 March 1991 setting aside the decision of the Regional Trial Court of Balayan, Batangas dated 7 July 1986 which declared petitioner the rightful owner of the disputed land.

On 2 April 1985, petitioner filed an action for reconveyance and recovery of possession with damages against respondents Demetrio Caringal and spouses Dionisio Caay and Nazaria Caringal involving a parcel of land situated at Barangay No. IV, Poblacion, Balayan, Batangas, with an area of 973 square meters. The evidence for the petitioner shows that the property was the subject of a prior Miscellaneous Sales Application No. 14-2-305 filed by petitioner with the Bureau of Lands on 2 April 1973. Petitioner claims that he has been in peaceful and adverse possession of the property since 1971 and this possession was confirmed by Bureau of Lands Investigator Felix O. Laude, Sr., when the latter recommended that the miscellaneous sales application of petitioner be given due course.

On 14 August 1974, petitioner sold the land covered by his sales application to Santiago de Guzman by virtue of a deed of absolute sale. During this time, respondents Dionisio Caay and Cesaria Caringal constructed a house on the disputed lot with permission and upon tolerance of Santiago de Guzman. Respondent Dionisio Caay was then the driver of Santiago de Guzman.

On 31 August 1981, petitioner repurchased the property from Santiago de Guzman with knowledge that the house of respondents Dionisio Caay and Cesaria Caringal was existing on the property but did not immediately eject them as respondent Caay was a good friend of petitioner. Petitioner later discovered that in 1982, respondent Demetrio Caringal, father of respondent Cesaria Caringal, was awarded by the Bureau of Lands a free patent over the property in question and was issued Original Certificate of Title No. P-462 in his name.

On the other hand, evidence for private respondents shows that on 1 July 1981 respondent Demetrio Caringal filed a free patent application covering the disputed property; that his possession started in 1981 when it was sold to him by Gavino Tesorero who appeared to be the only surviving heir of Gregoria Pineda, the original applicant for free patent. Gregoria Pineda had been in possession of the property since 1942 and had applied in 1951 for a revocable permit with the Bureau of Lands in Tanduay, Manila. During the lifetime of Gregoria, respondent Caringal had introduced improvements on the property including the house presently occupied by respondents Dionisio Caay and Cesaria Caringal.

After Gregoria died in November 1976, her surviving heir, Gavino Tesorero, sold the disputed property to respondent Caringal in 1981 for a consideration of P5,000.00 as evidenced by an affidavit executed by Tesorero.

After proper inspection and investigation by the Bureau of Lands, the free patent application of respondent Caringal was given due course. In 1982, the land was awarded by the Bureau of Lands to respondent Demetrio Caringal under Free Patent Application No. 18220 and registered under Original Certificate of Title No. P-462 in his name.

On 7 July 1986, the trial court rendered its decision declaring petitioner the legal owner of the disputed property. It also ordered the Register of Deeds of Batangas to cancel the name and personal circumstances of respondent Caringal as the registered owner in OCT No. T-462 and to substitute, in lieu thereof, the name and personal circumstances of petitioner. The court further directed the Register of Deeds to issue to petitioner an owner's duplicate certificate of OCT No. T-462 upon payment by the latter of the fees required by law. The court also ordered respondents Demetrio Caringal, spouses Dionisio Caay and Cesaria Caringal to pay petitioner jointly and severally litigation expenses in the amount of P2,000.00 and attorney's fees in the amount of P3,000.00.

In granting the complaint, the trial court found circumstances showing that fraud attended the issuance of the free patent thus making it null and void, to wit: (a) The existence of a prior miscellaneous sales application of petitioner should have barred the acceptance and processing of the free patent application of respondent Demetrio Caringal; (b) The said free patent was issued on 21 August 1982 to Caringal without the technical description of the property having been first issued; and, (c) The survey plan of Gregoria Pineda, original applicant for free patent and predecessor-in-interest of respondent Caringal, was spurious as it was approved only after her death.

Respondent Demetrio Caringal appealed to the Court of Appeals which on 26 March 1991 overturned the decision of the trial court and ordered the dismissal of the complaint of petitioner. In finding for respondent Caringal, the appellate court cited the following reasons for its decision: (a) While petitioner had filed a prior sales application of the property in 1973, no action on the application was taken by the Bureau of Lands even after respondent Caringal filed a free patent application in 1981; the mere filing of the miscellaneous sales application does not mean that petitioner Guillermo Javier had acquired any vested right or title over the disputed property, the application being evidence only of a claim over the land; (b) Petitioner had not established continuous, adverse and open possession of the land because he sold his rights over the same to Santiago de Guzman in 1974 and reacquired the same from the latter in 1981. There was also no evidence that petitioner occupied and possessed the land under claim of ownership after he reacquired the same. On the other hand, un rebutted evidence for private respondents shows their continuous possession and that of their predecessor-in-interest since 1951 until 1981 when respondent Demetrio Caringal filed an application for free patent; and, (c) No survey plan was ever submitted by petitioner for the lot in question. Thus, it is doubtful whether the lot claimed by petitioner, which contains 1,000 square meters, is the same property awarded to respondent Caringal by virtue of the free patent which covers a 973-square meter lot.

Hence, this petition alleging that respondent Court of Appeals gravely erred (a) in ruling that an action for reconveyance of title must be commenced within one (1) year from the issuance of the original certificate of title; (b) in misapprehending the facts and disregarding the findings of fact of the trial court that fraud attended the issuance of Original Certificate of Title No. P-462 in the name of respondent Caringal; and, (c) in declaring petitioner as not having established continuous, adverse and open possession contrary to the testimonial and documentary evidence of petitioner on record.

We cannot sustain petitioner. The basic rule is that after the lapse of one (1) year, a decree of registration is no longer open to review or attack although its issuance is attended with actual fraud. This does not mean however that the aggrieved party is without a remedy at law. If the property has not yet passed to an innocent purchaser for value, an action for reconveyance is still available.[2] The decree becomes incontrovertible and can no longer be reviewed after one (1) year from the date of the decree so that the only remedy of the landowner whose property

has been wrongfully or erroneously registered in another's name is to bring an ordinary action in court for reconveyance, which is an action in personam and is always available as long as the property has not passed to an innocent third party for value. If the property has passed into the hands of an innocent purchaser for value, the remedy is an action for damages. In this case, the disputed property is still registered in the name of respondent Demetrio Caringal, so that petitioner was correct in availing himself of the procedural remedy of reconveyance.

However, despite the availability to petitioner of the remedy of reconveyance, this Court finds no merit in petitioner's claim that he has legal title over the property in question that will justify its return to him. Petitioner failed to show sufficient proof of ownership over the land covered by Original Certificate of Title No. P-462. In civil cases, the burden of proof is on the plaintiff to establish his case by a preponderance of evidence. If he claims a right granted or created by law, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not upon the weakness of that of his opponent.[3]

In the case at bar, petitioner as plaintiff in the trial court tried to prove his ownership over the property registered in the name of respondent Caringal by a miscellaneous sales application he filed with the Bureau of Lands and by his continuous possession thereof since 1971 when he applied for a sales patent.

The records show that the property subject of petitioner's Miscellaneous Sales Application contained an area of 1,000 square meters and is particularly bounded as follows: on the North, by Gregoria Pineda; on the East, by a river; on the South, by Balayan Bay; and, on the West, by Severino Labrador, situated in the Barrio of Boulevard, Balayan, Batangas[4]. On the other hand, the land subject of the controversy which was awarded to respondent Demetrio Caringal by virtue of free patent and registered in his name under Original Certificate of Title No. P-462 contained an area of 973 square meters and is bounded on the Northeast, by Paula Tesorero; on the Southeast, by Guillermo Javier; on the Southwest, by Francisco Espineli; and, on the Northwest, by Gregoria Pineda[5].

However, in his complaint for reconveyance which he filed with the trial court, petitioner described the parcel of land he sought to recover as -

A parcel of land situated at Boulevard, Balayan, Batangas. Bounded on the North by the property of Gregoria Pineda; on the East by River; on the South by Salvage Zone; and on the West by the property of Reneirio Ramos, containing an area of ONE THOUSAND (1,000) SQUARE METERS, more or less.[6]

The evidence for petitioner, which the court upheld, showed that petitioner had been in possession of the parcel of land described in his complaint since 1970 and had introduced improvements thereon; that petitioner paid realty taxes as early as 1974; that District Land Officer Constante Q. Asuncion testified that he conducted an ocular inspection of the land subject of the miscellaneous sales application and found petitioner to be in possession thereof and had constructed four (4) houses of light materials thereon.[7]

On the other hand, the evidence for respondent Demetrio Caringal as found by the Court of Appeals showed that as early as 1942 Gregoria Pineda had occupied the disputed lot covered by OCT No. P-462, and upon her death in 1976, her brother and only heir, Gavino Tesorero, succeeded to her rights over the lot; then in 1981, respondent Caringal bought the rights over the lot from Gavino Tesorero and later filed an application for free patent; on 7 August 1981, District Land Officer Constante Q. Asuncion issued a certification to the Director of Lands that respondent Caringal and his predecessors-in-interest had been in open, continuous and exclusive possession thereof and had introduced improvements thereon consisting of fruit-bearing coconut trees and banana plants; respondent Caringal had paid realty taxes thereon for the years 1983 to 1985; and, respondent Caringal has free patent over the property and was issued OCT No. P--462.

Culled from the evidence on record, there is serious doubt on the precise identity of the parcel of land petitioner seeks to recover. The description and boundaries of the land allegedly possessed by petitioner and which was the

subject of his application for sales patent differ from the parcel of land he described in his complaint for reconveyance. What petitioner seeks to recover in his complaint is the parcel of land covered by OCT No. P-462 which he claims to have been fraudulently registered in the name of Caringal. But, interestingly, the description and boundaries of the lot covered by OCT No. P-462 are totally different from the description in petitioner's complaint for recovery of ownership before the trial court against respondent Caringal in whose name OCT No. P-462 is registered.

In order to maintain an action to recover ownership of real property, the person who claims that he has a better right to it must prove not only his ownership of the same but he must also satisfactorily prove the identity thereof.[8] In this case, failing to fix the identity of the property he claims, petitioner's action for reconveyance must fail. But, assuming in gratia argumenti that the property which petitioner seeks to be reconveyed to him is the same as that covered by OCT No. P-462 in the name of respondent Caringal, petitioner has not proved his ownership of the same. The filing of the miscellaneous sales application did not vest title upon petitioner over the property as there was no showing that his application was approved by the Bureau of Lands or that a sales patent over the property was granted to him prior to the issuance of free patent and OCT No. P-462 in favor of respondent Caringal.

Under the Public Land Act, even the approval of a sales application merely authorizes the applicant to take possession of the land so that he can comply with the requirements prescribed by law before a final patent can be issued in his favor. Meanwhile, the Government still remains the owner thereof, as in fact the application can still be cancelled and the land awarded to another applicant, if it be shown that the legal requirements have not been complied with. Hence, when the Bureau of Lands did not take action on the sales application of petitioner but instead issued the Free Patent and title to another applicant, herein respondent Caringal, it was only then that the Government was divested of its ownership and the land was segregated from the mass of public domain, converting it into private property.[9]

Moreover, the record shows, which petitioner admits, that after the filing on 7 April 1973 of the miscellaneous sales application with the Bureau of Lands, he sold the property in 1974 to Santiago de Guzman. The records fail to disclose that the sale was approved by the Bureau of Lands. Subsequently, Santiago de Guzman resold the property to petitioner. The sale of the property by petitioner to de Guzman pending the approval of the former's sales application without the approval of the Bureau of Lands violated Sec. 29 of C.A. No. 141 which provides:

After title has been granted, the purchaser may not, within a period of ten years from such cultivation or grant, convey or encumber or dispose said lands or rights thereon to any person, corporation or association, without prejudice to any right or interest of the government in the land: Provided, That any sale and encumbrance made in violation of the provisions of this section, shall be null and void and shall produce the effect of annulling the acquisition and reverting the property and all rights thereto to the State, and all payments on the purchase price theretofore made to the Government shall be forfeited.

Clearly, this provision contemplates a sale and encumbrance that a purchaser may desire to make during the pendency of his application and before his compliance with the requirements of the law.[10] Since the application is still pending consideration and the rights of the applicant have not yet been determined, he cannot make any transfer that may affect the land, without the approval of the government. Thus, the law allows an applicant "after the cultivation of the land has begun" to convey or encumber his rights to any person "provided such conveyance or encumbrance does not affect any right or interest of the Government on the land." And to safeguard such right or interest, previous approval of the Secretary of Environment and Natural Resources is required. Such approval becomes unnecessary after the right of the purchaser is already deemed vested, the issuance of the patent being a mere ceremony.[11]

In this case, the sale of the property covered by a pending application for a sales patent without the required approval of the government produced the effect of annulling the sales application as if none had been filed. Thus, the Bureau of Lands could consider and approve subsequent applications for the acquisition of the property filed by other persons with the necessary qualifications. In granting the free patent applied for by respondent Caringal which led to the issuance of OCT No. P-462 in his favor, the Bureau of Lands acted regularly within its authority.

WHEREFORE, the petition is DENIED and the decision of the Court of Appeals dated 26 March 1991 is AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quason, and Kapunan, JJ., concur.

[1] Penned by Justice Nicolas P. Lapeña, Jr., concurred in by Justices Ricardo L. Pronove, Jr., and Consuelo Y. Santiago.

[2] *Armamento v. Guerrero*, No. L-34228, 21 February 1980, 96 SCRA 178.

[3] *Pornellosa v. Land Tenure Administration*, No. L-14040, 31 January 1961, 1 SCRA 375.

[4] Exhibit "E" for the Plaintiff, Records.

[5] Exhibit "F," Records.

[6] Records, p. 1.

[7] Rollo, p. 40.

[8] *Sese v. Intermediate Appellate Court*, G.R. No. 66186. 31 July 1987, 152 SCRA 585.

[9] Narciso Peña, *Philippine Law on Natural Resources*, 1982 Edition, pp. 48-49.

[10] Antonio H. Noblejas and Edilberto H. Noblejas, *Registration of Land Titles and Deeds*, 1986 Edition, pp. 385-386.

[11] *Ibid.*

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