TIBURCIO SAMONTE, PETITIONER, VS. COURT OF APPEALS, EUGENIA DANGO GADIANO, TEOFILO GADIANO, PETRONILO DANGO, FELICIANA DANGO, NONILO MARAVE AND GERONIMO DANGO, RESPONDENTS.

G.R. No. 104223. July 12, 2001*

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Tiburcio Samonte (petitioner) filed this petition for review on certiorari seeking to reverse and set aside the Decision, dated November 29, 1991, of the Court of Appeals (CA) in CA-G.R. CV No. 16645. He likewise seeks the reversal of CA Resolution, dated February 21, 1992, which denied his motion for reconsideration.

The parcel of land (Lot No. 216) subject of this dispute is situated in Nasipit, Agusan del Norte, and originally covered by Original Certificate of Title No. RO-238(555) issued in the names Apolonia Abao and her daughter Irenea Tolero, pro indiviso. It contained an area of 12,753 square meters. Two cases were separately filed in the Regional Trial Court, Branch II of Nasipit, Agusan del Norte involving the entire lot. Both cases were filed by the surviving heirs of Apolonia Abao and Irenea Tolero.[1] These heirs, children of Irenea Tolero and grandchildren of Apolonia Abao, are the respondents in this case.

The first case, Civil Case No. 1672, was an action for quieting of title and recovery of possession of a parcel of land which originally formed part of the entire property. Said parcel of land was denominated as Lot 216-B-2-G and covered by Transfer Certificate of Title (TCT) No. RT-899 in the name of Irenea Tolero. The defendants named therein were spouses Andres and Amanda Lacho.

The second case, Civil Case No. 1816, is similarly an action for quieting of title and recovery of possession. Unlike the first case, however, Civil Case No. 1816 involved the entire Lot 216. The complaint therein sought the annulment of several certificates of title covering portions of Lot 216 and the reinstatement of OCT No. RO-238(555). The defendants in the second case were Nicolas Jadol, Beatriz Jadol, Jacobo Tagorda, Henry Jadol, Aurelio Rotor and herein petitioner.

The present case stems only from the latter case (Civil Case No. 1816) and, as culled from the CA decision, the facts relevant herein are as follows:

> Civil Case No. 1816
> (CA-G.R. CV No. 16645)
>
> From the pleadings and the evidence adduced by the parties the following are not disputed or deemed admitted: that Lot 216 of the Cadastral survey of Nasipit, containing an area of 12,753 square meters, more or less, situated at Anislagan, Nasipit, Agusan (now del Norte) is covered by Original Certificate of Title (OCT) No. RO-238 issued in 1927 in the name of Apolonia Abao and Irenea Tolero in equal undivided shares (Exhibit E); that OCT No. RO-238 was administratively reconstituted on August 8, 1957 and the assigned

number of the reconstituted title is OCT No. RO-238 (555) (Exhibit D identical to Exhibit-Samonte); that on August 8, 1957, based on an affidavit of Extra-judicial Settlement and Confirmation of Sale (Exhibit D-1), OCT No. RO-238 (555) was cancelled and lieu thereof Transfer Certificate of Title (TCT) No. RT-476 was issued in the name of Irenea Tolero, ½ share and Nicolas Jadol, ½ share (Exhibit C identical to Exhibit 3-Samonte); that on February 13, 1959, based on subdivision plan, subdividing Lot 216 into Lot 216-A and Lot 216-B, the Register of Deeds of Agusan (now del Norte) cancelled TCT No. RT-476 and issued in its place TCT No. RT-553 in the name of Tiburcio Samonte for Lot 216-A (Exhibit 2-Samonte) and TCT No. RT-554. Irenea Tolero and Nicolas Jadol for Lot 216-B (Exhibit B); that on February 13, 1959 based on a subdivision plan subdividing Lot 216-B to 216-B-1 and 216-B-2, TCT No. RT-554 was cancelled and in its place TCT No. RT-555 was issued in the name of Jacob B. Tagorda for Lot 216-B-1 and TCT No. 556 in the name of Irenea Tolero and Nicolas Jadol for Lot 216-B-2;

Plaintiffs in their evidence claim ownership over the entire lot, Lot 216, as one-half (1/2) of the area of 12.753 square meters was registered in the name of their mother Irenea Tolero (Exhibit E) the other half was registered in the name of their grandmother, Apolonia Abao. After Apolonia Abao died during the Japanese occupation and Irenea Tolero died in 1945, they inherited and became owners of Lot 216. Plaintiffs questioned the series of cancellation of the certificate of title starting from OCT No. RO-238 (555) and the Deed of Extra-judicial Settlement and Confirmation of Sale executed by Ignacio Atupan on August 7, 1957 (Exhibit D-1) adjudicating one-half (1/2) of the area of Lot 216. Plaintiffs maintain that Ignacio Atupan is not a son of Apolonia Abao but he only grew up while living with Apolonia Abao. That when Lot 216 was subdivided into two (2) lots, Lot 216-A and Lot 216-A (sic) which was made as one of the basis in the cancellation of TCT No. 476 and issuance of TCT No. 553 and TCT No. 554 on February 13, 1959, the plaintiffs or their predecessors-in-interest have not signed any document agreeing as to the manner how Lot 216 was to be divided, nor have they consented to the partition of the same.

Defendant Samonte in his evidence claim that he bought portions of the Lot 216 in good faith as he was made to believe that all the papers in possession of his vendors were all in order. One of the documents presented by him is a Deed of Absolute Sale executed in 1939 (Exhibit 8-Samonte). He has been in open, continuous, adverse and exclusive possession of the portions of Lot 216 he bought for more than 20 years and have declared the land for taxation purposes (Exhibits 5 and 7-Samonte) and have paid the real estate taxes thereon (Exhibit 6 to 6-K, inclusive Samonte). The portions he bought is now covered by TCT No. RT-553 (Exhibit 2-Samonte) and TCT No. RT-1658 (Exhibit 4-Samonte).

Defendant Jadols claim that they became owners of one-half (1/2) portion of Lot 216 by purchase from Ignacio Atupan and Apolonia Abao on September 15, 1939 as shown by a document notarized by Jacobo Bello (Exhibit 1-Jadol) and signed by Irenea Tolero (Exhibit 1-D-Jadol) as a witness. They were in possession since they bought the land. The land is covered by Tax Declaration No. 1630 (Exhibit 2-Jadol) and Tax Declaration No. 1676 (Exhibit 3-Jadol) in their name (Decision, pp. 36-39).[2]

Initially, the two cases were heard independently of each other. It was discovered, however, that they were intimately related. Accordingly, the court a quo jointly tried the two cases. After due trial, the trial court rendered separate decisions, both in favor of the plaintiffs therein. The dispositive portion particularly of the decision in Civil Case No. 1816 reads:

Civil Case No. 1816

IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiffs and against the defendants:

a) declaring plaintiffs co-owners of the entire of (sic) Lot 216 being the surviving heirs of Apolonia Abao and Irenea Tolero;

b) directing the reinstatement of Original Certificate of Title No. RO-238(555);

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c) directing the cancellation of Transfer Certificate of Title No. RT-476 and all subsequent certificates of title derived therefrom which are all declared null and void;

d) declaring the subdivision survey of Lot 216 null and void and ineffectual;

e) directing the defendants to vacate the premises of Lot 216 and to remove all their improvements therefrom as they are builders in bad faith;

f) directing defendants Jadol and Samonte to pay jointly and severally the plaintiffs the sum of P20,000.00 for the use and occupation of the land;

g) directing defendants Jadol and Samonte to pay P5,000.00 as attorney's fees;

h) ordering the dismissal of the counterclaims of defendants; and

i) directing the defendants Jadol and Samonte to pay the costs.

SO ORDERED.[3]

Plaintiffs were likewise declared the lawful owners of Lot 216-B-2-G in Civil Case No. 1672. Defendants therein were ordered to, among others, vacate the premises and remove the improvements made thereon.[4]

The defendants in the two cases respectively appealed the aforesaid decisions to the CA. The CA ordered the consolidation of the two appeals. Thereafter, the CA rendered the decision of November 29, 1991 affirming the decisions of the trial court and dismissing the appeals. Petitioner then filed the instant petition assailing particularly the decision in CA-G.R. CV No. 16645. He alleges that:

I

THE HONORABLE COURT OF APPEALS ERRED AS A MATTER OF LAW IN DEPARTING FROM THE PREVAILING DOCTRINE SUPPORTED BY THE WEIGHT OF AUTHORITIES THAT "THE DISCOVERY OF THE FRAUD IS DEEMED TO HAVE TAKEN PLACE AT THE TIME OF THE REGISTRATION" (CARANTES VS. COURT OF APPEALS, 76 SCRA 514);[5]

II

THE COURT OF APPEALS ERRED AS A MATTER OF LAW AND JURISPRUDENCE IN NOT HOLDING THAT HEREIN PETITIONER WAS A BUYER IN GOOD FAITH FOR VALUE, HENCE HE IS PROTECTED BY LAW.[6]

The petition is bereft of merit.

It is not disputed that Ignacio Atupan caused the fraudulent cancellation of OCT No. RO-238(555). The trial court found that Atupan, on the basis of his "Affidavit of Extra-judicial Settlement and Confirmation Sale," adjudicated unto himself one-half of Lot 216 by misrepresenting himself as the sole heir of Apolonia Abao. Atupan, in said affidavit, likewise confirmed the two deeds of sale allegedly executed by him and Abao on September 15 and 16, 1939, covering the latter's one-half lot in favor of Nicolas Jadol.

The trial court found Atupan's affidavit, dated August 7, 1957, to be tainted with fraud because he falsely claimed therein that he was the sole heir of Abao when in fact, he merely lived and grew up with her. Jadol and his wife, Beatriz, knew about this fact. Despite this knowledge, however, the Jadol spouses still presented the affidavit of Atupan before the Register of Deeds of the Province of Agusan when they caused the cancellation of OCT No. R0-238(555) and issuance of TCT No. RT-476 in their names covering that portion owned by Abao.

The trial court concluded that the incorporation of the statement in Atupan's affidavit confirming the alleged

execution of the aforesaid deeds of sale was intended solely to facilitate the issuance of the certificate of title in favor of the Jadol spouses. It was noted that the documents evidencing the alleged transactions were not presented in the Register of Deeds. It was further pointed out that the Jadol spouses only sought the registration of these transactions in 1957, eighteen (18) years after they supposedly took place or twelve (12) years after Abao died.

Based on the foregoing facts, the CA, on appeal, ruled that the cancellation of OCT No. R0-238(555) and the consequent issuance of TCT No. RT-476 in its place in the name of the Jadol spouses were effected through fraudulent means and that they (spouses Jadol) not only had actual knowledge of the fraud but were also guilty of bad faith.[7]

Nonetheless, petitioner contends that respondents' action in the court a quo had already prescribed. Generally, an action for reconveyance of real property based on fraud may be barred by the statute of limitations which requires that the action must be commenced within four (4) years from the discovery of fraud, and in case of registered land, such discovery is deemed to have taken place from the date of the registration of title.[8]

Article 1456 of the Civil Code, however, provides:

> Art. 1456. If property is acquired through mistake or fraud, the person obtaining it is, by force of law, considered a trustee of an implied trust for the benefit of the person from whom the property comes.

As it had been indubitably established that fraud attended the registration of a portion of the subject property, it can be said that the Jadol spouses were trustees thereof on behalf of the surviving heirs of Abao. An action based on implied or constructive trust prescribes in ten (10) years from the time of its creation or upon the alleged fraudulent registration of the property.[9]

Petitioner, as successor-in-interest of the Jadol spouses, now argues that the respondents' action for reconveyance, filed only in 1975, had long prescribed considering that the Jadol spouses caused the registration of a portion of the subject lot in their names way back in August 8, 1957. It is petitioner's contention that since eighteen years had already lapsed from the issuance of TCT No. RT-476 until the time when respondents filed the action in the court a quo in 1975, the same was time-barred.

Petitioner's defense of prescription is untenable. The general rule that the discovery of fraud is deemed to have taken place upon the registration of real property because it is "considered a constructive notice to all persons"[10] does not apply in this case. Instead, the CA correctly applied the ruling in Adille vs. Court of Appeals[11] which is substantially on all fours with the present case.

In Adille, petitioner therein executed a deed of extra-judicial partition misrepresenting himself to be the sole heir of his mother when in fact she had other children. As a consequence, petitioner therein was able to secure title to the land in his name alone. His siblings then filed a case for partition on the ground that said petitioner was only a trustee on an implied trust of the property. Among the issues resolved by the Court in that case was prescription. Said petitioner registered the property in 1955 and the claim of private respondents therein was presented in 1974.

The Court's resolution of whether prescription had set in therein is quite apropos to the instant case:

> It is true that registration under the Torrens system is constructive notice of title, but it has likewise been our holding that the Torrens title does not furnish a shield for fraud. It is therefore no argument to say that the act of registration is equivalent to notice of repudiation, assuming there was one, notwithstanding the long-standing rule that registration operates as a universal notice of title.
>
> For the same reason, we cannot dismiss private respondents' claims commenced in 1974 over the estate registered in 1955. While actions to enforce a constructive trust prescribes in ten years, reckoned from the date of the registration of the property, we, as we said, are not prepared to count the period from such a date in this

> case. We note the petitioner's sub rosa efforts to get hold of the property exclusively for himself beginning with his fraudulent misrepresentation in his unilateral affidavit of extrajudicial settlement that he is "the only heir and child of his mother Feliza with the consequence that he was able to secure title in his name [alone]." Accordingly, we hold that the right of the private respondents commenced from the time they actually discovered the petitioner's act of defraudation. According to the respondent Court of Appeals, they "came to know [of it] apparently only during the progress of the litigation." Hence, prescription is not a bar.[12]

In this case, the CA reckoned the prescriptive period from the time respondents had actually discovered the fraudulent act of Atupan which was, as borne out by the records, only during the trial of Civil Case No. 1672.[13] Citing Adille, the CA rightfully ruled that respondents' action for reconveyance had not yet prescribed.

On the issue of whether petitioner is a buyer in bad faith as he claims, the Court likewise holds in the negative. It was established during the trial by the court a quo that he knew that respondents were the only surviving heirs of Irenea Tolero. Despite this knowledge, petitioner still bought a portion of the subject lot from the Jadol spouses on July 20, 1957, when the same was still registered under OCT No. R0-238(555) in the name of Abao and Tolero.

With respect to this particular lot therefore, petitioner cannot pretend to be a purchaser in good faith. It is axiomatic that one who buys from a person who is not a registered owner is not a purchaser in good faith.[14]

Moreover, with respect to the other portion which petitioner bought from Jacobo Tagorda, the trial court held that he was, as in the first case, a buyer in bad faith. The general rule is that a person dealing with registered land has a right to rely on the Torrens certificate of title and to dispense with the need of making further inquiries.[15] This rule, however, admits of exceptions: when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of the title of the property in litigation.[16] One who falls within the exception can neither be denominated an innocent purchaser for value nor a purchaser in good faith; and hence does not merit the protection of the law.[17]

The CA established that petitioner is not a purchaser in good faith with respect to this portion of the subject property, thus:

> xxx While it may be true that the second portion was purchased by Samonte from Tagorda in whose name the same was then registered under TCT No. RT-555, Samonte was previously charged with the fact that Jadol lacked the capacity to transmit title over any part of the subject property including that portion which the latter sold to Tagorda. Thus, Samonte was clearly in bad faith when he sought the registration of the deed of sale of July 10, 1972 which effected the cancellation of TCT No. RT-555 and the issuance of TCT No. 1658 in his favor. xxx[18]

Petitioner cannot now claim that he already acquired valid title to the property. The inscription in the registry, to be effective, must be made in good faith. The defense of indefeasibility of a Torrens Title does not extend to a transferee who takes the certificate of title with notice of a flaw. A holder in bad faith of a certificate of title is not entitled to the protection of the law, for the law cannot be used as a shield for frauds.[19]

In fine, there is no compelling reason to deviate from the salutary rule that findings and conclusions of the trial court, especially if affirmed by the appellate court, are accorded utmost respect by this Court.

WHEREFORE, the instant petition is DENIED for lack of merit. The Decision, dated November 29, 1991 of the Court of Appeals and its Resolution, dated February 21, 1992, in CA-G.R. CV No. 16645 are AFFIRMED in toto.

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SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[*] This case was transferred to the ponente pursuant to the resolution in AM No. 00-9-03-SC. - Re: Creation of Special Committee on Case Backlog dated February 27, 2001.

[1] Namely, Eugenia Gadiano, Teofilo Gadiano, Petronilo Dango, Feliciana Dango, Nonilo Marave and Geronimo Dango.

[2] Rollo, pp. 31-32.

[3] Id., at 27.

[4] Id.

[5] Id., at 17-20.

[6] Id., at 20.

[7] CA Decision, pp. 12-13; Rollo, pp. 35-36.

[8] Veracruz vs. Dumat-ol, 307 SCRA 198 (1999).

[9] Serna vs. Court of Appeals, 308 SCRA 527 (1999).

[10] Section 51 of Act No. 496 as amended by Section 52 of P.D. No. 1529.

[11] 157 SCRA 455 (1988).

[12] Id., at 462.

[13] See Note 7, at 14; Rollo, p. 37.

[14] Inquimboy vs. Vda. De Cruz, 108 Phil. 1054.

[15] Sandoval vs. Court of Appeals, 260 SCRA 283, 295 (1996).

[16] Ibid.

[17] Id.

[18] See Note 7, at 17; Rollo, p. 40.

[19] Baricuatro, Jr. vs. Court of Appeals, 325 SCRA 137, 155 (2000). See also Bornales vs. Intermediate Appellate Court, 166 SCRA 519 (1988).

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