

LORETA BRAVO CERVANTES, LOIDA CERVANTES, LEAH CERVANTES, CHRISTY CERVANTES, CHARME CERVANTES, SPS. ARMANDO ABAD AND ADORACION ORDUNA, PETITIONERS, VS. HON. COURT OF APPEALS, GUI...

G.R. No. 118982. February 19, 2001

Ponente: DE LEON, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-118982/>

DE LEON, JR., J.:

Before us is a petition for review on certiorari of the Decision[1] of the Court of Appeals dated August 25, 1994 affirming the decision[2] of the Regional Trial Court of Pangasinan in Civil Case No. 16211 (for Recovery of Land with Damages) ordering herein petitioners to vacate the respective parcel of land which they are occupying and to recognize private respondents' ownership thereof.

In dispute are certain portions of a parcel of land (Parcel 1, Lot No. 1, plan Psu-131830) situated in Poblacion, Bugallon, Pangasinan, with an area of seven thousand seven hundred thirty-three (7,733) square meters, covered and described in TCT No. 2200-Pangasinan and registered in the name of Antonio G. Francisco.[3] A portion with an area of 3,768 square meters was earlier ceded to the Municipality of Bugallon, Pangasinan.[4]

On July 8, 1985, plaintiffs, herein private respondents, filed an amended complaint alleging that they were the heirs of the late Antonio G. Francisco who was the registered owner of the subject property, and that they recently discovered that the defendants, herein petitioners, were illegally occupying and had declared in their names portions of said property as follows:

Antonio Cervantes - 398 square meters, declared under Tax Declaration No. 316, now Tax Declaration No. 445;

Armando Abad and Adoracion Orduña - 442 square meters, declared under Tax Declaration No. 473 and assessed at P2,480.00.

Plaintiffs demanded that the defendants vacate the subject premises, but the latter refused to do so.[5] Hence, this action for recovery of land wherein the plaintiffs prayed that the defendants be ordered to (1) vacate immediately the portions of land that they are occupying and to recognize plaintiffs' ownership thereof; (2) pay reasonable rentals from the time this complaint was filed up to the time they vacate the land; (3) pay actual damages amounting to P4,000.00 as reasonable attorney's fees, moral damages and the costs.[6]

In his answer, defendant Antonio Cervantes, herein petitioner, denied the material allegations of the complaint, and in defense claimed legal possession over one of the parcels of land in question alleging that he, together with his brother Claro and sister Macrina-Teresita, inherited the land from their late father Tranquilino Cervantes who purchased the same on January 22, 1947 from Juan Abad, now deceased, who in turn earlier purchased the property from plaintiffs' predecessors-in-interest. During his lifetime, Tranquilino Cervantes introduced improvements in the land without any objection from the plaintiffs or their predecessors-in-interest. By virtue of

the Deed of Extrajudicial Partition executed by the heirs of Tranquilino Cervantes, the ownership of the contested premises were allegedly transmitted to them. In his counterclaim, Cervantes prayed that judgment be rendered: (1) dismissing the complaint against him for lack of cause of action; (2) declaring the validity of the Deed of Sale dated January 22, 1947; (3) ordering the plaintiffs, jointly and severally, to pay him the sum of P5,000.00 as attorney's fees; P5,000.00 as litigating expenses; P5,000.00 as moral damages; P5,000.00 as exemplary damages, plus costs.[7]

Defendants spouses Armando and Adoracion Abad, on the other hand, alleged that their possession, together with that of their predecessors-in-interest, over the questioned parcel of land was lawful and in the concept of owner. Their possession was for more than 70 years, even dating back before the year 1920. The questioned parcel was a portion of the land jointly purchased by their parent, the late Juan Abad, and Marcelino Nievera from Estefania Ignacio Vda. De F. Totañez, who purchased the same from Antonio Fernandez, who in turn purchased the property from Vicente Espino, whose possession and ownership of the property was public, exclusive, notorious, open and continuous long before the alleged registration of the subject property in the name of Antonio Francisco, under Act No. 496, the latter being known as a mere trustee or overseer. When Juan Abad died, the defendant spouses acquired the subject property partly by inheritance and partly by purchase.[8]

Defendants Abad alleged that the imprescriptibility and indefeasibility of the Torrens Title do not apply to the case at bar because registration by the applicant-registrant was done in bad faith and by way of actual fraudulent acts; that Act No. 496 as amended by P.D. No. 1529 was never intended to shield the fraudulent and unlawful acts of the applicant-registrant in order to divest the actual owner and possessor thereof before the registration; and that between the actual owners-possessors before the registration under Act No. 496 and a usurper-trustee who applied and successfully registered the same land in his name, the former should prevail over the latter.[9]

As counterclaim, defendants Abad prayed that the plaintiffs be ordered to pay them P10,000.00 as attorney's fees; appearance fees computed at P300.00 per hearing; P20,000.00 as actual and other incidental expenses; P50,000.00 as moral damages; P50,000.00 as exemplary damages and costs of suit.[10]

Based on the Pre-trial Order dated July 8, 1985, the parties agreed that the issues are the following:

- Who are the lawful owners of the parcels of land in question?
- Whether or not the parties are entitled for damages as claimed in their respective pleadings.[11]

On October 28, 1987, the trial court rendered judgment in favor of the plaintiffs, which in part reads:

Thus, this Court hereby declares that the plaintiffs are the owners of the parcels of land subject of this action having acquired it from their late father, Antonio Francisco by hereditary succession. Prescription and laches cannot be raised against the plaintiffs. If there is/are somebody who is/are guilty of laches in this case, it would be the defendants. Because for a considerable long period of time, they failed to obtain a title over the parcels in question.

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, to wit:

a)

ordering the defendants to vacate immediately the parcel of land they are occupying, and to recognize the plaintiffs' ownership thereof; and

b)

ordering the defendants to pay actual damages in the amount of P4,000.00 by way of reasonable attorney's fees and P10,000.00 by way of moral damages and to pay the costs.

SO ORDERED.[12]

The Court of Appeals affirmed the decision of the trial court in its Decision promulgated on August 25, 1994, the dispositive portion of which reads:

WHEREFORE, finding no reversible error in the decision appealed herefrom the same is hereby AFFIRMED in toto.

SO ORDERED.[13]

Petitioners' motion for reconsideration was denied by the Court of Appeals in a Resolution dated February 13, 1995.

Petitioners ascribe to the Court of Appeals the following errors:

- IT IS AN ERROR TO CONCLUDE THAT THE PLAINTIFFS, HEREIN PRIVATE RESPONDENTS, ARE THE LAWFUL OWNERS OF THE LANDS IN QUESTION BASED ON A DOUBTFUL MUTILATED ENTRY IN TCT NO. 2200.
- IT IS AN ERROR (NOT) TO CONSIDER SUBSEQUENT ACTS OF THE PARTIES AFTER THE SALE TO ASCERTAIN THE IDENTITY OF THE LAND SUBJECT OF THE SALE.
- IT IS AN ERROR NOT TO RECOGNIZE THE DEFENDANTS, HEREIN PETITIONERS, AS LAWFUL OWNERS OF THEIR RESPECTIVE RESIDENTIAL LOTS.[14]

Petitioners faulted the Court of Appeals for concluding that private respondents are the lawful owners of the parcels of land in question based on a doubtful mutilated entry in TCT No. 2200. Contrary to the conclusion of the Court of Appeals, petitioners asserted that as shown in the pre-trial order, they did not admit the authenticity of Exhibits D, D-1 and D-2, which were the photocopy of TCT No. 2200 in the name of Antonio Francisco. Further, the resolution of the issue of ownership of the subject premises called for examination of the respective evidence of the parties. It is in this connection that they questioned the correctness and authenticity of the mutilated portion on page 3 of TCT No. 2200 (Exhibit D) showing that their predecessor-in-interest, Vicente Espino, purchased parcel 2 of Lot No. 3 instead of parcel 1 of Lot No. 1, where their respective houses were erected fifty (50) years ago. They argued that under the entry "compraventa - Vicente Espino" on said page, the true identity of the land sold was mutilated and it was made to appear in handwriting that Vicente Espino purchased parcel 2 of Lot No. 3. There was no evidence adduced to show that the handwritten words were the correct words before the mutilation, considering that the next entry showed that one Pablo Zalazar also purchased the same parcel 2 of Lot No. 3.

As observed by the Court of Appeals, petitioners did not raise in issue the authenticity of the now contested TCT No. 2200 or a portion thereof during the pre-trial and trial on the merits in the trial court. An issue which was neither raised in the complaint nor ventilated during the trial in the court below cannot be raised for the first time on appeal as it would be offensive to the basic rule of fair play, justice and due process.[15] Moreover, the determination of issues at the pre-trial conference bars the consideration of other questions on appeal.[16] Further, petitioners did not object to the formal offer in evidence of TCT No. 2200 as Exhibit D and Series[17] and Exhibit F and Series[18] hence, there is a waiver of any objection to its admissibility.[19]

Nevertheless, an examination of the evidence on record particularly Exhibits D-2 and F-2, which contained the encumbrances affecting TCT No. 2200, showed that the sale to Vicente Espino involved Lot No. 3, while the sale to Pablo Zalazar involved Lot No. 7.[20] Clearly, the sale to Vicente Espino, the alleged predecessor-in-interest of the Abad spouses did not involve the parcel of land, subject matter of this case, which is parcel 1, Lot 1, Plan Psu-131830.

Petitioners further argued that the private respondents' inaction for 50 years showed that they were not the owners of the subject parcels of land, and realty taxes were not paid by them. On the other hand, petitioners, who are in physical possession of the lots have been paying their obligation as landowners as shown by their respective tax declarations and tax receipts.

The argument of petitioners is without merit. It is a fundamental principle in land registration that the certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein,[21] in this case the private respondents' father, Antonio Francisco. A title once registered under the Torrens System cannot be defeated even by adverse, open and notorious possession; neither can it be defeated by prescription.[22] Petitioners cannot prove their ownership of the subject parcels of land through tax declarations and corresponding tax receipts inasmuch as they are not conclusive evidence of ownership.[23]

Further, the trial court found that defendant, herein petitioner Cervantes, had no right to the parcel of land which he and his siblings were occupying, thus:

Taking into consideration the documentary evidence presented by the plaintiffs, particularly that of TCT No. 2200 (Exhibit "A") which the parcel in question is included, among others, that the sale of the parcel in question was made by Juan Abad to Tranquilino Cervantes (father of defendant Antonio Cervantes) on January 22, 1947 took place when the said TCT No. 2200 was already existing in the name of Antonio Francisco, the late father of the herein plaintiffs. Said TCT No. 2200 was issued on November 8, 1924, or more than twenty-two (22) years before the aforesaid sale between Juan Abad and Tranquilino Cervantes. This clearly shows that what Juan Abad sold to Tranquilino Cervantes on January 22, 1947 was a parcel of land that did not belong to the former. It is because said parcel of land already belonged to Antonio Francisco for having obtained a title over said parcel of land covered by TCT No. 2200. Not being the owner of the parcel in question, Juan Abad did not transmit any right whatsoever with respect to the parcel in question. Well-settled is the rule that one cannot sell what he does not own and this rule has much force when the subject of the sale is a titled land that belongs to another person. Simply put, the sale of the parcel in question made by Juan Abad to Tranquilino Cervantes did not affect the title of Antonio Francisco over said parcel.[24]

Likewise, the trial court correctly held that defendants Abad had no right to the parcel of land they were occupying, thus:

The purchases alleged by the defendants-spouses on the questioned parcel of land beginning from their alleged primitive predecessor-in-interest Vicente Espino to Estefania Ignacio Vda. De F. Totañez to Juan Abad and Marcelino Nievera were never proven in court. The documentary evidence they presented before this Court were not sufficient to establish their right over the parcel in question. The Deed of Extra-Judicial Partition of Real and Personal Property with Sale has no probative value because it is self-serving. Besides, it sought to partition the parcel of land which is already covered by TCT No. 2200 issued in the name of Antonio Francisco. Simply stated, there was no property that they could partition among themselves because said property subject of the partition did not belong to their late father Juan Abad but to the late Antonio Francisco, the father of the plaintiffs.

The Deed of Absolute Sale (Exhibit "2") entered between Juan Abad and Tranquilino Cervantes, has no probative value also for being irrelevant. Besides, this is the same deed wherein this Court has already passed upon concerning its efficacy and ruled in the early part of this decision that it has no effect whatsoever to TCT No. 2200 issued in the name of the late Antonio Francisco.

The Tax Declaration issued in the name of the defendants-spouses and the corresponding Tax Receipts have no probative value also as against the TCT No. 2200 issued in the name of the late Antonio Francisco. It is because they are not proofs of ownership. TCT No. 2200, on the other hand, serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein--Antonio Francisco.

Further, after the expiration of the one year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible (*Pamintuan vs. San Agustin*, 43 Phil. 558).[25]

The Court of Appeals affirmed the decision of the trial court in toto, the same being in accordance with law and the evidence. Hence, the assailed Decision of the Court of Appeals should be as it is hereby affirmed.

WHEREFORE, the petition is DENIED for lack of merit. The assailed Decision of the Court of Appeals and its Resolution denying the motion for reconsideration are hereby AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Quisumbing, and Buena, JJ., concur.

[1] Penned by Associate Justice Corona Ibay-Somera and concurred in by Associate Justices Fidel P. Purisima and Asaali S. Isnani, Rollo, pp. 42-51.

[2] Penned by Judge Cornelio W. Wasan, Sr.

[3] Amended Complaint, Records, pp. 22-24.

[4] Exh. D-2-A, Records, p. 59; Exhibit F-2, Records, p. 64; Rollo, p. 22.

[5] Rollo, p. 22.

[6] Rollo, pp. 22-23.

[7] Amended Answer with Counterclaim, Records, pp. 25-29.

[8] Records, pp. 14-15.

[9] Records, pp. 14-16.

[10] Records, pp. 16-17.

[11] Pre-trial Order, Records, p. 33.

[12] Rollo, p. 28.

[13] Rollo, p. 51.

[14] Petition, p. 2; Rollo, p. 11.

[15] *Medida v. Court of Appeals*, 208 SCRA 887, 893 (1992).

[16] *Bergado v. Court of Appeals*, 173 SCRA 497, 501 (1989); citing *Permanent Concrete Products, Inc. v. Teodoro*, 26 SCRA 332 (1968).

[17] Records, p. 48.

[18] Records, p. 49; Exhibits F to F-2 are certified photocopies of TCT No. 2200.

[19] *People v. Sanchez*, 308 SCRA 264, 282 (1999).

[20] Records, pp. 59, 64.

[21] *Heirs of Mariano, Juan, Tarcela and Josefa Brusas v. Court of Appeals*, 313 SCRA 176, 183 (1999).

[22] Id.

[23] Director of Lands v. Intermediate Appellate Court, 195 SCRA 38, 44 (1991); Heirs of Mariano, Juan, Tarcela and Josefa Brusas v. Court of Appeals, 313 SCRA 176, 184 (1999).

[24] Rollo, pp. 25-26.

[25] Rollo, pp. 27-28.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.