

LEONCIA ALIPOON, MIGUELA ALIPOON, MORITA ALIPOON, NENITA ALIPOON, BENEDICTO ALIPOON, PETITIONERS⁰, VS. HONORABLE COURT OF APPEALS, MARCELINA ALVAREZ, CARMEN PEÑARANDA, ROSITA GA...

G.R. No. 127523. March 22, 1999

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

This is a petition for review on certiorari (under Rule 45 of the Revised Rules of Court) of the decision of the Court of Appeals in CA-G.R. CV No. 35654 dated August 27, 1996 which reversed and set aside the decision dated April 10, 1991 of the Regional Trial Court, Branch 61, Kabankalan, Negros Occidental in Civil Case No. 409 filed by Marcelina Alvarez, et al. for Annulment of Title, Reconveyance and Damages. The Regional Trial Court dismissed the complaint and declared therein defendants Leoncia Alipoon, et al. as the true, lawful and registered owners of Lot No. 663 situated in Cauayan, Negros Occidental covered by reconstituted Original Certificate of Title No. RO-12890 (N.A.) issued in 1989. The decision also declared TCT No. 17224 covering the same lot in the name of therein plaintiff Marcelina P. Alvarez as null and void.

On appeal, the Court of Appeals reversed the Regional Trial Court and declared as null and void reconstituted OCT No. RO-12890 (N.A.) issued in 1989 in the names of defendants-appellees, (petitioners herein) Leoncia Alipoon, et al. It declared plaintiffs-appellants, respondents herein, as the rightful owners of Lot No. 663 stating that their ownership thereof is evidenced by TCT No. T-17224 issued in their favor, which title is derived from OCT No. 28203 issued in the names of plaintiffs-appellants' parents. Defendants-appellees' motion for reconsideration of the CA decision was denied on December 2, 1996. Hence, the instant petition for review alleging that the Court of Appeals erred:

"(a) IN MISAPPREHENDING THE FACTS BY DECLARING THAT THERE IS NO ORIGINAL CERTIFICATE OF TITLE NO. RO-12890 (N.A.) ISSUED IN FAVOR OF DEFENDANTS-APPELLEES; THIS IS CONTRARY TO THE FINDINGS OF THE TRIAL COURT;

(b) IN NOT APPLYING THE LAW THAT ACQUISITIVE PRESCRIPTION IS UNAVAILING AGAINST THE CONCLUSIVE AND INDEFEASIBLE CHARACTER OF THE ORIGINAL CERTIFICATE OF TITLE."[1]

From the decision of the Court of Appeals, the following facts are gathered:

On December 18, 1930, pursuant to a Cadastral Decree of Registration No. 414946 spouses Fausto Alipoon and Silveria Duria, parents of herein petitioners, were declared as owners in fee simple of Lot No. 663 situated in Cauayan, Negros Occidental.

The Decree reads:

"Decree No. 414946

Cadastral Case No. 36, G.L.R.O. Cadastral Record No. 970 having been duly and regularly heard in accordance with the provisions of law, it is hereby decreed that the spouses Fausto Alipoon and Silveria Duria in the proportion of an undivided 1/2 share of each spouse of Cauayan, Province of Occidental Negros, P.I. are the owners in fee simple of certain land situated in said Province of Occidental Negros, more particularly bounded and described as follows:"[2]

Pursuant to the aforementioned Decree, Original Certificate of Title No. 28203 was issued on January 30, 1931 over Lot No. 663 in the names of spouses Fausto Alipoon and Silveria Duria. Thereafter, OCT No. 28203 was cancelled and in lieu thereof, TCT No. T-17224 was issued on March 16, 1933 in the name of Marcelina Alvarez, married to Agripino Alvarez, and mother of respondents. The following certification appears on the face of TCT No. 17224:

"It is further certified that said land was originally registered on the 30th day of January in the year nineteen hundred and thirty one in the Registration Book of this Office, Volume 85, page 51, as Original Certificate of Title No. 28203 pursuant to Decree No. 414946 issued in G.L.R.O Cadastral Record No. 970.

This certification is a transfer from Original Certificate of Title No. 28203 which is cancelled by virtue hereof as far as the above described land is concerned."[3]

Since 1933 and up to the present, respondents have been in continuous, open and adverse possession of said Lot No. 663.

On May 16, 1989, acting on a petition (for reconstitution of title) filed by Manuel Concha in behalf of private respondents Alvarez, et al., the Regional Trial Court, Branch 47, Bacolod City issued an order requiring the Register of Deeds to reconstitute TCT No. T-17224 using the owner's duplicate copy in the name of Marcelina Alvarez as basis thereof. However, when private respondents went to the Office of the Register of Deeds to have their title reconstituted, they were informed that a reconstituted title (OCT No. RO-12890 [N.A.]) over said Lot No. 663 was already issued in the names of herein petitioners Alipoon, et al. This prompted private respondents Alvarez, et al. to institute Civil Case No. 409 against petitioners for annulment of OCT No. RO-12890 (N.A.) and damages.

In dismissing the complaint and deciding in favor of defendants, the trial court ruled that therein plaintiffs Alvarez were not able to satisfactorily prove their ownership over the subject land and that the owner's copy of TCT No. T-17224 is "eroded with inherent defects". According to the trial court, TCT No. T-17224 does not bear the signature of the Register of Deeds; that the title is not authentic because the Register of Deeds issued a certification dated June 18, 1988 stating that as of June 18, 1988 there was no transfer certificate of title ever issued by the office over Lot No. 663 and that the title issued pursuant to Decree No. 414946 is OCT No. RO-12890 (N.A.) and not OCT No. 28203 which was the basis for the issuance of TCT No. T-17224.

The Court of Appeals disagreed with the findings of the trial court. It found the attestation and signature of the Register of Deeds on TCT No. T- 17224 though admittedly blurred as "still very visible". It also held that the June 18, 1988 certification of the Register of Deeds which reads:

"TO WHOM IT MAY CONCERN:

This is to certify that as per record of this Office, there is no existing title in the file of this Office covering Lot No. 663 of the Cadastral Survey of Cauayan.

This certification is issued upon the request of Morita Alipoon of Tiling, Cauayan, Negros Occidental for RECONSTITUTION PURPOSES."[4]

does not mean that the Office never issued a transfer certificate of title over Lot 663, as it merely states that as of

June 18, 1988, no title over Lot No. 663 is existing in its files, meaning that it does not have in its possession a copy of any title over Lot No. 663. The non-existence of a copy of TCT No. 17224 in the files of the Office of the Register of Deeds does not imply that a TCT over Lot No. 663 had never been issued/recorded.

The Court of Appeals also took exception to the ruling of the trial court that OCT No. RO-12890 (N.A.) is the title that was issued pursuant to Decree No. 414946 and not OCT No. 28203 which was the basis for the issuance of TCT No. T-17224. The certification appearing on the face of TCT No. T-17244 clearly shows that pursuant to Decree No. 414946 (the decree upon which petitioners based their claim for reconstitution in 1989), Original Certificate of Title No. 28203 was issued on January 30, 1931 which was later cancelled and in lieu thereof Transfer Certificate of Title No. T-17244 was issued on March 16, 1933 in the name of the predecessor of private respondents.

The instant petition is not impressed with merit.

We are convinced that based on the evidence presented, the Court of Appeals correctly upheld the genuineness of TCT No. T-17224 issued by the Register of Deeds of Negros Occidental on March 16, 1933 covering Lot No. 663 in the name of Marcelina P. Alvarez, predecessor of private respondents herein. Inasmuch as TCT No. T-17224 has been in existence as early as March 16, 1933, the issuance in 1989 of a reconstituted original certificate of title bearing the number OCT No. RO 12890 (N.A.) over Lot No. 663 in the name of petitioners' parents Fausto Alipoon and Silveria Duria is rendered legally doubtful, and the reconstituted title is void.

Republic Act No. 26 as amended, is the special law which provides for a specific procedure for the reconstitution of Torrens certificates of title lost or destroyed. Sections 2 and 3 thereof provide how original certificates of title and transfer certificates of title shall be respectively reconstituted and from what specific sources successively enumerated therein such reconstitution shall be made. Under the law, reconstitution is limited to lost or destroyed Torrens certificates of titles on file with the Register of Deeds. In view of the existence of TCT No. 17224 covering Lot No. 663 in the name of Marcelina Alvarez since March 16, 1933 which title is not in fact, "lost or destroyed," there was no necessity for the issuance in 1989 of reconstituted original certificate of title bearing number OCT No. RO-12890 (N.A.) covering also Lot No. 663. As correctly ruled by the Court of Appeals, such issuance is in violation of R.A. No. 26, thus:

"It is a basic rule that the reconstitution or reconstruction of a certificate of title literally and within the meaning of Republic Act No. 26, as amended, denotes restoration of the instrument which is supposed to have been lost or destroyed in its original form and condition. The purpose of the reconstitution of title or any document is to have the same reproduced, after proper proceedings in the same form they were when the loss or destruction occurred. If the court goes beyond such purpose it acts without or in excess of jurisdiction.

From the own admissions of defendants-appellees, the issuance of the Reconstituted Title in favor of the parents of defendants-appellees, is rendered doubtful. If no title was ever issued over lot 663, then defendants-appellees should have asked for the Issuance of Title pursuant to Decree No. 414946 and not for a reconstitution of title.

The existence of Transfer Certificate of Title No. 17224 issued in favor of plaintiffs-appellants further proves that the issuance of Reconstituted Original Certificate of Title in favor of defendants-appellees is void."

In *Serra Serra vs. Court of Appeals*,^[5] this Court already held that if a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void and the court rendering the decision has not acquired jurisdiction.^[6]

Accordingly, the Court of Appeals is correct in stating that the trial court erred when it declared that reconstituted original certificate of title bearing number OCT No. RO-12890 (N.A.) is the original title issued pursuant to

Decree No. 414946 and concluded that TCT No. T-17224 is not authentic because it was not issued pursuant to the cancellation and/or in lieu of OCT No. RO-12890 (N.A.).

In upholding the authenticity of TCT No. 17224 the respondent court stated as follows:

"The trial court did not give Transfer Certificate of Title No. 7224 any credence allegedly because it is eroded with inherent defects.

The trial court found that Transfer Certificate of Title No. 17224 does not bear the signature of the Register of Deeds.

We do not agree.

Evident from the Transfer Certificate of Title No. 17224 that the document was attested to by the Register of Deeds of Negros Occidental. Although blurred because of its age, the signature of the Register of Deeds is still very visible.

It is erroneous for the trial court to pronounce that this document was not signed by the Register of Deeds.

The trial court also ruled that Transfer Certificate of Title No. 17224 is not authentic because the Register of Deeds of Negros Occidental certified that there was no transfer certificate of title ever issued by the Office of the Register of Deeds over Lot 663.

Again, We do not agree. The certificate simply reads:

"TO WHOM IT MAY CONCERN:

This is to certify that as per record of this Office, there is no existing title in the file of this Office covering Lot No. 663 of the Cadastral Survey of Cauayan.

This certification is issued upon the request of Morita Alipoon of Tiling, Cauayan, Negros Occidental, for RECONSTITUTION PURPOSES."

The certification is very clear and simple. The Register of Deeds merely certified that as of June 18, 1988 no title over Lot 663 is existing in its file. Otherwise stated, the Register of Deeds certified that its office do not have in its possession a copy of any title over Lot 663.

The Register of Deeds never certified that its office never issued a transfer certificate of title over Lot 663. There is nothing in the certification from which such interpretation can be inferred. The fact that the Office of the Register of Deeds does not have in its file a title over Lot 663 does not imply that a transfer certificate of title was never issued over Lot 663.

It must be remembered that because of the World War II in 1941, all the documents recorded and issued by the Officer (sic) of the Register of Deeds, which may include Transfer Certificate of Title No. 17223 which was issued in 1933, were all destroyed. And unless these document (sic) are reconstituted, these document will certainly not be in the files of the Register of Deeds. But its non-existence in the files of the Register of Deeds would certainly not detract Us from the fact that these documents were recorded/issued.

Indeed, the fact that the title is not in the file of the Office of the Register of Deeds does not imply that a Transfer Certificate of Title had never been issued.

Therefore, on this ground, the Transfer Certificate of Title cannot be declared to be false."

It bears stress that in petitions for review on certiorari, the rule is well-settled that only questions of law may be brought by the parties and passed upon by the Supreme Court. The jurisdiction of this Court in cases brought

before it from the Court of Appeals is limited to reviewing or revising errors of law.[7] The findings of fact of the latter are conclusive for it is not the function of this Court to analyze or weigh such evidence all over again.[8] Unless there is a showing that the findings (of the Court of Appeals) complained of are totally devoid of support in the record or that they are so glaringly erroneous as to constitute serious abuse of discretion, this Court will respect and not disturb such findings.[9] We find no basis to deviate from the rule in the present case where petitioners' contentions all involve questions of fact and alleged misreading and/or misappreciation of the evidence by the Court of Appeals which are not proper in this review.[10]

This conclusion renders it unnecessary to discuss petitioners' second assigned error.

WHEREFORE, the petition is DENIED and the assailed Decision of the Court of Appeals is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Romero, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Rollo, p. 8.

[2] Exhibit B, Folder of Exhibits.

[3] Exhibit A, Folder of Exhibits.

[4] Exhibit D, Folder of Exhibits.

[5] 195 SCRA 482.

[6] See also *New Durawood Co., Inc. vs. Court of Appeals*, 253 SCRA 740; *Demetriou vs. Court of Appeals*, 238 SCRA 158.

[7] Section 1, Rule 45, 1997 Rules of Civil Procedure.

[8] *Castillo vs. Court of Appeals*, 260 SCRA 374; *Engineering and Machinery Corporation vs. Court of Appeals*, 252 SCRA 156; *Reyes vs. Court of Appeals*, 258 SCRA 651; *Laza vs. Court of Appeals*, 269 SCRA 654.

[9] *Sarao vs. Court of Appeals*, 278 SCRA 247.

[10] *Tañedo vs. Court of Appeals*, 252 SCRA 80

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