

FELIX CAMITAN, FRANCISCO CAMITAN, SEVERO CAMITAN AND VICTORIA CAMITAN, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND THE FIDELITY INVESTMENT CORPORATION, RESPONDENTS.

G.R. NO. 128099. December 20, 2006

Ponente: TINGA, J.

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TINGA, J.:

On 13 December 1967, the spouses Mateo Camitan and Lorenza Alcazar (spouses Camitan) sold to Fidelity Investment Corporation (respondent) a parcel of land covered by Transfer Certificate of Title (TCT) No. T-(11982)T-3188 located in Barangay Maunong, Calamba, Laguna. Upon the execution of the Deed of Absolute Sale, the spouses Camitan delivered to respondent corporation (respondent) the owner's duplicate certificate of title (Owner's Copy). From then on, respondent has been paying the real estate taxes due on the property and has remained in actual physical possession thereof.[1]

On 29 December 1993, after the death of the spouses Camitan, without the knowledge of respondent, the heirs of the spouses-petitioners herein - filed a petition for the issuance of a new Owner's Copy.[2] However, it appears that respondent was not given notice of such proceedings. The trial court issued an order of general default.[3] After an ex parte presentation of evidence by the petitioners, the trial court granted the petition and directed the Register of Deeds of Laguna to issue a new Owner's Copy, while at the same time declaring void the first Owner's Copy, per its Order dated 08 March 1995.[4]

When respondent learned of the petition and order for the first time in March 1995, it caused the annotation of a notice of sale on the title of the property. Thereafter, on 26 April 1995, it filed a Notice of Adverse Claim with the Register of Deeds of Calamba, Laguna.[5]

In a Petition[6] for annulment of judgment and cancellation of title before the Court of Appeals, respondent argued that the Order dated 08 March 1995 is null and void, having been issued by the trial court without jurisdiction since the Owner's Copy of TCT No. T-(11982)T-3188 exists and has been in its possession, and not lost as petitioners alleged. Moreover, it claimed that petitioners have no standing to file the petition, not being the registered owners of the property, nor persons in interest, since all the rights and interest of the spouses Camitan had already been transferred to respondent upon the sale of the property. Respondent further accused petitioners of perjury; intentionally suppressing from the trial court the fact that they were not in possession of the property; and not serving notice on respondent despite knowledge that it was in actual possession of the property.[7]

The Court of Appeals granted the petition and ordered the annulment of the impugned Order.[8] It found that the Owner's Copy is in the possession of respondent since 1967. Thus, petitioners do not own the property, nor do they have any interest thereon that could have been the subject of succession. Moreover, the Court of Appeals found that petitioners committed perjury in executing their Joint Affidavit of Loss in support of their petition before the trial court as they made it appear that the Owner's Copy was still in the possession of the spouses

Camitan, when in fact, as early as 1967, the same had already been given to respondent. Finally, citing *Demetriou v. Court of Appeals*[9] the Court of Appeals concluded that the trial court could not have acquired jurisdiction over the petition because the Owner's

Copy was never lost in the first place.[10] Petitioners sought reconsideration of the Resolution, but the motion was denied for lack of merit.[11]

Petitioners now claim that they have no knowledge of the purported sale and that they were not aware of any claim whatsoever over the property in question for over twenty-seven-(27) years, stressing that property is still registered, declared for taxation, and realty taxes paid thereon in the name of the spouses Camitan.[12] They argue that the Court of Appeals erred in finding that the Owner's Copy was not lost but was in fact in the possession of respondent since there was no documentary proof to support such conclusion. According to petitioners, respondent was not able to present even a photocopy of the Owner's Copy to prove its possession thereof since 1967 and thus the Court of Appeals did not acquire jurisdiction over the petition for annulment.[13]

Petitioners add that respondent is guilty of estoppel and laches in asserting its alleged rights over the property. The unexplained concealment for a long time of its possession of the purported deed of absolute sale and Owner's Copy, and its non-registration of the deed in its name run counter to the natural course of things and are devoid of credence.[14]

Lastly, petitioners allege that the property in question could be a portion of the land surrendered to the Presidential Commission on Good Government (PCGG) as part of the ill-gotten wealth of former President Ferdinand Marcos, and that the sole purpose of respondent's concealment of the deed of absolute sale is to prevent sequestration thereof.[15]

On the other hand, respondent argues that its non-registration of title does not affect its ownership of the property because by the execution of the deed of absolute sale, the spouses Camitan had effectively divested themselves of all the rights, title and interest over the property. Moreover, save for their bare allegations, petitioners have not been able to rebut the presumptive authenticity of the deed of absolute sale. Lastly, respondent posits that there is no basis for the allegation that the property in question is part of the former President's ill-gotten wealth.[16]

Anent the claim that it failed to attach even a photocopy of the Owner's Copy, respondent claims that there is no rule which requires that the such document should be included in a petition for annulment of judgment. Besides, petitioners never disputed respondent's possession of the title, but in fact merely categorized such possession as one in bad faith. More importantly, the argument that respondents should have attached the Owner's Copy of the title was raised for the first time in petitioners' motion for reconsideration of this Court's resolution dated 18 June 1997 dismissing the instant petition.[17] Finally, respondent maintains that petitioners are estopped from questioning the jurisdiction of the Court of Appeals since they actively participated in the proceedings therein.[18]

In a nutshell, the petition presents a very simple question: Whether the Court of Appeals erred when it ordered the annulment of the 08 March 1995 Order of the trial court which directed the Register of Deeds to issue a second Owner's Copy of the title.

The Court of Appeals did not. The petition must be denied.

Annulment of judgment is a recourse equitable in character, allowed only in exceptional cases as where there is no available or other adequate remedy.[19] An action for annulment of judgment is grounded only on two justifications: (1) extrinsic fraud; and (2) lack of jurisdiction or denial of due process. The purpose of such action is to have the final and executory judgment set aside so that there will be a renewal of litigation.[20]

The annulment of the Order dated 08 March 1995 was premised on the lack of jurisdiction of the trial court, apparently brought about by the fact that, as found by the Court of Appeals, the duplicate certificate of the title was not lost nor destroyed, but has remained in the possession of respondent which purchased the real property from the spouses Camitan in 1967. The Court finds no reason to disturb the finding of the appellate court.

The petition for issuance of the new Owner's Copy before the trial court was filed pursuant to Presidential Decree No. 1529, otherwise known as the "Property Registration Decree," Section No. 109 of which provides:

SEC. 109. Notice and replacement of lost duplicate certificate.—In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

Thus, before a duplicate certificate of title can be replaced, the petitioner under the foregoing provision must establish that the duplicate certificate was lost or destroyed. This Court has consistently held that a trial court does not acquire jurisdiction over a petition for the issuance of a new owner's duplicate certificate of title, if the original is in fact not lost but is in the possession of an alleged buyer.[21] In other words, the fact of loss of the duplicate certificate is jurisdictional.

Petitioners question the Court of Appeals' Resolution, claiming that respondent failed to attach to its petition for annulment of judgment of the Owner's Copy itself, or even a photocopy thereof. Thus, they argue there was no proof that respondent has been in possession of the duplicate certificate. That being the situation, the trial court validly acquired jurisdiction over their petition for issuance of a new Owner's Copy, petitioners conclude.

Respondent, so it appears, did not attach to its petition for annulment of judgment the Owner's Copy of the title. This lapse, however, does not suffice as basis to set aside the questioned resolutions of the Court of Appeals.

A review of the records of the case shows that petitioners never questioned respondent's possession of the Owner's Copy, its actual and physical possession and occupation of the property, as well as its payment of real estate taxes due on the property.

In its petition for annulment before the Court of Appeals, respondent alleged that:

- On December 13, 1967, the spouses Camitan sold the Property to petitioner, as documented by a "Deed of Absolute Sale" dated 13 December 1967, a copy of which is attached hereto as annex "C". Pursuant to the said Deed of Absolute Sale, petitioner paid the purchase price in full.
- Upon the execution of the Deed of Absolute Sale, the vendors delivered to petitioner the owner's duplicate copy of the Title, which Title has since been in the possession of petitioner. Also, since 1967 and to this day, petitioner has been in actual physical possession and continuous occupation of the above-described Property. Moreover, petitioner has been the one paying the real estate taxes due on the Property.[22]

While for its part, respondent treated the allegations perfunctorily in this wise in its Comment:

SPECIFIC DENIALS

x x x x

2. Private respondents deny specifically paragraphs 4 and 5 of the said petition for lack of knowledge and information sufficient to form a belief as to the truth of falsity of the allegations contained therein and as heretofore substantiated.[23]

The relevant provisions of the Rules of Court are Sections 10 and 11, Rule 8, which read:

SEC. 10. Specific denial. —A defendant must specify each material allegation of fact the truth of which he does not admit and, whenever practicable, shall set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny only a part of an averment, he shall specify so much of it as is true and material and shall deny only the remainder. Where a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial. (Emphasis supplied)

SEC.11. Allegation not specifically denied deemed admitted.— Material averment in the complaint, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied. Allegations of usury in a complaint to recover usurious interest are deemed admitted if not denied under oath. (Emphasis supplied)

Although petitioners put their unmistakably sparse denial of respondent's allegations relative to the execution of the deed of sale in its favor and its possession of the Owner's Copy under the heading "SPECIFIC DENIALS" and anteceding it with the adverb "specifically," the same cannot function as an operative denial within the purview of the Rules. A denial is not specific simply because it is so qualified by the defendant. A general denial does not become specific by the use of the word "specifically." When the matters of whether the defendant alleges having no knowledge or information sufficient to form a belief, are plainly and necessarily within the defendant's knowledge, his alleged ignorance or lack of information will not be considered as a specific denial.[24] In one case, it was held that when a respondent makes a "specific denial" of a material allegation of the petition without setting forth the substance of the matters relied upon to support its general denial, when such matters were plainly within its knowledge and the defendant could not logically pretend ignorance as to the same, said defendant fails to properly tender an issue.[25] Petitioners' "specific denial" in this case is ineffective and amounts to an admission pursuant to Rule 8, Sec. 11 of the Rules of Court.

Petitioners make an issue of the lack of material evidence to support the Court of Appeals' conclusion that the Owner's Copy was not lost, because respondent failed to attach the said Owner's Copy or even a photocopy thereof. The argument is unavailing.

Firstly, there is no need of proof because of petitioners' implied admission thereof.

Secondly, the matter should have been raised in the proceedings before the Court of Appeals and not before this Court. Despite various opportunities, petitioners failed to do so before the Court of Appeals. In fact, it was only in petitioners' Motion for Reconsideration of our

Resolution dated 18 June 1997 dismissing their petition[26] that they claimed that the Court of Appeals committed "grave error tantamount to lack of jurisdiction thereof when it declared annulled the contested Order x x x x for lack of material evidence to support that the said title was lost." [27] We have consistently held that matters, theories or arguments not brought out in the original proceedings cannot be considered on review or appeal where they are raised for the first time.[28]

Finally, having actively participated in the proceedings before the Court of Appeals, petitioners can no longer

question its authority.[29]

Everything considered, the Court of Appeals was satisfied that the Owner's Copy of the TCT No. (T-11982) T-3188 is not lost, but rather, as admitted by petitioners, it has been in the possession of another person. We find no reason to disturb the said finding.

Petitioners' other claims, to wit: (i) respondent is guilty of estoppel and laches in asserting its rights over the property; (ii) respondent is guilty of fraud and bad faith when it concealed the possession of the deed of absolute sale of the property and the Owner's Copy, and when it failed to register and have the title of the property transferred to its name; and (iii) the property in question could be a part of ill-gotten wealth surrendered to the PCGG, are immaterial and irrelevant to the case. Thus, there is no need to dwell on them. The instant petition merely questions the propriety of the annulment order on the ground of the trial court's lack of jurisdiction. Any other issues, such as the ownership of the property, or the motives for the non-registration of the sale or the non-transfer of the title are beyond the ambit of the petition. Besides, the determination of said issues necessitates a factual inquiry which this Court does not perform in a petition for review.[30]

WHEREFORE, the petition is DENIED and the challenged resolution of the Court of Appeals is AFFIRMED, with costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Respondent's Petition in the Court of Appeals, Rollo, pp. 85-94, 87.

[2] Docketed as SLRC Case No. 1199-1993-C, raffled to Branch 35, Regional Trial Court of Calamba.

[3] Order dated 08 March 1995, rollo, pp. 61-62.

[4]Id. at 82-84.

[5]Id. at 248.

[6] Id. at 161-170 and 237-246.

[7]Id.

[8] Resolution of the Court of Appeals dated 31 May 1996, id. at 115-119.

[9] G.R. No. 115595, 14 November 1994, 238 SCRA 158, 162.

[10]Rollo, pp. 117-118.

[11] Id. at 132.

[12] Id. at 44.

[13]Reply (for the Petitioners); id. at 317-321.

[14]Id. at 45-48.

[15] Id. at 48-50.

[16]Id. at 232-234.

[17]The petition was dismissed for being filed out of time and for failure to submit an affidavit of service of

copies to respondents. The petition, however, was reinstated on 25 August 1997 upon the motion for reconsideration filed by petitioners.

[18] *Id.* at 327-330.

[19] *Espinosa v. Court of Appeals*, G.R. No. 128686, 28 May 2004, 430 SCRA 96, 103, citing *Barco v. Court of Appeals*, G.R. No. 120587, 20 January 2004, 420 SCRA 162.

[20] *Hi-Tone Marketing Corporation v. Baikal Realty Corporation*, G.R. No. 149992, 20 August 2004, 437 SCRA 121, 131.

[21] *Straight Times, Inc. v. Court of Appeals*, 356 Phil. 217, 227-228 (1998); *Demetriou v. Court of Appeals*, *supra* note 9; *Arcelona v. Court of Appeals*, 345 Phil. 250, 265 (1997).

[22] *Rollo*, p. 87.

[23] Comment to the petition for annulment, *id.* at 97-113, 111.

[24] *Philippine National Bank v. Court of Appeals*, G.R. No. 126153, 14 January 2004, 419 SCRA 281, 287, citing *Vergara v. Suelto*, 156 SCRA 753 (1987).

[25] *J.P. Juan & Sons, Inc. v. Lianga Industries, Inc.*, 139 Phil. 77, 84.

[26] *Rollo*, pp. 148-149.

[27] *Id.* at 153.

[28] *De Rama v. Court of Appeals*, G.R. No. 131136, 28 February 2001, 353 SCRA 94, 108, citing *Salafranca v. Philamlife Village Homeowners Association, Inc.*, 300 SCRA 469, 480 (1998).

[29] *Spouses Refugia, et al. v. Court of Appeals*, G.R. No. 118284, 05 July 1996, 258 SCRA 317, 356.

[30] *Naguiat v. Court of Appeals*, 459 Phil. 237, 241 (2003).

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