ROLANDO Y. TAN, PETITIONER, VS. THE COURT OF APPEALS, THE HEIRS OF JOSE L. ATEGA, FRANCISCO B. AALA, HAYDEN B. LUZON AND LEONCIO PADERES, RESPONDENTS.

G.R. No. 135038. November 16, 2001

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Pedro Torrevillas and Lorenzo Atega were the co-owners of a parcel of land known as Lot No. 436-A, situated in Poblacion, Butuan City, containing an area of 9,321 square meters. A petition for reconstitution of title to the said lot was filed by Torrevillas, docketed as Cadastral Case No. 10 of the Court of First Instance of Agusan. During the pendency of the proceedings therein, Torrevillas and Atega executed an agreement whereby Atega shall own the northern portion of the lot consisting of 5,938 square meters, denominated as Lot 436-A-1; while Torrevillas shall own the southern portion consisting of 3,383 square meters, denominated as Lot 436-A-2.[1]

Meanwhile, on April 8, 1940, Lorenzo Atega sold to Faustino Fortun a portion of Lot No. 436-A containing an area of 322 square meters.[2] On November 2, 1946, Atega sold to Fortun another portion of the lot consisting of 56 square meters.[3] Finally, on August 9, 1951, Bernardo Atega, with the consent of Atega, sold to Eduardo Amper a 450-square meter portion of the lot.[4] Faustino Fortun and Eduardo Amper sold the land, containing a total area of 828 square meters, to Ismael Elloso, by virtue of deeds of sale executed on July 2, 1951[5] and November 6, 1951,[6] respectively.

Subsequently, Torrevillas and Atega entered into another agreement to the effect that the reconstituted title shall be issued in the name of Pedro Torrevillas only, but that the memorandum of encumbrances thereof shall contain the claims of Atega and other vendees who have acquired portions of the lot from him, including Ismael Elloso.[7] On March 30, 1955, Original Certificate of Title No. RO-99 was issued in the name of Torrevillas.[8] The title contained the claim of Lorenzo Atega, described as "the portion towards the North from the line connecting corners 12 and 25 of Lot 436-A".[9]

Pedro Torrevillas executed on March 4, 1957 a Deed of Quitclaim,[10] wherein he recognized the rights of Ismael Elloso over the 828-square meter portion of land in Lot No. 436-A-1. The Deed of Quitclaim was annotated on OCT No. RO-99 as Entry No. 2700 dated April 15, 1959. The said OCT was later cancelled by TCT No. RT-1451,[11] then by TCT No. RT-5511[12] and TCT No. RT-5758.[13] The claims of Lorenzo Atega and Ismael Elloso were annotated on all of these titles.

On November 24, 1975, petitioner Rolando Tan acquired from the Estate of Ismael Elloso the latter's 828-square meter portion of land in Lot No. 436-A-1.[14] Sometime in July 1978, petitioner discovered that respondent Leoncio Paderes had constructed a building on the said land. Thus, he made demands on Paderes to vacate the said land, but the latter refused. On November 13, 1978, petitioner instituted a complaint for accion publiciana against Leoncio Paderes, docketed as Civil Case No. 2116.

It appears that on March 3, 1975, after the death of Lorenzo Atega, his son, Jose Atega, sold a 40-square meter

portion of Lot 436-A-1 to Barbara Quiñones.[15] On February 11, 1977, Quiñones sold the same to Antipolo Paderes, wife of Leoncio Paderes.[16] On August 7, 1990, Jose Atega executed in favor of Leoncio Paderes a Deed of Confirmation of Deed of Sale, affecting 29 square meters of the property.[17] While the case was pending, or on November 5, 1990, TCT No. RT-22040,[18] covering 69 square meters of Lot No. 436-A-2, was issued in the name of Leoncio Paderes.

During his lifetime, Lorenzo Atega sold portions of his lot to different persons, among them Capistrano Leyson, who acquired a 305-square meter portion of Lot 436-A on March 3, 1979, and for which TCT No. RT-12332 was issued in his name.[19] Leyson, in turn, sold the land to respondent Francisco Aala.[20] Accordingly, TCT No. RT-12332 was cancelled by TCT No. 12368 in the name of Aala.

On the other hand, respondent Hayden Luzon acquired 430 square meters of the land from his father, who purchased the same from Lorenzo Atega on installment in the year 1957 or 1958. After the payment of the purchase price in full in 1987, TCT No. RT-18705[21] covering 175 square meters and TCT No. RT-19113[22] covering 255 square meters were issued in the name of respondent Luzon.

Petitioner filed a complaint for quieting of title, reconveyance, annulment of certificates of title, damages and attorney's fees, docketed as Civil Case No. 381, against respondents Francisco B. Aala, Jose Atega, and Hayden Luzon. This case was consolidated with Civil Case No. 2116 and heard jointly by the Regional Trial Court of Butuan City, Branch I.

Meanwhile, TCT Nos. RT-11940,[23] RT-17570,[24] and RT-19114,[25] were issued in the name of Lorenzo Atega. However, the claim of Ismael Elloso was not annotated on any of these titles. Curiously, too, the land registered therein was described as Lot No. 436-A-2, instead of Lot No. 436-A-1 as earlier agreed upon between Atega and Torrevillas. In order to protect his claim to the lands, petitioner Tan registered an adverse claim on the title as Entry No. 32638.

On April 27, 1995, the trial court rendered a decision in favor of petitioner, the dispositive portion of which reads:[26]

> WHEREFORE, judgment is hereby rendered as follows:
>
> In Civil Case No. 381:
>
> - Declaring plaintiff Rolando Y. Tan the absolute owner of the eight hundred twenty eight (828) square meter portion of land subject of this case;
>
> - Ordering defendant Francisco Aala to cause the relocation or resurvey of the area covered by his title taking into consideration the technical description of all the adjoining lots to identify the 100 square meters belonging to the plaintiff, after which defendant Aala is ordered to reconvey said 100 square meters of land to the plaintiff. Defendant Aala is also ordered to demolish whatever structure there is on the land at his own expense;
>
> - Ordering the Register of Deeds of Butuan City to cancel all the certificates of title subject of this case and ordering defendant Luzon to vacate and reconvey the lots (430 square meters) to the plaintiff. Luzon is further ordered to demolish whatever structure he has on the land at his own expense;
>
> - Ordering defendant Jose Atega or his heirs, successors-in-interest, pursuant to Sec. 53 of P.D. 1529, to surrender and deliver the owner's duplicate certificate of title No. RT-11940 to the Register of Deeds of Butuan City, and ordering the Register of Deeds to annotate Entry No. 2700 in the memorandum of encumbrances. The Register of Deeds is also ordered to segregate the portion of Ismael Elloso, the predecessor-in-interest of the plaintiff. After compliance, the Register of Deeds is ordered to issue a new transfer certificate of title over

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the said 828 square-meter lot in the name of plaintiff Rolando Tan; and

- Ordering all the defendants to pay attorney's fees in the amount of P45,000.00 apportioning the said amount among themselves; and to pay litigation expenses in the amount of P149.00.

In Civil Case No. 2116:

- Declaring plaintiff Rolando Y. Tan the absolute owner of the eight hundred twenty eight (828) square meter portion of land subject of this case;

- Ordering defendant Leoncio Paderes to reconvey the sixty-nine (69) square meters of the lot acquired by him from Jose Atega in favor of plaintiff Rolando Y. Tan;

- Ordering the Register of Deeds of Butuan City to cancel TCT No. RT-22040 issued to Leoncio Paderes, and ordering defendant Paderes to pay attorney's fees in the amount of P5,000.00 for compelling plaintiff to litigate to protect his rights and interests;

- Ordering defendant Paderes to demolish whatever structure he has built on the 69 square-meter land at his own expense; and

- Ordering defendant to pay litigation expenses in the amount of P67.00.

IT IS SO ORDERED.[27]

Respondents appealed the decision to the Court of Appeals, docketed as CA-G.R. CV No. 50400. In the assailed decision dated July 31, 1998, the Court of Appeals reversed the decision of the trial court, and dismissed Civil Cases Nos. 2116 and 381.[28]

Hence, this petition for review, anchored on the following assignment of errors:

First

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT DETERMINED, QUITE ERRONEOUSLY DESPITE REPEATED URGINGS BY PETITIONER IN FOUR SEPARATE APPELLEE'S BRIEFS IN CA-G.R. CV NO. 50400 THAT THE APPELLANTS' BRIEFS RAISED ONLY AND PURELY QUESTIONS OF LAW WHICH THUS DIVESTED IT OF JURISDICTION TO ENTERTAIN OR DECIDE SAID QUESTIONS.

Second

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN ON ITS OWN AND BY ITSELF IT ERRONEOUSLY DETERMINED, WITHOUT ANY ARGUMENTS FROM RESPONDENTS, THAT PETITIONER TAN WAS NOT THE OWNER OF 828 SQUARE METERS OF LAND AND CONTRARY TO THE DECISION OF THE LOWER COURT.[29]

We find merit in the petition.

It is true that factual issues are not within the province of this Court, as it is not a trier of facts and is not required to examine or contrast the oral and documentary evidence de novo. Nevertheless, this Court has the authority to review and, in proper cases, reverse the factual findings of lower courts in the following instances: (a) when the findings of fact of the trial court are in conflict with those of the appellate court; (b) when the judgment of the appellate court is based on a misapprehension of facts; and, (c) when the appellate court manifestly overlooked certain relevant facts which, if properly considered, would justify a different conclusion.[30]

The instant case falls squarely within the foregoing exceptions.

This case involves a double sale of land in favor of Ismael Elloso, petitioner's predecessor-in-interest, on the one hand, and in favor of private respondent Hayden Luzon, Capistrano Leyson and Barbara Quiñones, on the other hand. Hence, the issue to be resolved is --- who has a better right to the land?

The pertinent provision, Article 1544 of the Civil Code, states:

> If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.
>
> Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
>
> Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Applying the above-quoted provision of law, the Court of Appeals held that respondents have a better right to the lot in question since they first registered the transfer of title to them with the Register of Deeds. On the other hand, it found that petitioner failed to register his acquisition of the land.

The foregoing rule, however, is not a hard-and-fast one. Specifically, it does not apply where the first registrants did not act in good faith, such as where they had notice of the prior sale of the land to another. In Uraca v. Court of Appeals,[31] we held:

> Under the foregoing, the prior registration of the disputed property by the second buyer does not by itself confer ownership or a better right over the property. Article 1544 requires that such registration must be coupled with good faith. Jurisprudence teaches us that "(t)he governing principle is primus tempore, potior jure (first in time, stronger in right). Knowledge gained by the first buyer of the second sale cannot defeat the first buyer's rights except where the second buyer registers in good faith the second sale ahead of the first, as provided by the Civil Code. Such knowledge of the first buyer does not bar her from availing of her rights under the law, among them, to register first her purchase as against the second buyer. But in converso, knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register the second sale, since such knowledge taints his prior registration with bad faith. This is the price exacted by Article 1544 of the Civil Code for the second buyer being able to displace the first buyer; that before the second buyer can obtain priority over the first, he must show that he acted in good faith throughout (i.e. in ignorance of the first sale and of the first buyer's rights) - from the time of acquisition until the title is transferred to him by registration or failing registration, by delivery of possession. (Cruz vs. Cabana, 129 SCRA 656, 663, June 22, 1984, Emphasis supplied).

In the case at bar, there is evidence showing not only that respondents Hayden Luzon and Leoncio Paderes were not ignorant of the sale of the lot by Ismael Elloso to petitioner, but also that the latter was ahead in registering his acquisition of the lot with the Register of Deeds.

It should be recalled that Hayden Luzon bought his property from Lorenzo Atega on sale by installment, commencing in 1957 or 1958 and ending in 1987. Leoncio Paderes bought a portion of his property in 1977 and the remaining portion in 1990. At that time, no registration of their claims had been made in their favor, much less any title issued in their name. On the other hand, petitioner caused the registration of the Deed of Sale in his favor with the Register of Deeds in November 1979, soon after title was issued in the name of Lorenzo Atega, segregating his share in Lot No. 436-A. This is shown by the following testimony of petitioner, to wit:

> Q
>
> When did you learn for the first time that there was such a TCT No. RT-11940 in the name of Lorenzo Atega?

A

Sometime in February 5, 1979, we found out that under TCT No. RT-11940, there was supposed to be an annotation of encumbrance for the claim of Elloso and under that title, it was no longer there.

Q

You only discovered this in 1979?

A

Yes, Sir.

Q

That is why in November of that same year, you had your deed of sale registered in the Registry of Deeds, is that correct? This deed of sale between you and Josefina Tudtud was executed sometime in 1975 and you had it registered only in 1979. Do you remember that?

A

Yes, Sir.[32]

It is also on record that petitioner filed a notice of adverse claim, which was duly annotated on Atega's title as Entry No. 32638. In this connection, it has been held that a notice of adverse claim remains valid even after the lapse of the 30-day period provided by Section 70 of P.D. No. 1529, or the Property Registration Decree. More particularly, we ruled in the case of Diaz-Duarte v. Spouses Ong:[33]

> We explained in Sajonas that for as long as there is yet no petition for its cancellation, the notice of adverse claim remains subsisting. Thus:
> "At first blush, the provision in question would seem to restrict the effectivity of the adverse claim to thirty days. But the above provision cannot and should not be treated separately, but should be read in relation to the sentence following, which reads:
>
> `After the lapse of said period, the annotation of the adverse claim may be cancelled upon filing of a verified petition therefor by the party in interest.'
>
> "If the rationale of the law was for the adverse claim to ipso facto lose force and effect after the lapse of thirty days, then it would not have been necessary to include the foregoing caveat to clarify and complete the rule. For then, no adverse claim need be cancelled. If it has been automatically terminated by mere lapse of time, the law would not have required the party in interest to do a useless act."

In a petition for cancellation of adverse claim, a hearing must first be conducted. The hearing will afford the parties an opportunity to prove the propriety or impropriety of the adverse claim. Petitioner was unlawfully denied this opportunity when the Registrar of Deeds automatically cancelled the adverse claim. Needless to state, the cancellation of her adverse claim is ineffective.

Both the prior registration of the deed of sale in his favor, as well as the adverse claim, effectively gave Luzon and Paderes notice of petitioner's right on the subject land. It bears stressing that the adverse claim of petitioner was annotated prior to the registration of title in the names of Luzon and Paderes.

Moreover, prior to the registration of title in Paderes' name, he had knowledge of the case already filed by petitioner respecting the subject land. This was admitted by Paderes' wife on cross-examination, as follows:

"Q

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Now, when was it again that you bought an additional 2 square meters allegedly adjacent to the 40 square meters from Jose Atega?

A

August 8, 1990.

Q

So, on August 8, 1990, you bought the 29 square meters from Jose Atega?

A

Yes, sir.

Q

And this was the time when the instant case filed by Dr. Rolando Tan against you was pending?

xxx xxx xxx

A

Yes, I was aware.[34]

To reiterate, before second buyers like Luzon and Paderes can obtain priority over a first buyer like Ismael Elloso, petitioner's predecessor-in-interest, they must show that they acted in good faith throughout, having been ignorant of the first buyer's rights, from the time of their acquisition until the title was transferred to them by registration. The requirement is such that the second buyer must show continuing good faith and innocence or lack of knowledge of the first sale until his contract ripens into full ownership through prior registration as provided by law.[35] Evidently, both Luzon's and Paderes' claim on the subject land must yield in favor of petitioner's.

There is yet another concern respecting the claim of private respondent Leoncio Paderes. Upon reviewing the evidence on record, we found that the Deed of Sale between Jose Atega and Barbara Quiñones referred to a Lot No. 45, which is obviously different from the subject lot, Lot No. 436. Furthermore, the Deed of Sale between Paderes and Quiñones could not have referred to the subject lot because it spoke of a lot which "has never been registered under Act 496 nor under the Spanish Mortgage Law". The records also show that the lot in question had been registered as early as March 30, 1955, when OCT No. RO-99 was issued over Lot No. 436-A in the name of Pedro Torrevillas.[36] Thus, even on the basis of his own evidence, Paderes' claim over the subject land cannot succeed.

Francisco B. Aala's case, however, differs from that of the two aforementioned private respondents, in that he appears to be a third party buyer in good faith. He derived his title not directly from Lorenzo Atega, but from

Capistrano Leyson, whose own title contained no encumbrance or annotation of either petitioner's or Elloso's claim. It appears that Aala merely relied on the certificate of title in the name of Leyson without any knowledge of facts and circumstances which would have caused him to suspect that there were possible defects in the title of Leyson. Again, he bought the subject property from Leyson free from any lien or encumbrance or any notice of adverse claim annotated thereto. Aala only learned of petitioner's claim in June 1979 when petitioner annotated his claim on TCT No. RT-12368. Thus, Aala was an innocent third party buyer for value.[37]

Finally, we find sufficient evidence that private respondents' respective landholdings overlapped that of petitioner's. Engr. Ernesto Campus, Jr., the Geodetic Engineer hired by Jose Atega and Hayden Luzon, admitted during cross-examination that petitioner's land was within that covered by TCT No. 11940 of Lorenzo Atega, the derivative title of private respondents' respective titles. Thus:

> Q
>
> Last question, Mr. Witness. Considering the technical description of the land in TCT No. RT-11940, and considering the technical description found on Exhibit "GG", particularly Lot 436-A-1 containing an area of 828 square meters, can you tell the court whether this lot containing an area of 828 square meters is inside the property described in TCT No. RT-11940?
>
> A
>
> What I believe is that, this is inside Lot 436, but because if a big area of this title which is more than a half hectare, 5,286 square meters, since I have not seen this document, that it why I surveyed it.
>
> Q
>
> So, your answer is that Lot 436-A-1, containing an area of 828 square meters is inside the lot or land, parcel of land covered by TCT No. RT-11940? Just answer yes or no.
>
> A
>
> Yes, sir.[38]

Moreover, the report of witness Engr. Federico Lamigo shows that Aala's land overlaps that of petitioner by one hundred (100) square meters, Luzon's by four hundred thirty (430) square meters and Paderes' by forty (40) square meters.

The land purchased by Aala from Leyson was found by the trial court to encroach on petitioner's lot by One Hundred square meters. Hence, there is a need to subdivide Lot 436-A-1 of petitioner and convey to Aala the 100 square-meter portion pertaining to him. Lorenzo Atega, who caused the double sale of portions of Lot 436-A, first to Faustino Fortun and Eduardo Amper, petitioner's predecessors-in-interest, and subsequently to Cipriano Leyson, who sold the same to Francisco Aala, should be held liable to petitioner for the value of the said 100 square-meter portion. For this purpose, the case must be remanded to the trial court.

WHEREFORE, the instant petition for review is GRANTED. The Decision of the Court of Appeals in CA-G.R. CV No. 50400 is REVERSED and SET ASIDE. The decision of the Regional Trial Court of Butuan City, Branch 1, in Civil Cases Nos. 381 and 2116, is REINSTATED, except insofar as respondent Francisco Aala is concerned. Instead, the case is REMANDED to the trial court for further proceedings, respecting the partition of the Lot between petitioner and respondent Francisco Aala. Finally, the Heirs of Jose L. Atega are ORDERED to pay to petitioner the fair market value of the 100 square-meter portion to be removed from his lot, the amount of which shall be determined by the trial court in appropriate proceedings.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

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[1] Exh. "B", Records, pp. 17-19.

[2] Exh. "BBB".

[3] Exh. "CCC".

[4] Exh. "EEE".

[5] Exh. "AAA".

[6] Exh. "DDD".

[7] Exh. "E", Records, pp. 14-16.

[8] Exh. "J", Records, pp. 616-619.

[9] Ibid.

[10] Exh. "GG", Records, pp. 640-641.

[11] Exh. "C-3", Records, pp. 620-624.

[12] Exh. "C-4", Records, pp. 625-626.

[13] Exh. "C", Records, pp. 627-631.

[14] Exh. "A", Records, pp. 12-13.

[15] Exh. "1"-Paderes, Records, Civil Case No. 2116, p. 293.

[16] Exh. "3"-Paderes, Records, Civil Case No. 2116, p. 295.

[17] Exh. "12"-Paderes, Records, Civil Case No. 2116, p. 304.

[18] Exh. "11"-Paderes, Records, Civil Case No. 2116, p. 303.

[19] Exh. "O".

[20] Exh. "L".

[21] Exh. "2"-Luzon, Records, pp. 668-669.

[22] Exh. "3"-Luzon, Records, p. 671.

[23] Exh. "N", Records, pp. 632-633.

[24] Exh. "7"-Atega, Records, pp. 634-636.

[25] Exh. "8"-Atega, Records, pp. 637-639.

[26] Penned by Judge Cipriano B. Alvizo, Jr.; Records, pp. 715-738.

[27] Records, pp. 736-738.

[28] Penned by Associate Justice Minerva P. Gonzaga-Reyes; concurred in by Associate Justices Hector L.

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Hofileña and Omar U. Amin; Rollo, pp. 48-69.

[29] Rollo, pp. 31 & 37.

[30] Lagon v. Hooven Comalco Industries, Inc., G.R. No. 135657, 17 January 2001, citing Imperial v. Court of Appeals, 259 SCRA 65, 71 [1996] and Reyes v. Court of Appeals, 258 SCRA 651 [1996].

[31] 278 SCRA 702 [1997].

[32] TSN, November 29, 1990, pp. 12-13.

[33] 298 SCRA 388 [1998], citing Sajonas v. Court of Appeals, 258 SCRA 79 [1996].

[34] T.S.N., April 11, 1991, pp. 25 & 29.

[35] See Cheng v. Genato, supra.

[36] Exh. "J", Records, pp. 616-619.

[37] See Legarda v. Court of Appeals, G.R. No. 94457, 280 SCRA 642 [1997].

[38] T.S.N., 15 February 1993, pp. 9-10.

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