

**ERNESTO L. JARDELEZA, JR., GLENDA L. JARDELEZA-UY, AND
GILDA LEDESMA-JARDELEZA, PETITIONERS, VS. THE HON.
PRESIDING JUDGE, REGIONAL TRIAL COURT, 6TH JUDICIAL
REGION, BRANCH 22, ...**

G.R. No. 139881. December 18, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

Appeal via certiorari from the decision of the Court of Appeals[1] that denied the petition[2] to set aside the trial court's order[3] requiring petitioners to surrender to the branch clerk of court the owner's duplicate certificate of title No. T-114669, covering Lot No. 3303-B of the Cadastral Survey of Iloilo City, subject to the outcome of Civil Case No. 23297,[4] for quieting of title.

The Facts

The facts, as found by the Court of Appeals, are as follows:

"The case has its beginnings from a petition filed by Rolando Jardeleza praying "to compel Glenda Jardeleza-Uy to surrender the owner's duplicate copy of TCT No. T-114669" and, if not feasible, to nullify the same and order the Register of Deeds to issue a new one in lieu of the nullified title. The petition alleged:

"2. That petitioner is the registered and lawful owner of Lot No. 3303-B, which is a portion of Lot 3303, PSD-06-013552, Iloilo Cadastre, CAD. 21, located at Barangay Loboc, District of La Paz, Iloilo City and presently covered by Transfer Certificate of Title No. T-114669, Page 169 of Book 621 of the Registry of Deeds of Iloilo City, said Transfer Certificate of Title having been issued on August 26, 1996;

"3. That petitioner's title over the subject lot arose from a Deed of Sale of the undivided portion of Seventy Thousand (70,000) square meters, more or less, from Giler Agro Development Corporation, after which an Agreement of Subdivision dated January 12, 1994 was executed between them adjudicating to the petitioner, Lot 3303-B which was segregated from the mother lot, Lot 3303;

"4. That after the Agreement of Subdivision was presented by the vendor, Giler Agro Development Corporation thru the initiative of petitioner's sister Glenda Jardeleza-Uy, to the Registry of Deeds of Iloilo City, for purposes of segregating the title of the lot purchased by the petitioner, the owner's copy of Transfer Certificate of Title No. T-114669 covering now the lot of petitioner, Lot No. 3303-B, was claimed by said Glenda Jardeleza-Uy, and was also delivered to her thru her counsel, they being the presentor for registration of subject Agreement of Subdivision;

"5. That the petitioner upon learning of such registration of his title from the mother lot, thereupon went to the Registry of Deeds of Iloilo and demanded delivery to him of his owner's copy of TCT No. 114669, but was told to get it instead from Glenda Jardeleza-Uy or her counsel;

"6. That accordingly petitioner demanded several times from Glenda Jardeleza-Uy who resides at the Jardeleza Building, Bonifacio Drive, Iloilo City, for the delivery to him of his owner's copy but the latter failed and refused and continues to fail and refuse to do so, without justifiable reason; the latest demand is hereto attached as Annex "B" and made part of this petition;

"7. That up to the present, said owner's copy of TCT No. 114669, is still in the possession of Glenda Jardeleza-Uy who has not shown any willingness to deliver it to the petitioner who is entitled to it, which act prejudices the right of the petitioner to have such Certificate of Title." [5]

On March 3, 1997, petitioners filed with the trial court an "opposition and/or motion to dismiss." [6] On March 20, 1997, the trial court denied petitioners' motion to dismiss for lack of merit. [7]

On April 18, 1997, petitioners filed with the trial court a motion for reconsideration. [8] On April 23, 1997, respondent Rolando L. Jardeleza opposed the motion. [9] However, without resolving petitioners' motion for reconsideration, on July 29, 1997, the trial court ordered Glenda Jardeleza-Uy to surrender to the branch clerk of court the owner's duplicate certificate of title No. T-114669, covering Lot No. 3303-B of the Cadastral Survey of Iloilo, subject to the outcome of Civil Case No. 23297 pending in the Regional Trial Court, Branch 30, Iloilo City. [10]

On November 24, 1997, petitioners filed with the Court of Appeals a petition for certiorari assailing the above orders of the trial court as having been issued with grave abuse of discretion, amounting to lack or excess of jurisdiction. [11]

On November 16, 1998, the Court of Appeals promulgated a decision that denied the petition with costs. [12]

On December 21, 1998, petitioners filed with the Court of Appeals a motion for reconsideration of the denial. [13]

On July 29, 1999, the Court of Appeals denied the motion. [14]

Hence, this appeal. [15]

The Issue

The issue raised is whether petitioner could be required to surrender to the branch clerk of court the owner's duplicate certificate of title involved in a litigation to quiet title while the main case is still pending.

The Court's Ruling

In Civil Case No. 23297 involving a controversy between the private respondent and petitioners, respondent filed with the trial court an incidental petition docketed in the original cadastral case praying that an order be issued citing and ordering Glenda Jardeleza-Uy to deliver to petitioner his owner's copy of Transfer Certificate of Title No. T-114669 covering Lot 3303-B, or in the alternative if this be not feasible, to declare the owner's copy as null and void, and to order the Register of Deeds to issue a substitute owner's copy of the certificate of title in lieu of the nullified one. [16]

It is obvious that Civil Case No. 23297 between the parties involved the issue of ownership of Lot No. 3303-B. The case will adjudicate all issues and incidents of ownership contested by the parties as to who among them would have the right to hold, possess or keep the owner's duplicate copy of TCT No. T-114669 covering Lot No. 3303-B. The possession of the owner's duplicate copy of the title is only an attribute of ownership of the parcel of land involved.

The order of the trial court for Glenda Jardeleza-Uy to surrender the owner's duplicate copy of title during the pendency of Civil Case No. 23297 was in grave abuse of discretion. Until her title is nullified, she is entitled to

have possession of the certificate of title. Such order derogates the ownership of the petitioner Glenda Jardeleza-Uy.

The Fallo

WHEREFORE, the Court REVERSES the decision of the Court of Appeals. In lieu thereof, the Court orders the trial court to SET ASIDE its order requiring petitioner Glenda Jardeleza-Uy to surrender to the Branch Clerk of Court the owner's duplicate of TCT No. T-114669 of the Register of Deeds of Iloilo City.

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Kapunan, and Ynares-Santiago, JJ., concur.
Puno, J., on official leave.

[1] In CA-G. R. SP No. 46608, promulgated on November 16, 1998, Petition, Annex "A", Rollo, pp. 53-60. Austria-Martinez, J., ponente, Adefuin-de la Cruz and Barrios, JJ., concurring.

[2] Petition, Annex "E", Rollo, pp. 77-79.

[3] Dated July 29, 1997. Petition, Annex "J", Rollo, pp. 125-126.

[4] Pending before the Regional Trial Court, Branch 30, Iloilo City.

[5] Supra, Note 2.

[6] Petition, Annex "F", Rollo, pp. 82-84.

[7] Petition, Annex "G", Rollo, pp. 112-113.

[8] Petition, Annex "H", Rollo, pp. 114-117.

[9] Petition, Annex "I", Rollo, pp. 123-124.

[10] Supra, Note 3.

[11] Docketed as CA-G. R. SP No. 46608. CA Rollo, pp. 4-22.

[12] Petition, Annex "A", Rollo, pp. 53-60.

[13] Petition, Annex "B", Rollo, pp. 61-70.

[14] Petition, Annex "C", Rollo, p. 76.

[15] Petition, filed on September 27, 1999. On November 29, 1999, we gave due course to the petition (Rollo, pp. 179-180).

[16] Supra, Note 2.

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