

**DIONISIO CARAAN, REPRESENTED BY HEIDI CARAAN AND ERLINDA CARAAN, VS. COURT OF APPEALS AND SPOUSES SALCEDO R. COSME AND NORA LINDA S. COSME, RESPONDENTS.**

*G.R. No. 140752. November 11, 2005*

Ponente: AUSTRIA-MARTINEZ, J.

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**AUSTRIA-MARTINEZ, J.:**

This resolves the petition for review on certiorari seeking to set aside the Decision[1] of the Court of Appeals (CA) dated October 29, 1999 affirming with modification the Decision of the Regional Trial Court of Quezon City, Branch 104 (RTC), thereby ordering herein petitioners to vacate the property located at No. 65 Commodore St., Veterans Subdivision, Barangay Holy Spirit, Quezon City and surrender possession thereof to herein private respondents.

The antecedent facts are as follows.

On September 16, 1992, private respondents-spouses Salcedo R. Cosme and Nora Linda S. Cosme filed a complaint (accion reivindicatoria) with damages against Dionisio Caraan in the RTC. Therein, it was alleged that: herein private respondents are the registered owners of the real property located at No. 65 Commodore St., Veterans Subdivision, Barangay Holy Spirit, Quezon City under Transfer Certificate of Title (TCT) No. 214949; they had been paying realty taxes on the property from 1969 to 1993; sometime in March 1991, they discovered that the land was being occupied by petitioner who had built his residential house thereon; such occupancy by petitioner was effected through fraud, strategy and stealth without private respondents' knowledge and consent; demands to vacate, both oral and written, were made upon petitioner, the last written demand having been received by petitioner on August 7, 1992, but said demands went unheeded; thus, private respondents prayed that judgment be rendered ordering petitioner and all persons holding title under him to vacate the subject premises and deliver possession thereof to private respondents; pay private respondents the amount of P54,000.00 by way of reasonable compensation for the use and occupancy of the premises, P50,000.00 as moral damages, and P50,000.00 as attorney's fees.

In his Answer with Counterclaim, petitioner alleged that he had acquired the land in question through extra-ordinary prescription of thirty years of continuous, public, open and uninterrupted possession; private respondents' title was one of the numerous titles derived from TCT No. 3548 in the name of Eustacio Morales and Vicente Villar doing business under the style of Vilma Malolos Subdivision, which was in turn derived from TCT No. 33531 which came from TCT No. 26285 and derived from (OCT) No. 614; and OCT No. 614 had been declared null and void by the RTC, Quezon City (Branch 83).[2]

After trial on the merits, the RTC rendered its Decision dated August 9, 1995, the dispositive portion of which reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs [herein private respondents], whereby defendant [herein petitioner] is ordered to:

(a)

Vacate the premises concerned and to deliver and surrender the possession of the same to the plaintiff;

(b)

To pay plaintiffs the sum of P54,000.00 as reasonable compensation for the use and occupancy of the premises subject matter of the above-entitled case;

(c)

Pay the plaintiffs the sum P30,000.00 as moral damages;

(d)

Pay the plaintiffs the sum of P20,000.00 as attorney's fees and to pay the cost of the suit.[3]

Herein petitioner Dionisio Caraan then appealed the RTC judgment to the CA. On October 29, 1999, the CA promulgated its Decision ruling thus:

... Absent any countervailing factum probandum adduced by the defendant-appellant [herein petitioner], the indefeasibility of the Torrens title under their [herein private respondents'] names buttresses the presumption ad homini that they have a better right of ownership over the land. ...

The defendant-appellant [herein petitioner] cannot seek refuge on his contention that he is a holder of a residential permit allegedly issued by the Bureau of Forest Development. Within the aegis of Section 3 (ff) of Presidential Decree No. 705, otherwise known as the Revised Forestry Code, a "[p]ermit is a short-term privilege or authority granted by the State to a person to utilize any limited forest resources or undertake a limited activity within any forest land without any right to occupation and possession therein." ...

...

Neither is the defendant-appellant a possessor in the concept of an owner, which fact is a *conditio sine qua non* in order to be entitled to ownership through acquisitive prescription.

... mere possession with a juridical title, e.g., as a usufructuary, a trustee, a lessee, an agent or a pledgee, not being in the concept of owner, cannot ripen into ownership by acquisitive prescription, unless the juridical relation is first expressly repudiated and such repudiation has been communicated to the other party.[4] ...

The appellate court then affirmed the RTC judgment ordering petitioner Dionisio Caraan to vacate subject premises and to deliver and surrender possession thereof to herein private respondents. The CA, however, deleted the sums for compensatory and moral damages and attorney's fees awarded by the RTC in favor of private respondents. No motion for reconsideration of the CA Decision was filed.

In the meantime, petitioner Dionisio Caraan died and his surviving heirs filed with this Court a petition for review on certiorari with motion that said heirs be substituted as petitioners in this case.

Petitioners insist that private respondents' TCT No. 214949 is a derivative of OCT No. 614 and TCT No. 3548 which had been declared spurious and null and void; Dionisio Caraan has a better right of possession because he had been in open, public, adverse, continuous, and uninterrupted possession in the concept of owner of subject

land for more than thirty years; and the subject land is part of a large tract of public land not yet classified for alienation to private ownership.

On the other hand, private respondents argue that a certificate of title cannot be collaterally attacked, thus, TCT No. 214949 is valid and existing and conclusive evidence of ownership unless it becomes subject of a direct attack through a proceeding for cancellation of title.

The Court finds the present petition bereft of merit.

In *Eduarte vs. Court of Appeals*,<sup>[5]</sup> the Court reiterated the hornbook principle that "a certificate of title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein."<sup>[6]</sup> Private respondents having presented TCT No. RT-71061, which is the reconstituted title of TCT No. 214949, they have thus proven their allegation of ownership over the subject property. The burden of proof then shifted to petitioners who must establish by preponderance of evidence their allegation that they have a better right over the subject property.

Petitioners attack the validity of private respondents' certificate of title, alleging that TCT No. 214949 is spurious as it was derived from OCT No. 614 which had allegedly been declared null and void pursuant to the Partial Decision on Defaulted Private Respondents dated March 21, 1988 issued in Civil Case No. Q-35672, entitled *Teofilo M. Gariando, et al. vs. Gregorio Dizon, et al.* Petitioners further point out that the subject land could not have been titled in favor of private respondents as said land is within the unclassified public forest land of Quezon City and not subject to disposition under the Public Land Law, per Certification dated April 16, 1985 issued by the Bureau of Forest Development. Petitioners further argue that they have a better right to subject property, as they had been in possession thereof in open, public, adverse, continuous, and uninterrupted possession in the concept of owner of subject land for more than thirty years.

It should be borne in mind, however, that Section 48, Presidential Decree No. 1529 (P.D. No. 1529), provides that "a certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law."

Petitioners' defense takes the form of a collateral attack on private respondents' certificate of title. In *Mallilin, Jr. vs. Castillo*,<sup>[7]</sup> the Court defined a collateral attack on the title in this wise:

... When is an action an attack on a title? It is when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of an action or proceeding is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.<sup>[8]</sup>

In the present case, the attack on the title is definitely merely collateral as the relief being sought by private respondents in their action was recovery of possession. The attack on the validity of private respondents' certificate of title was merely raised as a defense in petitioners' Answer filed with the trial court. In *Ybañez vs. Intermediate Appellate Court*,<sup>[9]</sup> the Court categorically ruled that:

It was erroneous for petitioners to question the Torrens Original Certificate of Title issued to private respondent over Lot No. 986 in Civil Case No. 671, an ordinary civil action for recovery of possession filed by the registered owner of the said lot, by invoking as affirmative defense in their answer the Order of the Bureau of Lands, dated July 19, 1978, issued pursuant to the investigatory power of the Director of Lands under Section 91 of Public Land Law (C.A. 141 as amended). Such a defense partakes of the nature of a collateral attack against a certificate of title brought under the operation of the Torrens system of registration pursuant to Section 122 of the Land Registration Act, now Section 103 of P.D. 1259. The case law on the matter does not

allow collateral attack on the Torrens certificate of title on the ground of actual fraud. The rule now finds expression in section 48 of P.D. 1529 otherwise known as the Property Registration Decree.[10] (Emphasis supplied)

The Court cannot, therefore, resolve the issue of the alleged invalidity of private respondents' certificate of title in the present action for recovery of possession. Even petitioners' claim that subject property could not have been titled in favor of private respondents because the same has not yet been classified for alienation for private ownership, cannot be given consideration because, as clearly stated in *Apostol vs. Court of Appeals*, "[t]he issue of the validity of the title of respondents can only be assailed in an action expressly instituted for that purpose." [11]

Petitioners' asseveration that TCT No. RT-71061 (214949) should not have been admitted into evidence because private respondents merely presented the photocopy thereof is also unmeritorious. Private respondents presented the original of TCT No. RT-71061 (214949) in open court during the hearing held on April 13, 1994. The pertinent portions of the transcript of stenographic notes of said hearing are reproduced hereunder:

Atty. Mazo:

Your Honor, we are presenting in evidence this Transfer Certificate of Title No. RT-71061 (214949) as Exhibit A. The purpose of which, Your Honor, is to show that the property subject matter of this case is registered in the name of the herein plaintiff spouses Salcedo R. Cosme and Nora Linda S. Cosme. And in that regard, Your Honor, may we invite Counsel to stipulate that this is a Xerox copy and that we request to be marked as Exhibit A is a faithful reproduction of the original.

If Counsel will stipulate, this will be the one to be submitted in evidence.

Atty. Moya:

This is a faithful reproduction, Your Honor. (Emphasis supplied)

Furthermore, no objection was raised by counsel for petitioners in their written opposition/comment to private respondents' offer of evidence[12] regarding the fact that what was marked and submitted to the court was the photocopy. In *Blas vs. Angeles-Hutalla*, [13] the Court held thus:

The established doctrine is that when a party failed to interpose a timely objection to evidence at the time they were offered in evidence, such objection shall be considered as waived. In *Tison v. Court of Appeals*, the Supreme Court set out the applicable principle in the following terms:

[F]or while the documentary evidence submitted by petitioners do not strictly conform to the rules on their admissibility, we are, however, of the considered opinion that the same may be admitted by reason of private respondent's failure to interpose any timely objection thereto at the time they were being offered in evidence. It is elementary that an objection shall be made at the time when an alleged inadmissible document is offered in evidence, otherwise, the objection shall be treated as waived, since the right to object is merely a privilege which the party may waive.

As explained in *Abrenica vs. Gonda, et al.*, it has been repeatedly laid down as a rule of evidence that a protest or objection against the admission of any evidence must be made at the proper time, otherwise, it will be deemed to have been waived. The proper time is when from the question addressed to the witness, or from the answer thereto, or from the presentation of the proof, the inadmissibility of the evidence is, or may be inferred.

Thus, a failure to except to the evidence because it does not conform with the statute is a waiver of the provisions of the law.[14]...

Hence, considering the fact that counsel for petitioners admitted that the photocopy of TCT No. RT-71061

(214949) is a faithful reproduction of the original thereof, stipulated with private respondents' counsel that what will be marked and submitted to the trial court as Exhibit A is the photocopy, and the lack of objection on such ground which is then deemed a waiver thereof, the admission into evidence of the photocopy of TCT No. RT-71061 was absolutely correct.

Moreover, although the reconstituted title of TCT No. 214949 does show on its face that it was derived from OCT No. 614,[15] both the trial and appellate courts are correct in saying that petitioners' assertion that OCT No. 614 had been declared null and void is misleading. The RTC of Quezon City, Branch 83 issued a Partial Decision on Defaulted Private Respondents[16] dated March 21, 1988 in Civil Case No. Q-35672 which declared OCT No. 614 and subsequent TCTs issued therefrom, "with the exception of those titles belonging to the non-defaulted respondents,"[17] null and void. However, the defaulted private respondents in Civil Case No. Q-35672 filed a case for annulment of said partial judgment. The CA granted the petition for annulment of partial judgment in Civil Case No. Q-35672. The case was elevated via a petition for review on certiorari assailing the CA decision and on January 19, 2001, this Court promulgated a Decision in *Pinlac vs. Court of Appeals*,[18] docketed as G.R. No. 91486, affirming the CA Decision setting aside and annulling said partial decision on the ground of the trial court's lack of jurisdiction over the persons of respondents in said case. Petitioners have not been able to present any proof that, indeed, OCT No. 614 had been declared null and void by final judgment. Hence, petitioners' claim that private respondents' certificate of title is spurious deserves no consideration whatsoever. Private respondents' certificate of title must be deemed valid and existing, as it cannot be assailed through a collateral attack in the present action.

Consequently, petitioners' defense that they have a better right over the subject land because they had been in open, public, adverse, continuous, and uninterrupted possession in the concept of owner for more than 30 years must be struck down. Section 47 of P.D. No. 1529 provides that "[n]o title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession." The ruling in *Ragudo vs. Fabella Estate Tenants Association, Inc.*,[19] is exactly in point, to wit:

... In a long line of cases, we have consistently ruled that lands covered by a title cannot be acquired by prescription or adverse possession. So it is that in *Natalia Realty Corporation vs. Vallez, et al.*, we held that a claim of acquisitive prescription is baseless when the land involved is a registered land because of Article 1126 of the Civil Code in relation to Act 496 (now, Section 47 of Presidential Decree No. 1529):  
Appellants' claim of acquisitive prescription is likewise baseless. Under Article 1126 of the Civil Code, prescription of ownership of lands registered under the Land Registration Act shall be governed by special laws. Correlatively, Act No. 496 provides that no title to registered land in derogation of that of the registered owner shall be acquired by adverse possession. Consequently, proof of possession by the defendants is both immaterial and inconsequential. (Emphasis supplied)

Therefore, as emphasized in the above quoted ruling, petitioners' allegations of uninterrupted possession for 30 years cannot prevail over private respondents' certificate of title, which is the best proof of ownership. As the Court stated in *Apostol vs. Court of Appeals, et al.*,[20] the registered owners are entitled to the possession of the property covered by the said title from the time such title was issued in their favor. Preponderance of evidence being in favor of private respondents, there can be no other conclusion but that private respondents, being the registered owners of subject property, should be placed in possession thereof.

WHEREFORE, the petition is DENIED for lack of merit. The Decision of the Court of Appeals dated October 29, 1999 is hereby AFFIRMED.

**SO ORDERED.**

Puno, (Chairman), Callejo, Sr., and Tinga, JJ., concur.  
Chico-Nazario, J., on leave.

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[1] Penned by Associate Justice Ramon Mabutas, Jr. (retired), with Associate Justices Hilarion L. Aquino (retired) and Wenceslao I. Agnir, Jr. (retired) concurring.

[2] RTC Rollo, p. 17.

[3] Rollo, p. 36.

[4] CA Decision, Rollo, p. 68.

[5] G.R. No. 121038, July 22, 1999, 311 SCRA 18 .

[6] Id. at p. 24.

[7] 389 Phil. 153 (2000).

[8] Id. at p. 165.

[9] G.R. No. 68291, March 16, 1991, 194 SCRA 743.

[10] Id. at p. 748.

[11] G.R. No. 125375, June 17, 2004, 432 SCRA 351, 359.

[12] Records, pp. 89-90.

[13] G.R. No. 155594, September 27, 2004, 439 SCRA 273.

[14] Id. at p. 286.

[15] See Exh. "A," Folder of Plaintiffs' Documentary Exhibits.

[16] Exhibits "6"- "6-D," Records, pp. 117-121.

[17] Exhibits "6-C," Records, p. 120.

[18] G.R. No. 91486, January 19, 2001, 349 SCRA 635.

[19] G.R. No. 146823, August 9, 2005.

[20] Supra. See note 11.

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