

DANNY UGALE, JERRY UGALE, PABLO UGALE, NINOY ALTURA AND JUANITA A. VIBANGCO, PETITIONERS, VS. FEDERICO U. GOROSPE, RESPONDENT.

G.R. NO. 149516. September 11, 2006

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before this Court is a petition for review of the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 59254 dated June 8, 2001 which reversed the Decision of the Regional Trial Court (RTC) Branch 8 of Aparri, Cagayan, as well as the CA's Resolution[2] dated August 22, 2001 which denied petitioners' Motion for Reconsideration.

The undisputed facts of the case, as found by the CA, are as follows:

Plaintiff, Federico U. Gorospe, is the registered owner of a parcel of land (Exhibit "H") situated in Maddalero, Buguey, Cagayan, having bought the same from Maria Ugale (Exhibit "A") and Enrique Unciano (Exhibit "B"), evidenced by two separate Deeds of Sale. As a consequence, Transfer Certificate of Title No. 85450 was issued in his name. When Gorospe tried to exercise attributes of ownership of the lot, he was prevented from doing so by defendants Danny Ugale, Jerry Ugale and Pablo Ugale, claiming to be the installed tenants of defendant Juanita A. Vibangco and her brother, Ninoy Altura. Hence, the present case to remove the clouds over Gorospe's title and for the recovery of possession of the controversial realty.[3]

On November 14, 1997, the RTC ruled in favor of Danny Ugale, Jerry Ugale, Pablo Ugale, Ninoy Altura and Juanita Vibangco (petitioners) and disposed of the case in this wise:

WHEREFORE, premises considered, the court renders judgment as follows, to wit:

- a) Plaintiff's complaint is hereby dismissed;
- b) To pay them [sic] moral damages in the amount of Forty Thousand (P40,000.00) Pesos;
- c) To pay exemplary damages in the amount of Twenty Thousand (P20,000.00) Pesos;
- d) To pay attorney's fees in the amount of Fifteen Thousand (P15,000.00) Pesos plus litigation expenses in the amount of Five Thousand (P5,000.00) Pesos; and
- e) To pay the costs of suit.

SO ORDERED.[4]

The RTC upheld the stand of petitioners Juanita and Ninoy and concluded that respondent's title is void having been obtained through fraud.[5]

Respondent appealed to the CA claiming that the trial court erred: in declaring that Maria and Enrique are no longer owners of the land in question and that the land in Civil Case No. 557-A is the same land subject matter of

this case; in declaring that the deeds of sale executed by Maria and Enrique are forgeries; in assuming that TCT No. T-85450 is null and void for being fraudulently issued; and in awarding damages which had no basis.[6]

The CA found the appeal of respondent meritorious and ruled that the attempt of petitioners to have respondent's title be declared null on the ground of fraud is a collateral attack on the decree of registration which is prohibited by law, and even assuming that the issues of fraud and ownership can be raised in this case, still the respondent is entitled to the affirmation of ownership as well as the recovery of possession of the land considering that he was able to present TCT No. T-40562 in the name of his predecessors-in-interest, he was able to show that Enrique and Maria sold the property to him, he presented TCT No. T-85450 which was issued in his name, as well as numerous tax declarations and receipts covering the said land.[7]

The CA also noted that: petitioners failed to produce any deed of conveyance in their name; what petitioners presented were an uncertified photocopy of an Original Certificate of Title (OCT) purportedly covering the lot and an undated and unnotarized Deed of Absolute Sale executed in favor of Juanita allegedly over the property; petitioners relied chiefly on uncorroborated and self-serving testimonies of their witnesses; they are guilty of laches as Juanita failed to have the land declared in her name from the time it was allegedly sold to her; she did not take steps to secure the land despite knowledge of respondent's attempt to place a monument therein in 1991; petitioners did not move for the annulment of TCT No. T-85450 issued on February 3, 1992 through in rem proceedings; while petitioners alleged forgery, no evidence was adduced to substantiate such claim; petitioners also cannot contest the sale between respondent and his predecessors-in-interest since they are not parties thereto; petitioners cannot impugn the validity of a Torrens title with mere self-serving allegations as it is generally a conclusive evidence on the ownership of the land referred therein; the disputed land is different from the one referred to in Civil Case No. 557-A because apart from the decision in the latter case and the photocopy of an OCT in the name of Pablo Cariño which was not even certified by the Register of Deeds, no other proof was presented by the petitioners to show that said case involved the same land subject of the present petition; petitioners' possession could just have been by mere tolerance which cannot ripen into a title no matter how long it is continued or however exclusive it may be.[8]

The CA then disposed of the appeal thus:

IN VIEW OF THE ALL THE FOREGOING, the appealed Decision is hereby REVERSED and SET ASIDE and a new one is entered declaring and affirming ownership of the disputed land in favor of appellant as against herein appellees, ordering the appellees to deliver possession of the subject property to the appellant, ordering the appellees to desist from committing any act of dispossession or molestation of the controversial lot against the appellant, and to pay the costs of this suit. Other prayer for damages and counterclaims are dismissed for insufficiency of evidence.[9]

Petitioners' Motion for Reconsideration having been denied, they now come before this Court claiming that the CA gravely erred:

- IN DELVING BEYOND THE GROUNDS RAISED BY RESPONDENT IN HIS APPEAL.
- IN NOT UPHOLDING THE FINDINGS OF THE TRIAL COURT THAT PETITIONER JUANITA VIBANGCO AND HER PREDECESSORS-IN-INTEREST ARE THE RIGHTFUL OWNERS OF THE DISPUTED PROPERTY.
- IN NOT DECLARING THAT RESPONDENT IS GUILTY OF FRAUD IN CAUSING THE REGISTRATION OF THE LAND IN QUESTION NOT ONLY ON THE BASIS OF THE FORGED DEEDS OF SALE BUT ALSO BY REASON OF HIS PRIOR KNOWLEDGE THAT OTHERS WERE OCCUPYING THE SUBJECT PROPERTY PRIOR TO THE PURPORTED EXECUTION OF THE SAID DOCUMENTS.

- IN NOT UPHOLDING THE AWARD OF DAMAGES IN FAVOR OF PETITIONERS.[10]

Petitioners argue that: the CA went beyond the grounds raised by respondent in his appeal when it delved on the issue of indefeasibility of title issued under the Torrens system; it is not accurate to state that since respondent was able to register the subject property in his name, he is the legal owner thereof as registration is not equivalent to title; ownership over the land was already granted to the Alturas in 1953 by the CFI in Civil Case No. 557-A and therefore, Maria and Enrique had no right to sell the property; Juanita's predecessor-in-interest were purchasers for value and were in open, continuous and peaceful possession thereof while respondent's predecessors-in-interest never possessed the subject lot neither did they pay any realty taxes thereon; respondent admitted that he was aware that there were persons in possession of the property, he therefore cannot be deemed a buyer in good faith; the principle on indefeasibility of Torrens titles, such that certificates of title could not be collaterally attacked, is not applicable in the present case as such principle does not extend to a transferee who takes the certificate of title with notice of a flaw in his title; respondent paid taxes on the property only so that the title of the property could be transferred to his name; Juanita and her predecessors-in-interest meanwhile have been paying taxes long before respondent made such payments; Juanita did not register the property under her name as she and her predecessors-in-interest have never been disturbed in their possession and they never suspected that any insidious scheme would be committed by anyone; forgery may be deduced from the face of the purported deeds themselves; it was incumbent upon respondent to present the alleged vendors to prove that their signatures were not forged; the deeds of sale were notarized in Tuguegarao, Cagayan, about 100 kilometers from Buguey, although there were notaries public in the town and the nearby municipalities, and even while both Enrique and Maria were already too old and sickly to travel; respondent admitted that no actual survey was made as all that was done was mere table survey.[11]

Petitioners pray that the CA Decision and Resolution be reversed and set aside and that a new decision be rendered by this Court reinstating the RTC Decision.[12]

In his Comment, the respondent argued that the petition does not involve lack of jurisdiction, grave abuse of discretion or mistake of law, and its verification was not done in the proper form.[13]

Petitioners in their Reply disagreed and contended that the present petition under Rule 45 involves questions of law; that they have substantially complied with the rules on verification; and that since respondent only raised procedural issues rather than traverse the merits of the instant petition, he is deemed to have admitted petitioners' allegations.[14]

Petitioners submitted their Memorandum asserting the arguments they raised in their petition.[15]

Respondent in his Memorandum reiterated his stance that he is the absolute owner of the property in litigation as evidenced by TCT No. T-85450 having been issued to him by virtue of the deeds of sale executed by Maria and Enrique; that the land in litigation is not the same land subject in Civil Case No. 557-A of the CFI of Aparri, Cagayan, as said land is not identified; and that the signatures of the vendors in the two Deeds of Sale cannot be collaterally attacked in a counterclaim.[16]

We resolve to deny the petition.

While it is true that respondent failed to raise the defense of indefeasibility of his title in the proceedings before the RTC and in his appeal before the CA, still the CA can and was correct in ruling on this matter.

The general rule is that no issue may be raised on appeal unless it has been brought before the lower tribunal for its consideration. Such rule, however, is subject to exceptions, such as when there are:

- (a) grounds not assigned as errors but affecting jurisdiction over the subject matter; (b) matters not assigned as

errors on appeal but are evidently plain or clerical errors within contemplation of law; (c) matters not assigned as errors on appeal but consideration of which is necessary in arriving at a just decision and complete resolution of the case or to serve the interests of justice or to avoid dispensing piecemeal justice; (d) matters not specifically assigned as errors on appeal but raised in the trial court and are matters of record having some bearing on the issue submitted which the parties failed to raise or which the lower court ignored; (e) matters not assigned as errors on appeal but closely related to an error assigned; and (f) matters not assigned as errors on appeal but upon which the determination of a question properly assigned, is dependent.[17]

This is in the interest of justice, to reserve to the appellate court the right, resting in public duty to take cognizance of palpable error on the face of the record and proceedings; to notice errors which are obvious upon inspection and of a controlling character, in order to prevent the miscarriage of justice from oversight. Indeed, an appellate court has wide discretion to correct a fundamental error or one which lies at the base of the proceeding and affects the judgment necessarily.[18]

In this case, the CA correctly held that the claim of petitioners in their Answer that respondent's title was acquired through fraud is nothing less than a collateral attack on the decree of registration and title which is against the principle of indefeasibility and incontrovertibility of the title in favor of the person whose name appears therein and the rule that any attack on the validity of such title should be threshed out only in an action directly or expressly filed for that purpose.

This is consistent with the precept that the validity of a torrens title cannot be assailed collaterally.[19] Section 48 of Presidential Decree No. 1529 provides that:

Certificate not Subject to Collateral attack.- 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.

Indeed, a certificate of title, once registered, should not thereafter be impugned, altered, changed, modified, enlarged or diminished, except in a direct proceeding permitted by law.[20] Otherwise, reliance on registered titles would be lost.[21]

Here, the attack on the validity of private respondent's certificate of title was raised as a defense in petitioners' Answer filed with the trial court.

In her Answer, Juanita averred that:

- The alleged registration made by plaintiff is fraudulent and illegal, even as no notice was given to answering defendant (Juanita) or her tenant, and, hence, the same is ineffective.
- Accordingly, the purported deeds of sale allegedly executed in favor of plaintiff, as well as the registration made by plaintiff, should be annulled and voided and that the title of answering defendant over the subject property should be judicially affirmed.[22]

Ninoy, in his Answer meanwhile stated that:

- The alleged registration caused by plaintiff over the property is null, void and ineffective, the same having been effected through fraud and without notice to the actual occupants of the property, even as the same was based on a null, void, ineffective, forged, fake and spurious documents.[23]

Such defense is in the nature of a collateral attack which is not allowed by law as the issue of the validity of title, i.e. whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose. [24]

Petitioners argue that respondent cannot invoke the principle of indefeasibility of title since he knew of

petitioners' possession of the property since time immemorial; that he was not in good faith.

While there are rulings stating that a buyer of a real property which is in the possession of persons other than the seller must be wary and should investigate the rights of those in possession, otherwise such buyer cannot be regarded as a buyer in good faith,[25] petitioners in this case, however, failed to show that they have a better right over the subject property. As respondent has presented TCT No. T-85450 in his name, the burden of proof has shifted to petitioners who must establish by preponderance of evidence their allegation that they have a better right over the subject property.[26] This petitioners failed to do.

In claiming their right over the property, petitioner Juanita invokes the judgment of the CFI in Civil Case No. 557-A which purportedly awarded to her predecessors-in-interest the property in question. A scrutiny of said judgment however reveals the weakness of her claim.

Said judgment reads in part:

When this case was called for hearing, the parties submitted the following stipulation of facts:

Come now the parties in the above-entitled case and to this Honorable Court respectfully state:

- That the plaintiff Caridad Ugale hereby sells to the defendants any and all rights and interests she has in the homestead covered by Original Certificate of Title No. 80, particularly the land in question herein which contains an area of 1.6785 hectares;

X X X X

WHEREFORE, the Court hereby renders judgment in accordance with the terms and conditions of said stipulation and orders the parties to strictly follow and observe the terms and conditions thereof. Without costs.

SO ORDERED.[27] (Emphasis supplied)

It did not specify what particular portion of the land covered by OCT No. 80 Caridad was referring to and all that is clear is that what Caridad sold to petitioners are only her rights and interests in the homestead containing an area of 1.6785 hectares covered by OCT No. 80 which according to petitioners' evidence covers a land consisting of 12 hectares.[28] Moreover, petitioners failed to show how this tract of land was partitioned and how the property they are now occupying was transferred to Caridad from whom they allegedly bought said property.

On the other hand, the property described in TCT No. T-40562 in the name of Anacleto Ugale, predecessor-in-interest of Maria[29] and Enrique, is the same property described in TCT No. T-85450 in the name of respondent,[30] both of which originated from Original Certificate of Title No. 80 (112).

We fully agree and adopt the CA's findings on this matter, to wit:

Finally, We sustain plaintiff-appellant's assertion that the disputed land is different from the one referred to in Civil Case No. 557-A. Apart from the Decision in the latter case, no other proof was presented by the appellees to show that the case involved with the same land. The purported Original Certificate of Title in the name of Pablo Carino is not much of help either considering that it is but a photocopy of the original and was not even certified by the Register of Deeds. It is but a mere scrap of paper and has no evidentiary value whatsoever. Further still, a perusal of the title number would seem to indicate that the number "80" was just superimposed before it was photocopied in order to make it appear that it is the same land referred to in Civil Case No. 577-A. This seems to underscore appellees' vain attempt to cloak with legal color their design to retain the parcel of land at the expense of the rightful owner.[31]

And even if we assume, en arguendo, that the land claimed by petitioners is the same as that claimed by respondent, the argument of petitioners that they have been in possession of the subject property since time

immemorial does not persuade us. Petitioner Ninoy in his testimony admitted that the property they are occupying was covered by a title in the name of Pablo Cariño and that he (Ninoy) personally cultivated the land only from 1929 to 1960. While he claims that his father cultivated the land before him, he did not specify however from what year, his father possessed the same.[32] On the other hand, TCT No. T-40562, from which respondent's title was derived, was issued on November 22, 1977; this in turn was derived from OCT No. 80 (112) issued on July 5, 1923.[33] It therefore appears that the title of respondent's predecessor issued in 1923 preceded the alleged possession of petitioners in 1929. Lands covered by title cannot be acquired by prescription or by adverse possession and allegations of uninterrupted possession for many years cannot prevail over respondent's certificate of title, which is the best proof of ownership thereof.[34]

As preponderance of evidence tilt in favor of respondent, there can be no other conclusion but that respondent, being the registered owner of the subject property, should be placed in possession thereof.

WHEREFORE, the petition is DENIED for lack of merit. The Decision of the Court of Appeals in CA-G.R. CV No. 59254 dated June 8, 2001 is hereby AFFIRMED.

No pronouncement as to costs.

SO ORDERED.

Panganiban, C. J., (Chairperson), Yanres-Santiago, Callejo, Sr., and Chico-Nazario, JJ. concur.

[1] Penned by Associate Justice Conrado M .Vasquez, Jr. and concurred in by Associate Justices Martin S. Villarama, Jr., and Alicia L. Santos, rollo, pp. 28-39.

[2] Id. at 40.

[3] Id. at 28-29.

[4] Records, pp. 237-238.

[5] Id. at 237.

[6] Rollo, p. 30.

[7] Id. at 33.

[8] Id. at 31-38.

[9] Id. at 38.

[10] Id. at 17.

[11] Id. at 18-26.

[12] Id. at 27.

[13] Id. at 56-57.

[14] Id. at 59-66.

[15] Id. at 99-124.

[16] Id. at 82-84.

[17] *Mendoza v. Bautista*, G.R. No. 143666, March 18, 2005, 453 SCRA 691, 702-703.

[18] *Id.* at 707.

[19] *Vda. de Gualberto v. Go*, G.R. No. 139843, July 21, 2005, 463 SCRA 671, 677; *Foster-Gallego v. Galang*, G.R. No. 130228, July 27, 2004, 435 SCRA 275, 290; *Seville v. National Development Company*, 403 Phil. 843, 858 (2001).

[20] *Seville v. National Development Company*, *supra* at 859; *De Pedro v. Romasan Development Corp.*, G.R. No. 158002, February 28, 2005, 452 SCRA 564, 575.

[21] *Seville v. National Development Company*, *supra* at 859.

[22] *Records*, p. 44.

[23] *Id.* at 62.

[24] *Caraan v. Court of Appeals*, G.R. No. 140752, November 11, 2005, 474 SCRA 543, 549-550; *S.J. Vda. de Villanueva v. Court of Appeals*, 403 Phil. 721, 732 (2001); *Eduarte v. Court of Appeals*, 370 Phil. 18, 27 (1999).

[25] *Occeña v. Esponilla*, G.R. No. 156973, June 4, 2004, 431 SCRA 116, 124-125; *Lu v. Spouses Manipon*, 431 Phil. 569, 583 (2002); *David v. Malay*, 376 Phil. 825, 839 (1999).

[26] *Caraan v. Court of Appeals*, *supra* note 24, at 548.

[27] *Records*, pp. 186-187.

[28] *Id.* at 182 and 185.

[29] *Id.* at 119-120.

[30] *Id.* at 128, Exh. "H".

[31] *CA rollo*, p. 165.

[32] *TSN*, Alfredo Altura, June 6, 1995, pp. 3-4.

[33] *Records*, p. 120, Exh. "C".

[34] *Caraan v. Court of Appeals*, *supra* note 24, at 553, 554.

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