

TOP MANAGEMENT PROGRAMS CORPORATION, PETITIONER, VS. LUIS FAJARDO AND THE REGISTER OF DEEDS OF LAS PIÑAS CITY, RESPONDENTS.*G.R. No. 150462. June 15, 2011*

Ponente: VILLARAMA, JR., J.

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Before us is a petition for review on certiorari under Rule 45 seeking the reversal of the Decision[1] dated May 30, 2001 and Resolution[2] dated October 23, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 60712 which affirmed the Order[3] of the Regional Trial Court (RTC) of Las Piñas City, Branch 275 in Civil Case No. 94-564 dismissing petitioner's complaint for quieting of title and damages against private respondent.

The factual antecedents:

On December 31, 1964, Emilio Gregorio (Gregorio) filed an application for registration of title over Lots 1 to 4 of Plan Psu-204785 situated at Mag-asawang Mangga, Las Piñas, Rizal, before the then Court of First Instance (CFI) of Rizal, Branch II (LRC Case No. N-5053, LRC Rec. No. N-27523). On January 4, 1966, said court issued an order declaring as abandoned the reserved oppositions of Jose T. Velasquez and Pablo Velasquez. Thereafter, the case proceeded to trial.

Meanwhile, on July 29, 1965, Jose T. Velasquez (Velasquez) filed an application for registration of title over six lots denominated as Lots 7 and 9 of Psu-80886, Ap-5538, and Lots 1, 7, 9 and 11 of Psu-56007 Amd., Ap-11135, situated at Almanza, Las Piñas, Rizal, in LRC Case No. N-5416, LRC Rec. No. N-28735, before the same court.

On January 31, 1966, the CFI rendered a decision[4] in LRC Case No. N-5053 declaring Gregorio to be the absolute owner of Lots 1, 2, 3 and 4 described in Plan Psu-204785. On March 9, 1966, an order was issued by said court for the issuance of the decree of registration, stating that the January 31, 1966 had become final.

On March 30, 1966, the same court promulgated a decision in LRC Case No. N-5416 adjudicating Lots 1, 7, 9 and 11 of Psu-56007-Amd, plan Ap-11135, and Lots 7 and 9 of Psu-80886 (Ap-5538) to Jose T. Velasquez. On May 3, 1966, said court ordered the issuance of a decree of registration in view of the finality of the March 30, 1966 decision.

In the meantime, on July 25, 1966, the LRA called the attention of the Director of Lands regarding the overlapping of Lots 1, 7 and 11 of Psu-56007-Amd awarded to Velasquez, with Lots 1 to 4 of Psu-204785 adjudicated to Gregorio, and requested that portions of these lots that are not in conflict be segregated. On September 16, 1966, the LRA informed the CFI that Lots 1 and 7 of Psu-56007-Amd (Ap-11135) had been amended by the Bureau of Lands to exclude therefrom portions covered by Lot 2, Psu-64894, Psu-96904, and Lots 1 to 4, Psu-204785 of Gregorio.[5] On the basis of the LRA report, Velasquez petitioned the CFI to set aside the award earlier made in favor of Gregorio in LRC Case No. N-5035 on the ground of lack of jurisdiction and to give due course to his application over the said lots in LRC Case No. N-5416. On November 23, 1966, the CFI

issued an Order in LRC Case Nos. N-5053 and N-5416 declaring that the application of Velasquez be given due course insofar as Lots 1 and 7 of Ap-11135 which are identical to Lots 1 to 4, Plan Psu-204785, and the January 31, 1966 decision in LRC Case No. N-5053 in favor of Gregorio respecting the same lots as null and void.[6] On December 6, 1966, Decree Nos. N-111862 to N-111865 and the corresponding certificates OCT Nos. 5677, 5678, 5679 and 5680 were issued in favor of Velasquez.

On January 7, 1967, Gregorio appealed the November 23, 1966 decision of the CFI to the CA (CA-G.R. No. 40739-40-R). On July 30, 1971, the CA rendered its Decision[7] reversing the CFI, as follows:

WHEREFORE, the order appealed from is hereby reversed and, in lieu thereof, another is hereby rendered declaring null and void the Decision of the Court of First Instance of Rizal, dated March 30, 1966, in Land Registration Case No. N-5416, LRC Rec. No. N-28735, insofar as it adjudicates in favor of appellee Jose T. Velasquez Lots Nos. 1 and 7 of Plan Ap-11315; and directing that the Order of March 9, 1966 for the issuance of the decree in Land Registration Case No. N-5053, LRC Rec. No. N-27523, over Lots 1, 2, 3 and 4 of Plan Psu-204785, in the name of appellant Emilio Gregorio, be given due course.

No costs.

IT IS SO ORDERED.[8]

Per entry of judgment issued by the CA, the above decision became final and executory on February 1, 1972.[9] It appears, however, that a petition for review had been filed by Velasquez with this Court, docketed as G.R. Nos. L-34239-40 ("Jose T. Velasquez v. Emilio Gregorio"), which was given due course per Resolution dated March 7, 1972 of the Second Division. Eventually, this Court denied the petition under Resolution[10] dated February 8, 1984 stating that:

We have carefully scrutinized the arguments of the parties stated in their respective briefs as well as the reasons adduced by the Court of Appeals to support its decision sought to be reviewed and We have Resolved to RECONSIDER the resolution of March 7, 1972, and enter instead another resolution DENYING the petition for lack of merit with COSTS against the petitioners.[11]

The above resolution became final and executory on March 2, 1984 as per entry of judgment[12] issued by this Court. Prior to this however, on October 31, 1972, Decree No. N-141990 over Lots 1, 3 and 4 of Plan Psu-204785 were issued by the LRA and the corresponding OCT No. 9587 in the name of Gregorio, was subsequently issued on November 21, 1972.[13]

Lots 1, 3 and 4, Plan Psu-204785 covered by OCT No. 9587 also became the subject of Civil Case No. 16977 of the CFI of Rizal. Gregorio sought the annulment of the deed of sale over the said lots in favor of Luciana Parami. The CFI dismissed the complaint of Gregorio in a decision rendered on May 8, 1974. Gregorio appealed to the CA (CA-G.R. No. 56015-R, entitled "Emilio Gregorio v. Spouses Luciana and Corpus Parami and the Register of Deeds of Rizal") which reversed the CFI. In its decision dated February 7, 1978, the CA declared the aforesaid deed of sale null and void, and ordered the cancellation of certificate of title (No. 38433) in the name of the Paramis and issuance of an OCT in favor of Gregorio covering Lots 1, 3 and 4, Plan Pasu-204785. On November 20, 1979, the court in the same case issued an order declaring the children (Ana, Paz, Carmen, Remedios and Rolando, all surnamed Gregorio) of the deceased Emilio Gregorio "as his compulsory heirs to substitute the said plaintiff." [14] Pursuant to the said decision, OCT No. 9587 in the name of Emilio Gregorio was cancelled and a new certificate of title, TCT No. S-91911 in favor of his heirs was issued.[15]

In a Report dated September 12, 1984, the LRA informed the CFI in LRC Case No. N-5416 that compliance with the July 30, 1971 CA decision in CA-G.R. No. 40739-40-R adjudicating Lots 1, 3 and 4 of Plan Psu-204785 in favor of Gregorio will result in duplication of titles over the said properties. The report further stated:

21. That based on the records of this Commission, Lots 1, 3 and 4 of plan Psu-204785 were already covered by TCT No. S-91911 in the name of the Heirs of Emilio Gregorio with several annotations of encumbrances x x x;

22. That among those encumbrances are the deeds of sale executed by them in favor of Herminia Galman covering an undivided portion of aforesaid Lot 1, and of Everlita Talusan of the whole Lots 3 and 4 denominated as Entry No. 21079/S-97421, and that the latter vendee E. Talusan had already acquire[d] TCT No. S-97421 over said two lots in her name also with several annotation of encumbrances x x x;

23. That as per our verification from the Registry of Deeds of Makati, corresponding titles were issued in the name of J.T. Velasquez denominated as OCT Nos. 5678, 5677, 5679 and 5680 x x x;

24. And that these certificates of title were all cancelled and assigned in favor of J.V. Development Corporation as per Entry Nos. 99377/T-195606, 195605, 195605 and 19505 all inscribed on July 27, 1967.

WHEREFORE, these facts are respectfully brought to the attention of this Honorable Court with the recommendation:

That Decree Nos. N-111862 to N-111865 issued on December 6, 1966 over Lots 1 to 4, Psu-204785, in favor of Jose T. Velasquez, as well as existing subsequent titles emanating from the same shall be declared null and void and ordered cancelled.[16]

On April 9, 1984, the heirs of Emilio Gregorio filed an ex-parte motion for execution before the RTC of Pasig, Metro Manila, Branch 152 in LRC Case Nos. N-5053 and N-5416. On March 21, 1986, the RTC of Pasig issued the following Order[17]:

Considering that the Resolution issued on February 8, 1984 by the Supreme Court in G.R. No. L-34239-40, entitled "Jose T. Velasquez vs. Emilio Gregorio", denying the petition for review on certiorari of the judgment of the Court of Appeals in CA-G.R. No. 40739-40-R, had on March 2, 1984 become final and executory in favor of Emilio Gregorio, and considering further the recommendation contained in the Report dated September 12, 1984 of the Acting Commissioner of Land Registration thru Silverio G. Perez, Chief, Division of Original Registration, relative to LRC Case No. N-5053, LRC Record No. N-27523, wherein Emilio Gregorio is the applicant and in LRC Case No. N-5416, LRC Record No. N-28735, wherein Jose T. Velasquez is the applicant, which report is hereby approved, the Court declares as null and void Decree Nos. N-111862 to N-111865, inclusive, issued on December 6, 1966, covering Lots 1, 2, 3 and 4, Psu-204785 in favor of Jose T. Velasquez in LRC Case No. No. 5416 as well as all existing subsequent titles emanating therefrom, and any and all encumbrances constituted against said Lots 1, 2, 3 and 4, Psu-204785 and other acts of disposition affecting the same.

WHEREFORE, the Register of Deeds of Pasay City is hereby directed to cancel Original Certificates of Title Nos. 5677, 5678, 5679 and 5680 issued in the name of Jose T. Velasquez and all titles and transactions emanating therefrom and which are annotated at the back of the said Certificates of Title, and to issue, in lieu thereof, new Certificates of Title in the name of the Heirs of Emilio Gregorio, after paying the prescribed fees therefor, pursuant to the Order for issuance of a decree dated March 9, 1966 in the LRC Case No. N-5053, Record No. N-27523.

SO ORDERED.[18]

On April 29, 1986, TCT Nos. 107727, 107728 and 107729 (covering Lot 1)[19] was issued by the Register of Deeds of Pasay City in the name of the Heirs of Emilio Gregorio. Subsequently, by virtue of a Partition Agreement with Herminia Galman, the property was subdivided into two lots between the heirs of Gregorio (Lot 1-A consisting of 20,000 sq. ms.) and Galman (Lot 1-B consisting of 27,536 sq. ms.). Consequently, TCT No. 107729 was cancelled and in lieu thereof TCT No. 4635 in the name of the heirs of Gregorio and TCT No. 4636 in the name of Herminia Galman, were issued by the Register of Deeds of Las Piñas.[20]

Undeniably, the duplication of titles over Lot 1, Psu-204785 with the issuance of TCT No. S-91911 (transfer from OCT No. 9587) and TCT No. 107729 and its derivative title, TCT No. 4635, both in the name of the same owners, gave rise to the present controversy.

The Claim of Luis Fajardo
(TCT No. 27380, now
TCT No. T-34923)

As earlier mentioned, Gregorio appealed the November 23, 1966 CFI decision in LRC Case Nos. N-5053 and N-5416 awarding Lots 1 to 4 of Psu-204785 in favor of Velasquez, docketed as CA-G.R. No. 40739-40-R. Sometime after this, he entered into an agreement with Tomas Trinidad (Trinidad) and Luis Fajardo (Fajardo) entitled "Kasunduan na may Pambihirang Kapangyarihan." By virtue of this agreement, Fajardo would finance the cost of the litigation and in return he would be entitled to one-half of the subject property after deducting twenty per cent (20%) of the total land area as attorney's fees for Trinidad if the appeal is successful.

After the CA rendered a favorable ruling on Gregorio's appeal, Fajardo and Trinidad filed Civil Case No. 35305 before the RTC of Pasig, Branch 164 to enforce their agreement with Gregorio. On May 8, 1986, said court rendered judgment in their favor, as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering herein defendants:

(1)

to convey to Atty. Tomas Trinidad as honorarium for his services an area of 14,684 sq.m. which is twenty percent (20%) of 72,424 sq.m. the total area of Lots 1, 2, 3 and 4;

(2)

to convey to Luis Fajardo an area of 29,369 sq.m. representing fifty percent (50%) of the remainder of the property after deducting the honorarium of Atty. Trinidad.

(3)

to pay the cost of suit and litigation expenses.

SO ORDERED.[21]

The heirs of Gregorio appealed the above decision but their appeal was declared abandoned and dismissed by the CA. By virtue of an Entry of Judgment issued by the CA dated December 8, 1988, Trinidad and Fajardo filed a motion for the issuance of a writ of execution. However, the writ issued remained unsatisfied as per the Return filed by the Sheriff on April 10, 1989. On August 14, 1989, the court appointed Deputy Sheriff Marcial Estrellado to execute the deed of conveyance in favor of the plaintiffs.

Deputy Sheriff Estrellado executed the Officer's Deed of Conveyance[22] dated August 15, 1989 in favor of Trinidad and Fajardo. While the plaintiffs moved for the approval of the subdivision plan needed for the transfer and issuance of separate titles as per decision, the Register of Deeds of Las Piñas wrote a letter-reply[23] to the Deputy Sheriff indicating that the deed of conveyance and Order of the Court dated August 14, 1989 entered as Entry No. 6503 and 6504 in their docket book could not be pursued because the subject property was already sold to other parties.

In compliance with the order of the CFI, then Register of Deeds of Las Piñas Alejandro R. Villanueva submitted an official report[24] stating that TCT No. S-91911, still existing in their records, should have been cancelled when TCT Nos. 107727, 107728 and 107729 were issued in compliance with the Order dated March 21, 1986 of

the RTC of Pasig, and that such caused an anomalous situation of having two separate and distinct certificates of title covering the same parcels of land although in the name of the same registered owners. Villanueva opined that the issuance of TCT Nos. 107727, 107728 and 107729 covering Lots 1, 3 and 4 of Psu-204785, "placed TCT No. S-91911, as deemed cancelled, inasmuch as the latter certificate of title covers one and the same parcels of land" and hence TCT No. S-91911 should not anymore be subject of any transactions.

The CFI initially withdrew its Order dated August 14, 1989 but eventually reinstated the same and ordered the Register of Deeds to annotate the Deed of Conveyance at the back of TCT No. S-91911 within 24 hours upon receipt of the order. Said directive was reiterated by the CFI on June 7, 1991. On June 26, 1991, the court authorized the subdivision of Lot 1, Psu-204785 and directed the Register of Deeds to issue separate titles in favor of plaintiffs Trinidad and Fajardo. Consequently, TCT No. T-27380 [25] covering 29,369 sq. ms. portion of Lot 1, Psu-204785 in the name of Luis Fajardo was issued on December 12, 1991. On April 26, 1993, said TCT No. T-27380 was cancelled per Order[26] of the court dated March 13, 1992 and in lieu thereof, TCT No. T-34923 [27] was issued, still in the name of Luis Fajardo and without any of the encumbrances carried over from TCT No. S-91911.

The Claim of Top Management

Programs Corporation

(TCT No. T-8129)

On September 24, 1991, herein petitioner Top Management Programs Corporation sought the annulment of the CFI orders in Civil Case No. 35305 reinstating the August 14, 1989 order and directing the issuance of new certificates of title in the name of Trinidad and Fajardo, on the ground of extrinsic fraud. Petitioner claimed that by virtue of a Deed of Absolute Sale[28] dated November 29, 1988 which was notarized on January 9, 1989, the heirs of Gregorio sold to it a parcel of land with an area of 20,000 sq. ms., located at Las Piñas and identified as Lot 1-A Psd-293076, being a portion of Lot 1, Psu-204785 covered by TCT No. T-4635, and that on February 20, 1989, TCT No. T-8129 [29] covering the said property was issued in its name.

On November 28, 1991, the CA rendered its decision dismissing the petition for annulment (CA-G.R. SP No. 26100). It held that there existed no extrinsic fraud which would justify the annulment of the questioned orders. Petitioner sought the reversal of the CA ruling before this Court via a petition for certiorari. By Decision[30] dated May 28, 1993, this Court dismissed the petition and affirmed the CA judgment. On the issue raised by petitioner as to whether the CA erred in holding that petitioner's claim of title to Lot 1-A should be served as third-party claim on the Deputy Sheriff who executed the Deed of Conveyance and caused its registration, or to vindicate the claim to the property through a separate independent action, the Court refrained from discussing the same since its resolution is inconsequential and would not alter in any way the outcome of the petition.[31]

Civil Case No. 94-564

Thus, on February 10, 1994, petitioner filed before the RTC of Makati Civil Case No. 94-564 for Quieting of Title With Damages. Petitioner alleged that the issuance of TCT No. T-27380 in the name of Fajardo -- who obtained the same from the court in a case without the knowledge of petitioner who was not a party therein -- despite the existence of TCT No. T-8129 in its name constitutes a cloud upon the title of petitioner. Petitioner claimed that it acquired the same property in good faith and for value from the original owners thereof.

In his Answer, private respondent Fajardo asserted that it is the title of petitioner which originated from a void title. OCT No. 5678 from which TCT No. 4635 was derived, was in effect declared null and void under this Court's Resolution dated February 8, 1984 in G.R. No. L-34239-40 which dismissed petitioner's appeal from the July 30, 1971 CA Decision in CA-G.R. No. 40739-40-R. The CA had nullified the CFI decision dated March 30,

1966 in LRC Case No. N-5416 insofar as it adjudicates the subject lots to Velasquez.

After petitioner's formal offer of evidence, private respondent filed a demurrer to evidence, which the trial court granted in its Order^[32] dated June 8, 1998, as follows:

WHEREFORE, premises considered, the case is hereby DISMISSED. No pronouncement as to costs. The Register of Deeds of Las Piñas City is hereby ordered to cancel TCT No. T-8129 in the name of plaintiff Top Management Programs Corporation.

SO ORDERED.^[33]

Petitioner appealed to the CA and on May 30, 2001 said court rendered the assailed Decision^[34] affirming the trial court's dismissal of petitioner's complaint. The CA held that petitioner cannot invoke the rule that the title which bears the earlier date should prevail in view of the infirmity in TCT No. 107729 which on its face shows that its origin was a title already voided by the appellate court. Petitioner's motion for reconsideration was likewise denied by the CA.

Hence, this petition alleging that the CA erred in (a) declaring TCT No. T-8129 as defective based on a mere clerical error despite acknowledgment of its issuance resulting from a final determination by this Court of the validity of Emilio Gregorio's claim over the subject property, and (b) affirming the validity of private respondent's TCT No. T-27380 despite the clear nullity of its mother title (OCT No. 9587) which was issued pending the appeal filed by Velasquez from the decision of the appellate court in CA-G.R. No. 40739-40-R to this Court.

Petitioner reiterates that an error was made on the entries in TCT No. 107729. Instead of providing that said title, as well as TCT Nos. 107727 and 107728 issued in the name of the Heirs of Emilio Gregorio, emanated from the application for registration of Emilio Gregorio in LRC Case No. N-5053, LRC Rec. No. N-27523 pursuant to the Order of the RTC in LRC Case Nos. N-5416 and N-5053, the Register of Deeds of Pasay City annotated on the face of said titles that these were derived from Jose T. Velasquez's OCT No. 5678 under Decree No. N-111862. Petitioner laments that deplorable situation of the legitimate successor of the winning litigant holding a title wrongly annotated to have been derived from the voided title of the loser in the case. The winning party was then given a title registered as derived from the title he fought so hard to set aside. Moreover, there is no logic in the appellate court's conclusion that petitioner's title traces its origin to a mother title already voided, when in fact it is undisputed that TCT No. 107729 was issued pursuant to the March 21, 1986 order of the RTC of Pasig in LRC Case Nos. N-5416 and N-5053 implementing the final and executory February 8, 1984 decision of this Court in G.R. Nos. L-34239-40 denying Velasquez's appeal.

Petitioner further claims that it is a buyer in good faith who had no knowledge of any defect in the title of his predecessor-in-interest. It paid the purchase price and acquired its title long before it discovered the right to compensation of private respondent through the Officer's Deed of Conveyance.

Finally, petitioner argues that the issuance of OCT No. 9587 during the pendency of Velasquez's appeal to this Court renders said title null and void ab initio, citing the ruling in *Director of Lands v. Reyes*^[35]. Since OCT No. 9587 is a nullity, it follows that its derivative title, private respondent's TCT No. T-27380, is likewise a nullity.

Private respondent counters that petitioner's assertion of the existence of clerical errors in the annotations of the entries in TCT No. 8129 is, at the very least, an admission that said title is indeed defective. Obviously, petitioner may not file a petition to quiet its title and at the same time seek, in the same proceeding, the corrections of the entries therein.

As to the issue of premature issuance of OCT No. 9587, private respondent points out that the decision in LRC Case No. N-5053 dated January 31, 1966 as a consequence of which Decree of Registration No. 141990 was

issued, has already attained finality even before Velasquez sought the annulment of the award in favor of Emilio Gregorio utilizing the Report of the Commissioner of Land Registration dated September 16, 1966, to the effect, among others, that a portion of the land awarded in his favor overlapped with that adjudicated to Gregorio. Hence, the prohibition mentioned in the case of *Director of Lands v. Reyes* (supra) has no application to the case at bar, and therefore could not serve as basis to nullify OCT No. 9587, the mother title of TCT No. T-27380 in the name of private respondent.

We deny the petition.

Quieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real property. In an action for quieting of title, the plaintiffs must show not only that there is a cloud or contrary interest over the subject real property, but that they have a valid title to it.[36] The court is tasked to determine the respective rights of the complainant and the other claimants, not only to place things in their proper places, and to make the claimant, who has no rights to said immovable, respect and not disturb the one so entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce the improvements he may desire, as well as use, and even abuse the property as he deems fit.[37]

Petitioner anchors its claim over the disputed lot on TCT No. T-8129 issued on February 20, 1989 which is a transfer from TCT No. 107729 in the name of the Heirs of Emilio Gregorio, from whom it bought the property in January 1989. On the other hand, private respondent acquired the same land by virtue of the Officer's Deed of Conveyance dated August 15, 1989 executed in their favor pursuant to the final judgment in Civil Case No. 35305 of the RTC of Pasig, Branch 164 and was issued TCT No. T-27380 in his name on December 12, 1991.

In *Degollacion v. Register of Deeds of Cavite*[38] we held that if two certificates of title purport to include the same land, whether wholly or partly, the better approach is to trace the original certificates from which the certificates of title were derived. Citing our earlier ruling in *Mathay v. Court of Appeals*[39] we declared:

x x x where two transfer certificates of title have been issued on different dates, to two different persons, for the same parcel of land even if both are presumed to be title holders in good faith, it does not necessarily follow that he who holds the earlier title should prevail. On the assumption that there was regularity in the registration leading to the eventual issuance of subject transfer certificates of title, the better approach is to trace the original certificates from which the certificates of title in dispute were derived. Should there be only one common original certificate of title, x x x, the transfer certificate issued on an earlier date along the line must prevail, absent any anomaly or irregularity tainting the process of registration.[40]

From the recitals in the transfer certificates of title respectively held by petitioner and private respondent, as well as the records of the LRA, there appears not just one but two different original certificates. TCT No. T-8129 on its face shows that the land covered was originally registered as OCT No. 5678 under Decree No. N-111862 (Velasquez), while TCT No. T-27380 indicates the original registration as OCT No. 9587 under Decree No. N-141990 (Gregorio). Both the LRC and CA found TCT No. 107729 and its derivative titles TCT Nos. 4635 and T-8129 as void and inexistent since OCT No. 5678 in the name of Velasquez had been nullified under the order for execution of the final judgment in LRC Case Nos. N-5053 and N-5416 in which Gregorio prevailed. Consequently, the lower courts upheld the title of private respondent which alone can be traced to the original certificate in the name of Emilio Gregorio (OCT No. 9578).

Petitioner, however, asserts that the entries in his TCT contain errors and insists that TCT Nos. 107729, 4635 and T-8129 actually emanated from the application for registration of Emilio Gregorio in LRC Case No. N-5053, LRC Record No. N-27523 pursuant to the Order of the Regional Trial Court in LRC Case Nos. N-5053 and N-5416, as

in fact TCT No. 107729 were issued along with TCT Nos. 107727 and 107728 covering two other lots also in the name of the Heirs of Emilio Gregorio by way of implementing the final judgment of said court in the case between Gregorio and Velasquez, as affirmed by the CA and this Court.

We disagree.

TCT No. 107729 in the name of the heirs of Emilio Gregorio issued on April 29, 1986, on its face showed badges of irregularity in its issuance. First, the technical description stated that it covers a portion of Lot 1, plan Psu-204785, LRC Case No. N-5416 instead of N-5053. Second, the decree number and date of issuance, as well as OCT number clearly indicate that the original decree pertained to Velasquez and not Gregorio. Third, the name of the registered owner in the original certificate is not Velasquez or Gregorio but "Delta Motor Corp." And fourth, the certificate from which TCT No. 107729 was supposedly a transfer should have been the OCT (of Gregorio) and not those unfamiliar TCT numbers indicated therein. The annotations regarding the supposed original registration of TCT No. 107729 read as follows:

IT IS FURTHER CERTIFIED that said land was originally registered on the 12[th] day of December in the year nineteen hundred and sixty-six in the Registration Book of the Office of the Register of Deeds of Rizal Volume A-69 page 78 as Original Certificate of Title No. 5678 pursuant to Decree No. N-111862 issued in L.R.C. _____ Record No. N-28735 Case No. N-5416 in the name of Delta Motor Corp. .

This certificate is a transfer from Transfer Certificate of Title No. 27737/A/T-145-A S-8722/T-41 which is cancelled by virtue hereof in so far as the above-described land is concerned.[41] (Emphasis supplied.)

The foregoing errors are not mere typographical as petitioner claims, but serious discrepancies in the registration process. In fact, it is not far-fetched that the erroneous entries could have been intended to create the impression that TCT No. 107729 was a separate and distinct title from the previously issued TCT No. S-91911 even if they pertain to one and the same lot adjudicated to Emilio Gregorio. Such conclusion is reinforced by the unexplained inaction or failure of the heirs of Gregorio to rectify the alleged errors in their title before selling the property to petitioner. The heirs of Gregorio knew that their TCT No. S-91911 bore encumbrances in favor of third parties, notably the notice of pending litigation (*Lis Pendens*) involving the property covered by said title before the CFI of Pasig, Metro Manila in Civil Case No. 35305, which Trinidad caused to be annotated thereon. The issuance of a new certificate with exactly identical entries as that of TCT No. S-91911 (as to its original registration) would mean that the aforesaid annotations had to be carried over to such new certificate. Strangely, it is TCT No. 107729 which RD Alejandro R. Villanueva upheld in his February 5, 1989 Report notwithstanding its later issuance and the glaring errors in the entries of its original registration. It must be stressed that OCT No. 5677, 5678, 5679 and 5680 and its derivative titles were ordered cancelled precisely because they were issued pursuant to Decree Nos. N-111862 to N-111865 issued in LRC Case No. N-5416 in the name of Velasquez, who lost in the final judgment rendered in CA-G.R. No. 40739-40-R, and whose claim to the lots covered thereby were declared null and void. Logically, therefore, any new certificate of title to be issued to the heirs of Gregorio by virtue of the aforesaid final judgment adjudicating the land to Emilio Gregorio, could not possibly be a transfer or replacement of the aforesaid void OCTs in the name of Velasquez.

But even granting that the subject entries in TCT No. 107729 were mere clerical errors and assuming arguing that said certificate was issued to implement the final judgment in CA-G.R. No. 40739-40-R, such execution is tainted with infirmity. The March 21, 1986 order issued by the RTC of Pasig did not only cancel OCT No. 5678 (and other titles in the name of Velasquez covering the same lots adjudicated to Gregorio), it also ordered the issuance of new certificates of title in the name of the heirs of Emilio Gregorio despite having been informed by the LRA and the Register of Deeds that there was already issued OCT No. 9587 over the same lot in the name of Emilio Gregorio, which was replaced with TCT No. S-91911 in the name of the heirs of Emilio Gregorio

following the decision rendered by the appellate court (CA-G.R. No. 56015-R) in another case filed by Gregorio against spouses Parami (Civil Case No. 16977).

At this point, it serves well to emphasize that upon finality of judgment in land registration cases, the winning party does not file a motion for execution as in ordinary civil actions. Instead, he files a petition with the land registration court for the issuance of an order directing the Land Registration Authority to issue a decree of registration, a copy of which is then sent to the Register of Deeds for inscription in the registration book, and issuance of the original certificate of title.[42] The LRC upon the finality of the judgment adjudicating the land to an applicant shall, following the prescribed procedure, merely issues an order for the issuance of a decree of registration and the corresponding certificate of title in the name of such applicant.[43]

In this case, the RTC of Pasig, cognizant of a previous decree of registration instead ordered the Register of Deeds to issue new certificates in favor of the heirs of Gregorio, erroneously declaring that such certificates are in lieu of OCT Nos. 5677, 5678, 5679 and 5680. Said court exceeded its authority when it ordered the issuance of transfer certificates in the name of the heirs of Gregorio despite the existence of TCT No. S-91911 already issued to them covering the same parcel of land. This caused the duplication of titles held by the heirs of Gregorio over Lot 1. Thus, while there was only one decree and original certificate issued to the common predecessor-in-interest of petitioner and private respondent, Emilio Gregorio, the latter's heirs were able to secure two transfer certificates covering the same land. Indeed it could not order the issuance of another OCT as it would result to duplication of titles or "double titling." [44] A land registration court has no jurisdiction to order the registration of land already decreed in the name of another in an earlier land registration case.[45] Issuance of another decree covering the same land is therefore null and void.[46]

In the light of the LRA Report dated September 12, 1984 stating that compliance with the July 30, 1971 final judgment rendered by the CA which reversed the LRC decision and adjudicated Lots 1, 3 and 4 in favor of Emilio Gregorio, would result in duplication of titles, it was grave error for the RTC of Pasig to grant the motion for execution filed by the heirs of Emilio Gregorio who sought, -- in the guise of implementing the July 30, 1971 CA decision -- the issuance of new titles in their name notwithstanding the existence of OCT No. 9587 and TCT No. S-91911. Given such vital information, there exists a compelling need for the land registration court to ascertain the facts and "address the likelihood of duplication of titles x x x, an eventuality that will undermine the Torrens system of land registration." [47]

Petitioner nonetheless assails OCT No. 9587 as null and void, having been issued when the adverse decision of the appellate court in CA-G.R. No. 40739-40-R was elevated by it to this Court. Following the doctrine in *Director of Lands v. Reyes* (supra), it is asserted that OCT No. 9587 should not have been issued because the decision in CA-G.R. No. 40739-40-R was not yet final at the time, pending resolution by this Court of the appeal by Velasquez (G.R. No. L-34239-40).

In *Director of Lands v. Reyes* (supra), this Court laid down the rule that execution pending appeal is not applicable in a land registration proceeding and the certificate of title thereby issued is null and void. In that case, the assignee of the original applicant applied for a motion for issuance of a decree of registration before the lower court pending the approval of the Record on Appeal. The motion was opposed by the Government which appealed the lower court's decision adjudicating the land to the said assignee. We thus ruled:

Under the circumstances of this case, the failure of the appellants to serve a copy of their Notice of Appeal to the counsel for the adjudicatee Roman C. Tamayo is not fatal to the appeal because, admittedly, he was served with a copy of the original, as well as the Amended Record on Appeal in both of which the Notice of Appeal is embodied. Hence, such failure cannot impair the right of appeal.

What is more, the appeal taken by the Government was from the entire decision, which is not severable. Thus, the appeal affects the whole decision.

In any event, We rule that execution pending appeal is not applicable in a land registration proceeding. It is fraught with dangerous consequences. Innocent purchasers may be misled into purchasing real properties upon reliance on a judgment which may be reversed on appeal.

A Torrens title issued on the basis of a judgment that is not final is a nullity, as it is violative of the explicit provisions of the Land Registration Act which requires that a decree shall be issued only after the decision adjudicating the title becomes final and executory, and it is on the basis of said decree that the Register of Deeds concerned issues the corresponding certificate of title.

Consequently, the lower court acted without jurisdiction or exceeded its jurisdiction in ordering the issuance of a decree of registration despite the appeal timely taken from the entire decision *a quo*.^[48]

OCT No. 9587 on its face showed that its basis was Decree No. N-141990 issued on October 31, 1972 pursuant to the January 31, 1966 decision of the CFI in Land Reg. Case No. N-5053 and CA decision dated July 30, 1971. Per records of this Court, however, Velasquez had filed a petition for review of the CA decision. Be that as it may, the premature issuance of the decree in favor of Emilio Gregorio and the corresponding original certificate of title in his name did not affect his acquisition of title over the subject land considering that Velasquez's petition was eventually dismissed. Neither can petitioner, by reason alone of defective issuance of OCT No. 9587, claim a right over the subject land superior to that acquired by the private respondent.

A reading of the annotations of encumbrances at the back of TCT No. T-27380 which were carried over from TCT No. S-91911 in the name of the Heirs of Gregorio, would show that during the pendency of Civil Case No. 35305 filed before the CFI of Rizal by private respondent and Trinidad, the latter caused the annotation of a Notice of Lis Pendens involving the same properties of the defendants therein, the heirs of Emilio Gregorio. The notice of lis pendens was registered as Entry No. 21398^[49] on TCT No. S-91911.

Lis pendens, which literally means pending suit, refers to the jurisdiction, power or control which a court acquires over property involved in a suit, pending the continuance of the action, and until final judgment. Founded upon public policy and necessity, lis pendens is intended to keep the properties in litigation within the power of the court until the litigation is terminated, and to prevent the defeat of the judgment or decree by subsequent alienation. Its notice is an announcement to the whole world that a particular property is in litigation and serves as a warning that one who acquires an interest over said property does so at his own risk or that he gambles on the result of the litigation over said property.^[50]

The filing of a notice of lis pendens has a two-fold effect: (1) to keep the subject matter of the litigation within the power of the court until the entry of the final judgment to prevent the defeat of the final judgment by successive alienations; and (2) to bind a purchaser, bona fide or not, of the land subject of the litigation to the judgment or decree that the court will promulgate subsequently.^[51] Once a notice of lis pendens has been duly registered, any subsequent transaction affecting the land involved would have to be subject to the outcome of the litigation.^[52]

Petitioner being a mere transferee at the time the decision of the RTC of Pasig in Civil Case No. 35305 had become final and executory on December 6, 1988, it is bound by the said judgment which ordered the heirs of Emilio Gregorio to convey Lots 1, 2, 3 & 4, Psu-204875 in favor of private respondent and Trinidad. As such buyer of one of the lots to be conveyed to private respondent pursuant to the court's decree with notice that said properties are in litigation, petitioner merely stepped into the shoes of its vendors who lost in the case. Such vested right acquired by the private respondent under the final judgment in his favor may not be defeated by the subsequent issuance of another certificate of title to the heirs of Gregorio respecting the same parcel of land. For it

is well-settled that being an involuntary transaction, entry of the notice of lis pendens in the primary entry book of the Register of Deeds is sufficient to constitute registration and such entry is notice to all persons of such claim.[53]

"It is to be noted that the notation of the lis pendens on the back of the owner's duplicate is not mentioned for the purpose of constituting a constructive notice because usually such owner's duplicate certificate is presented for the purpose of the annotation later, and sometimes not at all until [it is] ordered by the court." [54] Strictly speaking, the lis pendens annotation is not to be referred to "as a part of the doctrine of notice; the purchaser pendente lite is affected, not by notice, but because the law does not allow litigating parties to give to others, pending the litigation, rights to the property in dispute so as to prejudice the opposite party. The doctrine rests upon public policy, not notice." [55] Thus we have held that one who buys land where there is a pending notice of lis pendens cannot invoke the right of a purchaser in good faith; neither can he have acquired better rights than those of his predecessor in interest. [56]

In view of the foregoing, we hold that the CA did not err in affirming the trial court's order dismissing petitioner's complaint for quieting of title and ordering the cancellation of its TCT No. T-8129.

WHEREFORE, the petition is DENIED. The Decision dated May 30, 2001 and Resolution dated October 23, 2001 of the Court of Appeals in CA-G.R. CV No. 60712 are AFFIRMED.

With costs against the petitioner.

SO ORDERED.

Carpio Morales, (Chairperson), Brion, Bersamin, and Sereno, JJ., concur.

[1] Rollo, pp. 34-49. Penned by Associate Justice Fermin A. Martin, Jr., with Associate Justices Mercedes Gozo-Dadole and Alicia L. Santos concurring.

[2] Id. at 51-52. Penned by Associate Justice Mercedes Gozo-Dadole, with Associate Justices Godardo A. Jacinto and Alicia L. Santos concurring.

[3] Id. at 54-59. Penned by Judge Alfredo R. Enriquez.

[4] Records (Vol. 2), pp. 460-463.

[5] Id. at 479.

[6] Id. at 479-480.

[7] Records (Vol. 1), pp. 39-47.

[8] Id. at 47.

[9] Id. at 34.

[10] Id. at 35-37.

[11] Id. at 37.

[12] Records (Vol. 2), p. 476.

[13] Id. at 491.

- [14] Id. at 481-482.
- [15] Rollo, pp. 44-45.
- [16] Records (Vol. 2), p. 483.
- [17] Id. at 495-496.
- [18] Id.
- [19] Id. at 487-488.
- [20] Id. at 487 (back), 489-490.
- [21] Id. at 370.
- [22] Records (Vol. 1), pp. 14-15.
- [23] Records (Vol. 2), pp. 485-486.
- [24] Id. at 492-494.
- [25] Rollo, pp. 61-62.
- [26] Id. at 62.
- [27] Id. at 63.
- [28] Records (Vol. 1), pp. 7-11.
- [29] Rollo, p. 60.
- [30] Top Management Programs Corp. v. Court of Appeals, G.R. No. 102996, May 28, 1993, 222 SCRA 763.
- [31] Id. at 772.
- [32] Rollo, pp. 54-59.
- [33] Id. at 59.
- [34] Id. at 34-49.
- [35] Nos. L-27594 & 28144, November 28, 1975, 68 SCRA 177.
- [36] Secuya v. Vda. de Selma, G.R. No. 136021, February 22, 2000, 326 SCRA 244, 246.
- [37] Baricuatro, Jr. v. Court of Appeals, G.R. No. 105902, February 9, 2000, 325 SCRA 137, 146-147.
- [38] G.R. No. 161433, August 29, 2006, 500 SCRA 108, 115.
- [39] G.R. No. 115788, September 17, 1998, 295 SCRA 556.
- [40] Id. at 578.
- [41] Records (Vol. 2), p. 487.
- [42] Republic v. Heirs of Abrille, No. L-39248, May 7, 1976, 71 SCRA 57, 66; Realty Sales Enterprises, Inc. v. IAC, No. L-67451, May 4, 1988, 161 SCRA 56, 61.
- [43] SEC. 30 of P.D. No. 1529 provides:

Sec. 30. When judgment becomes final; duty to cause issuance of decree. -x x x

After judgment has become final and executory, it shall devolve upon the court to forthwith issue an order in accordance with Section 39 of this Decree to the Commissioner for the issuance of the decree of registration and the corresponding certificate of title in favor of the person adjudged entitled to registration.

[44] See *Heirs of the Late Jose De Luzuriaga v. Republic*, G.R. Nos. 168848 & 169019, June 30, 2009, 591 SCRA 299, 314.

[45] *Laburada v. Land Registration Authority*, G.R. No. 101387, March 11, 1998, 287 SCRA 333, 343.

[46] See *Metropolitan Waterworks and Sewerage Systems v. Court of Appeals*, G.R. No. 103558, November 17, 1992, 215 SCRA 783, 788.

[47] See *Heirs of the Late Jose De Luzuriaga v. Republic*, supra note 44.

[48] Supra note 35 at 185-186.

[49] Rollo, p. 62.

[50] *Associated Bank v. Pronstroller*, G.R. No. 148444, July 14, 2008, 558 SCRA 113, 133, citing *Romero v. Court of Appeals*, G.R. No. 142406, May 16, 2005, 458 SCRA 483, 492.

[51] Id., citing *Romero v. Court of Appeals*, id. at 492-493 and *Heirs of Eugenio Lopez, Sr. v. Enriquez*, G.R. No. 146262, January 21, 2005, 449 SCRA 173, 186.

[52] *Vicente v. Avera*, G.R. No. 169970, January 20, 2009, 576 SCRA 634, 643.

[53] *Director of Lands v. Reyes*, supra note 35 at 188; *Caviles, Jr. v. Bautista*, G.R. No. 102648, November 24, 1999, 319 SCRA 24, 32, citing *Levin v. Bass, et al.*, 91 Phil. 419, 437 (1952).

[54] A. H. Noblejas and E. H. Noblejas, *Registration of Land Titles and Deeds*, 2007 Ed., pp. 436-437.

[55] Id. at 437, citing 2 *Bouvier's Law Dictionary and Concise Encyclopedia*, p. 2033, SCRA Annotation on Civil Law, the Public Land Act and the Property Registration Decree, 1983 Ed., pp. 118-119 quoted in *Tirado v. Sevilla*, G.R. No. 84201, August 3, 1990, 188 SCRA 321, 326-327.

[56] *Yu v. Court of Appeals*, G.R. No. 109078, December 25, 1995, 251 SCRA 509, 513-514, citing *Constantino v. Espiritu*, No. L-23268, June 30, 1972, 45 SCRA 557, 563 and *Tanchoco v. Aquino*, No. L-30670, September 15, 1987, 154 SCRA 1, 15; see *Philippine National Bank v. Court of Appeals*, No. L-34404, June 25, 1980, 98 SCRA 207, 232.

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