

CEFERINO T. ADVIENTO, PETITIONER, VS. HEIRS OF MIGUEL ALVAREZ, NAMELY: MARIA P. ALVAREZ, DR. BEDA P. ALVAREZ, JR., MIGUEL ALVAREZ, JR., DR. AGUSTINA A. BALUYOT, SEVERINO P. ALVA...

G.R. No. 150844. August 20, 2008

Ponente: PUNO, CJ.

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PUNO, CJ.:

This is a petition for review on certiorari assailing the Decision of the Court of Appeals (CA) in C.A.-G.R. CV No. 37641[1] which affirmed in toto the Decision of the Regional Trial Court (RTC),[2] of the Sixth Judicial Region, Branch 20, Naga City in Civil Case No. R-12 (7205) entitled "Miguel Alvarez, plaintiff, versus Lydia Gaya, defendant."

Civil Case No. R-12 (7205) was a case of reconveyance involving a piece of land with an area of 228 square meters, located in Naga City. It arose when Miguel Alvarez, the original plaintiff and now substituted by his heirs as respondents herein, filed a complaint[3] on October 22, 1971 against Lydia Gaya, petitioner's predecessor-in-interest, alleging that: (1) he had been in continuous, exclusive, and notorious possession, and occupation of a parcel of land (Lot No. 3153-Cad-7150) including its buildings; (2) the lot was originally surveyed and numbered as part of Lot No. 1696 of the Cadastral Survey of Naga, Cadastral Case No. N-3, L.R.C. Cadastral Record No. N-78; (3) that Gaya initiated the subdivision of the said lot (now Lot No. 3164) without the knowledge of Miguel Alvarez; (4) that Gaya willfully failed to notify Miguel Alvarez of the cadastral proceedings, as the lawful occupant and owner; (5) that Gaya committed fraud in obtaining Original Certificate of Title (OCT) No. 338 of the Register of Deeds of Naga City; and (6) that because of such fraud, Alvarez sustained losses, actual and moral damages including attorney's fees.[4]

Lydia Gaya alleged in her Answer: (1) that Miguel Alvarez had no right of ownership since he had not been in continuous, exclusive and notorious possession of the said land; (2) she had been in peaceful and continuous possession as an owner from 1936 up to the present; (3) that she acquired an imperfect title thereto, which was confirmed on June 29, 1966 by the Cadastral Court in Camarines Sur in accordance with Commonwealth Act No. 141; (4) that the case was considered uncontested since she was the only claimant; (5) that the Court of First Instance ordered the registration of said property along with the improvements thereon in her and her husband's name resulting in the issuance of Decree No. 117760 on December 4, 1967 and OCT No. 338 on March 15, 1968; (6) that her title over the property has become indefeasible and can no longer be reviewed; (7) that the complaint was barred by the statute of limitations; and (8) the complainant's action was pure harassment, hence, damages should be awarded to her.[5]

On March 28, 1973, the parties agreed before the trial court on two points: (1) that the land in question is a part of a parcel of land covered by OCT No. 338 in the name of Lydia Gaya, with an area of 228 square meters, and (2) the existence of a title in Lydia Gaya's name.

Miguel Alvarez died during the trial. After the Notice of Death was submitted, he was substituted by his heirs.[6]

On May 25, 1984, petitioner Ceferino Adviento filed an Answer in Intervention With Urgent Prayer for Issuance of Preliminary Injunction alleging that he acquired the controversial lot, or part thereof, by purchase against the interest of Miguel Alvarez. Ceferino Adviento traced his title to Fidel Cu who bought the same property from Lydia Gaya.

Petitioner Adviento adopted the allegations of Lydia Gaya insofar as they contested the ownership over the controverted land. He further alleged that Miguel Alvarez constructed a concrete building, which the former discovered was encroaching on his property. Petitioner alleged that the encroachment was illegal and unlawful because he was dispossessed of his right of entering and occupying the building. Adviento claimed damages amounting to Php 50,000.00 representing reimbursement for expenses incurred.

The RTC ruled in favor of respondents-heirs of Miguel Alvarez. The fallo of the RTC decision reads:

IN VIEW OF THE FOREGOING, decision is hereby rendered:

(a) ordering the annulment of Original Certificate of Title No. 338 in the name of Lydia Gaya and its subsequent titles, TCT 13200 in the name of Fidel Cu and TCT 15201 in the name of Ceferino Adviento, in so far as it covers the land adjacent to plaintiff's land covered by TCT 69 on the Southeast along the Naga River consisting of more or less 228 square meters, and further declaring plaintiff's ownership thereon [and] who [is] entitled to possession thereof;

(b) ordering defendant Lydia Gaya to indemnify plaintiffs (sic) the amount of P5,000 as attorney's fees and the cost of the suit.

SO ORDERED.[7]

On appeal, the CA affirmed.

The petitioner raised the following issues against the decision of the appellate court:

I.

THE COURT OF APPEALS ERRED IN FAILING TO HOLD THAT WHENEVER THERE IS A ROAD BORDERING [sic] A STREAM OR RIVER THERE IS CEASED [SIC] A RIPARIAN OWNERSHIP ON AN ALLEGED ACCRETION AND WHATEVER ACCRETION THERE MIGHT HAVE BEEN DOES NOT BELONG TO THE OWNER.

II.

THE COURT OF APPEALS ERRED IN FAILING TO HOLD THAT THE JUDICIAL ADMISSION OF RESPONDENT MIGUEL ALVAREZ DURING THE PRE-TRIAL AS TO THE FACT THAT PETITIONER HAD A TITLE OVER THE LAND IN QUESTION CONTROLS THE SUBSEQUENT PROCEEDING OF THE CASE.

III.

THE COURT OF APPEALS ERRED IN FAILING TO HOLD THAT INASMUCH AS THERE WAS REGULARITY, VALIDITY AND CONCLUSIVENESS OF THE DECISION IN THE LAND REGISTRATION CASE (LRC) RESULTING IN A DECREE OF REGISTRATION IN FAVOR OF APPELLANT GAYA, THE SAID LRC DECISION PUTS TO REST WHATEVER ISSUES THERE MAY BE.

IV.

THE COURT OF APPEALS ERRED IN FAILING TO HOLD THAT BY THE COMPLETENESS AND DETERMINATION OF TITLE IN FAVOR OF LYDIA GAYA AND SUBSEQUENTLY TO PETITIONER, THE CIVIL CASE SHOULD HAVE BEEN DISMISSED AND THAT THE DECISION OF THE REGIONAL TRIAL COURT AS WELL AS THE COURT OF APPEALS IN FAVOR OF RESPONDENT HEIRS OF MIGUEL ALVAREZ SHOULD HAVE BEEN LIKEWISE DISMISSED.

V.

THE COURT OF APPEALS ERRED IN FAILING TO HOLD THAT THERE WAS NO FRAUD; PLAINTIFF AND HIS SUBSTITUTE HEIRS ARE NOT ENTITLED TO AN AWARD FOR ATTORNEY'S FEES.[8]

We find the petition without merit.

Petitioner contends that title should not vest to a riparian owner when there is a road bordering the land and the adjunct waters. This is an issue raised for the first time in this Court. We cannot entertain the issue for it is unprocedural and would call for determination of facts after presentation of evidence. Settled is the rule that this Court is not a trier of facts. [9]

The records show that the claim of Alvarez is based on possession. The trial court and the Court of Appeals found the claim sustained by the evidence. They held that Miguel Alvarez acquired the lot by purchase from ALATCO, on January 23, 1952, located on Padian St., Naga City, covered by OCT No. 862 which was later cancelled by TCT No. 69 in the name of Alvarez. The land was bound on the northeast by a government property; on the southeast by the Naga River; on the southwest by an unnamed street; and on the northwest by Padian Street. The trial court found that together with the area sold to Miguel Alvarez covered by OCT No. 862, the land in question was previously possessed "since time immemorial" by ALATCO having previously declared it under its name by Tax Declaration No. 9726 and in subsequent tax declarations. Alvarez further proved his possession when he applied for a building permit to construct a building along the bank of the Naga River. We find no reason to disturb these findings.

We also reject petitioner's contention that considering the admission by the respondents in the trial court as to the existence of "title" in her name, she does not need to prove her ownership of the subject lot. We affirm the ruling of the appellate court that a "[d]istinction should be drawn between taking judicial notice of sources, documents and materials without formal proof of the genuineness or authenticity, and taking notice of facts related to such admissions and materials." [10] As the appellate court explained: "[w]here the court finds that it is while the source is genuine, the facts therein are not clearly indisputable and should, therefore be subject to proof." [11] The totality of proof adduced by the parties shows that the title of petitioner's predecessor-in-interest is bereft of any legal basis.

We cannot also agree with petitioner that the decision of the appellate court failed to recognize the regularity, validity and conclusiveness of the order in the Land Registration Case which culminated in the decree of registration in favor of petitioner's predecessor-in-interest. Further, petitioner argues that it was enough that there was publication of notice in the application for registration. [12] Petitioner contends that respondents had all the opportunity to know of the application for registration made by petitioner's predecessor-in-interest over the subject lot.

The applicable law at that time is Section 21 of Act No. 496, Land Registration Act, [13] which requires that applications for registration should contain a notification to "all the occupants of the land and of all adjoining owners, if known; and, if not known, it shall state what search has been made to find them." [14] So we held in *Republic v. Heirs of Luisa Villa Abrille*: [15]

For an applicant to have this imperfect or incomplete title or claim to a land to be originally registered under Act 496, the several requisites should all be satisfied; (1) Survey of land by the Bureau of Lands or a duly licensed private surveyor; (2) Filing an application for registration by the applicant; (3) Setting of the date for the initial hearing of the application by the Court; (4) Transmittal of the application and the date of the initial hearing together with all the documents or other evidences attached thereto by the Clerk of Court to the Land Registration Commission; (5) Publication of a notice of the filing of the application and the date and place of the hearing in the Official Gazette; (6) Service of notice upon contiguous owners, occupants and those known to have interests in the property by the sheriff; (7) Filing of answer to the application by any person whether named in the notice or not; (8) Hearing of the case by the Court; (9) Promulgation of judgment by the Court; (10) Issuance of the decree by the Court declaring the decision final and instructing the Land Registration Commission to issue a decree of confirmation and registration; (11) Entry of the decree of registration in the Land Registration Commission; (12) Sending of copy of the decree of registration to the corresponding Register of Deeds; and (13) Transcription of the decree of registration in the registration book and the issuance of the owner's duplicate original certificate of title to the applicant by the Register of Deeds, upon payment of the prescribed fees.[16]

In the case at bar, petitioner admitted the lack of the notice to respondents. Lack of notice is a denial of due process to respondents. It is elementary that no person can be denied his property without due process of law.[17]

We also reject petitioner's argument that the registration decree binds the RTC and the CA. The argument goes against the very grain of judicial review. The RTC and the CA are not bound by the land registration decree especially when it is assailed on the ground of fraud.

Section 38 of Act No. 496, The Land Registration Act, provides:

SEC. 38. If the court after hearing finds that the applicant or adverse claimant has title as stated in his application or adverse claim and proper for registration, a decree of confirmation and registration shall be entered. Every decree of registration shall bind the land, and quiet title thereto, subject only to the exceptions stated in the following section. It shall be conclusive upon and against all persons, including the Insular Government and all the branches thereof, whether mentioned by name in the application, notice, or citation, or included in the general description 'To all whom it may concern.' Such decree shall not be opened by reason of the absence, infancy, or other disability of any person affected thereby, nor by any proceeding in any court for reversing judgments or decrees; subject, however, to the right of any person deprived of land or of any estate or interest therein by decree of registration obtained by fraud to file in the competent Court of First Instance a petition for review within one year after entry of the decree, provided no innocent purchaser for value has acquired an interest. Upon the expiration of said term of one year, every decree or certificate of title issued in accordance with this section shall be incontrovertible. If there is any such purchaser, the decree of registration shall not be opened, but shall remain in full force and effect forever, subject only to the right of appeal hereinbefore provided: Provided, however, That no decree or certificate of title issued to persons not parties to the appeal shall be cancelled or annulled. But any person aggrieved by such decree in any case may pursue his remedy by action for damages against the applicant or any other person for fraud in procuring the decree. Whenever the phrase 'innocent purchaser for value' or an equivalent phrase occurs in this Act, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.[18]

In *Salomon v. Bocauto*,[19] Justice Laurel had the occasion to discuss the nature of this provision:

Under section 38 of Act No. 496, the petitioner must show affirmatively that (1) he has an interest or estate in the land, and (2) he has been deprived of that interest through fraud in the procurement of the decree of registration. The essential facts are to be clearly alleged in the petition; otherwise, the registration court is justified in dismissing the same. (*Guzman vs. Ortiz*, 12 Phil., 701; *Cusar Insular Government*, 13 Phil., 319; *Apurado vs. Apurado*, 26 Phil., 586; and *Escudero & Marasigan vs. Esguerra*, 48 Phil., 511.) In the present case, the appellants Bocauto and Redon pretend to derive their claim from Ilariano Redon, the original owner.

The lower court, however, in its decision dated January 26, 1939, appears to have rejected this claim and found that Mariano Redon had sold the said land to Bonifacio Redon, who, in turn, conveyed it to Policarpio Tamoro. Moreover, both petitioners had notice of the original registration proceedings, but failed to put up any claim and to show title in themselves.

In the case at bar, respondents pleaded their interest in the land and the fraud used which defeated such interest. No notice was given to the respondents. The lack of notice was obviously intended by the petitioner's predecessor-in-interest to prevent contest on the application. Petitioner's predecessor-in-interest falsely attested to the absence of any adverse claim, including the absence of any possession of the land. By our rulings, this constitutes extrinsic fraud. In *Libundan v. Gil*,^[20] we held that:

The purpose of the law in giving aggrieved parties, deprived of land or any interest therein, through fraud in the registration proceedings, the opportunity to review the decree is to insure fair and honest dealing in the registration of land. But the action to annul a judgment, upon the ground of fraud, would be unavailing unless the fraud be extrinsic or collateral and the facts upon which it is based have not been controverted or resolved in the case where the judgment sought to be annulled was rendered. Extrinsic or collateral fraud, as distinguished from intrinsic fraud, connotes any fraudulent scheme executed by a prevailing litigant 'outside the trial of a case against the defeated party, or his agents, attorneys or witnesses, whereby said defeated party is prevented from presenting fully and fairly his side of the case.' But intrinsic fraud takes the form of 'acts of a party in a litigation during the trial, such as the use of forged instruments or perjured testimony, which did not affect the presentation of the case, but did prevent a fair and just determination of the case.'

Thus, relief is granted to a party deprived of his interest in land where the fraud consists in a deliberate misrepresentation that the lots are not contested when in fact they are, or in applying for and obtaining adjudication and registration in the name of a co-owner of land which he knows had not been allotted to him in the partition, or in intentionally concealing facts, and conniving with the land inspector to include in the survey plan the bed of a navigable stream, or in willfully misrepresenting that there are no other claims, or in deliberately failing to notify the party entitled to notice, or in inducing him not to oppose an application, or in misrepresenting about the identity of the lot to the true owner by the applicant causing the former to withdraw his opposition. In all these examples the overriding consideration is that the fraudulent scheme of the prevailing litigant prevented a party from having his day in court or from presenting his case. The fraud, therefore, is one that affects and goes into the jurisdiction of the court.^[21]

The averments in the petition for review of the decree of registration constitute specific and not mere general allegations of actual and extrinsic fraud.^[22] Competent proof to support these allegations was adduced as found by the courts a quo. We find no compelling reason to disturb their findings.

It should be emphasized that petitioner is a successor-in-interest--he merely bought the land from Lydia Gaya, and hence, the petitioner stepped into the shoes of the same predecessor-in-interest.

As the RTC found:

On cross, Ce[f]erino Adviento admitted the existence of an annotation on the title of the pendency of Civil Case No. 7205 filed as early as October 1971 before he purchased the land in question, and therefore knew the risk of buying it. He was likewise shown a title by Fidel Cu and also knew of the existence of a *lis pendens* in the latter's title. He also examined the records of this case, was aware that the plaintiff was a boundary owner of the land in question, but did not verify his title as to whether his land was bounded on the Southeast by Naga River. Before he filed his answer-in-intervention in May 1984, he already knew of the records of this case and only coordinated with his counsel. He came to know that the property of Alvarez is bounded by the Naga River on the southeast after the relocation made by the Commissioner. Despite such knowledge, he did not confront Lydia Gaya or Fidel Cu about it. In 1984 he did not know that the heirs of Miguel Alvarez were in possession of the construction work of Alvarez which was going on at that time on the premises, but he did not confront

Alvarez about it. At the time of his purchase of the land, there were no buildings on the land but only small shanties at the corner of Elias Angeles Street and a "Cafehan" at the road along the river with nipa roofing and the walls were somewhat nipa too, and which appeared to be quite old. He did not however inquire who allowed the construction thereof. At the time of his purchase in 1984, the area owned by Alvarez which appears now to adjoin the property he purchased was used as a bus terminal which was put on much later, but not at the time of his purchase.

Admittedly, the land in question consisting of 228 square meters, more or less, is a portion of Lot 3164 covered by OCT 338 in the name of Lydia Gaya.[23]

Thus, when the trial court decided against Lydia Gaya's interest, it followed that all the succeeding titles which trace interest to her title were affected. In the case at bar, the trial court found that the issuance of title was illegal. Petitioner's claimed right cannot now have more coverage and extent than that from which it originated. Indeed, petitioner's purchase of the said land despite the notice of lis pendens and actual knowledge of the pending case would not qualify him as an innocent purchaser for value.[24] It is a settled rule that a purchaser of real estate with knowledge of any defect or lack of title of the vendor cannot claim that he has acquired title thereto in good faith as against the true owner of the land or interest therein. The same rule applies to one with knowledge of facts which should have put him on inquiry and investigation as might be necessary to acquaint him with the defects in the title of his vendor.[25]

IN VIEW WHEREOF, premises considered, the petition for review on certiorari is DENIED for lack of merit. The assailed Decision, dated May 10, 2001 of the Court of Appeals in C.A.-G.R. CV No. 37641 affirming the Decision of the Regional Trial Court of the Sixth Judicial Region, Branch 20, Naga City in Civil Case No. R-12 (7205) dated February 27, 1992 ordering the annulment of OCT No. 338, is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Carpio, Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Miguel Alvarez, plaintiff, v. Lydia Gaya, defendant-appellant, and Ceferino Adviento, intervenor-appellant, C.A.-G.R. CV No. 37641, promulgated on May 10, 2001, penned by Justice Remedios A. Salazar-Fernando with Justices Romeo A. Brawner and Rebecca de Guia-Salvador concurring.

[2] Civil Case No. R-12 (7205), dated February 27, 1992.

[3] Records, Complaint, pp. 6-8.

[4] Id.

[5] Records, Answer, pp. 9-12.

[6] The following heirs were substituted: the spouse, Maria P. Alvarez; eight (8) children, namely, Beda P. Alvarez, Miguel P. Alvarez, Jr., Agustina A. Baluyot, Severino P. Alvarez, Lilia A. Ramos, Anicia Lee, Azucena A. Hussey, and Alexander P. Alvarez. Five of the children authorized their mother, Maria P. Alvarez, to litigate on their behalf. The Motion for Substitution was granted in an Order dated February 4, 1981.

[7] Rollo, p. 126; RTC Decision, p. 12.

[8] Rollo, pp. 46-58.

- [9] De Guzman v. Court of Appeals, G.R. No. L-47378, February 27, 1987, 148 SCRA 75.
- [10] Rollo, p. 25; CA Decision, p. 14.
- [11] Rollo, p. 77; CA Decision, p.14.
- [12] Id.
- [13] Land Registration Act, Act No. 496, promulgated on November 6, 1902, superseded by the Property Registration Decree, Presidential Decree No. 1529, June 11, 1978.
- [14] Emphasis supplied.
- [15] L-39248, May 7, 1976, 71 SCRA 57.
- [16] Emphasis supplied.
- [17] 1987 Phil. Const., Art. III, §1.
- [18] §38, The Land Registration Act, Act No. 496, November 6, 1902 (emphasis supplied).
- [19] 71 Phil. 363, 364-365 (emphasis supplied).
- [20] G.R. No. L-21163, May 17, 1972, 45 SCRA 17.
- [21] Id., pp. 27-29 (emphasis supplied).
- [22] Rollo, pp. 89-90; Complaint, pp. 2-3.
- [23] Rollo, pp.122-123; RTC Decision, pp. 8-9.
- [24] Rollo, pp. 143-144.
- [25] J.M. Tuason v. Court of Appeals, No. L-41233, 21 November 1979, 94 SCRA 413.

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