

**TEOFISTO OÑO, PRECY O. NAMBATAC, VICTORIA O. MANUGAS AND
POLOR O. CONSOLACION, PETITIONERS, VS. VICENTE N. LIM,
RESPONDENT.***G.R. No. 154270. March 09, 2010*

Ponente: BERSAMIN, J.

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The subject of controversy is Lot No. 943 of the Balamban Cadastre in Cebu City, covered by Original Certificate of Title (OCT) No. RO-9969-(O-20449), over which the contending parties in this action for quieting of title, initiated by respondent Vicente N. Lim (Lim) in the Regional Trial Court (RTC) in Cebu City, assert exclusive ownership, to the exclusion of the other. In its decision dated July 30, 1996,[1] the RTC favored Lim, and ordered the cancellation of OCT No. RO-9969-(O-20449) and the issuance of a new certificate of title in the name of Luisa Narvios-Lim (Luisa), Lim's deceased mother and predecessor-in-interest.

On appeal (CA-GR CV No. 57823), the Court of Appeals (CA) affirmed the RTC on January 28, 2002.[2] It later denied the petitioners' motion for reconsideration through the resolution dated June 17, 2002.[3]

Hence, this appeal via petition for review on certiorari.

Antecedents

On October 23, 1992, Lim filed in the RTC in Cebu City a petition for the reconstitution of the owner's duplicate copy of OCT No. RO-9969-(O-20449), alleging that said OCT had been lost during World War II by his mother, Luisa;[4] that Lot No. 943 of the Balamban Cadastre in Cebu City covered by said OCT had been sold in 1937 to Luisa by Spouses Diego Oño and Estefania Apas (Spouses Oño), the lot's registered owners; and that although the deed evidencing the sale had been lost without being registered, Antonio Oño (Antonio), the only legitimate heir of Spouses Oño, had executed on April 23, 1961 in favor of Luisa a notarized document denominated as confirmation of sale,[5] which was duly filed in the Provincial Assessor's Office of Cebu.

Zosimo Oño and petitioner Teofisto Oño (Oños) opposed Lim's petition, contending that they had the certificate of title in their possession as the successors-in-interest of Spouses Oño.

On account of the Oños' opposition, and upon order of the RTC, Lim converted the petition for reconstitution into a complaint for quieting of title,[6] averring additionally that he and his predecessor-in-interest had been in actual possession of the property since 1937, cultivating and developing it, enjoying its fruits, and paying the taxes corresponding to it. He prayed, inter alia, that the Oños be ordered to surrender the reconstituted owner's duplicate copy of OCT No. RO-9969-(O-20449), and that said OCT be cancelled and a new certificate of title be issued in the name of Luisa in lieu of said OCT.

In their answer,[7] the Oños claimed that their predecessors-in-interest, Spouses Oño, never sold Lot No. 943 to Luisa; and that the confirmation of sale purportedly executed by Antonio was fabricated, his signature thereon not being authentic.

RTC Ruling

On July 30, 1996, after trial, the RTC rendered its decision,[8] viz:

WHEREFORE, premises considered, judgment is hereby rendered quieting plaintiff's title to Lot No. 943 of the Balamban (Cebu) Cadastre, and directing the Register of Deeds of Cebu --

(1) To register the aforesated April 23, 1961 Confirmation of Sale of Lot No. 943 of the Balamban, Cebu Cadastre by Antonio Oño in favor of Luisa Narvios-Lim;

(2) To cancel the original certificate of title covering the said Lot No. 943 of the Balamban, Cebu Cadastre; and,

(3) To issue in the name of Luisa Narvios-Lim, a new duplicate certificate of title No. RO-9969 (O-20449) of the Register of Deeds of Cebu, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate of title, and shall in all respects be entitled to like faith and credit as the original certificate, and shall be regarded as such for all purposes of this decree, pursuant to the last paragraph of Section 109, Presidential Decree No. 1529.

Without special pronouncement as to costs.

SO ORDERED.[9]

The RTC found that the Lims had been in peaceful possession of the land since 1937; that their possession had never been disturbed by the Oños, except on two occasions in 1993 when the Oños seized the harvested copra from the Lims' caretaker; that the Lims had since declared the lot in their name for taxation purposes, and had paid the taxes corresponding to the lot; that the signature of Antonio on the confirmation of sale was genuine, thereby giving more weight to the testimony of the notary public who had notarized the document and affirmatively testified that Antonio and Luisa had both appeared before him to acknowledge the instrument as true than to the testimony of the expert witness who attested that Antonio's signature was a forgery.

CA Ruling

On appeal, the Oños maintained that the confirmation of sale was spurious; that the property, being a titled one, could not be acquired by the Lims through prescription; that their (the Oños) action to claim the property could not be barred by laches; and that the action instituted by the Lims constituted a collateral attack against their registered title.

The CA affirmed the RTC, however, and found that Spouses Oño had sold Lot No. 943 to Luisa; and that such sale had been confirmed by their son Antonio. The CA ruled that the action for quieting of title was not a collateral, but a direct attack on the title; and that the Lims' undisturbed possession had given them a continuing right to seek the aid of the courts to determine the nature of the adverse claim of a third party and its effect on their own title.

Nonetheless, the CA corrected the RTC, by ordering that the Office of the Register of Deeds of Cebu City issue a new duplicate certificate of title in the name of Luisa, considering that the owner's duplicate was still intact in the possession of the Oños.

The decree of the CA decision was as follows:

WHEREFORE, the appeal is DISMISSED for lack of merit. However, the dispositive portion of the decision appealed from is CORRECTED as follows:

(1) Within five (5) days from finality of the decision, defendants-appellants are directed to present the owner's

duplicate copy of OCT No. RO-9969 (O-20449) to the Register of Deeds who shall thereupon register the "Confirmation of Sale" of Lot No. 943, Balamban Cadastre, Cebu, executed on April 23, 1961 by Antonio Oño in favor of Luisa Narvios-Lim, and issue a new transfer certificate of title to and in the name of the latter upon cancellation of the outstanding original and owner's duplicate certificate of title.

(2) In the event defendants-appellants neglect or refuse to present the owner's copy of the title to the Register of Deeds as herein directed, the said title, by force of this decision, shall be deemed annulled, and the Register of Deeds shall make a memorandum of such fact in the record and in the new transfer certificate of title to be issued to Luisa Narvios-Lim.

(3) Defendants-appellants shall pay the costs.

SO ORDERED.[10]

The CA denied the Oños' motion for reconsideration[11] on June 17, 2002.[12]

Hence, this appeal.

Issues

The petitioners raise the following issues:

- Whether or not the validity of the OCT could be collaterally attacked through an ordinary civil action to quiet title;
- Whether or not the ownership over registered land could be lost by prescription, laches, or adverse possession;
- Whether or not there was a deed of sale executed by Spouses Oño in favor of Luisa and whether or not said deed was lost during World War II;
- Whether or not the confirmation of sale executed by Antonio in favor of Luisa existed; and
- Whether or not the signature purportedly of Antonio in that confirmation of sale was genuine.

Ruling of the Court

The petition has no merit.

A.

Action for cancellation of title
is not an attack on the title

The petitioners contend that this action for quieting of title should be disallowed because it constituted a collateral attack on OCT No. RO-9969-(O-20449), citing Section 48 of Presidential Decree No. 1529, viz:

Section 48. 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.

The petitioners' contention is not well taken.

An action or proceeding is deemed an attack on a title when its objective is to nullify the title, thereby challenging the judgment pursuant to which the title was decreed.[13] The attack is direct when the objective 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.[14]

Quieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real

property.[15] Whenever there is a cloud on title to real property or any interest in real property by reason of any instrument, record, claim, encumbrance, or proceeding that is apparently valid or effective, but is, in truth and in fact, invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.[16] In such action, the competent 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.[17]

Lim's complaint pertinently alleged:

18. If indeed, the genuine original of the Owner's Duplicate of the Reconstituted Original Certificate of Title No. RO-9699 (O-20449) for Lot 943, Balamban Cadastre xxx is in Defendant's (Oño's) possession, then VNL submits the following PROPOSITIONS:

xxx

18.2. Therefore, the Original of Owner's Duplicate Certificate (which Respondents [Defendants Oños] claim in their Opposition is in their possession) must be surrendered to VNL upon order of this Court, after the Court shall have determined VNL's mother's acquisition of the attributes of ownership over said Lot 943, in this action, in accordance with Section 107, P.D. 1529, Property Registration Decree xxx

xxx

[t]hat OCT 20449 be cancelled and new title for Lot 943 be issued directly in favor of LUISA NARVIOS, to complete her title to said Lot;[18]

The averments readily show that the action was neither a direct nor a collateral attack on OCT No. RO-9969-(O-20449), for Lim was asserting only that the existing title registered in the name of the petitioners' predecessors had become inoperative due to the conveyance in favor of Lim's mother, and resultantly should be cancelled. Lim did not thereby assail the validity of OCT No. RO-9969-(O-20449), or challenge the judgment by which the title of the lot involved had been decreed. In other words, the action sought the removal of a cloud from Lim's title, and the confirmation of Lim's ownership over the disputed property as the successor-in-interest of Luisa.

B.

Prescription was not relevant

The petitioners assert that the lot, being titled in the name of their predecessors-in-interest, could not be acquired by prescription or adverse possession.

The assertion is unwarranted.

Prescription, in general, is a mode of acquiring or losing ownership and other real rights through the lapse of time in the manner and under the conditions laid down by law.[19] However, prescription was not relevant to the determination of the dispute herein, considering that Lim did not base his right of ownership on an adverse possession over a certain period. He insisted herein, instead, that title to the land had been voluntarily transferred by the registered owners themselves to Luisa, his predecessor-in-interest.

Lim showed that his mother had derived a just title to the property by virtue of sale; that from the time Luisa had acquired the property in 1937, she had taken over its possession in the concept of an owner, and had performed

her obligation by paying real property taxes on the property, as evidenced by tax declarations issued in her name;[20] and that in view of the delivery of the property, coupled with Luisa's actual occupation of it, all that remained to be done was the issuance of a new transfer certificate of title in her name.

C.

Forgery, being a question of fact,
could not be dealt with now

The petitioners submit that Lim's evidence did not preponderantly show that the ownership of the lot had been transferred to Luisa; and that both the trial and the appellate courts disregarded their showing that Antonio's signature on the confirmation of sale was a forgery.

Clearly, the petitioners hereby seek a review of the evaluation and appreciation of the evidence presented by the parties.

The Court cannot anymore review the evaluation and appreciation of the evidence, because the Court is not a trier of facts.[21] Although this rule admits of certain exceptions, viz: (1) when the conclusion is a finding grounded entirely on speculation, surmises, or conjecture; (2) when the inference made is manifestly mistaken; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case, and the findings are contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of fact are conclusions without specific evidence on which they are based; (9) when the facts set forth in the petition as well in the petitioners' main and reply briefs are not disputed by the respondents; and, (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and are contradicted by the evidence on record,[22] it does not appear now that any of the exceptions is present herein. We thus apply the rule without hesitation, and reject the appeal for that reason.

It is emphasized, too, that the CA upheld the conclusion arrived at by the RTC that the signature of Antonio had not been simulated or forged. The CA ruled that the testimony of the notary public who had notarized the confirmation of sale to the effect that Antonio and Luisa had appeared before him prevailed over that of the petitioners' expert witness. The concurrence of their conclusion on the genuineness of Antonio's signature now binds the Court.[23]

In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. Preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side, and is usually considered to be synonymous with the term greater weight of the evidence or greater weight of the credible evidence. Preponderance of evidence is a phrase that means, in the last analysis, probability of the truth.[24] It is evidence that is more convincing to the court as worthy of belief than that which is offered in opposition thereto.

Lim successfully discharged his burden of proof as the plaintiff. He established by preponderant evidence that he had a superior right and title to the property. In contrast, the petitioners did not present any proof of their better title other than their copy of the reconstituted certificate of title. Such proof was not enough, because the registration of a piece of land under the Torrens system did not create or vest title, such registration not being a mode of acquiring ownership. The petitioners need to be reminded that a certificate of title is merely an evidence of ownership or title over the particular property described therein. Its issuance in favor of a particular person does not foreclose the possibility that the real property may be co-owned with persons not named in the certificate, or that it may be held in trust for another person by the registered owner.[25]

WHEREFORE, the petition for review on certiorari is denied, and the decision dated January 28, 2002 is affirmed.

The petitioners are ordered to pay the costs of suit.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Leonardo-De Castro, and Villarama, Jr., JJ., concur.

[1] Original Records, pp. 175-182.

[2] CA Rollo, pp. 71-84. Penned by Justice Oswaldo D. Agcaoili, with Justice Jose L. Sabio, Jr. and Justice Sergio L. Pestaño concurring.

[3] Id., p. 105.

[4] Original Records, p.176.

[5] Id., pp. 133-136.

[6] Id., pp. 1-18.

[7] Id., pp. 41-48.

[8] Supra, Note at 1.

[9] Original Records, pp. 181-182.

[10] CA Rollo, pp. 83-84.

[11] Id., pp. 85-90.

[12] Supra, Note at 3.

[13] Sarmiento v. Court of Appeals, G.R. No. 152627, September 16, 2005, 470 SCRA 99, 107-108, citing Malilin, Jr. v. Castillo, G.R. No. 136803, June 16, 2000, 333 SCRA 628, 640.

[14] Ibid.

[15] Vitug, Compendium of Civil Law and Jurisprudence, 1993 Rev. Ed., p. 295.

[16] Article 476, Civil Code.

[17] Baricuatro, Jr. v. Court of Appeals, G.R. No. 105902, February 9, 2000, 325 SCRA 137, 146-147.

[18] Original Records, pp. 8-10.

[19] Calicdan v. Cendaña, G.R. No. 155080, February 5, 2004, 422 SCRA 272, 279.

[20] Original Records, pp. 114-131.

[21] Twin Towers Condominium Corporation v. Court of Appeals, G.R. No. 123552, February 27, 2003, 398 SCRA 203.

[22] Mamsar Enterprises Agro-Industrial Corporation v. Varley Trading, Inc., G.R. No. 142729, November 29, 2005, 476 SCRA 378, 382.

[23] Naguiat v. Court of Appeals, G.R. No. 118375, October 3, 2003, 412 SCRA 591, 595-596.

[24] Encinas v. National Bookstore, Inc., G.R. No. 162704, November 19, 2004, 443 SCRA 293.

[25] Heirs of Clement Ermac v. Heirs of Vicente Ermac, G.R. No. 149679, May 30, 2003, 403 SCRA 291, 298.

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