FELISA M. JARAVATA, PETITIONER, VS. MA. DIANA KAROLUS AND GRACE V. KUHAIL, RESPONDENTS.

G.R. NO. 154988. June 21, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

Before the Court is a petition for review on certiorari challenging the Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 60953 dated January 31, 2002 which reversed and set aside the Decision[2] of the Regional Trial Court (RTC), Branch 72, Olongapo City dated December 18, 1997 in Civil Case No. 298-0-96; and the CA Resolution[3] dated August 30, 2002 denying petitioner's motion for reconsideration.

The Facts

The case stemmed from an action for reconveyance and declaration of nullity of titles and damages filed by petitioner on September 10, 1996 before the RTC of Olongapo City alleging that she is the lawful owner and actual occupant of a parcel of land situated in Cawag, Subic, Zambales with an area of 83,931 square meters. The said lot, covered by Psu-248111,[4] was subsequently consolidated with other parcels of land (Psu-248109 and 248110) and further subdivided into various lots as evidenced by Consolidation and Subdivision Plan No. Ccs-037114-000385.[5] The property was subdivided into three lots, namely, Lot 1 with an area of 41,571 sq. m., Lot 2 covering 31,765 sq. m., and Lot 3 with an area of 12,182 sq. m. Lot 3 was thereafter titled under petitioner's name in Original Certificate of Title (OCT) No. P-11781[6] issued on March 3, 1993.

In her complaint, it was narrated that as early as 1950, petitioner and her predecessors-in-interest have been in actual, continuous, open, and public possession of Lots 1, 2, and 3 in the concept of an owner. In addition to the uninterrupted physical possession, petitioner averred that she had planted and cultivated the subject parcels of land and had declared the same for taxation purposes.

Sometime in 1992, petitioner discovered that her relatives, herein respondents, fraudulently and illegally secured titles over Lots 1 and 2. Petitioner recounted that respondent Karolus, through fraud and misrepresentation, was able to obtain approval, in her name, of Free Patent No. (III-3) 008888[7] on July 11, 1988 and for which OCT No. P-9447 was issued on September 12, 1988 by the Register of Deeds of Zambales involving an area of 41,505 sq. m. It was further alleged that petitioner's Lot 1 overlapped with the property registered in the name of respondent Karolus.

Moreover, respondent Kuhail, also purportedly through fraud and misrepresentation, was granted Free Patent No. (III-3) 008889 on July 12, 1988, for which OCT No. P-9448 was issued by the Register of Deeds of Zambales on September 12, 1988. The property, with an area of 33,476 sq. m., is supposedly identical to or overlaps with Lot 2 of the petitioner.

Petitioner likewise contended that although respondents Karolus and Kuhail were issued Tax Declaration Nos. 008-0477[8] and 008-0473,[9] respectively, said respondents have not paid real estate taxes thereon from the time

of the declaration of the properties as stated in a Certification[10] dated May 5, 1993, issued by the Office of the Treasurer of Subic, Zambales.

Furthermore, petitioner asseverated that the free patents issued to respondents should be declared null and void ab initio on the grounds that respondents or any of their alleged predecessors-in-interest have never been in possession of the contested lots; that the titles to both lots were secured through fraud and misrepresentation; and that respondents were never qualified to be grantees of free patents in 1988 on account of their age and citizenship.

Lastly, petitioner insisted that as early as 1980 and pursuant to existing jurisprudence, she became owner, ipso facto and by operation of law, of the disputed parcels of land on account of her open and continuous possession and cultivation for more than 30 years, her payment of taxes thereon, and her exercise of all attributes of ownership over said properties. Petitioner reasoned, therefore, that the disputed lots ceased to be part of the public domain and beyond the authority of the Director of Lands and the Department of Environment and Natural Resources to dispose of or award as free patents to third parties.

In their answer to the complaint, respondents claimed, among others, that (1) they are Filipino citizens and permanent residents of Angeles City; (2) the issuance of free patents in their names was made in accordance with law and without any fraud or misrepresentation; (3) the areas covered by OCT Nos. P-9447 and P-9448 do not overlap with any area covered by petitioner's property; (4) the real estate taxes and other assessments on the questioned lots were paid; (5) respondents had been in possession of the parcels of land until they were partially disposed by the petitioner and her counsel; and (6) the government personnel involved in the processing and issuance of the titles did their duties in the regular performance of their respective functions.

As affirmative and special defenses, respondents argued that petitioner's action for reconveyance had already prescribed since it was admitted in her complaint that she came to know of the existence of the titles in the early part of 1992. Accordingly, the four-year prescriptive period from the discovery of fraud had already prescribed. On the declaration of nullity of the torrens titles, respondents averred that petitioner had no cause of action because the matter may only be raised by the government.

As compulsory counterclaims, respondents alleged that sometime in August 1995, petitioner, through stealth and strategy, forcibly entered the areas covered by the torrens titles of respondents, ousting the latter from their lawful possession and despite demands, refused to vacate the said area.

On November 11, 1996, respondents filed a third-party complaint against Rudegelio D. Tacorda, petitioner's counsel.

On December 3, 1996, petitioner served upon the respondents and their counsel two separate and different sets of written interrogatories. Respondents filed their objection to the written interrogatories. On December 18, 1996, Tacorda likewise served upon respondents and their counsel separate and different sets of written interrogatories. In an Order dated February 19, 1997, the RTC denied the objections interposed by the respondents and allowed petitioner's written interrogatories.

On March 2, 1997, respondents filed a manifestation and compliance dated March 2, 1997 attaching their answers thereto to the written interrogatories.

On April 24, 1997, petitioner and Tacorda filed a joint omnibus motion[11] primarily to compel the respondents to fully and completely answer their written interrogatories.

In an Order[12] dated December 8, 1997, the RTC declared respondents in default in accordance with Rule 29,

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Section 3 (c) of the Revised Rules of Court for their failure to fully answer the written interrogatories in the principal action, and for their refusal to answer the written interrogatories in the third-party complaint.

On December 18, 1997, the RTC rendered judgment in favor of the petitioner. The dispositive portion of the decision reads:

> On the basis of the herein facts taken to have been established and proved in evidence and upon mandate of Section 3 (c) and Section 5 of Rule 29 of the Rules of Court, this Court hereby renders judgment by default in favor of plaintiff Felisa Jaravata and third-party defendant Rudegelio Tagorda and against defendants Maria Diana Karolus and Grace Kuhail as follows:
>
> 1) Declaring plaintiff Felisa M. Jaravata the lawful and true owner of the parcels of land known as Lot Nos. 1 and 2 of the Consolidation [and] Subdivision Plan CCs-037114-000385 which are the parcels of land covered by OCT No. P-9447, now TCT No. T-49032, and OCT No. P-9448 of the Register of Deeds of Zambales registered in their names, respectively, of defendants Maria Diana Karolus and Grace Kuhail;
>
> 2) Declaring as null and void said OCT No. P-9447 issued to Maria Diana Karolus as well as TCT No. T-49032 derived therefrom in the name of Imelda Villareal and other derivative titles thereof; declaring as null and void OCT No. P-9448 issued to Grace Kuhail and any derivative titles thereof; and holding that said defendants Karolus and Kuhail did not acquire any rights whatsoever thereon, and, further, that said defendants merely held said titles for plaintiff under an implied or constructive trust;
>
> 3) Ordering defendants Karolus and Kuhail to pay plaintiff the amount of P100,000.00 each as actual damages;
>
> 4) Ordering defendants Karolus and Kuhail to pay plaintiff the amount of P100,000.00 each as moral damages; P50,000.00 each by way of exemplary damages; and P100,000.00 each for and as attorney's fees;
>
> 5) Ordering the defendant Register of Deeds of Zambales to cancel OCT No. P-9447 as well as OCT No. T-49032 derived therefrom and OCT No. P-9448 and any subsequent derivative titles thereof of the Registry of Deeds of Zambales and to issue in lieu thereof the corresponding two (2) titles in the name of plaintiff Felisa N. Jaravata covering the same two (2) parcels of land subject of said OCT No. P-9447 and OCT No. P-9448;
>
> 6) Dismissing the counterclaims of defendants;
>
> 7) Dismissing the third-party complaint;
>
> 8) Ordering third-party plaintiffs Maria Diana Karolus and Grace V. Kuhail to pay third-party defendant, jointly and severally the amount of P100,000.00 as actual damages; P300,000.00 as moral damages; P50,000.00 as exemplary damages; P100,000.00 for and as attorney's fees;
>
> 9) All pleadings filed by defendants and third-party plaintiffs are stricken off the records and said defendants are hereby prevented from presenting evidence and objecting to the claims of plaintiff and third-party defendant in accordance with Section 3 (b) and (c) of Rule 29 of the Rules of Court; and
>
> 10) Costs against defendants and third-party plaintiffs.
>
> SO ORDERED.[13]

Aggrieved, respondents filed a notice of appeal before the CA. Disposing of the appeal, the CA ruled thereon on January 31, 2002 and reversed the decision of the RTC. The fallo of the decision reads:

> WHEREFORE, premises considered, the present appeal is hereby GRANTED and the decision appealed from in Civil Case No. 298-0-96 is hereby REVERSED and SET ASIDE. A new judgment is hereby rendered DISMISSING the complaint, as well as the counterclaim, the third-party complaint and the third-party defendants' counterclaim.

No pronouncement as to costs.

SO ORDERED.[14]

Forthwith, petitioner filed a motion for reconsideration of the decision which was denied by the CA in a Resolution[15] dated August 30, 2002.

Hence, this petition.

The Issues

Petitioner assigns these alleged errors:

I.

IN SUMMARILY DISMISSING PETITIONER JARAVATA'S COMPLAINT, THE COURT OF APPEALS APPEARS TO HAVE GRAVELY ABUSED ITS DISCRETION AND ACTED WITHOUT OR IN EXCESS OF JURISDICTION BECAUSE, BY SETTLED JURISPRUDENCE, A COURT MAY NOT CONSIDER AND ASSUME AS ESTABLISHED FACTS THE AFFIRMATIVE DEFENSES OF RESPONDENTS WHO DID NOT ADDUCE ANY EVIDENCE SINCE NO TRIAL WAS CONDUCTED IN THE TRIAL COURT. MOREOVER, RESPONDENTS' DEFENSES CANNOT BE CONSIDERED IN THEIR APPEAL BECAUSE THEY DID NOT FILE ANY MOTION TO RECONSIDER THE DEFAULT JUDGMENT OF THE TRIAL COURT, THIS AS RULED BY THE SUPREME COURT IN BOTANICO VS. CHU, JR., 148 SCRA 541, HECHANOVA VS. COURT OF APPEALS, 145 SCRA 550 AND MUNICIPALITY OF BINAN VS. COURT OF APPEALS, 219 SCRA 69.

II.

THE COURT OF APPEALS APPEARS TO HAVE ARBITRARILY DEPRIVED PETITIONER JARAVATA OF HER CONSTITUTIONAL RIGHT TO PROCEDURAL DUE PROCESS (NICOS VS. COURT OF APPEALS, 206 SCRA 132; PEOPLE VS, ESCOBER, 157 SCRA 555, LAZO VS. REPUBLIC SURETY, 31 SCRA 334) BY DISMISSING PETITIONER'S COMPLAINT, AND, IN EFECT RENDERING A SUMMARY JUDGMENT OR A JUDGMENT ON THE PLEADINGS WITHOUT AN APPROPRIATE FINDING OF FACTS DULY SUPPORTED BY ADMISSIBLE EVIDENCE, THEREBY COMMITTING A CLEAR VIOLATION OF SECTION 1, RULE 36 OF THE 1997 RULES OF CIVIL PROCEDURE IN RELATION TO SECTION 14, ART. VIII OF THE 1987 CONSTITUTION, WHICH MANDATES THAT NO DECISION SHALL BE RENDERED BY ANY COURT WITHOUT STATING THEREIN CLEARLY AND DISTINCTLY THE FACTS AND THE LAW ON WHICH IT IS BASED.

III.

THE COURT OF APPEALS SERIOUSLY ERRED IN SETTING ASIDE THE DEFAULT JUDGMENT ON THE ERRONEOUS AND MISTAKEN FINDING THAT JARAVATA ALLEGEDLY DID NOT FILE ANY MOTION/APPLICATION TO COMPEL RESPONDENTS TO ANSWER HER WRITTEN INTERROGATORIES, WHEN IN TRUTH AND IN FACT A PLAIN VERIFICATION OF THE RECORDS WOULD CONFIRM THE CONTRARY AND THAT PETITIONER NOT ONLY FILED ONE BUT TWO (2) MOTIONS TO COMPEL RESPONDENTS TO ANSWER INTERROGATORIES, THE FIRST SUCH MOTION DATED FEBRUARY 14, 1997 AND THE SECOND, SUCH MOTION TO COMPEL AN ANSWER WAS INCORPORATED IN THE JOINT OMNIBUS MOTION DATED APRIL 24, 1997.

IV.

THE COURT OF APPEALS ERRONEOUSLY ERRED IN SETTING ASIDE THE TRIAL COURT'S DEFAULT JUDGMENT AS IT EVIDENTLY AGAIN OVERLOOKED THE FACT THAT, AS BORNE IN THE RECORDS AND ADMITTED BY RESPONDENTS THEMSELVES, THERE ARE TWO PAIRS OF

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WRITTEN INTERROGATORIES SERVED UPON RESPONDENTS, NAMELY (a) THE JARAVATA INTERROGATORIES DATED DECEMBER 1, 1996 WHICH RESPONDENTS DID NOT FULLY ANSWER AND ARE NOT UNDER OATH; AND (b) THIRD PARTY DEFENDANT TACORDA'S WRITTEN INTERROGATORIES DATED DECEMBER 18, 1996 WHICH RESPONDENTS DID NOT ANSWER AT ALL.

V.

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT HOLDING THAT THE DEFAULT JUDGMENT WAS PROPER AS A LEGAL CONSEQUENCE OF SECTION 5, RULE 29, FOR RESPONDENTS' FAILURE TO ANSWER THE INTERROGATORIES, THE DOCTRINE BEING ALREADY SETTLED THAT JUDGMENT BY DEFAULT, EVEN WITHOUT PRIOR ORDER TO SERVE AN ANSWER, IS A SANCTION PROVIDED UNDER SECTION 5, AS RULED BY THE HONORABLE SUPREME COURT IN ARELLANO VS. CFI OF SORSOGON, 65 SCRA 45 AND KOH VS. IAC, 144 SCRA 259 AND ALSO IN CASON VS. PEDRO, 9 SCRA 925.

VI.

THE COURT OF APPEALS MAY HAVE GRAVELY ABUSED ITS DISCRETION AND ACTED WITHOUT OR IN EXCESS OF JURISDICTION IN HOLDING THAT REVERSION PROCEEDINGS THRU THE SOLICITOR GENERAL, NOT RECONVEYANCE, IS THE PROPER REMEDY IN VIEW OF THE FACT THAT THE COURT OF APPEALS HAS NO JURIDICTION TO RULE ON SAID ISSUE OF RECONVEYANCE/REVERSION, ITS JURISDICTION BEING LIMITED TO MERELY REVIEWING THE PROPRIETY OF THE DEFAULT JUDGMENT, AND FURTHER CONSIDERING THAT THE ISSUE OF RECONVEYANCE/REVERSION AND THE ANTECEDENT ISSUE OF WHETHER THE SUBJECT LOTS ARE PRIVATE OR PUBLIC LAND ARE SOLELY WITHIN THE JURISDICTION OF THE TRIAL COURT TO HEAR AND DETERMINE ON THE MERITS FOLLOWING TRIAL AND PRESENTATION OF EVIDENCE.

VII.

THE COURT OF APPEALS GRIEVOUSLY ERRED IN NOT HOLDING THAT UNDER THE OBTAINING FACTS AND CIRCUMSTANCES ALLEGED IN PETITIONER'S COMPLAINT, TO WIT, PETITIONER'S OPEN, CONTINUOUS, AND PUBLIC POSSESSION IN CONCEPT OF OWNER COUPLED WITH THE FRAUD EMPLOYED BY RESPONDETNS TO SECURE THEIR FREE PATENT TITLES, THE REMEDY OF RECONVEYANCE, NOT REVERSION PROCEEDINGS, IS PROPER UNDER SETTLED JURISPRUDENCE, NOTABLY, IN THE LATEST CASE OF HEIRS OF AMBRICIO KIONISALA VS. HEIRS OF HONORIO DACUT, G.R. NO. 147379, February 27, 2002, AND IN ABEJARON VS. NABASA, 359 SCRA 47 (2001) AND THE RECENT CASES OF LINAZA VS. IAC, 182 SCRA 80; AGNES VS. DIRECTOR OF LANDS, 181 SCRA 803; BUSTARGA VS. NAVO II, 129 SCRA 108; AMEROL VS. BAGUMBARAN, 154 SCRA 404; HEIRS OF MARIANO ET. EL. [sic] VS. CA, 313 SCRA 183; ARMAMENTO VS. GUERRERO, 96 SCRA 182; RECINTO VS. INCIONG, 77 SCRA 201; MAMADSUAL VS. MOSON, 190 SCRA 88; CARAGAY-LAYNO VS. CA, 133 SCRA 722.

VIII.

COROLLARILY, THE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION IN HOLDING THAT THE SUBJECT LOTS REMAINED PUBLIC LAND WITHOUT ANY ADMISSIBLE FINDINGS OF FACTS SUPPORTED BY EVIDENCE ADDUCED DURING TRIAL, MERELY BASING ITS FINDINGS THAT ON THE UNSUBSTANTIATED AFFIRMATIVE DEFENSES ALLEGED IN REPONDENTS' ANSWER. CONSEQUENTLY, THE COURT A QUO ALSO ERRED RULING THAT REVERSION PROCEEDINGS THRU THE SOLICITOR GENERAL IS THE PROPER REMEDY, CONTRARY TO THE RULING BY THE HONORABLE SUPREME COURT IN MAMADSUAL VS. MOSON, 190 SCRA 88.

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IX.

THE CONCLUSIONS OF THE COURT OF APPEALS FLY IN THE TEETH OF THE CASES OF IGLESIA NI CRISTO VS.COURT OF APPEALS, 200 SCRA 606 AND ABEJARON VS. NABASA, G.R. NO. 84831, JUNE 20, 2001 WHICH SUSTAIN PETITIONER JARAVATA'S CONTENTION THAT RECONVEYANCE IS THE PROPER REMEDY. MOREOVER, THE CASE OF PALAWAN VS. DIRECTOR OF LANDS, 44 SCRA 15 CITED BY RESPONDENTS AND ADOPTED BY THE COURT OF APPEALS IS NOT APPLICABLE BECAUSE THE AFFIRMATIVE DEFENSES OF RESPONDENTNS CANNOT BE CONSIDERED IN THEIR APPEAL FROM A DEFAULT JUDGMENT.

X.

THE COURT OF APPEALS ARBITRARILY IGNORED THE UNDISPUTED FACT THAT RESPONDENTS THEMSELVES, AT PAGE 43 OF THEIR APPELLANT'S BRIEF BELOW, ALSO PRAYED FOR THE REMAND OF THE INSTANT CASE FOR TRIAL AND FURTHER PROCEEDINGS BEFORE THE TRIAL COURT IN THE EVENT THEIR APPEAL FROM A DEFAULT JUDGMENT SET ASIDE.[16]

The issues may be condensed as follows: whether or not the appellate court was correct in granting the respondents' appeal and in dismissing the complaint before the court a quo.

Petitioner's Arguments

Petitioner argues that there was no trial on the merits and presentation of any evidence before the court a quo and, therefore, the CA could not validly dismiss the case. She adds that the CA's jurisdiction was merely limited to reviewing whether or not the default judgment of the RTC was in accordance with Rule 29 of the Rules of Court.

Also, petitioner insists that she has acquired, by operation of law, a right to a government grant, without the necessity of a certificate of title being issued, and the land ceased to be part of the public domain by virtue thereof. As a consequence, petitioner maintains that reconveyance is the proper remedy for the subject lots are now her private property.

Respondents' Arguments

Respondents claim that there was a trial below because petitioner is now asking that the trial court's decision of December 18, 1997 be affirmed.

On the other issues, respondents agree that the trial court erred in declaring them in default.

The Ruling of this Court

The petition has merit.

The CA rightly held that the court a quo erred in rendering a judgment by default against the defendants for refusal or failure to answer written interrogatories, without first requiring an application by the proponent to compel an answer. This is the requisite procedure under Section 1 of Rule 29 of the 1997 Rules of Civil Procedure.

Nevertheless, the Court of Appeals erred in proceeding to decide the case on the merits since there was as yet no trial or presentation of evidence in the court a quo. Petitioner's prayer to affirm the trial court's December 18, 1997 default decision does not mean that there was a trial. The decision of the trial court was based on constructive admissions by the defendants of the allegations of the plaintiff due to the court's application of the sanction for not answering the written interrogatories. In reversing the application of the sanction, the CA should have given the parties a chance to substantiate by evidence their respective claims at the trial court. This is particularly true with

respect to the plaintiff's claim of physical possession for more than 30 years, regarding which the CA said that clear and convincing evidence was required but wanting. This is because the wrong procedure followed by the trial court effectively aborted a trial and presentation of evidence.

WHEREFORE, the petition is GRANTED and the Decision of the Court of Appeals in CA-G.R. CV No. 60953 is hereby MODIFIED in that the case should be, as it is hereby, ordered REMANDED to the Regional Trial Court, Branch 72, Olongapo City for trial and/or further proceedings under Civil Case No. 298-0-96.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

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[1]Penned by Associate Justice Martin S. Villarama, Jr. with Associate Justices Conchita Carpio Morales (now a member of the Supreme Court) and Sergio L. Pestaño concurring; Rollo, pp. 45-57.

[2] Penned by Judge Eliodoro G. Ubiadas; Id. at 118-130.

[3] Id. at 59.

[4] Id. at 68.

[5] Id. at 69.

[6]Id. at 70.

[7] Id. at 74.

[8] Id. at 75.

[9] Id. at 76.

[10] Id. at 77.

[11] Id. at 106-109.

[12] Id. at 110-117.

[13] Id. at 129-130.

[14] Id. at 57.

[15] Id. at 59.

[16] Id. at 15-18.

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