HEIRS OF JOSE T. CALO, NAMELY: GILDA CALO-SANCHEZ, NEMIA CALO-TEAÑO AND WILFREDO C. PABIA, PETITIONERS, VS. NONA CALO AND THE HEIRS OF ROMUALDA CALO, NAMELY: LUCINDA LAMIGO, ANI...

G.R. No. 156101. February 10, 2009

Ponente: CORONA, J.

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CORONA, J.:

On June 8, 1990, respondent Nona Calo filed a petition for reconstitution[2] of Original Certificate of Title (OCT) No. 337 covering lot no. 306 of the Butuan Cadastre issued on April 3, 1926 to Alejo Calo, Romualda Calo, Leoncio Peincenaves and Vicente Calo.[3] The petition was filed in the Regional Trial Court (RTC) of Agusan del Norte and Butuan City, Branch 5. Nona claimed that the original of OCT No. 337 was lost when the Register of Deeds of the Province of Agusan was destroyed by fire during World War II. She also attached the partially destroyed owner's duplicate of the title.

Several parties moved to intervene in the reconstitution proceedings, asserting their respective claims to portions of lot no. 306.[4] Of particular interest in this case was the claim of petitioners, the heirs of Jose T. Calo, who asserted ownership over 1/6 of lot no. 306. According to petitioners, Jose, one of the six children of Ventura Calo who was the original owner of lot no. 306, was given a 1/6 portion.

Sometime before World War II, Jose gave Teofilo Montilla possession of his 1/6 portion of lot no. 306. In 1948, Montilla declared the said portion for taxation purposes[5] and, in 1965, leased it to Bunawan Sawmill.[6] Upon Montilla's death, possession of the land passed on to his heirs.

In 1989, the heirs of Montilla executed a deed of conveyance and relinquishment of rights in favor of petitioners stating:

> [We] [h]ereby MANIFEST AND ACKNOWLEDGE, to the best of our knowledge and belief that [the portion of lot no. 306] in Barangay Maon, Butuan City x x x which is registered in the name of our late father, Teofilo Montilla, for whatever previous reasons or mode of acquisition, we, the heirs of Teofilo Montilla, as relatives in harmonious relation with the heirs of Jose T. Calo, hereby RETURN, RENOUNCE, RELINQUISH, TRANSFER and CONVEY in a manner absolute and irrevocable, all our rights, interest and participation in the said property. (emphasis supplied)[7]

Thus, petitioners (through their predecessor-in-interest) were in possession of the land for more than 50 years.

Subsequently, Nona and the intervenors (including petitioners) agreed to convert the petition for reconstitution to an action for partition and stipulated on the procedure and manner of presenting evidence.[8]

After a protracted trial, the RTC found that Nona and the intervenors, except the heirs of Romualda, sufficiently established their respective claims to lot no. 306. In a decision dated December 10, 1993, the RTC ordered the Register of Deeds of Butuan City to reconstitute OCT No. 337 and to annotate thereon the respective claims of

Nona and the intervenors (except that of the heirs of Romualda):

> WHEREFORE, the Court renders judgment:
>
> - DISMISSING the intervention filed by ROMUALDA CALO;
>
> - Confirming the ownership and possession of intervenors-heirs of Ismael Rosales, heirs of Roque V. Andaya and intervenor Cesar Magsaysay of their respective actual occupancy, to wit:
>
> Cesar Magsaysay
>
> -
>
> 19,882 sq. m., more or less
>
> Roque Andaya
>
> -
>
> 10,000 sq. m., more or less
>
> Ismael Rosales
>
> -
>
> 24,041.5 sq. m. more or less
>
> T o t a l
>
> 53,923.5 sq. m., more or less
>
> - Confirming the ownership and possession of petitioner-heirs of Vicente Calo, heirs of Jose Calo and heirs of Leoncio Peincenaves, of their respective actual occupancy, to wit:
>
> Heirs of Vicente Calo
>
> -
>
> 17,974.5 sq. m., more or less
>
> Heirs of Jose Calo
>
> -
>
> 17,974.5 sq. m., more or less
>
> Heirs of Leoncio Peincenaves
>
> -
>
> 17,974.5 sq. m., more or less
>
> - Ordering the Register of Deeds of Butuan City to annotate and register in the reconstituted Certificate of Title No. 337, the respective ownership and possession of the above-named petitioner[s] and intervenor[s] and issue the corresponding certificate of title in accordance with the approved technical description of their actual occupancy pursuant to the applicable provisions of law in connection with said issuance.
>
> SO ORDERED.

Because the claim of the heirs of Romualda was not annotated on OCT No. 337 and the shares of the heirs of

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Vicente and Peincenaves annotated thereon were substantially reduced, Nona appealed the RTC decision to the Court of Appeals (CA).[9]

The CA found that petitioners did not present any deed or affidavit of adjudication showing Jose to be the heir of Ventura. Thus, they were not entitled to a portion of lot no. 306. Furthermore, since Jose never questioned the validity of OCT No. 337, petitioners were barred from making an adverse claim against the registered owners and their successors-in-interest. The CA affirmed the RTC decision insofar as it ordered the annotation of the claims of the registered owners' successors-in-interest on OCT No. 337 but modified the areas covered by their respective shares:

> WHEREFORE, premises considered, the appeal is hereby GRANTED and the decision dated December 10, 1993 of the Regional Trial Court of Butuan City is AFFIRMED with the following modifications under subparagraphs 2 and 3 thereof:
>
> - Confirming the ownership and possession of intervernors-appellees Heirs of Roque V. Andaya and Cesar Magsaysay to their respective actual occupancy, to wit:
>
> Cesar Magsaysay
>
> -
>
> 19,882.00 sq. m., more or less
>
> Roque Andaya
>
> -
>
> 7,079.75 sq. m., more or less
>
> T o t a l
>
> 26,961.75 sq. m., more or less
>
> - Confirming the ownership and possessions, heirs of Vicente Calo, heirs of Romualda Calo and heirs of Leoncio Peincenaves, in the following proportion:
>
> Heirs of Vicente Calo
>
> -
>
> 26,961.75 sq. m., more or less
>
> Heirs of Romualda Calo
>
> -
>
> 26,961.75 sq. m., more or less
>
> Heirs of Leoncio Peincenaves
>
> -
>
> 26,961.75 sq. m., more or less
>
> No costs.
>
> SO ORDERED. [10]

Petitioners moved for reconsideration[11] but it was denied.[12]

Aggrieved, petitioners filed this petition[13] asserting that the CA erred in excluding their claim to lot no. 306. They basically contend that they are entitled to the 1/6 portion of lot no. 306 as their predecessor-in-interest, Jose, was a son of the original owner, Ventura. Hence, while Jose was not among the registered owners of lot no. 306, they (as his sucessors-in-interest) cannot be deprived of his 1/6 portion as they had always been in possession thereof.

The petition is without merit.

As a general rule, only questions of law may be raised in a petition for review on certiorari. Factual issues are entertained only in exceptional cases such as where the findings of fact of the CA and the trial court are conflicting.[14] Here, the findings of the RTC are markedly different from those of the CA. The RTC gave credence to the deed of conveyance and relinquishment executed by the heirs of Montilla. Hence, it ordered the annotation of petitioners' claim on OCT No. 337. The CA, on the other hand, found that petitioners failed to establish that their father, Jose, was indeed an heir of the original owner. Thus, it excluded petitioners' claim.

In this case, petitioners failed to present any document proving Jose was indeed a son of Ventura, the original owner of lot no. 306. Neither did they establish that Jose was fraudulently excluded as a registered owner by his co-heirs when they obtained OCT No. 337.[15] Petitioners presented only the deed of conveyance and relinquishment.

In the said instrument, the heirs of Montilla stated that while the property was "registered" in their father's name, they were unaware why it was so registered. They therefore knew that, although they were in possession of the 1/6 portion of lot no. 306, they did not own it. Thus, when the heirs of Montilla reconveyed their "rights, interest and participation" therein to petitioners, what they assigned was possession, not ownership.

Furthermore, while petitioners claimed that Montilla leased their portion of lot no. 306 to Bunawan Sawmill, the lease contracts revealed that Montilla was only a witness[16] and not a lessor.

Inasmuch as OCT No. 337 was issued on April 3, 1926, Alejo Calo, Romualda Calo, Leoncio Peincenaves and Vicente Calo have been the registered owners of lot no. 306 for more than 60 years. Thus, their title had become indefeasible and their rights of dominion over it can no longer be challenged.[17] Only those who were able to trace their rights from the registered owners of lot no. 306 may annotate their claims on OCT No. 337.

WHEREFORE, the petition is hereby DENIED.

Costs against petitioners.

SO ORDERED.

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

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[1] Also referred to as "Nimia Calo-Teanio" in some parts of the records.

[2] Docketed as S.P. No. 239.

[3] Issued on April 3, 1926 pursuant to Decree No. 2099335 in Cadastral Case No. 1, G.L.R.O. Cadastral Record No. 321.

[4] The following parties moved to intervene in S.P. No. 239:

- Ismael Rosales traced his claim to a portion of lot no. 306 (covered by OCT No. P-2663 issued pursuant to Free Patent No. [X-2] 3113) from Alejo Calo.

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In 1925, Alejo sold his share to Manuel Calo, who sold the same to Antonio Lamigo in 1937. On October 18, 1945, Lamigo sold his portion to Ismael Rosales. This sale was judicially confirmed in CA-G.R. No. 8911-R wherein the Court of Appeals (CA) found that the instrument executed by Lamigo in favor of Rosales was a deed of sale. Records show that this decision was not appealed and consequently attained finality.

- Cesar Magsaysay claimed the portion designated as Lot 306-A=Lot No. 1402, Cad. 84, Csd.-10-002102-D which he purchased from Ismael and Lalita Rosales.

The heirs of Roque V. Andaya claimed a hectare of that portion previously adjudicated to Ismael A. Rosales. In CA-G.R. No. L-49104, the CA ordered Rosales to convey one hectare of his interest in lot no. 306 to Roque Andaya as payment for legal services rendered in Civil Case No. 114. Records show that this decision was not appealed and consequently attained finality.

[5] Exhibits "4," "5," "6," "7," "8," and "9," records, pp. 41-46.

[6] Records, pp. 51-53. The contract was renewed in 1980. See records, pp. 54-57.

[7] Annex "G," records, p. 47.

[8] In the interest of the speedy disposition of cases, the RTC, acting as a cadastral court, may resolve matters within its general jurisdiction. See Quiroz v. Manalo, G.R. No. 48162, 18 June 1992, 210 SCRA 60; Augusto v. Risos, 463 Phil. 67, 75-76 (2003) and Concepcion v. Concepcion, G.R. No. 147928, 11 January 2005, 448 SCRA 31, 38.

[9] Docketed as CA-G.R. CV No. 45032.

[10] Penned by Associate Justice Teodoro P. Regino (retired) and concurred in by Associate Justices Eugenio S. Labitoria (retired) and Rebecca Guia-Salvador of the Sixth Division of the Court of Appeals. Dated March 18, 2002. Rollo, pp. 42-70.

[11] Annex "B," id., pp. 71-76.

[12] Resolution dated October 25, 2002. Id., pp. 80-81.

[13] Under Rule 45 of the Rules of Court.

[14] Titan Ikeda v. Primetown Properties, G.R. No. 158768, 19 February 2008 citing Austria v. Gonzales, Jr., 465 Phil. 355, 364 (2004).

[15] Compare Vda. de Jacinto v. Vda. de Jacinto, 115 Phil. 363 (1962). A co-heir who, through fraud, succeeds in obtaining a certificate of title in his name to the prejudice of his co-heirs, is deemed to hold the land in trust for the latter and the action by them to recover on the property does not prescribe.

[16] Nona L. Calo, Vicente L. Calo, Livia L. Calo-Montilla and Lito L. Calo signed as lessors.

[17] A Torrens title becomes irrevocable and indefeasible one year after its issuance. See Gonzales v. Intermediate Appellate Court, G.R. No. 66479, 21 November 1991, 204 SCRA 106, 113. See also Ortigas & Company v. Ruiz, G.R. No. L-33952, 9 March 1987, 148 SCRA 326, 340 and Bass v. de la Rama, 73 Phil. 682, 689 (1942).

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