

ERASMO TAYAO, PETITIONER, VS. ROSA D. MENDOZA AND THE DIRECTOR OF LANDS, RESPONDENTS.

G.R. NO. 162733. April 12, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a petition for review under Rule 45 seeking the reversal of the Decision[1] of the Court of Appeals[2] (CA) in CA-G.R. SP No. 72298, and its Resolution denying petitioner Erasmo Tayao's motion for reconsideration thereof.

The Antecedents

On September 10, 1997, private respondent Rosa D. Mendoza filed a Complaint[3] against Tayao in the Municipal Trial Court (MTC) of Pulilan, Bulacan, for recovery of possession of real property with damages. She alleged, inter alia, that when her mother Magdalena Dionisio died intestate on August 25, 1989, she and her four sisters inherited a parcel of land, Lot No. 9205, Cadastre 345, located in Pulilan, Bulacan, covered by Original Certificate of Title (OCT) No. RP-4176 (T-10871) with an assessed value of P19,340.00; she caused the relocation survey of the property and discovered that Tayao had been occupying a 55-square-meter portion thereof for four (4) years without having paid any rentals therefor; and she made demands for Tayao to vacate the property and for reasonable compensation for his use of the same, but the latter refused. Mendoza prayed that, after due hearing, judgment be rendered ordering Tayao to vacate the property and surrender possession thereof to her, to pay P1,000.00 a month from the time he took possession of the property until he vacated the same, as well as attorney's fees.

In his answer to the complaint, Tayao averred that Mendoza's mother and her co-heirs were able to secure the free patent over the subject property and OCT No. RP-4176, through fraud, by alleging that it was private agricultural property. However, the property was residential-commercial. According to Tayao, he was the one who had been in open, continuous and adverse possession of the property as owner, and not Mendoza and her co-heirs.

Tayao incorporated in his answer, without prior leave of court, a third-party complaint against the Director of the Bureau of Lands as third-party defendant, alleging therein that the free patent issued in favor of Mendoza was void considering that the subject property covered by said patent was classified as residential and not agricultural land. As a consequence, OCT No. RP-4176 covering the same property was also void.

Tayao prayed that judgment be rendered in his favor, as follows:

Wherefore, defendant prays that after hearing, judgment be rendered in his favor:

- a) dismissing the complaint filed therein;
- b) ordering third-party defendant Director of Lands to cancel OCT No. RP-4176 (T-10871) in the name of plaintiff for having been issued fraudulently and contrary to the statutory policy of free patent, or directing plaintiff to execute the necessary deed reconveying the contested lot to and in favor of defendant and his

co-heirs; and if still any of such reliefs is not legally possible, ordering plaintiff to pay the heirs of Daniel Tayao for the value of the said contested lot computed at P6,000.00 per square meter or a total of P330,000.00;

c) ordering plaintiff to pay defendant the sums of P10,000.00 plus P1,000.00 per appearance in court as attorney's fees; another P10,000.00 by way of litigation expenses; P50,000.00 for moral damages; and the costs of this suit; and

d) granting such other reliefs as are just and equitable in the premises.[4]

Public respondent Director of Lands filed a motion to dismiss the third-party complaint on the following grounds:

- DEFENDANT - THIRD-PARTY PLAINTIFF FAILED TO EXHAUST ADMINISTRATIVE REMEDIES.

- DEFENDANT - THIRD-PARTY PLAINTIFF [HAS] NO AUTHORITY TO FILE THE INSTANT SUIT AS ACTION FOR CANCELLATION/REVERSION OF PATENTS ISSUED OVER PUBLIC LANDS MAY BE INSTITUTED ONLY BY THE OFFICE OF THE SOLICITOR GENERAL.[5]

However, the trial court failed to resolve the motion to dismiss.

On April 30, 2001, the trial court rendered judgment in favor of Mendoza. The fallo of the decision reads:

WHEREFORE, judgment is hereby rendered in favor of plaintiff and against the defendant, ordering the latter and all persons claiming rights under him:

1) To vacate the subject 55-square-meter portion of the lot owned by the heirs of Magdalena C. Dionisio located at Longos, Pulilan, Bulacan, covered by OCT No. RP-4176 (T-10871) and surrender peaceful possession thereof to the plaintiff;

2) To pay the plaintiff the amount of P1,000.00 a month from September 1997 until he vacates the said property;

3) To pay plaintiff the amount of P20,000.00 as and by way of attorney's fees;

4) To pay the cost of suit.

SO ORDERED.[6]

On appeal to the Regional Trial Court (RTC) of Malolos, Bulacan, the appealed decision was affirmed with modification. The trial court held that the matter of whether the property was residential or not, and whether the free patent and OCT No. RP-4176 were null and void, can and should be threshed out by the proper party in a proper action for that purpose.[7]

Tayao then filed a petition for review with the CA, assailing the decision of the trial court on the following claim:

- THE LOWER COURTS ERRED IN DISREGARDING THE QUESTION OF NULLITY OF OCT NO. RP-4176 (T-10871) ISSUED IN THE NAME OF MAGDALENA DIONISIO, MOTHER OF RESPONDENT ROSA D. MENDOZA, COVERING LOT 9205, CAD. 345 THAT WAS DISCOVERED TO INCLUDE A PORTION OF THE ADJOINING DOÑA REMEDIOS TRINIDAD HIGHWAY.

- THE LOWER COURTS ERRED IN EQUIVOCATING AND FINALLY AVOIDING DISCUSSION ON THE QUESTION OF NULLITY DUE TO FRAUD OF THE FREE PATENT AND TITLE ISSUED IN THE NAME OF THE MOTHER OF RESPONDENT ROSA D. MENDOZA, WHICH WAS SPECIFICALLY RAISED IN THE PETITIONER'S ORIGINAL ANSWER AND AMENDED ANSWER AS AN AFFIRMATIVE DEFENSE TO THE COMPLAINT FILED IN COURT BY THE SAID RESPONDENT FOR RECOVERY OF POSSESSION OF THE CONTESTED LOT.

- THE LOWER COURTS ERRED IN FAILING TO FIND AND DISCUSS THAT THE PETITIONER CAN EXERCISE THE RIGHT TO DEMAND FOR RECONVEYANCE OF THE CONTESTED LOT FROM RESPONDENT ROSA D. MENDOZA.[8]

On September 19, 2003, the CA rendered judgment[9] dismissing the petition and affirming the appealed decision. Citing the ruling of this Court in *Ybañez v. Intermediate Appellate Court*,[10] the CA ruled that Tayao's affirmative defense in his answer to the complaint, where he assailed the validity of OCT No. RP-4176, constituted a collateral attack on such title which is proscribed by Section 48 of Presidential Decree No. 1529. Tayao filed a motion for reconsideration of the decision, which was denied by the CA.

In a petition for review with this Court, the petitioner asserts the following:

- THE APPELLATE COURT COMMITTED A REVERSIBLE ERROR IN NOT DECLARING THAT THE TORRENS TITLE OF THE PRIVATE RESPONDENT IS A NULLITY AS IT ENCROACHED UPON THE REMEDIOS TRINIDAD NATIONAL HIGHWAY.

- THE APPELLATE COURT COMMITTED A REVERSIBLE ERROR IN NOT RULING THAT THE ACTION FOR RECONVEYANCE FILED BY THE RESPONDENTS AGAINST THE PETITIONER CANNOT PROSPER, AS THE DEFENSE OF NULLITY OF THE TORRENS TITLE OF THE RESPONDENT WHICH WAS ACQUIRED THROUGH FRAUD, WAS RAISED BY THE PETITIONER IN A THIRD-PARTY COMPLAINT WHICH IS A DIRECT AND NOT A COLLATERAL ATTACK ON SAID TITLE.

- THE APPELLATE COURT COMMITTED A REVERSIBLE ERROR IN NOT RULING THAT THE RIGHT OF THE PETITIONER OVER THE PROPERTY SUBJECT OF THE CASE WHICH HE ACQUIRED BY ACQUISITIVE PRESCRIPTION FOR MORE THAN THIRTY (30) YEARS IS MUCH SUPERIOR (SIC) THAN THAT OF THE PRIVATE RESPONDENT, AS HER TITLE IS A NULLITY, HAVING BEEN ACQUIRED THROUGH FRAUD.[11]

The issues being interrelated, the Court shall resolve the same simultaneously.

The petitioner avers that his third-party complaint against the public respondent was an action for reconveyance, a direct attack of OCT No. RP-4176. He posits that as evidenced by the relocation survey plans of two independent surveyors commissioned by the parties, Lot No. 9205, Cadastre 345 encroached the Doña Remedios Trinidad National Highway. He further argues that since the patent was issued over a portion of the national highway, such patent is null and void; consequently, OCT No. RP-4176 issued based on the said patent is also void. As such, the Torrens title can be annulled at any time, even by him, since the patent and title neither binds nor bars anyone.

The petition has no merit.

Section 11, Rule 6 of the 1997 Rules of Civil Procedure reads:

SEC. 11. Third (fourth, etc.)-party complaint. - A third (fourth, etc.)-party complaint is a claim that a defending party may, with leave of court, file against a person not a party to the action, called the third (fourth, etc.)-party defendant, for contribution, indemnity, subrogation or any other relief, in respect of his opponent's claim. (12a)

A third-party complaint is actually a complaint independent of, and separate and distinct from the plaintiff's complaint. Were it not for Rule 6, Section 11 of the Rules of Court, such third-party complaint would have to be filed independently and separately from the original complaint by the defendant against the third-party defendant. The purpose is to avoid circuitry of action and unnecessary proliferation of law suits and of disposing expeditiously in one litigation all the matters arising from one particular set of facts.[12] The trial court is vested with discretion whether or not to allow the defendant to file a third-party complaint. As such, the defendant has no

vested right to file a third-party complaint.

Petitioner's insistence that his third-party complaint was a direct attack on the free patent and OCT No. RP-4176 under Sections 48 and 103 of Pres. Decree No. 1529 is futile.

It appears that the petitioner did not seek leave of court to file a third-party complaint against the public respondent. Indeed, the trial court did not even resolve the motion to dismiss the third-party complaint filed by the public respondent, and proceeded to render its decision in favor of the latter. Furthermore, the petitioner failed to raise, in the RTC, the issue of whether or not his third-party complaint against the public respondent was proper. Neither did he do so in the CA. In fact, the petitioner declared in his petition in the CA that -

The petitioner concedes that the lower courts correctly dismissed the third-party complaint in the petitioner's amended answer against the Director of Lands. The said third-party complaint indeed partakes of the nature of proceedings for cancellation of patents and titles issued under the Republic Land Law and for reversion thereof to the public domain, which the Solicitor General has the exclusive authority to initiate.[13]

In any event, the third-party complaint could not have prospered, on the additional ground that the petitioner failed to implead the private respondent's three (3) sisters who were the co-owners of the subject property. They were indispensable parties to the petitioner's action for the nullification of OCT No. RP-4176 and its derivative title and the reconveyance of the property to him by the said co-owners.[14]

Whether or not the property is part of the Remedios Trinidad National Highway or is residential-commercial is a question of fact. In a petition for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be raised. While the Court may resolve questions of fact in exceptional circumstances, the petitioner in the instant case has not established any such exceptions to exist.[15] Moreover, the petitioner's contention that the property is a part of the national highway is inconsistent with his contention in his answer to the complaint and his testimony before the trial court that the property is "residential-commercial."

Finally, the MTC declared that the property is private-agricultural land. The RTC and the CA affirmed the finding of the trial court. The findings of the MTC, affirmed by the RTC and CA are conclusive on this Court, absent a preponderance of evidence that the trial court ignored, misconstrued or misapplied any cogent facts and circumstances which, if considered, would warrant a modification or reversal of the outcome of the case.[16]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED for lack of merit.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Bienvenido L. Reyes and Hakim S. Abdulwahid, concurring.

[2] Special Eighth Division.

[3] CA Rollo, pp. 24-26.

[4] Id. at 32-33.

[5] Id. at 34.

[6] Id. at 57-58.

[7] Id. at 76-81.

[8] Rollo, p. 26.

[9] Rollo, pp. 23-30.

[10] G.R. No. 68291, 6 March 1991, 194 SCRA 743.

[11] Rollo, p. 10.

[12] Firestone Tire and Rubber Company of the Philippines v. Tempongco, G.R. No. L-24399, 28 March 1969, 27 SCRA 418.

[13] CA Rollo, p. 14.

[14] Metropolitan Waterworks and Sewerage System v. Court of Appeals, G.R. No. 126000, 7 October 1998, 297 SCRA 287.

[15] (1) When the conclusion is a finding grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is 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 same is 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 citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. (Commissioner of Internal Revenue vs. Embroidery and Garments Industries [Phils.], Inc. G.R. No. 96262, March 22, 1999, 305 SCRA 70 citing Misa vs. Court of Appeals 212 SCRA 217 [1992]; Golangco vs. Court of Appeals, 283 SCRA 493, 503 [1997]; Fule vs. Court of Appeals, 286 SCRA 698, 710 [1991]; Halili vs. Court of Appeals, 287 SCRA 465, 470 [1998]; Remalante vs. Tibe, 158 SCRA 138 [1988]; Ayala Corporation vs. Ray Burton Development Corporation, G.R. No. 126699, August 17, 1998, 294 SCRA 48). Nokom v. NLRC, G.R. No. 140043, 18 July 2000, 336 SCRA 97.

[16] Bañas, Jr. v. Court of Appeals, G.R. No. 102967, 10 February 2000, 325 SCRA 259.

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