

HERMENEGILDA DE LA CRUZ LOYOLA, PETITIONER, VS. ANASTACIO MENDOZA, RESPONDENT.

G.R. NO. 163340. November 23, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is an appeal from the Decision[1] and Resolution[2] dated October 21, 2003 and May 3, 2004, respectively, of the Court of Appeals in CA-G.R. CV No. 70229. The Court of Appeals had reversed the Decision[3] dated August 17, 2000 of the Regional Trial Court (RTC), Branch 69, Pasig City, in Civil Case No. 66016 annulling Original Certificate of Title (OCT) No. 213.

The facts are as follows:

On May 11, 1984, respondent Anastacio Mendoza was issued, by virtue of a free patent, OCT No. 213 over a 1,668-square meter parcel of land located in Sta. Ana, Taguig by the Register of Deeds for Metro Manila D-IV.[4]

On September 1, 1995, petitioner Hermenegilda de la Cruz Loyola, who was in possession of the land, filed with the Department of Environment and Natural Resources (DENR) a complaint[5] for annulment and/or reconveyance of respondent's OCT No. 213 on the ground that respondent obtained said title through fraud.

The DENR found that petitioner and her predecessors-in-interest had been in possession of the subject land since 1948 or more than 30 years at the time OCT No. 213 was issued in 1984. The DENR concluded that fraud attended the issuance of OCT No. 213; hence, it issued an Order[6] dated September 19, 1996 to the Office of the Solicitor General (OSG) to file on behalf of petitioner a petition for the cancellation of OCT No. 213.

The OSG, however, advised petitioner to file the case herself.

On December 2, 1996, petitioner filed with the RTC of Pasig City a complaint for annulment of OCT No. 213 with damages.[7]

Petitioner alleged that the land was originally part of a 4,060-sq. m. land owned by her grandfather by affinity, Julio Pili, who was issued on August 31, 1948 Tax Declaration No. 518[8] by the Provincial Assessor of Rizal.

In 1950, Julio transferred 2,030 square meters to her father, Francisco de la Cruz, who was issued Tax Declaration No. 6941[9] on October 4, 1950 and Tax Declaration No. 2008[10] on September 30, 1965. Francisco remained in possession of the land from 1950 until around 1976, when he gave possession to Victoriano Cruz and Trinidad Espiritu to whom he had mortgaged the land. The two mortgagees remained on the lot until 1995 when petitioner redeemed it.

Petitioner also alleged that she later discovered that on January 2, 1976, unknown to her father and the two mortgagees, the land had been transferred to Juana de la Cruz Vda. De Mendoza. Juana was issued Tax Declaration No. 13912[11] on the same date and then the next day entered into a simulated sale of the land with her son, respondent Anastacio Mendoza. A year later, respondent obtained the assailed OCT in his favor.

Petitioner alleged that she demanded from respondent the cancellation of the title and surrender of the land, but to no avail.

Petitioner averred that OCT No. 213 was obtained through fraud since neither Juana nor Anastacio had ever been in possession of the property and no notice of the free patent application, which respondent filed in 1977, was ever sent to Francisco. Petitioner added that there was likewise no document evidencing the transfer of the property from Francisco to Juana, who were not related to each other.

In his Answer,[12] respondent made a general denial of the material averments of the complaint, but argued that petitioner had no legal personality to file the complaint that should have been filed by the OSG; that OCT No. 213 is now incontestable; and that petitioner's cause of action, if any, had already prescribed.

Petitioner testified on the material averments in her complaint.[13] Atty. John Emmanuel Felipe Madamba[14] from the OSG testified that petitioner had to file the case herself since the land had already become private land by virtue of acquisitive prescription. He added that the OSG's nonparticipation was warranted under the proposed DENR Guidelines in the Evaluation of Cases for Cancellation and Reversion.

Respondent, for his part, presented only the contested OCT.

On August 17, 2000, the trial court ruled that petitioner had acquired ownership of the subject land by acquisitive prescription and that respondent obtained OCT No. 213 through fraud. The trial court held:

WHEREFORE, premises considered, judgment is hereby rendered declaring the nullity of the Free Patent issued in the name of Anastacio Mendoza, known as OCT No. 213, and requiring the DENR/Register of Deeds of Taguig, to issue another title in the name of the [petitioner] Hermenegilda de la Cruz Loyola, after payment of the prescribed fees. [Respondent] is further ordered to pay to the [petitioner] attorney's fee in the amount of Php 50,000.00 and the costs.

SO ORDERED.[15]

Respondent received a copy of the trial court's decision on October 26, 2000. On November 6, 2000, respondent filed a Motion to Declare "Decision" to be "Null and Void" and Motion for Reconsideration[16] contending that (1) the pairing judge was without authority to decide the case on the merits and that (2) the trial court's decision was not based on the evidence presented in the trial court and therefore should be reconsidered. Respondent, however, failed to point out specifically the findings or conclusions of the decision which he alleged were not supported by the evidence or contrary to law.

Petitioner opposed the motion on the ground that it was pro forma and without merit. Petitioner also pointed out that Supreme Court Circular No. 19-98[17] dated February 18, 1998, explicitly authorized the pairing judge to act not only on incidental or interlocutory matters and those urgent matters requiring immediate action on cases pertaining to the paired court, but also on all other matters therein.[18]

On November 29, 2000, the trial court denied the motion for lack of merit.[19]

Respondent received a copy of the trial court's denial on January 4, 2001. He filed a second motion for reconsideration on January 16, 2001, on the same grounds. Again, he did not specify which portions of the decision were supposedly unsupported by evidence or contrary to law. Said motion was likewise denied.[20]

Aggrieved, respondent filed a notice of appeal on March 12, 2001.[21]

On appeal, the Court of Appeals reversed the trial court's decision and dismissed the complaint for annulment of OCT No. 213. Petitioner's motion for reconsideration was likewise denied. Hence, this petition.

Petitioner raises now the following as issues:

I.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE PASIG CITY REGIONAL TRIAL COURT, BRANCH 69.

II.

WHETHER THE PETITIONER AND HER PREDECESSORS-IN-INTEREST WERE THE TRUE AND RIGHTFUL OWNERS OF THE SUBJECT PROPERTY.

III.

WHETHER THE DOCUMENTARY EVIDENCE PRESENTED BY THE PETITIONER IS INSUFFICIENT TO WARRANT A BELIEF THAT SHE IS ENTITLED TO RECONVEYANCE OF THE SUBJECT PARCEL OF LAND.

IV.

WHETHER THERE WAS IRREGULARITY IN THE APPLICATION AND SUBSEQUENT GRANT OF FREE PATENT TO THE PRIVATE RESPONDENT.

V.

WHETHER THE CAUSE OF ACTION OF THE PETITIONER HAD ALREADY PRESCRIBED.[22]

The principal issue in this case is whether the appellate court committed reversible error in setting aside the trial court's decision and holding that petitioner is not entitled to reconveyance of the subject land covered by OCT No. 213.

Petitioner argues that the Court of Appeals failed to consider (1) that the land had been in the possession of petitioner and her predecessors-in-interest since the 1930s and therefore had become private land ipso jure before OCT No. 213 was issued, and (2) that the DENR had already found that the transfer of the property from Francisco de la Cruz to Juana de la Cruz Vda. De Mendoza was attended by fraud and misrepresentation. She likewise argues that respondent never acquired any right or title to the land under the free patent issued to him because the land covered therein was already private property and no longer part of the disposable land of the public domain at the time the free patent was issued. Respondent was also guilty of fraud. He misrepresented in his application for free patent that copies of the notice of survey were personally received by the owners of the adjoining lots who have been long dead and that the land was part of the public domain although it was not. Hence, according to petitioner, the free patent, as well as OCT No. 213, was void ab initio and never became indefeasible. The action to annul OCT No. 213 therefore also never prescribes.[23]

Respondent, for his part, insists that petitioner had no cause of action against him. He argues that a suit for annulment of title is in the nature of an action for reversion of title and could only be filed by the Solicitor General, not by petitioner herself. Also, all available causes of action had already prescribed since petitioner filed her complaint more than 12 years after the issuance of the title. Respondent adds that petitioner has not been able to overturn the presumption of validity of his title.[24]

After carefully considering the records of this case, including the submissions of the parties, we find reason to grant the petition not upon a review on the merits, but principally because the appellate court clearly erred in taking cognizance of the appeal over which it had no jurisdiction because the respondent's notice of appeal was patently filed late.

Section 5,[25] Rule 37 of the Rules of Court is explicit that a second motion for reconsideration shall not be allowed.[26] Its filing in the trial court did not toll the running of respondent's period to appeal which began to run from January 4, 2001, when respondent received notice of the trial court's Order of November 29, 2000, denying his first motion for reconsideration.[27] Since respondent had only until January 19, 2001 to appeal,[28] his Notice of Appeal, filed on March 12, 2001, or 67 days after receiving notice of the order of denial, should have been denied for being late.

The right to appeal is neither a natural right nor a part of due process. It is merely a purely statutory privilege and may be exercised only in the manner and in accordance with the provisions of law. A party who seeks to avail of the right to appeal must comply with the requirements of the Rules.[29] Perfection of an appeal in the manner and within the period permitted by law is not only mandatory but also jurisdictional. Failure to interpose a timely appeal renders the assailed decision final and executory, and deprives a higher court of jurisdiction to alter the final judgment or to entertain the appeal.[30] Not even this Court has jurisdiction to review, directly or indirectly, a final and executory decision of the lower court. Clearly, therefore, the Court of Appeals acted without jurisdiction when it took cognizance of respondent's appeal and modified the trial court's final and executory decision.

It may well be pointed out that this Court has in very rare and exceptional cases condoned late filing of notices of appeal to prevent the commission of a grave injustice.[31] However, the trial court's decision is clearly in accord with justice. A careful review of the records reveals to us that petitioner has shown that she acquired ownership of the subject land by acquisitive prescription before respondent obtained OCT No. 213 through fraud. Thus, there exists no meritorious reason to relax the application of the rules on perfection of appeals.

WHEREFORE, the instant petition is GRANTED. The Decision and Resolution dated October 21, 2003 and May 3, 2004, respectively, of the Court of Appeals in CA-G.R. CV No. 70229 are SET ASIDE. The Decision dated August 17, 2000 of the Regional Trial Court, Branch 69, Pasig City, in Civil Case No. 66016 is REINSTATED. No pronouncement as to costs.

SO ORDERED.

Carpio, Carpio-Morales, Tinga and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 139-146. Penned by Associate Justice Marina L. Buzon, with Associate Justices Sergio L. Pestaño and Jose C. Mendoza concurring.

[2] Id. at 168-170.

[3] Records, pp. 185-193. Penned by Pairing Judge Pablito M. Rojas.

[4] Id. at 127.

[5] Id. at 135-139.

[6] Id. at 21-22.

[7] Id. at 1-7.

[8] Id. at 119.

[9] Id. at 9.

[10] Id. at 120.

[11] Id. at 121.

[12] Id. at 25-28.

[13] TSN, September 4, 1997, pp. 1-23.

[14] TSN, March 5, 1998, pp. 1-7.

[15] Records, p. 193.

[16] Id. at 195-196.

[17] EXPANDED AUTHORITY OF PAIRING COURTS.

[18] Records, p. 199.

[19] Id. at 200.

[20] Id. at 200-202, 206.

[21] Id. at 209.

[22] Rollo, p. 18.

[23] Id. at 215, 218-223.

[24] Id. at 239-242.

[25] SEC. 5. Second motion for new trial.— A motion for new trial shall include all grounds then available and those not so included shall be deemed waived. A second motion for new trial, based on a ground not existing nor available when the first motion was made, may be filed within the time herein provided excluding the time during which the first motion had been pending.

No party shall be allowed a second motion for reconsideration of a judgment or final order. (Emphasis supplied.)

[26] Obando v. Court of Appeals, G.R. No. 139760, October 5, 2001, 366 SCRA 673, 677.

[27] Records, p. 201.

[28] Neypes v. Court of Appeals, G.R. No. 141524, September 14, 2005, 469 SCRA 633, 639; Sps. De Los Santos v. Vda. De Mangubat, et al., G.R. No. 149508, October 10, 2007, pp. 9-12.

[29] Id. at 638.

[30] Foster-Gallego v. Galang, G.R. No. 130228, July 27, 2004, 435 SCRA 275, 287; Zacate v. Commission on Elections, G.R. No. 144678, March 1, 2001, 353 SCRA 441, 449; Barangay 24 of Legazpi City v. Imperial, G.R. No. 140321, August 24, 2000, 338 SCRA 694, 702.

[31] See Ramos v. Bagasao, No. L-51552, February 28, 1980, 96 SCRA 395, 397; Republic v. Court of Appeals, Nos. L-31303-04, May 31, 1978, 83 SCRA 453, 474-475; Olacao v. National Labor Relations Commission, G.R. No. 81390, August 29, 1989, 177 SCRA 38, 49.

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