

FAUSTINA CAMITAN and DAMASO LOPEZ, Petitioners, vs. FIDELITY INVESTMENT CORPORATION, Respondent.*G.R. No. 163684. April 16, 2008*

Ponente: NACHURA, J.

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This is a petition for review on certiorari under Rule 45 of the Rules of Court of the Decision[1] dated November 28, 2003 and of the Resolution[2] dated May 12, 2004, both of the Court of Appeals (CA) in CA-G.R. SP No. 37291 entitled Fidelity Investment Corporation v. Alipio Camitan, Faustina Camitan, Damaso Lopez, the Regional Trial Court of Calamba, Laguna (Branch 37) and the Register of Deeds of Calamba, Laguna.

The case arose from the Petition[3] for the issuance of another duplicate copy of Certificate of Title No. T-(12110) T-4342 (TCT) filed in 1993 by herein petitioners, together with Alipio Camitan, before the Regional Trial Court (RTC) of Calamba, Laguna. The case was raffled to Branch 37 of the said court and was docketed as SLRC Case No. 1198-93-C.

The petition contained, among others, the allegations that: (1) the petitioners are the true and lawful registered co-owners of a parcel of land located at Maunong, Calamba, Laguna, consisting of 30,000 square meters covered by the TCT; (2) the lot is declared for tax purposes under Tax Declaration No. 14187; (3) petitioners paid the realty taxes on the said property until 1993; (4) the owner's duplicate copy was lost and could not be found despite diligent efforts to locate it; (5) per Certification[4] dated June 21, 1993 of the Register of Deeds of Calamba, Laguna, there were no legal claims annotated at the back of the TCT filed with that office; (6) petitioners filed with the Register of Deeds an affidavit of loss of the said owner's duplicate copy; (7) they secured a certified true copy of the original TCT from the Register of Deeds with the affidavit of loss annotated at the back thereof; (8) at the last page of the original certificate of title, a mortgage was annotated, which upon verification was found to have already been paid; (9) the Register of Deeds of Calamba could not cancel the mortgage from the original copy of the title until presentation of the owner's duplicate copy to the bank; and (10) petitioners were in possession of the subject property.

After due proceedings, the RTC, in its Order[5] dated April 8, 1994, granted the petition, directed the Register of Deeds of Calamba, Laguna to issue a second owner's duplicate copy of the TCT, and declared void the first owner's duplicate copy thereof.

Later, on May 25, 1995, herein respondent Fidelity Investment Corporation (Fidelity) filed a Petition[6] for annulment of judgment and cancellation of title before the CA. According to Fidelity, on December 16, 1967, it purchased the property covered by the subject certificate of title from the registered owners thereof pursuant to a Deed of Absolute Sale[7] of the same date. It said that upon execution of the Deed of Absolute Sale and the payment in full of the purchase price, the vendors delivered to Fidelity their owner's duplicate copy of the TCT, which has been in its possession since. It also alleged that it had been in actual physical possession and continuous occupation of the subject property and that it had been paying the real estate taxes due thereon.

It further said that, sometime in March 1995, upon verification with the Register of Deeds of Calamba, Laguna, it learned for the first time of the issuance of a second owner's duplicate copy as recorded under Entry No. 357701 dated May 26, 1994 and annotated on the TCT. Thus, it caused the sale of the property in its favor to be annotated on the TCT. The notice of the sale was annotated on March 28, 1995 as Entry No. 384954. Fidelity then filed, on April 26, 1995, a Notice of Adverse Claim with the concerned Register of Deeds, which was annotated on the TCT as Entry No. 387483.

In fine, Fidelity argued that the Order dated April 18, 1994 is null and void, the RTC having no jurisdiction to issue the same as the owner's duplicate copy of the TCT was in its possession all along and the respondents therein had no standing to file the petition on account of the Deed of Absolute Sale they executed in its favor. It claimed that the petitioners perjured themselves before the RTC when they stated that the duplicate copy of the TCT was lost and that they gave notice to all who had interest in the property, because they failed to notify Fidelity despite knowledge of the latter's possession of the property.

In their Comment,[8] private respondents [herein petitioners] Faustina Camitan, Damaso Lopez, and the surviving heirs of deceased Alipio Camitan, denied having committed falsehoods in their petition before the trial court, which they claimed had jurisdiction over the case. They submitted that the long, unexplained, and questionable silence of Fidelity on its alleged possession of the owner's duplicate copy of the TCT and the Deed of Absolute Sale over the property and the non-registration and titling thereof in its name for about 27 years since the purported sale, was tainted with malice and bad faith, thus, subjecting it to estoppel and laches.

By its Resolution dated May 27, 1997, the CA gave due course to the petition for annulment of judgment, and a preliminary conference was set, directing Fidelity to bring the owner's duplicate copy of the TCT. At the preliminary conference, Fidelity's counsel presented what was claimed to be the owner's duplicate copy of the TCT. Counsel for private respondents examined the certificate of title and admitted that it is the genuine owner's copy thereof. Thereafter, counsel for Fidelity manifested that they were no longer presenting other evidence. On the other hand, counsel for private respondents prayed that an additional issue, the question of the validity of the deed of sale in favor of Fidelity, be likewise resolved. Fidelity's counsel objected on the ground of irrelevancy. However, in order to expedite the proceedings, he agreed to have private respondents amplify their position in their memorandum.

In their Memorandum, private respondents retracted their counsel's admission on the genuineness of the owner's duplicate copy of the TCT presented by Fidelity, citing honest mistake and negligence owing to his excitement and nervousness in appearing before the CA. They pointed to some allegedly irreconcilable discrepancies between the copy annexed to the petition and the exhibit presented by Fidelity during the preliminary conference. They also reiterated the issue on the validity of the purported deed of sale of the property in favor of Fidelity.

In its Comment to the Memorandum, Fidelity countered that there were no discrepancies between the owner's duplicate copy it presented and the original copy on file with the Registry of Deeds of Calamba, Laguna. It argued that private respondents are bound by the judicial admission made by their counsel during the preliminary conference. It, likewise, objected to the inclusion of the issue on the validity of the deed of sale over the property.

In the Decision dated November 28, 2003, the CA ruled in favor of Fidelity. It declared that the RTC was without jurisdiction to issue a second owner's duplicate copy of the title in light of the existence of the genuine owner's duplicate copy in the possession of petitioner, as admitted by private respondents through counsel. According to the CA, a judicial admission is conclusive upon the party making it and cannot be contradicted unless previously shown to have been made through palpable mistake or that no such admission was made. It said that honest mistake and negligence, as raised by private respondents in retracting their counsel's admission, are not sufficient

grounds to invalidate the admission.

Hence, this petition, raising the sole issue of -

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT DID NOT CONSIDER THAT THE JUDICIAL ADMISSION OF THE COUNSEL OF THE PETITIONERS DURING THE HEARING IN C.A.-G.R. SP. NO. 37291 WAS A PALPABLE MISTAKE.

Herein petitioners argue that despite the existence of a judicial admission, there is still some leeway for the court to consider other evidence presented. They point out that, even as early as in their Memorandum before the CA, they had already retracted their counsel's admission on the genuineness of the owner's duplicate copy of the TCT presented by Fidelity, and claim that their counsel was honestly mistaken and negligent in his admission owing to his excitement and nervousness in appearing before the CA. Petitioners likewise cite, in support of their position, the circumstances they alleged in their petition before the RTC which convinced the latter to issue them a new owner's duplicate copy of the TCT. Further, petitioners raise in issue the discrepancies between the certificate of title on file with the Register of Deeds of Calamba, Laguna and that submitted by Fidelity during the preliminary conference before the CA.

In its Comment,[9] Fidelity reiterate the arguments it presented before the CA.

We find for the respondent.

At the outset, we emphasize that the core issue in this case is the validity of the issuance by the RTC of a new owner's duplicate copy of the TCT in favor of petitioners. The applicable law is Section 109 of Presidential Decree (P.D.) No. 1529 (Property Registration Decree), which states:

SEC. 109. Notice and replacement of lost duplicate certificate. - In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

Petitioners were able to convince the RTC that their owner's duplicate copy had indeed been lost. They appeared to have complied with the requirements of the law. This led the RTC to grant their petition.

Upon discovery of the issuance of a new owner's duplicate copy of the TCT, Fidelity went to the CA seeking to annul the judgment of the RTC. Unfortunately for petitioners, their counsel admitted the genuineness of the owner's duplicate copy of the TCT presented by Fidelity during the preliminary conference at the CA. The following exchange is revealing:

J. MARTIN:

Counsel for the private respondent, will you go over the owner's copy and manifest to the court whether that is a genuine owner's copy?

ATTY. MENDOZA:

Yes, Your Honor.

J. MARTIN:

Alright. Make it of record that after examining the owner's copy of TCT NO. (T-12110) T-4342, counsel for the private respondent admitted that the same appears to be a genuine owner's copy of the transfer certificate of title. Do you have a certified true copy of this or any machine copy that you can compare?

ATTY. QUINTOS:

Yes, Your Honor.

J. REYES:

Including all the entries at the back page.

ATTY. QUINTOS:

Yes, Your Honor.

J. MARTIN:

Does it include all the list of the encumbrances?

ATTY. QUINTOS:

Yes, Your Honor.

ATTY. MENDOZA:

We do not admit, Your Honor this being only a xerox copy and not certified . . .

J. MARTIN:

It is only for purposes of substitution. Will you compare that with the other copy which you already admitted to be a genuine owner's copy.

ATTY. MENDOZA:

Yes, Your Honor.

J. MARTIN:

Alright. Counsel, are you marking that?

ATTY. QUINTOS:

Your Honor, we request that this copy of the transfer certificate of title No. T-12110, T-4342 be marked as Exhibit A to A-3 for the petitioner?

J. MARTIN:

Preliminary conference.

Alright, after examining the machine copy consisting of three pages and comparing the same with the admittedly genuine owner's copy of the transfer certificate of title, counsel prayed for the substitution of the machine copy - after marking them as Exhibits A-A-3 inclusive. We will return the owner's copy to you so that you can submit this already in lieu thereof.

This is a preliminary conference. Unless you have other incidents to thresh out, I think that we can terminate the conference this morning. Counsel for the private respondents?[10]

The foregoing transcript of the preliminary conference indubitably shows that counsel for petitioners made a judicial admission and failed to refute that admission during the said proceedings despite the opportunity to do so. A judicial admission is an admission, verbal or written, made by a party in the course of the proceedings in the same case, which dispenses with the need for proof with respect to the matter or fact admitted. It may be contradicted only by a showing that it was made through palpable mistake or that no such admission was made.[11]

Petitioners, in their Memorandum before the CA, attempted to retract their counsel's judicial admission on the authenticity of the owner's duplicate copy of TCT in the possession of Fidelity. Petitioners explicate that the wrong admission was an honest mistake and negligence attributable to the counsel's nervousness and excitement in appearing for the first time before the CA. However, as correctly pointed out by the CA, such an admission may only be refuted upon a proper showing of palpable mistake or that no such admission was made. Thus, the claim of "honest mistake and negligence" on the part of the counsel due to his excitement and nervousness in appearing before the CA did not suffice.

Petitioners now claim that the "honest mistake and negligence" of their counsel amount to palpable mistake. They also enumerate observed discrepancies between the original TCT on file with the Register of Deeds of Calamba, Laguna and the owner's duplicate copy presented by Fidelity, to wit:

- On the above left margin of the xerox copy of the ORIGINAL COPY of TCT No. (T-12110) T-4342 on file with the Register of Deeds, Calamba, Laguna in question, (Annex A, Respondent's Petition in question before the Court of Appeals) Annex C, supra, the PRINTED WORDS were:

"(JUDICIAL FORM NO. 109)

(Revised September, 1954.)

However, in the belated submission of the alleged xerox copy of the alleged duplicate copy of the title in question by the respondent to the Court of Appeals (Exh. A; Annex "H", supra,) the following PRINTED WORDS appeared:

"(JUDICIAL FORM NO. 109-D)

(Revised September, 1954.)" (Emphasis supplied)

x x x x

- The Serial Number of the Xerox copy of the original copy of the title in question on file with the Register of Deeds of Calamba City was written in handwriting as "158640".

However, the Serial Number of the purported duplicate copy of the original title in question of the respondent was PRINTED in letters and in figures: "No. 158640".

- The typewritten words "PROVINCE OF LAGUNA" on the heading of the xerox copy of the original copy of the said title on file with the said Register of Deeds were written in big type of letters.

However, in Exh. "A", Annex H, supra, of the respondent, it was typewritten with small type of letters.

- In the FIGURES of the xerox copy of the original copy of the said title: NO. (T-12110) T-4342 in question, they were written in a big type of letters. The same is true in the letters "T" and DASH after the letter "T". The figures "4342" were printed in big letters.

However, the printed and handwritten figures and words in Exh. A, Annex C, supra, were small. The figures 4342 were in handwriting.

- In the xerox copy of the original copy of title of the property in question covered by TCT No. (T-12110) T-4342, which cancelled TCT No. T-10700, the type of letter "T", figures, 10700 and dash thereof were in big letters.

However, the purported duplicate copy of the original copy of the title in question submitted to the Court of Appeals by the respondent, the type of the letter, dash and figures thereof were in small letters.

- The type of the printed words, dashes, and figures in the body of the Xerox copy of the original title in question, it was typewritten with big letters and figures.

The purported duplicate copy of the original title of the property in question submitted to the Court of Appeals by the respondent, the letters, dashes and figures there of were typewritten in small letters.

- The letters, dashes, and figures of the xerox copy of the original title in question were typewritten in a manual typewriter with big letters.

In Exh. "A", Annex H, supra, the purported duplicate copy of the original title in question submitted to the Court of Appeals by the respondent, they were typewritten in a manual typewriter with small letters and figures.

- The signatures of the Registrar of Deeds in the xerox of the original copy of the title in question; had loop in small letter "d" and the rest had no loops.

In Exh. A, Annex H, supra, of the purported duplicate copy of the title in question submitted by the respondent to the Court of Appeals, there was no loop, except there were two (2) open vertical lines below thereof after four letters.

- The xerox copy of the original copy of the title in question after TCT No. T-10700 was cancelled, it was entered in the Register of Deeds of Sta. Cruz, Laguna since September 24, 1957 at 9:10 a.m.

- In view thereof, it is but NATURAL that the judicial forms and descriptions of letters and figures of the original copy of title in question and file with the Register of Deeds its duplicate copy since September 24, 1954, were the SAME and already OLD.

- However, in Exh. "A", Annex H, supra, the purported duplicate copy of the title in question submitted by the respondent to the Court of Appeals, the judicial form thereof was already small and it clearly appeared that it might have been NEWLY ISSUED NEW COPY OF TITLE. It might be the revised new form in 1988 that is presently used in the Register of Deeds.[12]

Upon examination of the said exhibits on record, it appears that the alleged discrepancies are more imagined than real. Had these purported discrepancies been that evident during the preliminary conference, it would have been easy for petitioners' counsel to object to the authenticity of the owner's duplicate copy of the TCT presented by Fidelity. As shown in the transcript of the proceedings, there was ample opportunity for petitioners' counsel to examine the document, retract his admission, and point out the alleged discrepancies. But he chose not to contest the document. Thus, it cannot be said that the admission of the petitioners' counsel was made through palpable mistake.

Every counsel has the implied authority to do all acts which are necessary or incidental to the prosecution and management of the suit in behalf of his client. Any act performed by counsel within the scope of his general and implied authority is, in the eyes of the law, regarded as the act of the client himself. Consequently, the mistake or negligence of the client's counsel, which may result in the rendition of an unfavorable judgment, generally binds the client. To rule otherwise would encourage every defeated party, in order to salvage his case, to claim neglect or mistake on the part of his counsel. Then, there would be no end to litigation, as every shortcoming of counsel

could be the subject of challenge by his client through another counsel who, if he is also found wanting, would likewise be disowned by the same client through another counsel, and so on, ad infinitum.

This rule admits of exceptions, i.e., where the counsel's mistake is so great and serious that the client is deprived of his day in court or of his property without due process of law. In these cases, the client is not bound by his counsel's mistakes and the case may even be reopened in order to give the client another chance to present his case.[13] In the case at bar, however, these exceptional circumstances do not obtain.

With proof that the owner's duplicate copy of the TCT was in the possession of Fidelity, the RTC Decision dated April 8, 1994 was properly annulled. In a catena of cases, we have consistently ruled that if an owner's duplicate copy of a certificate of title has not been lost but is in fact in the possession of another person, the reconstituted title is void, as the court rendering the decision never acquires jurisdiction. Consequently, the decision may be attacked at any time.[14]

The circumstances cited by petitioners in support of their petition, i.e., the TCT is still in their names; the property in question is declared for tax purposes in their names; they were the persons informed by the Municipal Treasurer of Calamba, Laguna for the non-payment of real estate taxes for the years 1990-1993; they paid the real estate taxes due on the property; no one was claiming the property per the certification of the Register of Deeds of Calamba, Laguna; the questionable delay of Fidelity in registering its claim over the property under the purported sale of December 13, 1967; and the validity of the Absolute Deed of Sale, all pertain to the issue of ownership over the property covered by the TCT.

In a petition for the issuance of a new owner's duplicate copy of a certificate of title in lieu of one allegedly lost, on which this case is rooted, the RTC, acting only as a land registration court with limited jurisdiction, has no jurisdiction to pass upon the question of actual ownership of the land covered by the lost owner's duplicate copy of the certificate of title.[15] Consequently, any question involving the issue of ownership must be threshed out in a separate suit where the trial court will conduct a full-blown hearing with the parties presenting their respective evidence to prove ownership over the subject realty.[16]

At this point, we reiterate the principle that possession of a lost owner's duplicate copy of a certificate of title is not necessarily equivalent to ownership of the land covered by it. Registration of real property under the Torrens System does not create or vest title because it is not a mode of acquiring ownership. The certificate of title, by itself, does not vest ownership; it is merely an evidence of title over the particular property described therein.[17]

WHEREFORE, the petition is DENIED. The Decision dated November 28, 2003 and the Resolution dated May 12, 2004 of the Court of Appeals in CA-G.R. SP No. 37291 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Corona[*] and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Rubenm T. Reyes (now a member of this Court), with Associate Justices Edhardo P. Cruz and Noel G. Tijam, concurring; rollo, pp. 9-17

[2] Id. at 19-20.

[3] Rollo, pp. 53-55.

[4] Id. at 143.

[5] Id. at 56-58.

[6] Id. at 59-70.

[7] Id. at 73-75.

[8] Id. at 76-88.

[9] Id. at 155-170.

[10] Id. at 182-187. (Emphasis supplied)

[11] RULES OF COURT, Rule 129, Sec. 4.

[12] Rollo, pp. 42-46. (Citations omitted)

[13] Juani v. Alarcon, G.R. No. 166849, September 5, 2006, 501 SCRA 135, 153-154.

[14] Feliciano v. Zaldivar, G.R. No. 162593, September 26, 2006, 503 SCRA 182, 192; Macabalo-Bravo v. Macabalo, G.R. No. 144099, September 26, 2005, 471 SCRA 60, 72; Heirs of Juan and Ines Panganiban v. Dayrit, G.R. No. 151235, July 28, 2005, 464 SCRA 370, 378; Rexlon Realty Group, Inc. v. Court of Appeals, G.R. No. 128412, March 15, 2002, 379 SCRA 306, 319; Reyes, Jr. v. Court of Appeals, G.R. No. 136478, March 27, 2000, 328 SCRA 864, 869; New Durawood Co., Inc. v. Court of Appeals, G.R. No. 111732, February 20, 1996, 253 SCRA 740, 747-748; Demetriou v. Court of Appeals, G.R. No. 115595, November 14, 1994, 238 SCRA 158, 162.

[15] Macabalo-Bravo v. Macabalo, supra; Rexlon Realty Group, Inc. v. Court of Appeals, supra.

[16] Heirs of Susana De Guzman Tuazon v. Court of Appeals, G.R. No. 125758, January 20, 2004, 420 SCRA 219, 227-228.

[17] Supra notes 15 and 16; Pineda v. Court of Appeals, G.R. No. 114712, August 25, 2003, 409 SCRA 438, 448-449.

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