

ASUNCION URIETA VDA. DE AGUILAR, REPRESENTED BY ORLANDO U. AGUILAR, PETITIONER, VS. SPOUSES EDERLINA B. ALFARO AND RAUL ALFARO, RESPONDENTS.

G.R. No. 164402. July 05, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

In an action for recovery of possession of realty, who has the better right of possession, the registered owner armed with a Torrens title or the occupants brandishing a notarized but unregistered deed of sale executed before the land was registered under the Torrens system?

As we previously ruled in similar cases,[1] we resolve the question in favor of the titleholder.

Factual Antecedents

On August 3, 1995, petitioner filed a Complaint for Recovery of Possession and Damages[2] before the Regional Trial Court (RTC) of San Jose, Occidental Mindoro. She alleged that on May 16, 1977, her husband Ignacio Aguilar (Ignacio) was issued Original Certificate of Title (OCT) No. P-9354[3] over a 606-square meter parcel of land designated as Lot 83 situated in Brgy. Buenavista, Sablayan, Occidental Mindoro. Prior thereto, or in 1968, Ignacio allowed petitioner's sister, Anastacia Urieta (Anastacia), mother of respondent Ederlina B. Alfaro (Ederlina), to construct a house on the southern portion of said land and to stay therein temporarily.

In 1994, Ignacio died and his heirs decided to partition Lot 83. Petitioner thus asked the respondents, who took possession of the premises after the death of Anastacia, to vacate Lot 83. They did not heed her demand.

Thus, petitioner filed a case for accion publiciana praying that respondents be ordered to vacate subject property, and to pay moral, temperate, and exemplary damages, as well as attorney's fees and the costs of suit.

In their Answer with Counterclaims and Affirmative Defenses,[4] respondents did not dispute that Ignacio was able to secure title over the entire Lot 83. However, they asserted that on April 17, 1973, Ignacio and herein petitioner sold to their mother Anastacia the southern portion of Lot 83 consisting of 367.5 square meters as shown by the Kasulatan sa Bilihan[5] which bears the signatures of petitioner and Ignacio. Since then, they and their mother have been in possession thereof. Respondents also presented several Tax Declarations[6] in support of their allegations.

Respondents also raised the defense of prescription. They pointed out that accion publiciana or an action to recover the real right of possession independent of ownership prescribes in 10 years. However, it took petitioner more than 25 years before she asserted her rights by filing accion publiciana. As alleged in the complaint, they took possession of the disputed portion of Lot 83 as early as 1968, but petitioner filed the case only in 1995.

By way of counterclaim, respondents prayed that petitioner be directed to execute the necessary documents so that title to the 367.5-square meter portion of Lot 83 could be issued in their name. They likewise prayed for the

dismissal of the complaint and for award of moral and exemplary damages, as well as attorney's fees.

In her Reply and Answer to Counterclaim,[7] petitioner denied having signed the Kasulatan sa Bilihan and averred that her signature appearing thereon is a forgery. She presented an unsworn written declaration dated January 28, 1994 where her husband declared that he did not sell the property in question to anyone. As to the issue of prescription, she asserted that respondents' occupation of subject property cannot ripen into ownership considering that the same is by mere tolerance of the owner. Besides, the purported Kasulatan sa Bilihan was not registered with the proper Registry of Deeds.

During the trial, petitioner presented the testimonies of Orlando Aguilar (Orlando) and Zenaida Baldeo (Zenaida). Orlando testified that he has been staying in Lot 83 since 1960 and had built a house thereon where he is presently residing; and, that his mother, herein petitioner, denied having sold the property or having signed any document for that matter.

Zenaida also testified that in 1981, her father (Ignacio) and Ederlina had a confrontation before the barangay during which her father denied having conveyed any portion of Lot 83 to anybody. She further testified that she is familiar with the signature of her father and that the signature appearing on the Kasulatan sa Bilihan is not her father's signature.

For their part, respondents offered in evidence the testimonies of Estrella Bermudo Alfaro (Estrella), Ederlina, and Jose Tampolino (Jose). Estrella declared that she was present when Ignacio and the petitioner affixed their signatures on the Kasulatan sa Bilihan, which was acknowledged before Notary Public Juan Q. Dantayana on April 17, 1973. She narrated that her mother actually purchased the property in 1954, but it was only in 1973 when the vendor executed the deed of sale. In fact, her father Francisco Bermudo was able to secure a permit to erect a house on the disputed property from the Office of the Mayor of Sablayan, Occidental Mindoro in 1954.[8] She was surprised to learn though that their property is still registered in the name of the petitioner.

Ederlina corroborated the declarations of Estrella. She also alleged that her parents occupied the property in 1954 when they built a hut there, then later on, a house of strong materials.

Jose corroborated the declarations of the other witnesses for the respondents that the disputed portion of Lot 83 is owned by Anastacia.

Ruling of the Regional Trial Court

In its Decision[9] dated September 21, 1998, the court a quo ordered the respondents to vacate subject premises and denied their counterclaim for reconveyance on the grounds of prescription and laches. It held that the prescriptive period for reconveyance of fraudulently registered real property is 10 years reckoned from the date of the issuance of the certificate of title. In this case, however, it is not disputed that OCT No. P-9354 covering the entire Lot 83 was issued to Ignacio in 1977. The trial court likewise held that respondents are guilty of laches and that the reconveyance of the disputed property in their favor would violate the rule on indefeasibility of Torrens title.

The dispositive portion of the trial court's Decision reads:

WHEREFORE, and in the light of all the foregoing considerations, judgment is hereby rendered in favor of plaintiff and against the defendants, to wit:

- Ordering the defendants and any person claiming right under them to vacate the premises in question and surrender the possession thereof to plaintiff;
- To pay the amount of Ten Thousand Pesos (P10,000.00) as and for reasonable attorney's fees;

- To pay the costs of this suit.

SO ORDERED.[10]

Ruling of the Court of Appeals

On June 7, 2004, the CA promulgated its Decision[11] reversing the trial court's Decision and dismissing the complaint, as well as respondents' counterclaim. The CA upheld the validity of the Kasulatan sa Bilihan since it is a notarized document and disputably presumed to be authentic and duly executed. In addition, witness Estrella categorically declared that she was present when petitioner and Ignacio signed the Kasulatan sa Bilihan. The CA elaborated that in order to disprove the presumption accorded to a notarized document, the party contesting its authenticity and due execution must present a clear and convincing evidence to the contrary, which the petitioner failed to do.

The CA likewise disagreed with the court a quo that respondents' counterclaim should be dismissed on the ground of indefeasibility of title. It emphasized that the Torrens system was adopted to protect innocent third parties for value and not to protect fraud. Nonetheless, the CA did not grant the relief sought in respondents' counterclaim considering that not all interested parties were impleaded in the case.

The dispositive portion of the CA's Decision reads:

IN VIEW OF THE FOREGOING, the decision appealed from is REVERSED, and a new one ENTERED dismissing the complaint and counterclaim.

SO ORDERED.[12]

Issue

Without seeking reconsideration of the CA's Decision, petitioner interposed the present recourse raising the sole issue of:

WHETHER X X X THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE VALIDITY/GENUINENESS AND DUE EXECUTION OF THE PURPORTED DEED OF SALE OF THE PORTION OF THE LOT DESPITE THE VEHEMENT DENIAL OF THE ALLEGED VENDORS.[13]

Petitioner contends that the CA grievously erred in upholding the validity and genuineness of the Kasulatan sa Bilihan. She alleges that she wanted to take the witness stand to disclaim in open court her purported signature appearing on respondents' Kasulatan sa Bilihan, but could not do so because she is too old, bed-ridden and has to bear a tortuous five-hour drive to reach the court. Nevertheless, she executed a sworn statement declaring that she and her husband never sold any portion of Lot 83 and that their signatures appearing on said deed were forged. She avers that the assistance of an expert witness is not even necessary to detect the patent dissimilarities between said forged signatures and their authentic signatures.

Petitioner likewise argues that the CA erred in taking into consideration the appearance and condition of the paper where the Kasulatan sa Bilihan is written. She posits that the fabrication of an ancient-looking document nowadays is no longer difficult. She also points to several circumstances which cast doubt on the authenticity and due execution of the Kasulatan sa Bilihan, but which the CA inexplicably ignored

Furthermore, petitioner maintains that her title is indefeasible. And while there are exceptions to the rule on indefeasibility of title,[14] she emphasizes that respondents never disputed her title. With regard to the tax declarations presented by respondents, petitioner asserts that it has been the consistent ruling of this Court that tax declarations are not necessarily proof of ownership.

In their comment, respondents assert that in petitions filed under Rule 45 of the Rules of Court, only questions of law can be raised. Factual issues are prohibited. From the arguments advanced by the petitioner, however, it is clear that she is asking this Court to examine and weigh again the evidence on record.

Our Ruling

We grant the petition.

This case falls under the exceptions where the Supreme Court may review factual issues.

As a rule, only questions of law may be raised in petitions for review on certiorari.[15] It is settled that in the exercise of the Supreme Court's power of review, the court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case.[16] This rule, however, is subject to a number of exceptions,[17] one of which is when the findings of the appellate court are contrary to those of the trial court, like in the present case.

Nature and purpose of accion publiciana.

Also known as accion plenaria de posesion,[18] accion publiciana is an ordinary civil proceeding to determine the better right of possession of realty independently of title.[19] It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.[20]

The objective of the plaintiffs in accion publiciana is to recover possession only, not ownership.[21] However, where the parties raise the issue of ownership, the courts may pass upon the issue to determine who between the parties has the right to possess the property. This adjudication, however, is not a final and binding determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property.[22] The adjudication, in short, is not conclusive on the issue of ownership.[23]

Guided by the foregoing jurisprudential guideposts, we shall now resolve the arguments raised by the parties in this petition.

As against petitioner's Torrens title, respondents' Kasulatan sa Bilihan cannot confer better right to possess.

It is settled that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name the title appears.[24] It is conclusive evidence with respect to the ownership of the land described therein.[25] It is also settled that the titleholder is entitled to all the attributes of ownership of the property, including possession.[26] Thus, in *Arambulo v. Gungab*,[27] this Court declared that the "age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof."

In the present case, there is no dispute that petitioner is the holder of a Torrens title over the entire Lot 83. Respondents have only their notarized but unregistered Kasulatan sa Bilihan to support their claim of ownership. Thus, even if respondents' proof of ownership has in its favor a *juris tantum* presumption of authenticity and due execution, the same cannot prevail over petitioner's Torrens title. This has been our consistent ruling which we recently reiterated in *Pascual v. Coronel*,[28] viz:

Even if we sustain the petitioners' arguments and rule that the deeds of sale are valid contracts, it would still not bolster the petitioners' case. In a number of cases, the Court had upheld the registered owners' superior right to possess the property. In *Co v. Militar*, the Court was confronted with a similar issue of which between the certificate of title and an unregistered deed of sale should be given more probative weight in resolving the issue of who has the better right to possess. There, the Court held that the court a quo correctly relied on the transfer certificate of title in the name of petitioner, as opposed to the unregistered title in the name of respondents. The Court stressed therein that the Torrens System was adopted in this country because it was believed to be the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.

Likewise, in the recent case of *Umpoc v. Mercado*, the Court declared that the trial court did not err in giving more probative weight to the TCT in the name of the decedent vis-à-vis the contested unregistered Deed of Sale. Later in *Arambulo v. Gungab*, the Court held that the registered owner is preferred to possess the property subject of the unlawful detainer case. The age-old rule is that the person who has a Torrens Title over a land is entitled to possession thereof. (Citations omitted.)

As the titleholder, therefore, petitioner is preferred to possess the entire Lot 83. Besides, there are telltale signs which cast doubt on the genuineness of the Kasulatan. To cite a few:

- The date of its execution unbelievably coincides with the date the buyer, Anastacia, died;
- Despite its alleged execution on April 17, 1973, respondents brought up the Kasulatan only when petitioner asked them to vacate the disputed premises. Prior thereto, they neither asserted their rights thereunder nor registered the same with the proper Registry of Deeds;
- The lawyer who notarized the Kasulatan sa Bilihan, as well as the witnesses thereto, was not presented in court; and,
- The District Land Officer who signed OCT No. P-9354 by authority of the President is a public officer who has in his favor the presumption of regularity in issuing said title.

Torrens certificate of title cannot be the subject of collateral attack.

Moreover, respondents' attack on the validity of petitioner's title by claiming that their mother became the true owner of the southern portion of Lot 83 even before the issuance of OCT No. P-9354 constitutes as a collateral attack on said title. It is an attack incidental to their quest to defend their possession of the property in an *accion publiciana*, not in a direct action whose main objective is to impugn the validity of the judgment granting the title.^[29] This cannot be allowed. Under Section 48 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, a certificate of title cannot be the subject of collateral attack. Thus:

SEC. 48. Certificate not subject to collateral attack. - A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law.

A collateral attack transpires when, in another action to obtain a different relief and as an incident to the present action, an attack is made against the judgment granting the title.^[30] This manner of attack is to be distinguished from a direct attack against a judgment granting the title, through an action whose main objective is to annul, set aside, or enjoin the enforcement of such judgment if not yet implemented, or to seek recovery if the property titled under the judgment had been disposed of.^[31] Thus, in *Magay v. Estiandan*,^[32] therein plaintiff-appellee filed an *accion publiciana*. In his defense, defendant-appellant alleged among others that plaintiff-appellee's Transfer Certificate of Title No. 2004 was issued under anomalous circumstances. When the case reached this Court, we rejected defendant-appellant's defense on the ground that the issue on the validity of said title can only be raised in an action expressly instituted for that purpose. Also, in *Co v. Court of Appeals*^[33] we arrived at the same

conclusion and elaborated as follows:

In their reply dated September 1990, petitioners argue that the issues of fraud and ownership raised in their so-called compulsory counterclaim partake of the nature of an independent complaint which they may pursue for the purpose of assailing the validity of the transfer certificate of title of private respondents. That theory will not prosper.

While a counterclaim may be filed with a subject matter or for a relief different from those in the basic complaint in the case, it does not follow that such counterclaim is in the nature of a separate and independent action in itself. In fact, its allowance in the action is subject to explicit conditions, as above set forth, particularly in its required relation to the subject matter of opposing party's claim. Failing in that respect, it cannot even be filed and pursued as an altogether different and original action.

It is evident that the objective of such claim is to nullify the title of private respondents to the property in question, which thereby challenges the judgment pursuant to which the title was decreed. This is apparently a collateral attack which is not permitted under the principle of indefeasibility of a Torrens title. It is well settled that a Torrens title cannot be collaterally attacked. The issue on the validity of title, i.e., whether or not it was fraudulently issued, can only be raised in an action expressly instituted for that purpose. Hence, whether or not petitioners have the right to claim ownership of the land in question is beyond the province of the instant proceeding. That should be threshed out in a proper action.

The lower courts cannot pass upon or grant respondents' counterclaim for lack of jurisdiction.

Both the trial court and the appellate court considered respondents' counterclaim as a petition for reconveyance. In which case, it should be treated merely as a permissive counterclaim because the evidence required to prove their claim differs from the evidence needed to establish petitioner's demand for recovery of possession. Being a permissive counterclaim, therefore, respondents should have paid the corresponding docket fees.[34] However, there is no proof on record that respondents paid the required docket fees. The official receipts were neither attached to nor annotated on respondents' Answer with Counterclaims and Affirmative Defenses[35] which was filed via registered mail[36] on August 19, 1995. It has been our consistent ruling that it is not simply the filing of the complaint or appropriate initiatory pleading, but the payment of the full amount of the prescribed docket fee, that vests a trial court with jurisdiction over the subject matter or nature of the action.[37] The same rule applies to permissive counterclaims, third-party claims and similar pleadings, which shall not be considered filed until and unless the filing fee prescribed therefor is paid.[38]

On a final note, and as discussed above, we stress that our ruling in this case is limited only to the issue of determining who between the parties has a better right to possession. This adjudication is not a final and binding determination of the issue of ownership. As such, this is not a bar for the parties to file an action for the determination of the issue of ownership where the validity of the Kasulatan sa Bilihan and of OCT No. P-9354 can be properly threshed out.

WHEREFORE, the petition is GRANTED. The assailed Decision of the Court of Appeals dated June 7, 2004 is REVERSED and SET ASIDE and the September 21, 1998 Decision of Regional Trial Court, Branch 46, San Jose, Occidental Mindoro, insofar as it orders the respondents to vacate the premises is REINSTATED and AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Velasco, Jr., Leonardo-De Castro, and Perez, JJ. , concur.

[1] Co v. Militar, 466 Phil. 217 (2004); Umpoc v. Mercado, 490 Phil. 118; Arambulo v. Gungab, G.R. No. 156581, September 30, 2005, 471 SCRA 640; Pascual v. Coronel, G.R. No. 159292, July 12, 2007, 527 SCRA 474.

[2] Records, pp. 1-4. The case was raffled to Branch 46 and docketed as Civil Case No. R-924.

[3] Id. at 5.

[4] Id. at 12-16.

[5] Id. at 128.

[6] Id. at 129-138.

[7] Id. at 21-24.

[8] Id. at 139.

[9] Id. at 153-161; penned by Judge Ernesto P. Pagayatan.

[10] Id. at 161.

[11] CA rollo, pp. 82-89; penned by Associate Justice Mario L. Guariña III and concurred in by Associate Justices Rodrigo V. Cosico and Santiago Javier Ranada.

[12] Id. at 89.

[13] Rollo, p. 201.

[14] Such as when a land in possession of a rightful possessor in the concept of owner is fraudulently registered in the name of another.

[15] Rules of Court, Rule 45, Section 1.

[16] Santos v. Lumbao, G.R. No. 169129, March 28, 2007, 519 SCRA 408, 420.

[17] The recognized exceptions are: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the CA is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the CA, in making its findings, went beyond the issues of the case and the same [are] contrary to the admissions of both parties; (7) when the findings of the CA 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 CA manifestly overlooked certain relevant facts not disputed by the parties and which, if properly considered, would justify a different conclusion; and (10) when the findings of fact of the CA are premised on the absence of evidence and are contradicted by the evidence on record. (Sering v. Court of Appeals, 422 Phil. 467, 471-472; Fuentes v. Court of Appeals, 335 Phil. 1163, 1168 (1997)).

[18] Bejar v. Caluag, G.R. No. 171277, February 17, 2007, 516 SCRA 84, 90; Barredo v. Santiago, 102 Phil. 127, 130 (1957).

[19] *Bejar v. Caluag*, *id.*; *Sps. Cruz v. Torres*, 374 Phil. 529, 533 (1999); *Bishop of Cebu v. Mangaron*, 6 Phil. 286, 291 (1906); *Ledesma v. Marcos*, 9 Phil. 618, 620 (1908).

[20] *Encarnacion v. Amigo*, G.R. No. 169793, September 15, 2006, 502 SCRA 172, 179; *Lopez v. David, Jr.*, G.R. No. 152145, March 30, 2004, 426 SCRA 535, 543.

[21] *Natalia Realty, Inc. v. Court of Appeals*, 440 Phil. 1, 25 (2002).

[22] *Rivera v. Rivera*, 453 Phil. 404, 412 (2003).

[23] *Umpoc v. Mercado*, 490 Phil. 118, 136 (2005).

[24] See *Baloloy v. Hular*, 481 Phil. 398, 410 (2004).

[25] *Carvajal v. Court of Appeals*, 345 Phil. 582, 594 (1997).

[26] *Supra* note 24.

[27] G.R. No. 156581, September 30, 2005, 471 SCRA 648.

[28] G.R. No. 159292, July 12, 2007, 527 SCRA 474, 484-485.

[29] *Ugale v. Gorospe*, G.R. No. 149516, September 11, 2006, 501 SCRA 376, 386; *Caraan v. Court of Appeals*, G.R. No. 140752, November 11, 2005, 474 SCRA 543, 550; *Baloloy v. Hular*, 481 Phil. 398, 410 (2004) and Civil Code, Article 428.

[30] *Teoville Homeowners Association, Inc. v. Ferreira*, G.R. No. 140086, June 8, 2005, 459 SCRA 459, 474.

[31] *Id.*

[32] 161 Phil. 586, 587 (1976).

[33] 274 Phil. 108, 116 (1991).

[34] See *Alday v. FGU Insurance Corporation*, 402 Phil. 962 (2001).

[35] *Records*, pp. 12-16.

[36] *Id.* at 20.

[37] *Sun Insurance Office v. Asuncion*, 252 Phil. 280, 291 (1989).

[38] *Id.*

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