

JOSEFA S. ABALOS AND THE DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONERS, VS. SPS. LOMANTONG DARAPA AND SINAB DIMAKUTA, RESPONDENTS.

G.R. No. 164693. March 23, 2011

Ponente: PEREZ, J.

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PEREZ, J.:

The petitioner, Development Bank of the Philippines (DBP), files the present petition for review on certiorari via Rule 45 of the Rules of Court,[1] asking us to reverse and set aside the Court of Appeals' decision in CA G.R. CV. No. 70693 dated 26 September 2003[2] which affirmed the decision of the Regional Trial Court (RTC), Branch 3, Iligan City.[3]

BACKGROUND FACTS

On 25 June 1962, petitioner DBP, Ozamis Branch, granted a P31,000.00 loan to respondent spouses Lomantong Darapa and Sinab Dimakuta (spouses) who executed therefore a real and chattel mortgage contract, which covered, among others, the following:

A warehouse to house the rice and corn mill, xxx constructed on a 357 square meter lot situated at poblacion, Linamon, Lanao del Norte which lot is covered by Tax Declaration No. A-148 of Linamon, Lanao del Norte.

The equity rights, participation, and interest of the mortgagors over the above-mentioned parcel of land on which the bodega is constructed situated in the Municipality of Linamon, Province of Lanao del Norte, containing an area of 357 square meters, more or less, declared for tax purposes in the name of Sinab Dimakuta and assessed at P2,430.00 per Tax Declaration No. A-148 for the year 1961 and bounded as follows: on the North by Rafael Olaybar; on the South, by National Road[;] on the East by Ulpiano Jimenez; on the West, by Rafael Olaybar; of which property the mortgagors are in complete and absolute possession, xxx.

The aforesaid equity rights, participation and interest of the mortgagors in said parcel of land are not registered under the Spanish Mortgage Law nor under Act 496 and the parties hereto hereby agree that this instrument shall be registered under Act 3344, as amended.

It is further the agreement of the parties that immediately after the mortgagors acquire absolute ownership of the land above-mentioned on which the aforementioned building is erected by means of a free or sales patent or any other title vesting them with ownership in fee simple, the Mortgagors shall execute a Real Estate Mortgage thereon in favor of the Mortgagee, the Development Bank of the Philippines, to replace and substitute only, this portion of the herein mortgage contract.[4]

The assignment of the spouses' equity rights over the land covered by Tax Declaration No. A-148 in DBP's favor was embedded in the Deed of Assignment of Rights and Interests[5] which the spouses executed simultaneous with the real and chattel mortgage contract.

In 1970, the spouses applied for the renewal and increase of their loan using Sinab Dimakuta's (Dimakuta)

Transfer Certificate of Title (TCT) No. T-1,997 as additional collateral. The DBP disapproved the loan application without returning, however, Dimakuta's TCT.

When the spouses failed to pay their loan, DBP extrajudicially foreclosed the mortgages on 16 September 1971, which, unknown to the spouses, included the TCT No. T-1,997. The spouses failed to redeem the land under TCT No. T-1,997 which led to its cancellation, and, the eventual issuance of TCT No. T-7746 in DBP's name.

In 1984, the spouses discovered all these and they immediately consulted a lawyer who forthwith sent a demand letter to the bank for the reconveyance of the land. The bank assured them of the return of the land. In 1994, however, a bank officer told them that such is no longer possible as the land has already been bought by Abalos, daughter of the then provincial governor.

On 12 May 1994,[6] the DBP sold the land to its co-petitioner Josefa Abalos (Abalos). The TCT No. T-7746 (originally TCT No. T-1,997) was cancelled and on 6 July 1994, T-16,280 was issued in Abalos' name.[7]

On 20 August 1994,[8] the spouses filed with the RTC of Iligan City, a Complaint for Annulment of Title, Recovery of Possession and Damages, against DBP and Abalos.[9]

The spouses averred that TCT No. T-1,997 was not one of the mortgaged properties, and, thus, its foreclosure by DBP and its eventual sale to Abalos was null and void.

On the other hand, DBP countered that TCT No. T-1,997 had its roots in Tax Declaration No. A-148, which the spouses mortgaged with the DBP in 1962 as evidenced by the Real Estate Mortgage and the Deed of Assignment. Abalos, on her part, contended that she was an innocent purchaser for value who relied in good faith on the cleanliness of the DBP's Title.

The RTC, in a Decision dated 29 November 2000, annulled the DBP's foreclosure sale of the land under TCT No. T-1,997 and its sale to Abalos; further, it declared Dimakuta as the land's lawful owner. Thus:

WHEREFORE, premises all considered Judgment is hereby rendered:

- Declaring the foreclosure of TCT No. T-1,997, the Sheriffs Certificate of Sale dated September 20, 1971 as far as TCT No. T-1,997 is concerned and the Affidavit of Consolidation of Ownership dated October 19, 1978, also insofar as it included TCT No. T-1,997 null and void ab initio;
- Annuling TCT No. T-7746 in the name of DBP and TCT No. T-16,280 in the name of defendant Josepha S. Abalos;
- Declaring plaintiff Sinab Dimakuta the lawful owner of the land covered by TCT No. T-1,997. For this purpose, the Registrar of Deeds of Lanao del Norte is ordered to reinstate TCT No. T-1,997 in the name of Sinab Dimakuta and perforce cancel TCT No. T-16,280 in the name of Josefa Abalos and the latter to surrender possession of the lot covered by TCT No. 1,997 to plaintiff Sinab Di[m]akuta;
- Ordering DBP to pay plaintiffs P50,000.00 moral damages; P20,000.00 exemplary damages and P20,000.00 attorney's fees;
- Directing DBP to pay defendant Josefa Abalos the current fair market value of TCT No. T-1,997 plus actual damages of P50,000.00; moral damages of P50,000.00, exemplary damages of P20,000.00 and attorney's fees of P20,000.00.[10]

The DBP and Abalos assailed the RXC decision before the Court of Appeals; Abalos, however, later abandoned her appeal.

The Court of Appeals denied the petition in a Decision dated 26 September 2003. It ratiocinated that DBP had no

right to foreclose the land under TCT No. T-1,997, it not having been mortgaged:[11]

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of merit. The assailed 29 November 2000 Decision of the court is hereby AFFIRMED.[12]

Hence, this petition for review on certiorari.

In the main, DBP wants to convince this Court that the land covered by Tax Declaration No. A-148 mortgaged in 1962, then untitled, is the same land now covered by TCT No. T-1,997[13] and that DBP came to its possession when the spouses voluntarily delivered the title in 1970 to the bank's manager, Tauti R. Derico, who executed an affidavit which stated that:

x x x the land covered by Tax Declaration No. A-148 and TCT No. T-1,997 are one and the same parcel of land which was mortgaged to the Development Bank of the Philippines.[14]

OUR RULING

We find the petition unmeritorious, and thus, affirm the Court of Appeals.

It is fundamental procedural law that a petition for review on certiorari filed with this Court under Rule 45 of the Rules of Civil Procedure shall, as a general rule, raise only questions of law.[15]

A question of law arises when there is doubt as to what the law is on a certain state of facts[16] - this is in contradistinction from a question of fact which arises from doubt as to the truth or falsity of the alleged facts.[17] A question of law does not involve an examination of the probative value of the evidence presented by the litigants or any of them and the resolution of the issue must rest solely on what the law provides on the given set of circumstances.[19]

The DBP's insistence that TCT No. T-1,997 is the same land covered by Tax Declaration No. A-148 is to ask the Court to evaluate the pieces of evidence passed upon by the RTC and the Court of Appeals. To grant this petition will entail the Court's review and determination of the weight, credence, and probative value of the evidence presented at the trial court-matters which, without doubt, are factual and, therefore, outside the ambit of Rule 45.

Petitioners ought to remember that the Court of Appeals' factual findings, affirming that of the trial court, are final and conclusive on this Court and may not be reviewed on appeal, except for the most compelling of reasons, such as when: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) the inference is manifestly mistaken, absurd or impossible; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) there is no citation of specific evidence on which the factual findings are based; (7) the findings of absence of facts are contradicted by the presence of evidence on record; (8) the findings of the Court of Appeals are contrary to those of the trial court; (9) the Court of Appeals manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion; (10) the findings of the Court of Appeals are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.[20] None of the exceptions is present in this petition.

In any event, we have meticulously reviewed the case's records and found no reason to disturb the findings of the RTC as affirmed by the Court of Appeals. The records reveal that the land covered by TCT No. T-1,997 was not among the properties, the spouses mortgaged with the DBP in 1962.[21]

No less than the 1962 mortgage contract and its accompanying deed of assignment show that the land covered by Tax Declaration No. A-148 is located in Linamon, Lanao del Norte with an area of 357 square meters and bounded "on the north by Rafael Olaybar; on the south, by National Road; on the east by Ulpiano Jimenez; and,

on the west, by Rafael Olaybar." [22]

On the other hand, the land covered by TCT No. T-1,997 is situated in Barrio Buru-an, Municipality of Iligan, Lanao del Norte and contains an area of 342 square meters. [23] TCT No. T-1,997 traces its roots in Original Certificate of Title (OCT) No. RP-407 (244), pursuant to a Homestead patent granted by the President of the Philippines in 1933 under Act No. 2874, and which was registered as early as 26 June 1933 as recorded in Registration Book No. 1, page 137 of the Office of the Register of Deeds, Lanao del Norte. [24]

That TCT No. T-1,997 was not included in the 1962 mortgage was also admitted by the DBP's former property examiner and appraiser, Mamongcarao Bio, who testified that he was the person who examined and appraised the lands which the spouses mortgaged with the DBP, and that he never examined any land in Barrio Buru-an, Linamon, as described in TCT No. T-1,997. [25] Even the bank's own witness, Marie Magsangcay (Magsangcay), the DBP's Executive Officer, claimed during the direct examination that the questioned TCT originated from OCT No. P-1485, an entirely different land as the trial court would later discover. [26] Magsangcay's testimony contradicted the bank's consistent claim that TCT No. T-1,997 originated from Tax Declaration No. A-148.

These blatant inconsistencies make the DBP's contention incredulous. Other than the questionable annotation at the back of Dimakuta's TCT No. T-1,997, claiming that this TCT originated from Tax Declaration No. A-148, DBP submitted nothing more to substantiate its claim that these two documents refer to the land mortgaged in 1962; DBP did not even bother to submit the Tax Declaration, under which its claim is based. The annotation of such unilateral claim at the back of Dimakuta's TCT cannot improve petitioners' position. This undated annotation should have been disallowed outright for being violative of Sections 60 [27] in relation to Section 54, and Section 61 [28] of the Presidential Decree No. 1529, [29] otherwise known as the Property Registration Decree - basic provisions, which every Register of Deeds is presumed to know. The DBP's annotation that the property originally covered by Tax Declaration No. A-148 is now covered by TCT No. T-1,997 [30] is neither the deed nor the instrument referred to by Sections 60 and 61 of the above quoted law and such annotation will in no way change the fact that the two documents refer to different lands: one, which was indeed a subject of the mortgage contract; and two, which Dimakuta had delivered to DBP in 1970 supposedly for another loan, but, which was, however, disapproved. It should be underscored that it was this annotation, albeit irregular, that paved to the sale of the land now in question.

Needless to say, the bank utterly failed to establish, by preponderance of evidence, that TCT No. T-1,997 originated from Tax Declaration No. A-148.

Thus, we find no reversible error in the RTC and the Court of Appeals findings that the DBP's foreclosure sale of the land under TCT No. T-1,997 was null and void.

The Court also finds unmeritorious the DBP's contention that the spouses' cause of action is barred by estoppel, laches and prescription. DBP claims that the failure of the spouses to redeem their property estopped them from questioning the validity of the foreclosure sale; and, that laches and prescription have already set in because the spouses filed their action only after the lapse of 16 years [31] from the issuance of DBP's title.

In *Pacific Mills, Inc. v. Court of Appeals*, [32] we laid down the requisites of estoppel as follows: (a) conduct amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (b) intent, or at least expectation that this conduct shall be acted upon, or at least influenced by the other party; and (c) knowledge, actual or constructive, of the factual facts. [33]

In the present petition, it cannot be concluded that the spouses are guilty of estoppel for the requisites are not

attendant.

Laches, on the other hand, is a doctrine meant to bring equity - not to further oppress those who already are. Laches has been defined as neglect or omission to assert a right, taken in conjunction with lapse of time and other circumstances causing prejudice to an adverse party, as will operate as a bar in equity.[34] It is a delay in the assertion of a right which works disadvantage to another because of the inequity founded on some change in the condition or relations of the property or parties.[35]

The elements of laches must, however, be proved positively because it is evidentiary in nature and cannot be established by mere allegations in the pleadings.[36] These are but factual in nature which the Court cannot grant without violating the basic procedural tenet that, as discussed, the Court is not trier of facts. Yet again, the records as established by the trial court show that it was rather the DBP's tactic which delayed the institution of the action. DBF made the spouses believe that there was no need to institute any action for the land would be returned to the spouses soon, only to be told, after ten (10) years of naivete, that reconveyance would no longer be possible for the same land was already sold to Abalos, an alleged purchaser in good faith and for value.

The Court also disagrees with the DBP's contention that for failure to institute the action within ten years from the accrual of the right thereof, prescription has set in, barring the spouses from vindicating their transgressed rights.

The DBP contends that the prescriptive period for the reconveyance of fraudulently registered real property is ten (10) years reckoned from the date of the issuance of the certificate of title.[37]

While the above disquisition of the DBP is true, the 10-year prescriptive period applies only when the reconveyance is based on fraud which makes a contract voidable (and that the aggrieved party is not in possession of the land whose title is to be actually, reconveyed). It does not apply to an action to nullify a contract which is void ab initio, as in the present petition. Article 1410 of the Civil Code categorically states that an action for the declaration of the inexistence of a contract does not prescribe.[38]

The spouses' action is an action for "Annulment of Title, Recovery of Possession and Damages,"[39] grounded on the theory that the DBP foreclosed their land covered by TCT No. T-1,997 without any legal right to do so, rendering the sale and the subsequent issuance of TCT in DBP's name void ab initio and subject to attack at any time conformably to the rule in Article 1410 of the Civil Code.

In finis, the Court notes that Abalos, DBP's co-defendant, was ordered by the RTC to return to the spouses the land she bought from DBP; the RTC also ordered the cancellation of Abalos' title. Abalos, however, abandoned her appeal then pending before the Court of Appeals, resulting in its dismissal. In this Court's Resolution dated 13 February 2006, she was subsequently dropped as party-petitioner. By abandoning her appeal, the RTC decision with respect to her, thus, became final.

[37] Rollo, p. 30.

[38] Art. 1410. The action or defense for the declaration of the inexistence of a contract does not prescribe.

[39] Rollo, p. 58.

IN LIGHT OF THE FOREGOING, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV. No. 70693 dated 26 September 2003 is AFFIRMED.

SO ORDERED.

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

[*]The Court's Resolution dated 13 February 2006 dropped Josefa S. Abalos participation as party-petitioner due to her abandonment pending appeal with the Court of Appeals.

[1] Petition. Rollo, pp. 9-36.

[2] Penned by Associate Justice Andres B. Reyes with Associate Justices Buenaventura J. Guerrero and Regalado E. Maambong, concurring'. Id. at 39-54.

[3] Id. at 54.

[4] Mortgage of Contract. Id. at 134 (at the back page).

[5] Records, p. 206. Exhibit "II."

[6] Petition. Rollo, p. 15.

[7] Transfer of Certificate of Title No. T-16,280. Id. at 133.

[8] Records, p, 7.

[9] Id. at 1-8.

[10] Decision of the RTC. Id. at 263-264.

[11] Rollo, p. 51.

[12] Id. at 54.

[13] Id. at 19-23.

[14] Id. at 13.

[15] THE 1997 REVISED RULES OF COURT, Rule 45.

Section 1. Filing of petition with the Supreme Court. - A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.

[16] Marcelo v. Bunguhong, G.R. No. 175201, 23 April 2008, 552 SCRA 589, 605.

[17] Vector Shipping Corporation v. Macasa, G.R. No. 160219, 21 July 2008, 97 SCRA 105.

[18] Binayv. Odeña, G.R. No. 163683, 8 June 2007, 524 SCRA 248, 255-256.

[19] Id.

[20] International Container Terminal Services, Inc. v. FGU Insurance Corporation, G.R. No. 161539, 28 June 2008. 556 SCRA 194, 119.

[21] Rollo, p. 53.

[22] Id. at 11.

[23] Id. at 125.

[24] Id. at 125.

[25] Records, p. 13.

[26] Id. at 33.

[27] Sec. 60. Mortgage or lease of registered land. - Mortgages and leases shall be registered in the manner provided in Section 54 of this Decree. The owner of the registered land may mortgage or lease it by executing the deed in a form sufficient in law. Such deed of mortgage or lease and all instruments which assign, extend discharge or otherwise deal with the mortgage or lease shall be registered, and shall take effect upon the title only from time of registration.

[28] Sec. 61. Registration. - Upon presentation for registration of the deed of mortgage or lease together with the owner's duplicate, the Register of Deeds shall enter upon the Original Certificate of title and also upon the owner's duplicate certificate a memorandum thereof, the date and time of filing and the file number assigned to the deed, and shall sign the said memorandum. He shall also note on the deed the date and time of filing and a reference to the volume and page of the registration book in which it is registered.

[29] AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES. Signed into law on June 11, 1978.

[30] Rollo, p. 125 (at the back page).

[31] Id. at 130.

[32] 513 Phil. 534(2005).

[33] Id. at 544.

[34] De Vera-Cruz v. Miguel, G.R. No. 144103, 31 August 2005. 468 SCRA 506, 518.

[35] Id.

[36] Department of Education v. Ofiate, G.R. No. 161758, 8 June 2007, 524 SCRA 200, 216.

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