

SPOUSES MORRIS CARPO AND SOCORRO CARPO, PETITIONERS, VS. AYALA LAND, INCORPORATED, RESPONDENT.

G.R. No. 166577. February 03, 2010

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

In the instant petition for review on certiorari under Rule 45 of the Rules of Court, petitioners seek to set aside and annul the Decision[1] dated December 22, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 61784, which reversed and set aside the Summary Judgment[2] dated December 22, 1998 of the Regional Trial Court (RTC) of Las Piñas City, Branch 255. Also subject of the present petition is the CA Resolution[3] dated December 16, 2004 which denied the motion for reconsideration of the earlier decision.

A summary of the facts, as culled from the records of the case, follows:

On February 16, 1995, petitioner spouses Morris and Socorro Carpo (Carpos) filed a Complaint for Quieting of Title[4] with the RTC of Makati City against Ayala Corporation, Ayala Property Ventures Corporation (APVC), and the Register of Deeds of Las Piñas, docketed as Civil Case No. 95-292.

In their Complaint, the Carpos claimed to be the owners of a 171,209-square meter parcel of land covered by Transfer Certificate of Title (TCT) No. 296463 issued in their names.[5] They further alleged that Ayala Corporation was claiming to have titles (specifically, TCT Nos. 125945, T-4366, T-4367 and T-4368) over the property covered by the Carpos' TCT No. 296463 and that Ayala Corporation had made such property its equity contribution in APVC to be developed into a residential subdivision. Attached as annexes to the complaint were photocopies of:

(a) TCT No. 296463 issued on August 13, 1970 in the name of the Carpos, covering a parcel of land (Lot 3, plan Psu-56007) located in the Barrio of Almanza, Las Piñas with an area of 171,309 square meters;

(b) TCT No. 125945 issued on April 6, 1988 in the name of Ayala Corporation, covering a parcel of land (Lot 3, Plan Psu-80886) located in Bo. Tindig na Manga, Las Piñas with an area of 171,309 square meters;

(c) TCT No. T-4367 issued on May 18, 1988 in the name of Ayala Corporation, covering a parcel of land (Lot 2, plan Psu-47035) located in the Sitio of May Kokak, Bo. of Almanza, Las Piñas with an area of 218,523 square meters; and

(d) TCT No. T-4368 issued on May 18, 1988 in the name of Ayala Corporation, covering a parcel of land (Lot 3, plan Psu-47035) located in the Sitio of May Kokak, Bo. of Almanza, Las Piñas with an area of 155,345 square meters.

No copy of TCT No. T-4366 was attached to the complaint.

According to the complaint, TCT Nos. 125945, T-4366, T-4367 and T-4368 and their derivatives "appear to have been issued in the name of Ayala and purport to cover and embrace the Carpo's property or portion thereof duly

covered registered under the already indefeasible and incontrovertible TCT [No.] 296463 are inherently invalid and enforceable (sic) for not being the duly issued derivatives of the Carpos' title." [6] The Carpos additionally applied for a restraining order and writ of preliminary injunction to enjoin Ayala Corporation and APVC from doing construction and development works on the properties in purported violation of the Carpos' rights.

The complaint prayed that the trial court render judgment:

(1) canceling and declaring void TCT Nos. 125945, T-4366, T-4367, T-4368 and all alleged derivatives thereof, issued in the name of Ayala Corporation and/or APVC over the properties or portion thereof embraced in the Carpos' TCT No. 296463 and issuing a writ of possession in favor of the Carpos and/or ordering Ayala Corporation and APVC to surrender to the Carpos the properties or portion thereof being occupied by the said corporations under inherently invalid or void titles; (2) declaring TCT No. 296463 issued in their names as valid and the Carpos as the owners of the property described therein "including the parcels of land being claimed and occupied by Ayala [Corporation] and APVC without valid and enforceable titles"; and (3) ordering Ayala Corporation and APVC to pay jointly and severally the amount of P100,000 as attorney's fees plus costs of suit and litigation expenses. [7]

On March 10, 1995, before defendants could file an answer, petitioners filed an Amended Complaint, impleading respondent Ayala Land, Incorporated (ALI) in lieu of Ayala Corporation after purportedly verifying with the Register of Deeds of Las Piñas that the title to the subject property was registered in the name of ALI and not Ayala Corporation. [8]

On October 12, 1995 and January 12, 1996, ALI filed its Answer with Counterclaims and Opposition to Application for Restraining Order and Writ of Preliminary Injunction [9] and Pre-trial Brief with Motion to Admit Amended Answer, [10] respectively.

In its Amended Answer, ALI alleged that APVC no longer exists having been merged with ALI in 1991. ALI pointed out that the areas covered by TCT Nos. T-4366, T-4367, and T-4368 do not overlap with the Carpos' claimed property and the dispute pertained only to the land covered by the Carpos' TCT No. 296463 and TCT No. T-5333 in the name of Las Piñas Ventures, Inc. (LPVI) which was derived from TCT No. 125945 in the name of Ayala Corporation. It appeared that Ayala Corporation contributed the property to LPVI and LPVI had, in turn, also merged with ALI. Further, ALI alleged that it is the true owner of the property covered by TCT No. T-5333 as it traces back its title to Original Certificate of Title (OCT) No. 242 issued in 1950 while the Carpos' title was derived from OCT No. 8575 issued only in 1970. ALI also claimed the Carpos' complaint was barred by res judicata in view of the 1941 decision of this Court in *Guico v. San Pedro* [11] which upheld the ownership of a certain Eduardo Guico over the subject property as Lot 3, of Psu-80886 over the claim of a certain Florentino Baltazar who was asserting ownership of the same under his plan, Psu-56007.

During the pendency of the case, ALI secured a title in its own name, TCT No. T-41262, over the property previously covered by TCT No. T-5333. [12]

In the Order [13] dated March 6, 1996, the Makati RTC ruled that the present case was an action in rem and directed the transfer of the case to the RTC of Las Piñas where the disputed property is located. The case was thereafter assigned to Branch 255 of the Las Piñas RTC and docketed as Civil Case No. 96-0082.

On December 17, 1996, ALI filed a Motion for Summary Judgment on the ground that there was allegedly no genuine issue as to any material fact and the only issue for the court to resolve was a purely legal one – which of the two (2) titles should be accorded priority. According to ALI, the parties were relying on their respective TCTs, and since ALI admittedly traces its title to OCT No. 242 which was issued more than twenty (20) years

earlier than the Carpos' predecessor's title (OCT No. 8575), its title is, thus, superior. Expectedly, the Carpos filed an opposition to the motion for summary judgment, arguing that there were "genuine issues and controversies to be litigated."

In an Order dated April 7, 1997, the RTC denied ALI's motion for summary judgment. This denial was challenged in a petition for certiorari with the CA in CA-G.R. SP No. 44243.

In a decision^[14] dated September 25, 1997, the CA granted ALI's petition and ordered the RTC to render a summary judgment. Both parties moved for reconsideration of the CA Decision. ALI filed a motion for partial reconsideration, entreating the CA itself to render the summary judgment in the interest of judicial economy and on a claim that the sole issue was legal. The Carpos, in their motion, insisted that there were genuine issues in this case that must be threshed out in a trial. Both motions were denied in the CA Resolution dated January 12, 1998.^[15]

Both parties elevated the matter to this Court in separate petitions for review on certiorari. In G.R. No. 132259, ALI assailed the CA's refusal to render a summary judgment, while in G.R. No. 132440, the Carpos assailed the CA's ruling that trial was unnecessary.

In separate minute Resolutions,^[16] the Court denied both petitions. Both parties' motions for reconsideration were likewise denied.

Accordingly, the RTC rendered a Summary Judgment dated December 22, 1998, finding the Carpos' title superior to that of ALI and ruling, thus:

Upon the other hand, this Court is not inclined to concur with Ayala's claim of the validity of its TCT No. T-5333 and alleged OCT No. 242 absent of any admission to that effect by the plaintiffs in their complaint. A reading of the defendant's answer reveals that OCT No. 242 covers the property surveyed under SWO, but the pleadings on file fail to allege that the same was approved by the Director of the Bureau of Lands, thereby justifying this court to be skeptical of the validity of the issuance of OCT No. 242. In original land registration cases, it is mandatory that the application should be accompanied by a survey plan of the property applied for registration, duly approved by the Director of the Bureau of Lands. A survey plan without the approval of the Director of the Bureau of Lands has the character of being of dubious origin and it is not therefore worthy of being accepted as evidence. The property being claimed by the defendant ALI, allegedly registered under OCT No. 242, is shown to have been surveyed under SWO and not bearing the approval of the Director of the Bureau of Lands. Any title issued emanating from a survey plan without the approval of the Director of the Bureau of Lands is tainted with irregularity and therefore void, as ruled in *Republic Cement Corporation vs. Court of Appeals, et al.*, 198 SCRA 734. In the said case, the Supreme Court held: "That unless a survey plan is duly approved by the Director of Lands the same is of dubious value and is not acceptable as evidence. Indubitably, therefore, the reported survey and its alleged results are not entitled to credit and should be rejected."

The submission of the plan is a statutory requirement of mandatory character and unless the plan and its technical description are duly approved by the Director of Lands, the same are not of much value (*Republic vs. Vera*, 120 SCRA 210). In another case, it was ruled that the Land Registration Commission has no authority to approve original survey plans (*Director of Lands, et al. vs. Honorable Salvador Reyes, et al.*, 68 SCRA 177).

Evidently, the SWO survey of the property which defendant ALI claimed to have been originated from OCT No. 242 had not been approved by the Director of the Bureau of Lands, but was apparently prepared and approved by the then Land Registration Commissioner and under the law, the same is void.

It will also be noted that aside from the admissions made by defendant ALI in its answer, it clearly appears in its title TCT No. T-5333 that the date of survey was on July 28, 1930. Plaintiffs' property covered by TCT No.

296463 was surveyed on January 4-6, 1927. This means that plaintiffs' predecessor-in-interest had claimed ownership of the property ahead of that of defendant ALI's predecessor-in-interest. The principle of prior registration cannot be applied in this case because the land previously surveyed cannot anymore be the subject of another survey, and there is already a record of a prior survey in the Bureau of Lands. This is precisely the reason why the survey plan has to be approved by the Director of the Bureau of Lands. This must be the reason why the later survey in favor of Ayala's predecessor-in-interest did not anymore bear the approval of the Director of Lands because had it been submitted for approval, the records of the Bureau of Lands will show that an earlier survey of the same land had already been made and approved by the Director of the Bureau of Lands.

Evidently, Ayala's claim of superiority of its title over that of the plaintiffs' cannot therefore be sustained. Be that as it may, the fact that cannot be disputed on the basis of Ayala's answer is its admission that SWO survey without the approval of the Director of the Bureau of Lands was submitted in the alleged registration proceedings, rendering the decree and the title issued thereunder to be tainted with irregularity and therefore void.

WHEREFORE, in the light of the foregoing and the prevailing jurisprudence on the matter, judgment is hereby rendered:

(a) Declaring TCT No. 296463 in the name of the plaintiffs Spouses Morris G. Carpo and Socorro R. Carpo as valid and legal, and superior to that of defendant Ayala's TCT No. T-5333;

(b) Declaring TCT No. T-5333, TCT No. 125945, TCT No. T-6055, TCT No. 4366, TCT No. 4367 and TCT No. 4368 and their derivatives as null and void;

(c) Ordering the defendant Ayala Land, Inc. to pay the sum of P100,000.00 as attorney's fees; and

(d) To pay the costs.[17]

On January 5, 1999, ALI filed a notice of appeal but the same was dismissed by the CA in a Resolution[18] dated May 14, 1999 for failure to pay the full amount of docket fees. In its motion for reconsideration, ALI pointed out that it paid the full amount assessed by the cash clerk on duty at the RTC Las Piñas. The motion was also denied, prompting ALI to file with this Court a petition for review docketed as G.R. No. 140162. Finding ALI's petition meritorious, the Court, in a Decision[19] dated November 22, 2000, reversed the CA's dismissal of ALI's appeal and remanded the same to the CA for further proceedings.

On December 22, 2003, the CA rendered the herein challenged decision in favor of ALI, the dispositive portion of which reads as follows:

FOR THE FOREGOING DISQUISITIONS, the instant appeal is GRANTED, the assailed Summary Judgment of the Regional Trial Court of Las Piñas, Branch 255, dated December 22, 1998, is hereby REVERSED and SET ASIDE, and a new one is rendered as follows:

(1) TCT No. 41262, formerly TCT No. T-5333, in the name of defendant-appellant Ayala Land, Incorporated is hereby declared to be the VALID title to the subject property;

(2) TCT No. 296463 issued in the name of plaintiffs-appellees is declared to be NULL and VOID;

(3) The concerned Register of Deeds is hereby ORDERED to cancel plaintiffs-appellees' TCT No. 296463, and any and all titles issued covering the subject property, for being spurious and void, and of no force and effect.[20]

The Carpos filed their motion for reconsideration but the same was denied by the CA in its Resolution dated December 16, 2004. Hence, the instant petition for review filed by Socorro Carpo and the heirs of Morris

Carpo.[21] The Petition contained the following assignment of errors:

A. THE COURT OF APPEALS ERRED IN DECLARING THAT THE TITLE OF RESPONDENT IS VALID EVEN WITHOUT THE REQUISITE SURVEY PLAN APPROVED BY THE DIRECTOR OF LANDS.

B. THE COURT OF APPEALS ERRED IN DECLARING PETITIONERS GUILTY OF LACHES AND PRESCRIPTION.

C. THE COURT OF APPEALS ERRED IN DECLARING THAT THE RTC "RELIED HEAVILY" ON AN ALLEGED "ADMISSION" BY RESPONDENT OF THE VALIDITY OF THE TITLE OF PETITIONERS OVER THE DISPUTED PARCEL OF LAND.

D. THE COURT OF APPEALS ERRED IN DECLARING THAT THERE IS RES JUDICATA AGAINST PETITIONERS BASED ON THE CASE OF GUICO V. SAN PEDRO, ET AL., 72 PHIL 415, WITHOUT PROPER DETERMINATION OF WHETHER THE FACTS IN SAID CASE ARE DIRECTLY APPLICABLE TO THIS CASE AND WHETHER THE ELEMENTS OF RES JUDICATA ARE PRESENT.[22]

Petitioners prayed that this Court render a decision: (a) reversing and setting aside the CA Decision dated December 22, 2003 and Resolution dated December 16, 2004; (b) reinstating and affirming in toto the RTC's Summary Judgment dated December 22, 1998; or in the alternative (c) remanding the case to the RTC for further proceedings.

After a thorough review of the records, we deny the petition and concur with the CA that the Summary Judgment rendered by the trial court should be reversed and set aside.

Preliminary discussion regarding subject matter of the controversy

At the outset, it should be noted that the trial court in its Summary Judgment declared null and void (a) TCT No. T-5333 (and its antecedent, TCT No. [125945] T-6055A) covering a parcel of land with an area of 171,309 square meters; (b) TCT No. T-4366 with a land area of 254,085 square meters; (c) TCT No. T-4367 with a land area of 218,523 square meters; and (d) TCT No. T-4368 with a land area of 155,345 square meters, despite the lack of evidence of identity of the properties described in TCT Nos. T-4366, T-4367 and T-4368 with the property covered by the Carpos' TCT No. 296463 or any portion of said property claimed by petitioners. This was grievous and palpable error on the part of the trial court considering that the property being claimed by the Carpos under their TCT No. 296463 had an area of only 171,309 square meters and the total area of the properties in the titles invalidated by the trial court was 799,262 square meters.

It must be emphasized that in CA-G.R. SP No. 44243, involving the same parties, the CA ruled that:

On the other hand, defendant ALI, in its responsive pleading did not deny the existence of a title in the name of the plaintiffs/private respondents. Instead, it alleged:

"14. The parcel of land described in TCT No. 296463, issued in the name of the plaintiffs, completely overlaps the property covered by ALI's TCT No. T-5333. But TCT No. T-296463 traces itself to OCT No. 8575 which was issued on August 12, 1970, long after OCT No. 242 (the title from which ALI's TCT No. T-5333 was derived) was issued on May 9, 1950 (on the basis of Decree of Registration No. 2917, Record No. 43516). Hence, ALI's TCT No. T-5333 is superior to TCT No. 296463. xxx."

This is an admission that the private respondents have a title to the property in question, and that the property described in private respondents' TCT No. 296463 completely overlaps the title of petitioner ALI. This fact is further substantiated by an affidavit of Jose Rizal Mercado, a Geodetic Engineer who, after attesting to his qualifications, competence and experience, declared under oath:

"9. In connection with the subject case, Affiant was requested to find out, based on the technical descriptions in their respective titles, if the lots described in the title of plaintiffs, TCT No. 296463, overlaps the lots of ALI covered by TCT No. 41262 (formerly, TCT No. T-5333 of LPVI, and, more previously, TCT No. T (125945) 6055-A, in the name of Ayala Corporation), TCT No. 4366, TCT No. 4367 and TCT No. 4368, x x x.

'9.1. To accomplish this task, Affiant resorted to the plotting of the technical descriptions found in the plaintiffs' and ALI's respective titles. The standard operating procedure, adopted by Affiant in this particular instance, in plotting properties is to study the technical description in the titles and at the same time, to get all the available survey plans described in the titles for reference.

'9.2. To evidence this plotting that Affiant conducted, Affiant prepared a Sketch Plan reflecting Plaintiffs' title vis-a-vis ALI's title. Attached hereto as Annex "G" is an original copy of the Sketch Plan prepared by the Affiant.

'9.3. The orange-shaded portion on the Sketch Plan indicates the area covered by the title of the plaintiffs and it is clearly shown in this plan that plaintiffs' claimed property entirely overlaps ALI's property delineated in TCT No. T-41262. Plaintiffs' claimed property (Lot 3, PSU-56007) is in fact identical to ALI's lot (Lot 3, PSU-80886).

'9.4. The blue, pink and green lines on the Sketch Plan indicate the boundaries of ALI's TCT Nos. 4366, 4367 and 4368, respectively, and it is clearly shown that these do not overlap with plaintiffs' claimed property."

The Sketch Plan attached thereto clearly indicates the overlapping and identical boundaries between the private respondents' TCT No. 296463 and petitioner's TCT No. 125945, (formerly TCT No. T-5333).[23] In addition to the affidavit of the Geodetic Engineer, the petitioner likewise attached to its Motion for Summary Judgment copies of the following titles:

x x x x

In contrast, the private respondents never controverted the petitioner's allegation that their (private respondents') title, TCT No. 296463 traces its origin to OCT No. 8575, issued on August 12, 1970, while that of the petitioner has its origin in OCT No. 242, issued on May 9, 1950. Moreover, the private respondents attached no supporting document to its Opposition to the Motion for Summary Judgment.

Thus, as matters stand, the requisites for the grant of summary judgment appear to have been satisfied xxx.

x x x x

Since the existence of two titles over the same property, as well as the fact of overlapping of the technical descriptions of the two titles are admitted in the pleadings, and substantiated by the supporting documents attached by the defendant-movant (petitioner herein) to its Motion for Summary Judgment, there is no genuine issue as to any material fact. If at all, the sole issue is a legal one, to wit: whose title (as to the conflicting ones) is superior and must be upheld. This issue may be decided on the basis of the affidavits and supporting documents submitted by the parties, as well as the applicable law and jurisprudence on the matter. In other words, there need not be a protracted trial thereon, since all that the trial court should do is to apply the law to the issue, taking into consideration the documents attached by the parties in their respective pleadings and/or submitted together with the motion or the opposition thereto. The same is true with the other defenses raised by the petitioner in its responsive pleading, to wit: res judicata, prescription and laches - which may likewise be resolved without going to trial.[24] (Emphasis and underscoring supplied.)

The foregoing CA decision became final and executory after the separate petitions for review filed with this Court by the parties were denied with finality. The parties, and even the trial court, were bound by the CA's factual

finding therein that the only lots whose technical descriptions overlap are those covered by the Carpos' TCT No. 296463 and ALI's TCT No. T-5333 which later became TCT No. T-41262. There was simply no basis for the trial court to invalidate all the ALI titles mentioned in the complaint.

The incorrectness of this sweeping invalidation of ALI titles in the Summary Judgment is even more evident in the case of TCT No. T-4367 (Lot 2, plan Psu-47035) and TCT No. T-4368 (Lot 3, plan Psu-47035). Petitioners' claims with respect to these properties are already barred by *res judicata*. In *Realty Sales Enterprise, Inc. v. Intermediate Appellate Court*,^[25] petitioner Morris Carpo already asserted his purported ownership of these two properties based on a transfer certificate of title with the same survey plan number (Psu-56007) as TCT No. 296463. However, in *Realty*, his claim was discredited by the Court when it held that Realty Sales Enterprise, Inc. (*Realty*), ALI's predecessor in interest,^[26] is the one with valid title to these properties. The relevant portions of the Realty Decision are quoted here:

Two (2) adjacent parcels of land located in Almanza, Las Piñas, Metro Manila, having an aggregate area of 373,868 sq. m., situated in the vicinity of the Ayala Alabang Project and BF Homes Parañaque are covered by three (3) distinct sets of Torrens titles to wit:

1) TCT No. 20408 issued on May 29, 1975 in the name of Realty Sales Enterprise, Inc., which was derived from OCT No. 1609, issued on May 21, 1958, pursuant to Decree No. N-63394 in LRC Cases Nos. 657, 758 and 976, GLRO Record Nos. N-29882, N-33721 and N-43516, respectively.

2) TCT No. 303961 issued on October 13, 1970 in the name of Morris G. Carpo, which was derived from OCT No. 8629, issued on October 13, 1970 pursuant to decree No. N-131349 in LRC Case No. N-11-M (N-6217), GLRO Record No. N-32166.

3) TCTs Nos. 333982 and 333985, issued on July 27, 1971 in the name of Quezon City Development and Financing Corporation, derived from OCT No. 8931 which was issued on July 27, 1971 pursuant to LRC Case No. P-206 GLRO Record No. N-31777.

On December 29, 1977, Morris Carpo filed a complaint with the Court of First Instance of Rizal, Branch XXIII, presided over by Judge Rizalina Bonifacio Vera (hereafter referred to as Vera Court), for "declaration of nullity of Decree No. N-63394 and TCT No. 20408." Named defendants were Realty Sales Enterprise, Inc., Macondray Farms, Inc. and the Commissioner of Land Registration. x x x.

x x x x

In the case at bar, it appears that it was Estanislao Mayuga, father of Dominador Mayuga, predecessor-in-interest of Realty, who originally filed on June 24, 1927 a registration proceeding docketed as LRC Case No. 657, GLRO Record No. N-29882 in the Court of First Instance of Rizal to confirm his title over parcels of land described as Lots 1, 2 and 3, Plan Psu-47035. (Lots 2 and 3 are the subject of the instant litigation among Carpo, Realty and QCDFC.) Case No. 657 was jointly tried with two other cases, LRC Case No. 976, GLRO Record No. 43516 filed by Eduardo Guico and LRC Case No. 758, GLRO Record No. 33721 filed by Florentino Baltazar, as the three cases involved identical parcels of land, and identical applicants/oppositors.

x x x x

Carpo bought the disputed property from the Baltazars, the original registered owners, by virtue of a deed executed before Iluminada Figueroa, Notary Public of Manila dated October 9, 1970. x x x.

x x x x

The Baltazars, predecessors-in-interest of Carpo are heirs of Florentino Baltazar, an oppositor in the original application filed by Estanislao Mayuga in 1927. As stated earlier, the CFI-Rizal confirmed the title of

Estanislao to Lots 1, 2 and 3 of Plan Psu-47035 "desestimando oposicion de Florentino Baltazar . . . con respeto a dichos lotes . . ." As such successors of Florentino, they could not pretend ignorance of the land registration proceedings over the disputed parcels of land earlier initiated by Eduardo Guico, Florentino Baltazar and Estanislao Mayuga, as when as the decisions rendered therein.

Moreover, it is not disputed that the title in the name of Dominador Mayuga, from whom Realty derived its title, was issued in 1958, or twelve years before the issuance of the title in the name of the Baltazars in 1970.

In this jurisdiction, it is settled that "(t)he general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails x x x. In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof x x x." [27] (Emphasis and underscoring ours; citations omitted.)

We now discuss each assignment of error raised in the petition.

First Assignment of Error

Petitioners alleged that the CA erred in declaring that the title of respondent is valid even without the requisite survey plan approved by the Director of the Bureau of Lands.

Petitioners clearly misunderstood or deliberately misread the CA's ruling on this point. It is the CA's view that the trial court's pronouncement that OCT No. 242 was issued without an approved survey plan was unwarranted in view of the presumption of regularity that said title enjoys.

We cannot but agree with the CA on this point upon perusing the following portion of the Summary Judgment:

Upon the other hand, this Court is not inclined to concur with Ayala's claim of the validity of its TCT No. T-5333 and alleged OCT No. 242 absent of any admission to that effect by the plaintiffs in their complaint. A reading of the defendant's answer reveals that OCT No. 242 covers the property surveyed under SWO, but the pleadings on file fail to allege that the same was approved by the Director of the Bureau of Lands, thereby justifying this court to be skeptical of the validity of the issuance of OCT No. 242. In original land registration cases, it is mandatory that the application should be accompanied by a survey plan of the property applied for registration, duly approved by the Director of the Bureau of Lands. A survey plan without the approval of the Director of the Bureau of Lands has the character of being of dubious origin and it is not therefore worthy of being accepted as evidence. The property being claimed by the defendant ALI, allegedly registered under OCT No. 242, is shown to have been surveyed under SWO and not bearing the approval of the Director of the Bureau of Lands. Any title issued emanating from a survey plan without the approval of the Director of the Bureau of Lands is tainted with irregularity and therefore void, as ruled in *Republic Cement Corporation vs. Court of Appeals, et al.*, 198 SCRA 734. In the said case, the Supreme Court held: "That unless a survey plan is duly approved by the Director of Lands the same is of dubious value and is not acceptable as evidence. Indubitably, therefore, the reported survey and its alleged results are not entitled to credit and should be rejected."

The submission of the plan is a statutory requirement of mandatory character and unless the plan and its technical description are duly approved by the Director of Lands, the same are not of much value (*Republic vs. Vera*, 120 SCRA 210). In another case, it was ruled that the Land Registration Commission has no authority to approve original survey plans (*Director of Lands, et al. vs. Honorable Salvador Reyes, et al.*, 68 SCRA 177).

Evidently, the SWO survey of the property which defendant ALI claimed to have been originated from OCT No. 242 had not been approved by the Director of the Bureau of Lands, but was apparently prepared and approved by the then Land Registration Commissioner and under the law, the same is void.[28]

To begin with, a perusal of the defendant's answer or amended answer would show that, contrary to the trial court's allusions thereto, there is no admission on the part of ALI that OCT No. 242 was issued without a survey plan that was duly approved by the Director of the Bureau of Lands. There is likewise no evidence on record to support the trial court's finding that the survey plan submitted to support the issuance of OCT No. 242 in the 1950 land registration proceedings was approved only by the Land Registration Commissioner and not by the Director of the Bureau of Lands.

It would appear the trial court came to the conclusion that OCT No. 242 was issued without a duly approved survey plan simply because the notation "SWO" appeared in the technical description of the said title which was attached to the answer and due to ALI's failure to allege in its pleadings that the survey plan submitted in support of the issuance of OCT No. 242 was approved by the Director of the Bureau of Lands.[29]

It is incomprehensible how the trial court could conclude that the survey plan mentioned in OCT No. 242 was unapproved by the appropriate authority all from the notation "SWO" which appeared beside the survey plan number on the face of the title or from a failure to allege on the part of ALI that a duly approved survey plan exists. We quote with approval the discussion of the CA on this point:

Pursuant to the foregoing, the court a quo erred when, in ruling that the validity of OCT No. 242 is dubious, it gave emphasis to defendant-appellant's failure to allege that the survey plan of OCT No. 242 was duly approved by the Director of the Bureau of Lands. It is admitted that a survey plan is one of the requirements for the issuance of decrees of registration, but upon the issuance of such decree, it can most certainly be assumed that said requirement was complied with by ALI's original predecessor-in-interest at the time the latter sought original registration of the subject property. Moreover, the land registration court must be assumed to have carefully ascertained the propriety of issuing a decree in favor of ALI's predecessor-in-interest, under the presumption of regularity in the performance of official functions by public officers. The court upon which the law has conferred jurisdiction, is deemed to have all the necessary powers to exercise such jurisdiction, and to have exercised it effectively. This is as it should be, because once a decree of registration is made under the Torrens system, and the time has passed within which that decree may be questioned the title is perfect and cannot later on be questioned. There would be no end to litigation if every litigant could, by repeated actions, compel a court to review a decree previously issued by another court forty-five (45) years ago. The very purpose of the Torrens system would be destroyed if the same land may be subsequently brought under a second action for registration, as what the court a quo did when it faulted ALI's failure to allege that its predecessor-in-interest submitted a survey plan approved by the Director of the Bureau of Lands in the original land registration case.

The Court need not emphasize that it is not for ALI to allege in its pleadings, much less prove, that its predecessor-in-interest complied with the requirements for the original registration of the subject property. A party dealing with a registered land need not go beyond the Certificate of Title to determine the true owner thereof so as to guard or protect his or her interest. Hence, ALI was not required to go beyond what appeared in the transfer certificate of title in the name of its immediate transferor. It may rely solely, as it did, on the correctness of the certificate of title issued for the subject property and the law will in no way oblige it to go behind the certificate of title to determine the condition of the property. This is the fundamental nature of the Torrens System of land registration, to give the public the right to rely upon the face of a Torrens certificate of title and to dispense with the need of inquiring further.[30] (Underscoring ours; citations omitted.)

It cannot be gainsaid that the issuance of OCT No. 242 was a result of the registration decree of the Court of First Instance of Rizal, pursuant to land registration proceedings in Case No. 976. In the absence of proof to the contrary, OCT No. 242 and its derivatives, including ALI's TCT No. T-41262, enjoy the presumption of regularity and ALI need not allege or prove that its title was regularly issued. That is precisely the nature of such a presumption, it dispenses with proof. Rule 131, Section 3 of the Rules of Court provides:

Section 3. Disputable presumptions. -- The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(m) That official duty has been regularly performed;

(n) That a court, or judge acting as such, whether in the Philippines or elsewhere, was acting in the lawful exercise of jurisdiction;

(o) That all the matters within an issue raised in a case were laid before the court and passed upon by it; and in like manner that all matters within an issue raised in a dispute submitted for arbitration were laid before the arbitrators and passed upon by them; x x x.

Thus, we held in *Herce, Jr. v. Municipality of Cabuyao, Laguna*[31]:

In the absence of evidence to the contrary, the Ordinary Decree Book, LRC (CLR) Rec. No. 6763, showing that Decree No. 4244 was issued on March 3, 1911, is presumed to have been regularly issued by the accountable public officers who enjoy the legal presumption of regularity in the performance of their functions. Thus, the proceedings that led to the issuance of Decree No. 4244 in favor of the Municipality of Cabuyao cannot be overturned without any countervailing proof to the contrary. In the words of *Tichangco v. Enriquez*:[32]

To overturn this legal presumption carelessly -- more than 90 years since the termination of the case -- will not only endanger judicial stability, but also violate the underlying principle of the Torrens system. Indeed, to do so would reduce the vaunted legal indefeasibility of Torrens titles to meaningless verbiage. (Emphasis supplied.)

The presumption of regularity enjoyed by the registration decree issued in Case No. 976 and OCT No. 242 includes the presumption that all the requisites for the issuance of a valid title had been complied with. ALI need not allege or prove that a duly approved survey plan accompanied the issuance of OCT No. 242 in 1950 because it is presumed. It is the party who seeks to overcome the presumption who would have the burden to present adequate and convincing evidence to the contrary. This, petitioners did not even attempt to do.

We cannot accept petitioners' proposition that they did not have the burden of proof of showing the irregularity of ALI's title since the burden of proof purportedly did not shift to them since no full-blown trial was conducted by the RTC.

This specious argument deserves scant credit. Rule 131, Section 1 of the Rules of Court provides:

Section 1. Burden of proof. -- Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

With the filing of the complaint, petitioners should already have alleged all the bases of their cause of action, particularly their allegation that ALI's title is null and void and that such title should be cancelled. However, a scrutiny of the complaint would show that petitioners never alleged the purported lack of an approved survey plan as a defect of ALI's title. All that the complaint alleged is that ALI's titles should be declared void for not being derivatives of the Carpos' title. Implicit in that allegation is that petitioners were relying solely on the supposed priority of their own title over ALI's. It stands to reason then that ALI did not have to allege in its Answer that its mother title, OCT No. 242, was supported by a duly approved survey plan when petitioners did not raise the same as an issue in their complaint or in any other pleading filed with the trial court.

Indubitably, in view of the CA's Decision in CA-G.R. SP No. 44243, this controversy has been reduced to the sole substantive issue of which between the two titles, purporting to cover the same property, deserves priority. This is

hardly a novel issue. As petitioners themselves are aware, in Realty, it was held that:

In this jurisdiction, it is settled that "(t)he general rule is that in the case of two certificates of title, purporting to include the same land, the earlier in date prevails x x x. In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and that person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof x x x." [33] (Emphasis supplied.)

In *Degollacion v. Register of Deeds of Cavite*, [34] we held that "[w]here two certificates of title purport to include the same land, whether wholly or partly, the better approach is to trace the original certificates from which the certificates of title were derived."

In all, we find that the CA committed no reversible error when it applied the principle "Primus Tempore, Portior Jure" (First in Time, Stronger in Right) in this case and found that ALI's title was the valid title having been derived from the earlier OCT.

Second Assignment of Error

Petitioners contend that it is error on the part of the CA to rule that their cause of action has been barred by prescription and laches. According to them, since the OCT from which ALI derived its title is void for want of a duly approved survey plan, their cause of action did not prescribe. However, as discussed above, the conclusion of the trial court that OCT No. 242 is void was not sufficiently borne out by the evidence on record. Verily, the premise upon which petitioners build their theory of imprescriptibility of their action did not exist.

In sum, we find no reason to disturb the CA's finding that:

As previously emphasized, OCT No. 242 of ALI's predecessor-in-interest was issued on May 7, 1950, or forty-five (45) years before plaintiffs-appellees filed their complaint on March 10, 1995. As such, it is the Court's firmly held view that plaintiffs-appellees' claim is barred not only by prescription, but also by laches.

Aside from the fact that OCT No. 242 had become incontrovertible after the lapse of one (1) year from the time a decree of registration was issued, any action for reconveyance that plaintiffs-appellees could have availed of is also barred. Although plaintiffs-appellees' complaint was for quieting of title, it is in essence an action for reconveyance based on an implied or constructive trust, considering that plaintiffs-appellees were alleging in said complaint that there was a serious mistake, if not fraud, in the issuance of OCT No. 242 in favor of ALI's predecessor-in-interest. It is now well-settled that an action for reconveyance, which is a legal remedy granted to a landowner whose property has been wrongfully or erroneously registered in another's name, must be filed within ten years from the issuance of the title, since such issuance operates as a constructive notice. Since ALI's title is traced to an OCT issued in 1950, the ten-year prescriptive period expired in 1960.

By laches is meant the negligence or omission to assert a right within a reasonable time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it. It does not involve mere lapse or passage of time, but is principally an impediment to the assertion or enforcement of a right, which has become under the circumstances inequitable or unfair to permit. In the instant case, plaintiffs-appellees, as well as their predecessor-in-interest, have not shown that they have taken judicial steps to nullify OCT No. 242, from which ALI's title was derived, for forty-five (45) years. To allow them to do so now, and if successful, would be clearly unjust and inequitable to those who relied on the validity of said OCT, the innocent purchasers for value, who are protected by the precise provisions of P.D. 1529, thus:

"SECTION 32. Review of decree of registration; Innocent purchaser for value - The decree of registration shall not be reopened or revised xxx subject, however, to the right of any person xxx to file in the proper Court of

First Instance a petition for reopening and review of the decree of registration not later than one year from and after the date of entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein, whose rights may be prejudiced. Whenever the phrase innocent purchaser for value or an equivalent phrase occurs in this Decree, it shall be deemed to include and innocent lessee, mortgagee or other encumbrances for value." [35]

Third Assignment of Error

The next assigned error involves the question of whether the trial court, in rendering the Summary Judgment, indeed relied heavily on the alleged admission made by ALI on the validity of Carpos' title, as declared by the CA. Specifically, the CA stated as follows:

In its assailed decision, the court a quo relied heavily on the alleged admission by ALI in it[s] Answer of the existence and validity of plaintiffs-appellees' title. We have read the pertinent pleading and We find ALI's statement to be of no moment.

Nowhere in ALI's statement was there an admission of the validity of plaintiffs-appellees' title. x x x.

The Court cannot comprehend where and how the court a quo could have gotten the impression that ALI was admitting not only the existence, but also the validity of plaintiffs-appellees' certificate of title. x x x. [36]

An examination of the Summary Judgment of the trial court would readily show that indeed the trial court relied on ALI's supposed admission of the existence of Carpos' title in ruling which of the conflicting titles was valid. Pertinently, the trial court merely declared:

The existence of plaintiffs' TCT No. 296463 has been admitted by defendant Ayala in its answer to have been originated from OCT No. 8575 which was issued on August 12, 1970. It is very significant that defendant ALI admitted it in its answer that OCT No. 8575 and plaintiffs' TCT No. 296463 both originated from Decree No. 131141 issued on October 15, 1969 in the name of Apolonio Sabater as Annex "G" to defendant ALI's answer. This admission made by the defendant in its answer is conclusive upon it. It cannot therefore take position contrary to or inconsistent with its answer, and the facts are to be taken as true (*Westminister High School vs. Sto. Domingo, et al.*, G.R. No. 12666 R-July 5, 1955; *McDaniel vs. Apacible*, 44 Phil. 248-255).

Upon the other hand, this Court is not inclined to concur with Ayala's claim of the validity of its TCT No. T-5333 and alleged OCT No. 242 absent of any admission to that effect by the plaintiffs in their complaint. x x x. [37]

Although the Summary Judgment did not expressly state that ALI admitted the validity of Carpos' title with its admission of the said title's existence, that is the unmistakable import of the trial court's statements that ALI's admission of the existence of Carpo's title "are conclusive upon it" and bars ALI from taking a "position contrary to or inconsistent with its answer" followed by the statement that the trial court is "not inclined to concur with Ayala's claim of validity of its TCT No. T-5333 and alleged OCT No. 242, absent of (sic) any admission to that effect by the plaintiffs." This is yet another non sequitur argument on the part of the trial court which the CA correctly pointed out in its own Decision.

Fourth Assignment of Error

As to the issue of *res judicata*, the Court of Appeals ruled that the decision in the case of *Guico v. San Pedro* [38] was binding on the Carpos as it proceeded to discuss, thus:

In *Guico vs. San Pedro*, the Supreme Court resolved the conflicting claims over a tract of land situated in barrio Tindig na Manga, Parañaque, Rizal, which was subdivided into eleven (11) lots. The subject land was sought to be registered by a certain Eduardo C. Guico on the basis of an accompanying plan Psu-80886, which

interestingly is also the basis of ALI's TCT No. T-5333, now TCT No. 41262. Guico's application was opposed by, among others, Florentino Baltazar, on the basis of plan Psu 56007, under which plaintiffs-appellees' title was derived.

It appears that Lots 2 and 3 were adjudicated to Guico on the basis of Psu-80886 (Lot 3 is the subject matter of the instant case), Lot 10 in favor of Baltazar on the basis of Psu 56007, under which plaintiffs-appellees' title was based, and the rest to the heirs of Narciso Mayuga. While Baltazar claimed Lot 3 on the basis of his Psu-56007, his claim was rejected and the Lot was adjudicated to Guico on the basis of his Psu-80886.

It is clear, therefore, that whatever claim plaintiffs-appellees have on the subject property on the basis of Lot 3 Psu-56007, through their predecessor-in-interest, Florentino Baltazar, the same had been clearly and finally denied by the Supreme Court in *Guico vs. San Pedro*.

For *res judicata* to apply, four requisites must be met: (1) the former judgment or order must be final; (2) it must be a judgment or an order on the merits; (3) it must have been rendered by a court having jurisdiction over the subject matter and the parties; and (4) there must be, between the first and the second actions, identity of parties, of subject matter and of cause of action. Plaintiffs-appellees only have objections with respect to the fourth requisite, offering the lame excuse that it is not bound by such decision, there being no identity of parties in *Guico vs. San Pedro* and the instant case.^[39]

We agree with petitioners that it is not apparent from an examination of *Guico* and the evidence on record that indeed the predecessors-in-interest of ALI and the Carpos with respect to the subject property are Eduardo Guico and Florentino Baltazar, especially since the parties' respective OCTs were not issued in these persons' names but rather a certain Alberto Yaptinchay and Apolonio Sabater. It cannot be categorically said that there was identity of parties between the *Guico* case and the instant case. Clearly, one of the elements of *res judicata*, i.e., that there must be, between the first and the second actions, identity of parties, is lacking. In any event, the CA's questioned Decision had sufficient basis in fact and law even without relying on the *Guico* case.

In conclusion, we find that the Court of Appeals committed no reversible error in setting aside the patently erroneous Summary Judgment of the trial court.

WHEREFORE, the petition is DENIED. The Court of Appeals' Decision dated December 22, 2003 and the Resolution dated December 16, 2004 are hereby AFFIRMED.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio Morales, Bersamin, and Villarama, Jr., concur.

[1] Penned by Associate Justice Danilo B. Pine (ret.), with then Associate Justice (now Retired Associate Justice of this Court) Cancio C. Garcia and Associate Justice Renato C. Dacudao (ret.) concurring; rollo, pp. 9-27.

[2] *Id.* at 90-94.

[3] *Id.* at 29-31.

[4] Records, pp. 1-7.

[5] In the Complaint, the area of the subject property was alleged to be 171,209 square meters but in TCT No. 296463, the property was described as having an area of 171,309 square meters.

[6] Paragraph 3.03 of the Complaint; records, p. 3.

[7] *Id.* at 5.

- [8] Plaintiffs' Manifestation dated March 7, 1995; id. at 91.
- [9] Id. at 97-128.
- [10] Id. at 133-A to 161.
- [11] 72 Phil 415 (1941).
- [12] Records, p. 133-A.
- [13] Id. at 166.
- [14] Id. at 282-292.
- [15] Id. at 305-306.
- [16] G.R. No. 132259, id. at 472; G.R. No. 132440, id. at 406.
- [17] Rollo, pp. 92-94.
- [18] CA rollo, p. 9.
- [19] Id. at 177-194.
- [20] Rollo, p. 27.
- [21] Morris Carpo passed away on December 12, 1999 as shown by the death certificate attached to the Petition; id. at 87.
- [22] Id. at 40.
- [23] This should read "subsequently TCT No. T-5333" instead of "formerly TCT No. T-5333."
- [24] CA rollo, pp. 166-169.
- [25] G.R. No. L-67451, September 28, 1987, 154 SCRA 328.
- [26] From the annotations on TCT Nos. T-4367 and T-4368, it would appear that Ayala Corporation acquired the properties from Realty Sales Enterprise, Inc.
- [27] Realty Sales Enterprise, Inc. v. Intermediate Appellate Court, supra note 25 at 330-346.
- [28] Rollo, pp. 92-93.
- [29] The technical description in OCT No. 242 began with the words: "A parcel of land (Lot 2, plan Psu-80886, SWO-20609, Case No. 976, G.L.R.O. Record No. 43516)."
- [30] Rollo, pp. 19-20.
- [31] G.R. No. 166645, November 11, 2005, 474 SCRA 797, 808.
- [32] G.R. No. 150629, June 30, 2004, 433 SCRA 324.
- [33] Realty Sales Enterprise, Inc. v. Intermediate Appellate Court, supra note 25 at 346.
- [34] G.R. No. 161433, August 29, 2006, 500 SCRA 108, 115.
- [35] Rollo, pp. 23-24.
- [36] Rollo, p. 14.

[37] Id. at 92.

[38] Supra note 11.

[39] Rollo, pp. 24-25.

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