

FELICIANO ESGUERRA, CANUTO ESGUERRA, JUSTA ESGUERRA, ANGEL ESGUERRA, FIDELA ESGUERRA, CLARA ESGUERRA, AND PEDRO ESGUERRA, PETITIONERS, VS. VIRGINIA TRINIDAD, PRIMITIVA TRINIDAD,...

G.R. NO. 169890. March 12, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Involved in the present controversy are two parcels of land located in Camalig, Meycauayan, Bulacan.

Felipe Esguerra and Praxedes de Vera (Esguerra spouses) were the owners of several parcels of land in Camalig, Meycauayan, Bulacan - among them a 35,284-square meter parcel of land covered by Tax Declaration No. 10374, half of which (17,642 square meters) they sold to their grandchildren, herein petitioners Feliciano, Canuto, Justa, Angel, Fidela, Clara and Pedro, all surnamed Esguerra; and a 23,989-square meter parcel of land covered by Tax Declaration No. 12080, 23,489 square meters of which they also sold to petitioners, and the remaining 500 square meters they sold to their other grandchildren, the brothers Eulalio and Julian Trinidad (Trinidad brothers).

Also sold to the Trinidad brothers were a 7,048-square meter parcel of land covered by Tax Declaration No. 9059, a 4,618-square meter parcel of land covered by Tax Declaration No. 12081, and a 768-square meter parcel of land covered by Tax Declaration No. 13989.

The Esguerra spouses executed the necessary Deed of Sale in favor of petitioners on August 11, 1937,[1] and that in favor of the Trinidad brothers on August 17, 1937.[2] Both documents were executed before notary public Maximo Abaño.

Eulalio Trinidad later sold his share of the land to his daughters-respondents herein, via a notarized Kasulatan ng Bilihang Tuluyan ng Lupa[3] dated October 13, 1965. A portion of the land consisting of 1,693 square meters was later assigned Lot No. 3593 during a cadastral survey conducted in the late 1960s.

On respondents' application for registration of title, the then Court of First Instance (CFI) of Bulacan, by Decision[4] of February 20, 1967, awarded Lot No. 3593 in their favor in Land Registration Case No. N-323-V. Pursuant to the Decision, the Land Registration Commission (LRC, now the Land Registration Authority [LRA]) issued Decree No. N-114039 by virtue of which the Register of Deeds of Bulacan issued OCT No. 0-3631[5] in the name of respondents.

Meanwhile, under a notarized Bilihan ng Lupa[6] dated November 10, 1958, petitioners sold to respondents' parents Eulalio Trinidad and Damiana Rodeadilla (Trinidad spouses) a portion of about 5,000 square meters of the 23,489-square meter of land which they previously acquired from the Esguerra spouses.[7]

During the same cadastral survey conducted in the late 1960s, it was discovered that the about 5,000-square meter portion of petitioners' parcel of land sold to the Trinidad spouses which was assigned Lot No. 3591 actually

measured 6,268 square meters.

In a subsequent application for registration of title over Lot No. 3591, docketed as Land Registration Case No. N-335-V, the CFI, by Decision[8] of August 21, 1972, awarded Lot No. 3591 in favor of Eulalio Trinidad. Pursuant to the Decision, the LRC issued Decree No. N-149491 by virtue of which the Register of Deeds of Bulacan issued OCT No. 0-6498[9] in the name of Trinidad.

Upon the death of the Trinidad spouses, Lot No. 3591 covered by OCT No. 0-6498 was transmitted to respondents by succession.

Petitioners, alleging that upon verification with the LRA they discovered the issuance of the above-stated two OCTs, filed on August 29, 1994 before the Regional Trial Court (RTC) of Malolos, Bulacan two separate complaints for their nullification on the ground that they were procured through fraud or misrepresentation.

In the first complaint, docketed as Civil Case No. 737-M-94, petitioners sought the cancellation of OCT No. 0-3631.

In the other complaint, docketed as Civil Case No. 738-M-94, petitioners sought the cancellation of OCT No. 0-6498.

Both cases were consolidated and tried before Branch 79 of the RTC which, after trial, dismissed the cases by Joint Decision[10] of May 15, 1997.

Their appeal with the Court of Appeals having been dismissed by Decision of February 28, 2005, a reconsideration of which was, by Resolution of October 3, 2005,[11] denied, petitioners filed the instant petition.

Petitioners fault the appellate court

- . . . in misappreciating the fact that the act of the respondent Eulalio Trinidad in acquiring the property from Felipe Esguerra constituted fraud.

- . . . in the [i]nterpretation and application of the provisions of Article 1542 of the New Civil Code.

- . . . in ruling that there is prescription, res judicata, and violation of the non-[forum] shopping.[12]

In their Comment, respondents assailed the petition as lacking verification and certification against forum shopping and failing to attach to it an affidavit of service and material portions of the record in support thereof. Petitioners counter that the procedural deficiencies have been mooted by the filing of a Compliance.

A check of the rollo shows that attached to the petition are an Affidavit of Service dated November 21, 2005 and the appellate court's Decision of February 28, 2005 and Resolution of October 3, 2005; and that on January 16, 2006 or almost three months following the last day to file the petition, petitioners submitted, not at their own instance,[13] a Verification and Sworn Certification on Non-Forum Shopping signed by petitioner Pedro Esguerra who cited honest and excusable mistake behind the omission to submit the same.

This Court has strictly enforced the requirement of verification and certification, obedience to which and to other procedural rules is needed if fair results are to be expected therefrom.[14] While exceptional cases have been considered to correct patent injustice concomitant to a liberal application of the rules of procedure, there should be an effort on the part of the party invoking liberality to advance a reasonable or meritorious explanation for his failure to comply with the rules.[15] In petitioners' case, no such explanation has been advanced.

With regard to petitioners' failure to attach material portions of the record in support of the petition, this requirement is not a mere technicality but an essential requisite for the determination of basis for giving due

course to the petition.[16] As a rule, a petition which lacks copies of essential pleadings and portions of the case record may be dismissed. Much discretion is left to the reviewing court, however, to determine the necessity for such copies as the exact nature of the pleadings and portions of the case record which must accompany a petition is not specified.[17]

At all events, technicality aside, the petition must be denied.

It is settled that fraud is a question of fact and the circumstances constituting the same must be alleged and proved in the court below.[18]

In the present cases, as did the trial court, the appellate court found no fraud in respondents' acquisition and registration of the land, viz:

. . . Appellant Pedro Esguerra even testified that he does not know how appellees were able to secure a title over the lot in question and that they never sold Lot No. 3593 to Virginia Trinidad since it is part of the whole lot of 23,489 square meters. The said testimony is a mere conclusion on the part of appellants. On the other hand, the evidence shows that appellees acquired title over the subject property by virtue of a deed of sale executed by their father Eulalio Trinidad in their favor.

x x x x

[T]hey failed to establish that appellees' acquisition of the certificate of title is fraudulent. In fact, in their two complaints, appellants acknowledged that appellees observed and took the initial procedural steps in the registration of the land, thus ruling out fraud in the acquisition of the certificate of title. . . .[19]

Factual findings of the trial court, when affirmed by the Court of Appeals, are final, conclusive and binding on this Court,[20] which is not a trier of facts,[21] hence, bereft of function under Rule 45 to examine and weigh the probative value of the evidence presented,[22] its jurisdiction being limited only to the review and revision of errors of law.[23] Albeit there are exceptions[24] to this rule, the cases at bar do not fall thereunder, there being no showing that the trial and appellate courts overlooked matters which, if considered, would alter their outcome.

Under the Torrens System, an OCT enjoys a presumption of validity, which correlatively carries a strong presumption that the provisions of the law governing the registration of land which led to its issuance have been duly followed.[25] Fraud being a serious charge, it must be supported by clear and convincing proof.[26] Petitioners failed to discharge the burden of proof, however.

On the questioned interpretation and application by the appellate court of Article 1542 of the Civil Code reading:

In the sale of real estate, made for a lump sum and not at the rate of a certain sum for a unit of measure or number, there shall be no increase or decrease of the price, although there be a greater or less areas or number than that stated in the contract.

The same rule shall be applied when two or more immovables are sold for a single price; but if, besides mentioning the boundaries, which is indispensable in every conveyance of real estate, its area or number should be designated in the contract, the vendor shall be bound to deliver all that is included within said boundaries, even when it exceeds the area or number specified in the contract; and, should he not be able to do so, he shall suffer a reduction in the price, in proportion to what is lacking in the area or number, unless the contract is rescinded because the vendee does not accede to the failure to deliver what has been stipulated. (Emphasis and underscoring supplied),

while petitioners admittedly sold Lot No. 3591 to the Trinidad spouses, they contend that what they sold were only 5,000 square meters and not 6,268 square meters, and thus claim the excess of 1,268 square meters.

In sales involving real estate, the parties may choose between two types of pricing agreement: a unit price contract wherein the purchase price is determined by way of reference to a stated rate per unit area (e.g., P1,000 per square meter), or a lump sum contract which states a full purchase price for an immovable the area of which may be declared based on an estimate or where both the area and boundaries are stated (e.g., P1 million for 1,000 square meters, etc.). In *Rudolf Lietz, Inc. v. Court of Appeals*,^[27] the Court discussed the distinction:

. . . In a unit price contract, the statement of area of immovable is not conclusive and the price may be reduced or increased depending on the area actually delivered. If the vendor delivers less than the area agreed upon, the vendee may oblige the vendor to deliver all that may be stated in the contract or demand for the proportionate reduction of the purchase price if delivery is not possible. If the vendor delivers more than the area stated in the contract, the vendee has the option to accept only the amount agreed upon or to accept the whole area, provided he pays for the additional area at the contract rate.

x x x x

In the case where the area of the immovable is stated in the contract based on an estimate, the actual area delivered may not measure up exactly with the area stated in the contract. According to Article 1542 of the Civil Code, in the sale of real estate, made for a lump sum and not at the rate of a certain sum for a unit of measure or number, there shall be no increase or decrease of the price, although there be a greater or less areas or number than that stated in the contract. . . .

x x x x

Where both the area and the boundaries of the immovable are declared, the area covered within the boundaries of the immovable prevails over the stated area. In cases of conflict between areas and boundaries, it is the latter which should prevail. What really defines a piece of ground is not the area, calculated with more or less certainty, mentioned in its description, but the boundaries therein laid down, as enclosing the land and indicating its limits. In a contract of sale of land in a mass, it is well established that the specific boundaries stated in the contract must control over any statement with respect to the area contained within its boundaries. It is not of vital consequence that a deed or contract of sale of land should disclose the area with mathematical accuracy. It is sufficient if its extent is objectively indicated with sufficient precision to enable one to identify it. An error as to the superficial area is immaterial. Thus, the obligation of the vendor is to deliver everything within the boundaries, inasmuch as it is the entirety thereof that distinguishes the determinate object.^[28] (Emphasis and underscoring supplied)

The courts below correctly characterized the sale of Lot No. 3591 as one involving a lump sum contract. The *Bilihan ng Lupa* shows that the parties agreed on the purchase price of P1,000.00 on a predetermined, albeit unsurveyed, area of 5,000 square meters and not on a particular rate per unit area. As noted by the Court of Appeals, the identity of the realty was sufficiently described as riceland:

It is clear from the afore-quoted *Bilihan ng Lupa* that what appellants sold to Eulalio was the "bahaging palayan." Though measured as 5,000 square meters, more or less, such measurement is only an approximation, and not an exact measurement. Moreover, we take note of the fact that the said deed of sale mentioned the boundaries covering the whole area of 33,489 square meters, including the "bahaging palayan." Had appellants intended to sell only a portion of the "bahaging palayan," they could have stated the specific area in the deed of sale and not the entire "bahaging palayan" . . .^[29]

In fine, under Article 1542, what is controlling is the entire land included within the boundaries, regardless of whether the real area should be greater or smaller than that recited in the deed. This is particularly true since the area of the land in OCT No. 0-6498 was described in the deed as "humigit kumulang," that is, more or less.^[30]

A caveat is in order, however. The use of "more or less" or similar words in designating quantity covers only a

reasonable excess or deficiency. A vendee of land sold in gross or with the description "more or less" with reference to its area does not thereby ipso facto take all risk of quantity in the land.[31]

Numerical data are not of course the sole gauge of unreasonableness of the excess or deficiency in area. Courts must consider a host of other factors. In one case,[32] the Court found substantial discrepancy in area due to contemporaneous circumstances. Citing change in the physical nature of the property, it was therein established that the excess area at the southern portion was a product of reclamation, which explained why the land's technical description in the deed of sale indicated the seashore as its southern boundary, hence, the inclusion of the reclaimed area was declared unreasonable.

In OCT No. 0-6498, the increase by a fourth of a fraction of the area indicated in the deed of sale cannot be considered as an unreasonable excess. Most importantly, the circumstances attendant to the inclusion of the excess area bare nothing atypical or significant to hint at unreasonableness. It must be noted that the land was not yet technically surveyed at the time of the sale. As vendors who themselves executed the Bilihan ng Lupa, petitioners may rightly be presumed to have acquired a good estimate of the value and area of the bahaging palayan.

As for the last assigned error, the appellate court, in finding that the complaints were time-barred, noted that when the complaints were filed in 1994, more than 27 years had elapsed from the issuance of OCT No. 0-3631 and more than 20 years from the issuance of OCT No. 0-6498. The prescriptive period of one (1) year had thus set in.

Petitioners' reliance on *Agne v. Director of Lands*[33] is misplaced since the cancellation of title was predicated not on the ground of fraud but on want of jurisdiction. Even assuming that petitioners' actions are in the nature of a suit for quieting of title, which is imprescriptible, the actions still necessarily fail since petitioners failed to establish the existence of fraud.

A word on Republic Act No. 7160[34] which was raised by petitioners in their petition. It expressly requires the parties to undergo a conciliation process under the Katarungang Pambarangay, as a precondition to filing a complaint in court,[35] non-compliance with this condition precedent does not prevent a court of competent jurisdiction from exercising its power of adjudication over a case unless the defendants object thereto. The objection should be seasonably made before the court first taking cognizance of the complaint, and must be raised in the Answer or in such other pleading allowed under the Rules of Court.[36]

While petitioners admittedly failed to comply with the requirement of barangay conciliation, they assert that respondents waived such objection when they failed to raise it in their Answer. Contrary to petitioners' claim, however, the records reveal that respondents raised their objection in their Amended Answers[37] filed in both cases.

IN FINE, it is a fundamental principle in land registration that a certificate of title serves as evidence of an indefeasible and incontrovertible title to the property in favor of the person whose name appears therein. Such indefeasibility commences after the lapse or expiration of one year from the date of entry of the decree of registration when all persons are considered to have a constructive notice of the title to the property. After the lapse of one year, therefore, title to the property can no longer be contested. This system was so effected in order to quiet title to land.[38]

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Records, pp. 501-502.

[2] Id. at 686-687.

[3] Id. at 688-689.

[4] Id. at 690-691.

[5] Id. at 692-693.

[6] Id. at 707-708.

[7] Rollo, p. 20.

[8] Records, pp. 709-711.

[9] Id. at 712.

[10] Id. at 869-894. Penned by Judge (now CA Justice) Arturo G. Tayag.

[11] Rollo, pp. 30-40, 42. Justice Hakim S. Abdulwahid, with the concurrence of Justice Elvi John S. Asuncion and Justice Estela M. Perlas-Bernabe, penned both Decision and Resolution in the appeal docketed as CA-G.R. CV No. 57263.

[12] Id. at 16. In affirming the dismissal, the appellate court already ruled out res judicata and forum shopping.

[13] Id. at 45. By Resolution of December 12, 2005, this Court required petitioners to submit a certificate on non-forum shopping within five days from notice.

[14] See *Clavecilla v. Quitain*, G.R. No. 147989, February 20, 2006, 482 SCRA 623, 631.

[15] See *Suzuki v. De Guzman*, G.R. No. 146979, July 27, 2006; see also *Pedrosa v. Hill*, 327 Phil. 153 (1996) where "sheer inadvertence" was not taken as a satisfactory reason for non-compliance with a rule.

[16] *Vide Far East Bank and Trust Co. v. Commissioner of Internal Revenue*, G.R. No. 138919, May 2, 2006, 488 SCRA 473, 483.

[17] See *Air Philippines Corp. v. Zamora*, G.R. No. 148247, August 7, 2006 for guideposts in the exercise of such discretion.

[18] *Philippine American Life Insurance Company v. Court of Appeals*, 398 Phil. 559 (2000); *Periquet, Jr. v. Intermediate Appellate Court*, G.R. No. 69996, December 5, 1994, 238 SCRA 697.

[19] Rollo, pp. 34, 36.

[20] *Lubos v. Galupo*, 424 Phil. 665 (2002); *Mindex Resources Dev't. v. Morillo*, 428 Phil. 934 (2002).

[21] *Far East Bank and Trust Co. v. Querimit*, 424 Phil. 721 (2002).

[22] *Asia Trust Development Bank v. Concepts Trading Corp.*, 452 Phil. 552 (2003).

[23] *Changco v. Court of Appeals*, 429 Phil. 336 (2002).

[24] These include instances "(1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) where there is a grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings 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 facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents; and (10) when the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record." *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002).

[25] *Vide Tichangco v. Enriquez*, G.R. No. 150629, June 30 2004, 433 SCRA 324; see also Rules of Court, Rule 131, Sec. 3 (m), (o) & (ff).

[26] *Quinsay v. Intermediate Appellate Court*, G.R. No. 67935, March 18, 1991, 195 SCRA 268, 282.

[27] G.R. No. 122463, December 19, 2005, 478 SCRA 451, citing Civil Code, Arts. 1539-1540, 1542.

[28] *Id.* at 457-459.

[29] *Rollo*, p. 37.

[30] *Vide Balantakbo v. Court of Appeals*, 319 Phil. 436 (1995).

[31] See *Roble v. Arbasa*, 414 Phil. 343 (2001).

[32] *Id.*

[33] G.R. No. 40399, February 6, 1990, 181 SCRA 793.

[34] Local Government Code of 1991, Sec. 412 (a).

[35] *Id.*, Sec. 412 (a).

[36] *Espino v. Legarda*, G.R. No. 149266, March 17, 2006, 485 SCRA 74.

[37] *Records*, pp. 192, 229.

[38] *Vda. de Retuerto v. Barz*, 423 Phil. 1008, 1016 (2001); *Tichangco v. Enriquez*, *supra*.

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