SPOUSES RAMY AND ZENAIDA PUDADERA, PETITIONERS, VS. IRENEO MAGALLANES AND THE LATE DAISY TERESA CORTEL MAGALLANES SUBSTITUTED BY HER CHILDREN, NELLY M. MARQUEZ, ELISEO MAGALLANE...

G.R. No. 170073. October 18, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

One is considered a buyer in bad faith not only when he purchases real estate with knowledge of a defect or lack of title in his seller but also when he has knowledge of facts which should have alerted him to conduct further inquiry or investigation.

This Petition for Review on Certiorari seeks to reverse and set aside the Court of Appeal's (CA's) June 6, 2005 Decision[1] in CA-G.R. CV No. 55850, which affirmed the September 3, 1996 Decision[2] of the Regional Trial Court (RTC) of Iloilo City, Branch 39 in Civil Case No. 22234. Likewise assailed is the September 20, 2005 Resolution[3] denying petitioners' motion for reconsideration.

Factual Antecedents

Belen Consing Lazaro (Lazaro) was the absolute owner of a parcel of land, Lot 11-E, with an area of 5,333 square meters (sq. m.) located in the District of Arevalo, Iloilo City and covered by Transfer Certificate of Title (TCT) No. T-51250. On March 13, 1979, Lazaro sold a 400 sq. m. portion of Lot 11-E to Daisy Teresa Cortel Magallanes (Magallanes) for the sum of P22,000.00 under a "Contract To Sale"[4] [sic] payable in two years. On July 21, 1980, upon full payment of the monthly installments, Lazaro executed a "Deed of Definite Sale"[5]in favor of Magallanes. Thereafter, Magallanes had the lot fenced and had a nipa hut constructed thereon.

The other portions of Lot 11-E were, likewise, sold by Lazaro to several buyers, namely, Elizabeth Norada, Jose Macaluda, Jose Melocoton, Nonilon Esteya, Angeles Palma, Medina Anduyan, Evangelina Anas and Mario Gonzales.[6] On July 14, 1980, Lazaro executed a "Partition Agreement"[7] in favor of Magallanes and the aforesaid buyers delineating the portions to be owned by each buyer. Under this agreement, Magallanes and Mario Gonzales were assigned an 800 sq. m. portion of Lot 11-E, with each owning 400 sq. m. thereof, denominated as Lot No. 11-E-8 in a Subdivision Plan[8]which was approved by the Director of Lands on August 25, 1980.

It appears that the "Partition Agreement" became the subject of legal disputes because Lazaro refused to turn over the mother title, TCT No. T-51250, of Lot 11-E to the aforesaid buyers, thus, preventing them from titling in their names the subdivided portions thereof. Consequently, Magallanes, along with the other buyers, filed an adverse claim with the Register of Deeds of Ilolilo City which was annotated at the back of TCT No. T-51250 on April 29, 1981.[9] Thereafter, Magallanes and Gonzales filed a motion to surrender title in Cadastral Case No. 9741 with the then Court of First Instance of Iloilo City, Branch 1 and caused the annotation of a notice of lis pendens

at the back of TCT No. T-51250 on October 22, 1981.[10]

On November 23, 1981, Lazaro sold Lot 11-E-8, i.e., the lot previously assigned to Magallanes and Mario Gonzales under the aforesaid "Partition Agreement," to her niece, Lynn Lazaro, and the latter's husband, Rogelio Natividad (Spouses Natividad), for the sum of P8,000.00.[11] As a result, a new title, TCT No. T-58606,[12] was issued in the name of Spouses Natividad. Due to this development, Magallanes pursued her claims against Spouses Natividad by filing a civil case for specific performance, injunction and damages. On September 2, 1983, Magallanes caused the annotation of a notice of lis pendens at the back of TCT No. T-58606.[13] Subsequently, Spouses Natividad subdivided Lot 11-E-8 into two, Lot 11-E-8-A and Lot 11-E-8-B, each containing 400 sq. m.

The civil case filed by Magallanes was later dismissed by the trial court for lack of jurisdiction as per an Order dated September 16, 1985 which was inscribed at the back of TCT No. T-58606 on July 7, 1986.[14] Four days prior to this inscription or on July 3, 1986, Spouses Natividad sold Lot 11-E-8-A (subject lot) to petitioner Ramy Pudadera (who later married petitioner Zenaida Pudadera on July 31, 1989) as evidenced by a "Deed of Sale"[15] for the sum of P25,000.00. As a consequence, a new title, TCT No. 72734,[16] was issued in the name of the latter.

Sometime thereafter Magallanes caused the construction of two houses of strong materials on the subject lot. On April 20, 1990, petitioners filed an action for forcible entry against Magallanes with the Municipal Trial Court in Cities of Iloilo City, Branch 2. On July 17, 1991, the trial court dismissed the action.[17] It held that Magallanes was first in possession of the subject lot by virtue of the "Deed of Definite Sale" dated July 21, 1980 between Lazaro and Magallanes. After the aforesaid sale, Magallanes filled the lot with soil; put up a fence; and built a small hut thereon. On the other hand, the trial court found that when petitioner Ramy Pudadera bought the subject lot from Spouses Natividad on July 3, 1986, the former had notice that someone else was already in possession of the subject lot.

Having failed to recover the possession of the subject lot through the aforesaid forcible entry case, petitioners commenced the subject action for Recovery of Ownership, Quieting of Title and Damages against Magallanes and her husband, Ireneo, in a Complaint[18] dated February 25, 1995. Petitioners alleged that they are the absolute owners of Lot 11-E-8-A as evidenced by TCT No. T-72734; that Magallanes is also claiming the said lot as per a "Deed of Definite Sale" dated July 21, 1980; that the lot claimed by Magallanes is different from Lot 11-E-8-A; and that Magallanes constructed, without the consent of petitioners, several houses on said lot. They prayed that they be declared the rightful owners of Lot 11-E-8-A and that Magallanes be ordered to pay damages.

In her Answer,[19] Magallanes countered that she is the absolute lawful owner of Lot 11-E-8-A; that Lot 11-E-8-A belongs to her while Lot 11-E-8-B belongs to Mario Gonzales; that petitioners had prior knowledge of the sale between her and Lazaro; that she enclosed Lot 11-E-8-A with a fence, constructed a house and caused soil fillings on said lot which petitioners were aware of; and that she has been in actual possession of the said lot from March 11, 1979 up to the present. She prayed that TCT No. T-72734 in the name of petitioner Ramy Pudadera be cancelled and a new one be issued in her name.

During the pendency of this case, Magallanes passed away and was substituted by her heirs, herein respondents.

Ruling of the Regional Trial Court

On September 6, 1996, the trial court rendered judgment in favor of respondents, viz:

> WHEREFORE, premises considered, judgment is hereby rendered in favor of the [respondents] and against the [petitioners]:
>
> 1. Declaring the [respondent] Daisy Teresa Cortel Magallanes, substituted by her heirs, Nelly M. Magallanes,

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> Eliseo Magallanes and Angel Magallanes and Ireneo Magallanes, as the rightful owners of Lot 11-E-8-A, Psd-06-002539, which is now covered by Transfer Certificate of Title No. T-72734, still in the name of Ramy Pudadera, situated in the District of Arevalo, Iloilo City, with an area of 400 square meters more or less;
>
> 2. The [petitioners] spouses Ramy Pudadera and Zenaida Pudadera are hereby ordered to execute the necessary Deed of Reconveyance in favor of the above-named parties, namely[,] Nelly M. Magallanes, Eliseo Magallanes, x x x Angel Magallanes, and Ireneo Magallanes;
>
> 3. Ordering the [petitioners] to pay jointly and severally the [respondents] the amount of P10,000.00 as attorney's fees and the costs of the suit.
>
> SO ORDERED. [20]

The trial court ruled that respondents are the rightful owners of the subject lot which was sold by Lazaro to their predecessor-in-interest, Magallanes, on July 21, 1980. When Lazaro sold the subject lot for a second time to Spouses Natividad on November 23, 1981, no rights were transmitted because, by then, Magallanes was already the owner thereof. For the same reason, when Spouses Natividad subsequently sold the subject lot to petitioners on July 3, 1986, nothing was transferred to the latter.

The trial court further held that petitioners cannot be considered buyers in good faith and for value because after Magallanes bought the subject lot from Lazaro, Magallanes immediately took possession of the lot, and constructed a fence with barbed wire around the property. The presence of these structures should, thus, have alerted petitioners to the possible flaw in the title of the Spouses Natividad considering that petitioners visited the subject lot several times before purchasing the same. Neither can petitioners claim that the title of the subject lot was clean considering that a notice of lis pendens was annotated thereon in connection with a civil case that Magallanes filed against Spouses Natividad involving the subject lot. Although the notice of lis pendens was subsequently cancelled on July 7, 1986, the deed of sale between petitioners and Spouses Natividad was executed on July 3, 1986 or four days before said cancellation. Thus, petitioners had notice that the subject property was under litigation. Since respondents are the rightful owners of the subject lot, petitioners should execute a deed of conveyance in favor of the former so that a new title may be issued in the name of the respondents.

Ruling of the Court of Appeals

On June 6, 2005, the CA rendered the assailed Decision:

> WHEREFORE, with all the foregoing, the decision of the Regional Trial Court, Branch 39, Iloilo City dated September 3, 1996 in civil case no. 22234 for Quieting of Title, Ownership and Damages is hereby AFFIRMED in toto.
>
> All other claims and counterclaims are hereby dismissed for lack of factual and legal basis.
>
> No pronouncement as to cost.
>
> SO ORDERED. [21]

In affirming the ruling of the trial court, the appellate court reasoned that under the rule on double sale what finds relevance is whether the second buyer registered the second sale in good faith, that is, without knowledge of any defect in the title of the seller. Petitioners' predecessor-in-interest, Spouses Natividad, were not registrants in good faith. When Magallanes first bought the subject lot from Lazaro on July 21, 1980, Magallanes took possession of the same and had it fenced and filled with soil. This was made way ahead of the November 23, 1981 Deed of Sale between Lazaro and Spouses Natividad. With so much movement and transactions involving the subject lot and given that Lyn Lazaro-Natividad is the niece of Lazaro, the appellate court found it hard to believe that the

Spouses Natividad were completely unaware of any controversy over the subject lot.

The CA, likewise, agreed with the trial court that at the time petitioners acquired the subject lot from Spouses Natividad on July 3, 1986, a notice of lis pendens was still annotated at the back of TCT No. T-58606 due to a civil case filed by Magallanes against Spouses Natividad. Although the case was subsequently dismissed by the trial court for lack of jurisdiction, the notice of lis pendens was still subsisting at the time of the sale of the subject lot between Spouses Natividad and petitioners on July 3, 1986 because the lis pendens notice was cancelled only on July 7, 1986. Consequently, petitioners cannot be considered buyers and registrants in good faith because they were aware of a flaw in the title of the Spouses Natividad prior to their purchase thereof.

Issues

- The Court of Appeals erred in not considering the judicial admissions of Magallanes as well as the documentary evidence showing that she was claiming a different lot, Lot No. 11-E-8-B, and not Lot 11-E-8-A which is registered in the name of petitioners under TCT No. T-72734, consequently, its findings that Magallanes is the rightful owner of Lot 11-E-8-A is contrary to the evidence on record;

- The Court of Appeals erred in applying the principle of innocent purchasers for value and in good faith to petitioners. Granting that the said principle may be applied, the Court of Appeals erred in finding that petitioners are not innocent purchasers for value;

3. The Court of Appeals erred in affirming the award of attorney's fees against the petitioners.[22]

Petitioners' Arguments

Petitioners postulate that the subject lot is different from the lot which Magallanes bought from Lazaro. As per Magallanes' testimony in the ejectment case, she applied for the zoning permit for Lot 11-E-8-B and not Lot 11-E-8-A. Further, the tax declarations submitted in evidence therein showed that Magallanes paid for the real estate taxes of Lot 11-E-8-B and not Lot 11-E-8-A. Hence, there is no conflict of claims since petitioners are asserting their rights over Lot 11-E-8-A while respondents claim ownership over Lot 11-E-8-B. Moreover, assuming that there was a double sale, the same did not involve petitioners. The first sale was between Lazaro and Magallanes while the second sale was between Lazaro and Spouses Natividad. It was erroneous for the appellate court to conclude that Lyn Natividad was in bad faith simply because she is the niece of Lazaro. The Spouses Natividad were not impleaded in this case and cannot be charged as buyers in bad faith without giving them their day in court. Petitioners claim that respondents should first impugn the validity of Spouses Natividad's title by proving that the latter acted in bad faith when they bought the subject lot from Lazaro. Petitioners aver that the evidence on record failed to overcome the presumption of good faith. Considering that Spouses Natividad were buyers in good faith and considering further that petitioners' title was derived from Lazaro, petitioners should, likewise, be considered buyers in good faith.

Petitioners further argue that the rule on notice of lis pendens was improperly applied in this case. The trial court's order dismissing the civil case filed by Magallanes against Spouses Natividad had long become final and executory before petitioners bought the subject lot from Spouses Natividad. While it is true that the order of dismissal was annotated at the back of TCT No. T-58606 only on July 7, 1986 or four days after the sale between Spouses Natividad and petitioners, the cancellation of the notice of lis pendens was a mere formality. In legal contemplation, the notice was, at the time of the sale on July 3, 1986, ineffective. Citing Spouses Po Lam v. Court of Appeals,[23] petitioners contend that the then existing court order for the cancellation of the lis pendens notice at the time of the sale made them buyers in good faith.

Finally, petitioners question the award of attorney's fees in favor of respondents for lack of basis. Petitioners claim

that they should be awarded damages because respondents unlawfully prevented them from taking possession of the subject lot.

Respondents' Arguments

Respondents counter that they are in possession of, and claiming ownership over the subject lot, i.e., Lot 11-E-8-A, and not Lot 11-E-8-B. The claim of petitioners that the subject lot is different from what respondents assert to be lawfully theirs is, thus, misleading. The subject lot was acquired by respondents' predecessor-in-interest, Magallanes, when Lazaro sold the same to Magallanes through a contract to sell in 1979 and a deed of sale in 1980 after full payment of the monthly installments.

After executing the contract to sell, Magallanes immediately took possession of the subject lot; constructed a fence with barbed wire; and filled it up with soil in preparation for the construction of concrete houses. She also built a nipa hut and stayed therein since 1979 up to her demise. Respondents emphasize that upon payment of the full purchase price under the contract to sell and the execution of the deed of sale, Magallanes undertook steps to protect her rights due to the refusal of Lazaro to surrender the mother title of the subject lot. Magallanes recorded an adverse claim at the back of the mother title of the subject lot and an initial notice of lis pendens thereon. She then filed a civil case against Lazaro, and, later on, against Lazaro's successors-in-interest, Spouses Natividad, which resulted in the inscription of a notice of lis pendens on TCT No. 51250 and TCT No. T-58606. When petitioners bought the subject lot from Spouses Natividad on July 3, 1986, the said notice of lis pendens was subsisting because the court dismissal of said case was inscribed on the title only on July 7, 1986. Petitioners cannot, therefore, be considered buyers in good faith.

Our Ruling

We affirm the decision of the CA with modifications.

Petitioners and respondents are claiming
ownership over the same lot.

Petitioners contend that they are claiming ownership over Lot 11-E-8-A while Magallanes' claim is over Lot 11-E-8-B. Thus, there is no conflict between their claims.

The argument is specious.

It is clear that Magallanes is claiming ownership over Lot 11-E-8-A and not Lot 11-E-8-B. In her Answer to the Complaint, she alleged that she is "the absolute lawful owner of Lot 11-E-8-A."[24] Her act of fencing Lot 11-E-8-A and constructing two houses of strong materials thereon further evince her claim of ownership over the subject lot. Thus, in the forcible entry case which petitioners previously filed against Magallanes involving the subject lot, the trial court noted:

> At the pre-trial conference held on June 13, 1990, both parties agreed to a relocation survey of the lot whereupon the Court commissioned the Bureau of Lands to undertake a relocation survey of the lot in question.
>
> On October 1, 1990, the Bureau of Lands thru Engr. Filomeno P. Daflo submitted the relocation survey report with the following findings: x x x
>
> x x x x
>
> 5. That it was ascertained in our investigation that the entire lot occupied by [Magallanes] (lot 11-E-8-A) is the very same lot claimed by the [petitioners], as pointed out by its representative.[25] (Emphasis supplied.)

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After losing in the aforesaid forcible entry case, petitioners commenced the subject action for quieting of title and recovery of ownership over Lot 11-E-8-A. Plainly, both parties are asserting ownership over the same lot, i.e. Lot 11-E-8-A, notwithstanding the error in the entries made by Magallanes in her zoning application and tax declaration forms.

The notice of lis pendens at the back of
the mother title of the subject lot was
already ordered cancelled at the time
of the sale of the subject lot to petitioners,
hence, said notice cannot be made a basis

for finding petitioners as buyers in bad faith.

A notice of lis pendens at the back of the mother title (i.e., TCT No. T-58606) of Lot 11-E-8-A was inscribed on September 2, 1983 in connection with the civil case for specific performance, injunction and damages which Magallanes filed against Spouses Natividad. This case was subsequently dismissed by the trial court for lack of jurisdiction in an Order dated September 16, 1985 which has already become final and executory as per the Certification dated June 16, 1986 issued by the Branch Clerk of Court of the RTC of Iloilo City, Branch 33.[26] The aforesaid court dismissal was, however, inscribed only on July 7, 1986 or three days after the sale of the subject lot to petitioners.[27]

Based on these established facts, petitioners correctly argue that the said notice of lis pendens cannot be made the basis for holding that they are buyers in bad faith. Indeed, at the time of the sale of the subject lot by Spouses Natividad to petitioners on July 7, 1986, the civil case filed by Magallanes against Spouses Natividad had long been dismissed for lack of jurisdiction and the said order of dismissal had become final and executory. In Spouses Po Lam v. Court of Appeals,[28] the buyers similarly bought a property while a notice of lis pendens was subsisting on its title. Nonetheless, we ruled that the buyers cannot be considered in bad faith because the alleged flaw, the notice of lis pendens, was already being ordered cancelled at the time of the sale and the cancellation of the notice terminated the effects of such notice.[29]

This notwithstanding, petitioners cannot be considered buyers in good faith because, as will be discussed hereunder, they were aware of other circumstances pointing to a possible flaw in the title of Spouses Natividad prior to the sale of the subject lot. Despite these circumstances, petitioners did not take steps to ascertain the status of the subject lot but instead proceeded with the purchase of the same.

One who buys a property with knowledge
of facts which should put him upon inquiry
or investigation as to a possible defect in the
title of the seller acts in bad faith.

Lot 11-E-8, of which the subject lot (i.e., Lot 11-E-8-A) forms part, was sold by Lazaro to two different buyers. As narrated earlier, Lot 11-E-8 is a portion of Lot 11-E, a 5,333 sq. m. lot covered by TCT No. T-51250. Lazaro subdivided the said lot and sold portions thereof to several buyers. One of these buyers was Magallanes who purchased a 400 sq. m. portion on March 13, 1979. The metes and bounds of this lot were later delineated in a "Partition Agreement" dated July 14, 1980 executed by Lazaro in favor of the aforesaid buyers. As per this agreement, Magallanes and Mario Gonzales were assigned Lot 11-E-8 comprising 800 sq. m with each owning a 400 sq. m. portion thereof. This was the first sale involving Lot 11-E-8.

After the aforesaid sale, it appears Lazaro refused to turnover the mother title of Lot 11-E which resulted in the

filing of legal suits by Magallanes and the other buyers against her (Lazaro). While these suits were pending, Lazaro sold Lot 11-E-8 to her niece Lynn and the latter's husband Rogelio Natividad on November 23, 1981. Consequently, a new title, TCT No. T-58606, was issued covering Lot 11-E-8 in the name of Spouses Natividad. This was the second sale of Lot 11-E-8.

Subsequently, Spouses Natividad subdivided Lot 11-E-8 into two, i.e., Lot 11-E-8-A and Lot 11-E-8-B, with each containing 400 sq. m. On July 3, 1986, they sold Lot 11-E-8-A to petitioners. Lot 11-E-8-A is the 400 sq. m. portion of Lot 11-E-8 which Magallanes claims to be owned by her pursuant to the aforesaid "Partition Agreement" while the other half, Lot 11-E-8-B, pertains to the lot of Mario Gonzales.

The question before us, then, is who between petitioners and respondents have a better right over Lot 11-E-8-A?

Article 1544 of the Civil Code provides:

> Art. 1544. If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.
>
> Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.
>
> Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Thus, in case of a double sale of immovables, ownership shall belong to "(1) the first registrant in good faith; (2) then, the first possessor in good faith; and (3) finally, the buyer who in good faith presents the oldest title."[30] However, mere registration is not enough to confer ownership. The law requires that the second buyer must have acquired and registered the immovable property in good faith. In order for the second buyer to displace the first buyer, the following must be shown: "(1) the second buyer must show that he acted in good faith (i.e., in ignorance of the first sale and of the first buyer's rights) from the time of acquisition until title is transferred to him by registration or failing registration, by delivery of possession; and (2) the second buyer must show continuing good faith and innocence or lack of knowledge of the first sale until his contract ripens into full ownership through prior registration as provided by law."[31]

One is considered a purchaser in good faith if he buys the property without notice that some other person has a right to or interest in such property and pays its fair price before he has notice of the adverse claims and interest of another person in the same property.[32] Well-settled is the rule that every person dealing with registered land may safely rely on the correctness of the certificate of title issued therefor and the law will in no way oblige him to go beyond the certificate to determine the condition of the property.[33] "However, this rule shall not apply when the party has actual knowledge of facts and circumstances that would impel a reasonably cautious man to make such inquiry or when the purchaser has knowledge of a defect or the lack of title in his vendor or of sufficient facts to induce a reasonably prudent man to inquire into the status of the title of the property in litigation."[34] "His mere refusal to believe that such defect exists, or his willful closing of his eyes to the possibility of the existence of a defect in his vendor's title will not make him an innocent purchaser for value if it later develops that the title was in fact defective, and it appears that he had such notice of the defect had he acted with that measure of precaution which may reasonably be required of a prudent man in a like situation."[35]

In the case at bar, both the trial court and CA found that petitioners were not buyers and registrants in good faith owing to the fact that Magallanes constructed a fence and small hut on the subject lot and has been in actual physical possession since 1979. Hence, petitioners were aware or should have been aware of Magallanes' prior physical possession and claim of ownership over the subject lot when they visited the lot on several occasions

prior to the sale thereof. Thus, the trial court held:

> This Court believes the version of [Magallanes], that when she bought the property from [Lazaro], she took immediate possession of the 400-square meter portion and constructed a fence [with] barbed wire surrounding the said property. She also constructed a house made of nipa, bamboo and concrete materials. This fact was even confirmed by [petitioner] Zenaida Pudadera in her testimony.
>
> This Court cannot believe the testimony of [petitioner] Zenaida Pudadera that they were the ones who constructed the fence surrounding the 400-square meter portion, because there was already an existing fence made of bamboos and barbed wire put up by [Magallanes]. When the [petitioners] therefore, visited the land in question, several times before the purchase, particularly [petitioner] Ramy Pudadera, he must have seen the fence surrounding the property in question. He should have been curious why there was an existing fence surrounding the property? [sic] He should have asked or verified as to the status of the said property. A real estate buyer must exercise ordinary care in buying x x x real estate, especially the existence of the fence in this case which must have [alerted him to inquire] whether someone was already in possession of the property in question.[36]

We find no sufficient reason to disturb these findings. The factual findings of the trial court are accorded great weight and respect and are even binding on this Court particularly where, as here, the findings of the trial and appellate courts concur.[37] Although this rule is subject to certain exceptions, we find none obtaining in this case.

Petitioners next argue that since the second sale involves Lazaro and their predecessor-in-interest, Spouses Natividad, due process requires that Spouses Natividad should first be allowed to establish that they (Spouses Natividad) are second buyers and first registrants in good faith before any finding on petitioners' own good faith can be made considering that they (petitioners) merely acquired their title from Spouses Natividad. Petitioners lament that Spouses Natividad were not impleaded in this case. Thus, the finding that petitioners acted in bad faith was improper.

The argument fails on two grounds.

First, as previously explained, the evidence duly established that petitioners were aware of facts pointing to a possible flaw in the title of Spouses Natividad when they visited the subject lot on several occasions prior to the sale. This, by itself, was sufficient basis to rule that they acted in bad faith. Stated differently, the presence or absence of good faith on the part of Spouses Natividad during the second sale involving the subject lot will not erase the bad faith of petitioners in purchasing the subject lot from Spouses Natividad.

Second, petitioners miscomprehend the right to due process. The records indicate that at no instance during the trial of this case were they prevented from presenting evidence, including the testimonies of Spouses Natividad, to support their claims. Thus, they were not denied their day in court. Petitioners seem to forget that they were the ones who filed this action to recover ownership and quiet title against Magallanes. If petitioners intended to bolster their claim of good faith by impleading the Spouses Natividad in this case, there was nothing to prevent them from doing so. Time and again, we have ruled that the burden of proof to establish the status of a purchaser and registrant in good faith lies upon the one who asserts it.[38] This onus probandi cannot be discharged by mere invocation of the legal presumption of good faith.[39]

In sum, petitioners were negligent in not taking the necessary steps to determine the status of the subject lot despite the presence of circumstances which would have impelled a reasonably cautious man to do so. Thus, we affirm the findings of the lower courts that they cannot be considered buyers and registrants in good faith. Magallanes, as the first buyer and actual possessor, was correctly adjudged by the trial court as the rightful owner

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of the subject lot and the conveyance thereof in favor of her heirs, herein respondents, is proper under the premises. In addition, the trial court should be ordered to cause the cancellation of TCT No. T-72734 by the Register of Deeds of Iloilo City and the issuance of a new certificate of title in the names of respondents.[40] This is without prejudice to any remedy which petitioners may have against Spouses Natividad and/or Lazaro.

The award of attorney's fees is improper.

On the issue of the propriety of attorney's fees which the trial court awarded in favor of respondents, we are inclined to agree with petitioners that the same should be deleted for lack of basis. An award of attorney's fees is the exception rather than the rule.[41] "The right to litigate is so precious that a penalty should not be charged on those who may exercise it erroneously."[42] It is not given merely because the defendant prevails and the action is later declared to be unfounded unless there was a deliberate intent to cause prejudice to the other party.[43] We find the evidence of bad faith on the part of petitioners in instituting the subject action to be wanting. Thus, we delete the award of attorney's fees.

WHEREFORE, the petition is PARTIALLY GRANTED. The June 6, 2005 Decision and September 20, 2005 Resolution of the Court of Appeals in CA-G.R. CV No. 55850 are AFFIRMED with the following MODIFICATIONS: (1) The Regional Trial Court of Iloilo City, Branch 39 is ORDERED to cause the cancellation by the Register of Deeds of Iloilo City of TCT No. T-72734 and the issuance, in lieu thereof, of the corresponding certificate of title in the names of respondents, heirs of Daisy Teresa Cortel Magallanes, and (2) The award of attorney's fees in favor of respondents is DELETED.

No pronouncement as to costs.

SO ORDERED.

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

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[1] Rollo, pp. 10-17; penned by Associate Justice Pampio A. Abarintos and concurred in by Associate Justices Mercedes Gozo-Dadole and Ramon M. Bato, Jr.

[2] Records, pp. 271-282; penned by Judge Jose G. Abdallah.

[3] Rollo, p. 29; penned by Associate Justice Pampio A. Abarintos and concurred in by Associate Justices Vicente L. Yap and Ramon M. Bato, Jr.

[4] Records, p. 28; should be contract to sell as stated in the body of said contract and as per the terms thereof.

[5] Id. at 29.

[6] Id. at 31-32.

[7] Id.

[8] Id. at 34.

[9] Id. at 26.

[10] Id. at 27.

[11] Id. at 194.

[12] Id. at 137.

[13] Id.

[14] Id. at 138.

[15] Id. at 127.

[16] Id. at 5.

[17] Id. at 18-25.

[18] Id. at 1-4.

[19] Id. at 11-17.

[20] Id. at 282.

[21] Rollo, p. 16.

[22] Id. at 44.

[23] 400 Phil. 858 (2000).

[24] Records, p. 11.

[25] Id. at 19.

[26] Id. at 138.

[27] Id.

[28] Supra note 23.

[29] Id. at 871.

[30] Spouses Abrigo v. De Vera, 476 Phil. 641, 650 (2004).

[31] Cheng v. Genato, 360 Phil. 891, 910 (1998).

[32] Hemedes v. Court of Appeals, 374 Phil. 692, 719-720 (1999).

[33] Id. at 719.

[34] Sigaya v. Mayuga, 504 Phil. 600, 614 (2005).

[35] Id.

[36] Records, pp. 278-279.

[37] Uraca v. Court of Appeals, 344 Phil. 253, 267 (1997).

[38] Supra note 34 at 613.

[39] Id.

[40] Bautista v. Court of Appeals, 379 Phil. 386, 402 (2000).

[41] Albenson Enterprises Corp. v. Court of Appeals, G.R. No. 88694, January 11, 1993, 217 SCRA 16, 31.

[42] De la Peña v. Court of Appeals, G.R. No. 81827, March 28, 1994, 231 SCRA 456, 462.

[43] Id.

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