

SPS. FEDERICO VALENZUELA AND LUZ BUENA-VALENZUELA PETITIONERS, SPS. JOSE MANO, JR. AND ROSANNA REYES-MANO RESPONDENTS.

G.R. No. 172611. July 09, 2010

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The rule that a Torrens Certificate of Title is conclusive evidence of ownership of the land described therein[1] does not apply when such land, or a portion thereof, was illegally or erroneously included in said title.

This Petition for Review on Certiorari[2] assails the Decision[3] dated January 16, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 83577, which reversed and set aside the Decision[4] dated March 10, 2004 issued by the Regional Trial Court (RTC) of Bulacan, Branch 14, in Civil Case No. 1065-M-99. Also assailed is the Resolution[5] dated May 3, 2006 denying the motion for reconsideration.

Factual Antecedents

Petitioner Federico Valenzuela (Federico) is the son of Andres Valenzuela (Andres) who was the owner and possessor of a parcel of land with an area of 938 square meters, more or less, located at Dampol 1[st], Pulilan, Bulacan. The property was declared in the name of Andres under Declaration of Real Property No. 7187[6] which described the property as follows:

Location: Dampol 1[st], Pulilan, Bulacan

Boundaries:

North: Camino Provincial

East: Felisa Calderon

South: Aurea Caleon

West: Benita Bailon

Kind of Land: Residential Lot

Area: 938 square meters

Andres died on October 10, 1959, and the possession of said property was transferred to Federico. On August 5, 1980, a document denominated as Pagmamana sa Labas ng Hukuman at Pagpaparaya o Pagkakaloob[7] was executed by the heirs of Andres who waived all their rights to the property in favor of Federico.

Meanwhile, on February 7, 1991, a Deed of Conditional Sale[8] was executed between Feliciano Geronimo (Feliciano) and herein respondent Jose Mano, Jr. (Jose), wherein the former agreed to sell to the latter a 2,056-square meter parcel of land located at Dampol 1[st], Pulilan, Bulacan. The corresponding Deed of Sale[9] was subsequently executed in March 1991.

On March 4, 1992,[10] Jose applied for a Free Patent and on April 10, 1992, Original Certificate of Title (OCT) No. P-351[11] was issued in his name. This time, the property was indicated as covering an area of 2,739 square

meters.

Sometime in 1997, Federico declared in his name under Tax Declaration No. 97-19005-01105[12] the property covered by Declaration of Real Property No. 7187 in the name of Andres.

Subsequently, Jose sold a portion of the land covered by OCT No. P-351 to Roberto S. Balingcongan (Balingcongan). On January 8, 1998, Transfer Certificate of Title (TCT) No. T-112865[13] was issued in the name of Balingcongan covering 2,292 square meters. On the same date, TCT No. T-112864[14] was also issued in the name of Jose covering 447 square meters.

Federico transferred his residence to Malabon and so he left the care of the property to his nephew, Vicente Joson (Vicente). Sometime in 1999, Federico instructed Vicente to construct a perimeter fence on his property but he was prevented by Jose, claiming that the 447 square meters was his property as reflected in his TCT No. T-112864. On the other hand, Federico is claiming it as part of the property he inherited from his father, Andres.

When the matter could not be settled amicably, the petitioners lodged a Complaint[15] for Annulment of Title and/or Reconveyance, Damages with the RTC of Malolos, Bulacan. The case was set for pre-trial conference[16] on March 27, 2000. Thereafter, trial ensued.

Ruling of the Regional Trial Court

The RTC found that even before Jose purchased the 2,056 square meters lot from Feliciano on February 7, 1991, he had already caused the survey of a 2,739-square meter lot on January 30, 1991. The document of sale expressly stated that the area sold was 2,056 square meters and that the same is located in Dampol 1[st], Pulilan, Bulacan. However, in March, 1991, Jose filed his application for free patent using the survey on the 2,739 square meters. He also indicated therein that the property is located in Dampol II, Pulilan, Bulacan and that the land described and applied for is not claimed or occupied by any person. He further claimed that the property was public land which was first occupied and cultivated by Feliciano.

Thus, the trial court found that the preponderance of evidence showed that the disputed area of 447 square meters rightfully belongs to Federico. This was a part of Lot No. 1306 originally owned and possessed by Andres as identified and described in the Declaration of Real Property No. 7187.

On March 10, 2004, the trial court rendered a Decision, the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants, as follows:

1. Ordering the defendants to return to the plaintiffs the disputed portion consisting of 447 square meters and now covered by TCT No. T-112864 of the Registry of Deeds of Bulacan, in the name of Jose Mano, Jr. married to Rosanna Reyes;
2. Ordering defendants to immediately demolish and/or remove the concrete fence erected on the premises;
3. Ordering the defendants to pay plaintiffs the amounts of P50,000.00 for moral damages; P30,000.00 for exemplary damages and P50,000.00 for attorney's fees;
4. Ordering the Register of Deeds of Bulacan to cancel said TCT No. T-112864 of the Registry of Deeds of Bulacan;
5. Defendants to pay costs of this suit.

SO ORDERED.[17]

Ruling of the Court of Appeals

Respondents went to the CA on appeal. In a Decision[18] dated January 16, 2006, the CA reversed and set aside the ruling of the RTC and dismissed the complaint. According to the CA, respondents satisfactorily proved their ownership over the disputed property. The Free Patent No. 031418-92-463 and the TCT No. T-112864, as well as the tax declaration offered in evidence by respondents are more convincing than the evidence presented by the petitioners. Also, petitioners failed to prove by clear and convincing evidence the fact of fraud allegedly committed by Jose in obtaining title to the disputed property.

The Motion for Reconsideration filed by petitioners was denied by the CA through its Resolution[19] dated May 3, 2006.

Issues

Hence, this petition raising the following issues:

I.

Whether the CA gravely abused its discretion when it declared that petitioners were unable to prove ownership of the disputed portion notwithstanding evidence introduced and admitted.

II.

Whether the CA gravely abused its discretion, amounting to lack of jurisdiction, when it reversed the decision of the lower court finding fraud committed by the respondent in obtaining title to the property in question.

Simply put, the issues raised are: (1) Did the CA err in holding that the respondents are the owners of the disputed 447 square meter property? and (2) Did the CA err in finding that no fraud was committed by the respondents in obtaining title to the disputed property?

Petitioners' Arguments

Petitioners argue that the CA erred in not holding that they are the rightful owners as Federico inherited the property from his father Andres, who died on October 10, 1959. Jose purchased a parcel of land from Feliciano measuring only 2,056 square meters but his application for free patent indicated a lot with a total area of 2,739 square meters. Moreover, he indicated the same to be located at Dampol II, Pulilan, Bulacan; however, it is actually located at Dampol 1[st]. He also declared that the said property is not claimed or occupied by any person but the truth is that the 447 square meters is owned and possessed by Federico.

Respondents' Arguments

Respondents, on the other hand, contend that they have a better title to the property. The certificate of title issued in their name is an absolute and indefeasible evidence of ownership of the property. It is binding and conclusive upon the whole world. There was also no proof or evidence presented to support the alleged fraud on the part of Jose, nor was there any allegation of specific acts committed by him which constitute fraud.

Our Ruling

After serious consideration, we find petitioners' arguments to be meritorious.

There is preponderance of evidence that Federico is the owner of the disputed property.

We rule that Federico is the owner of the disputed 447 square meter lot. The Deed of Conditional Sale described the property purchased by Jose as follows:

A part of parcel of land (T.D. No. 14312) situated at Dampol 1[st], Pulilan, Bulacan. Bounded on the North- Lot 6225; East- Lot 1306 & 1311; South- Lot 1307 and 1308 and West- Lot 1304 & 1299. Containing an area of Two Thousand Fifty Six (2,056) square meters, more or less. (Bulacan)."

Feliciano sold a portion of Lot 1305 to Jose. After the sale was made, a Sketch/Special Plan[20] was prepared by Geodetic Engineer Fortunato E. Chavez. It is clear from such document that Lot 1305-A representing the upper portion with an area of 1,112 square meters was retained by Feliciano and what was sold was the lower portion thereof which became Lot No. 1305-B with a total area of 2,292 square meters. This exceeds the area of 2,056 square meters indicated in the above sale transaction.

In another Sketch/Special Plan[21] prepared by Geodetic Engineer Norberto C. Chavez, it is shown that Lot No. 10176-B with an area of 2,292 square meters with a right of way going to Camino Provincial Highway was the one sold to Jose and which was also sold by him to the Balingcongan spouses. This is also known as Lot No. 1305-B. TCT No. T-112865 was issued in the name of the spouses Balingcongan. Lot No. 10175 which represents the upper portion of Lot No. 1305 was retained by Feliciano. This is also known as Lot No. 1305-A. However, what is surprising is that the said plan showed that Lot No. 10176-A with an area of 447 square meters had been made to appear as part of the lot sold by Feliciano to Jose. TCT No. T-112864 was issued in the name of Jose. If indeed this disputed area is part of Lot No. 1305 then it should have been part of Lot No. 1305-A which was retained by Feliciano as it is at the East side of the said property.

Moreover, during the ocular inspection,[22] it was observed that all the neighboring lots are either square or rectangle. There is an old fence, measuring about 40 meters long (abutting the newly constructed fence), which bounds the true and actual area purchased by Jose. Thus, if the old fence is followed, the land purchased would either be square or rectangular like the adjoining lots. However, if the disputed 447 square meters would be included in the land purchased by Jose, the same would slant remarkably to the right, to the extent of covering the entire area fronting the provincial road, which as per tax declaration of Federico, is the boundary of his land on the north.

Furthermore, Feliciano, the owner of Lot No. 1305 from whom Jose acquired the property through sale, testified that his lot is only about 2,000 square meters and that Andres owns the adjoining lot which is enclosed by a fence. Part of his testimony is copied verbatim to wit:

ATTY. NATIVIDAD:

Q.

But before they caused the measuring of the lot in question, do you have any idea how much is the area of the lot?

A.

About 2,000 plus, sir.

Q.

This property measuring about 2,000 plus, as you mentioned a while ago before it was surveyed by them, who is the present owner of this property?

A.

Jose Mano, sir.

Q.

How did Jose Mano become the owner of the property?

A.

I sold it to him in 1991, sir.

x x x x

Q.

Mr. Geronimo, I withdraw the manifestation.

May we further request that the description of the land indicated in the first page thereof particularly the boundary and the area be bracketed and be marked as Exhibit D-3, your Honor.

Do you know your boundary owners of this lot located at Dampol 1[st], Pulilan, Bulacan?

A.

Teresa and Andres Valenzuela, sir.

Q.

Who else if you know?

A.

It is all that I could remember of, sir.

Q.

At the time that the property was acquired from you by Jose Mano or by the defendants, do you have any fence erected on your property?

A.

None, sir. The adjacent lot has, sir.

COURT:

On all sides?

A.

On Teresa and Andres Valenzuela's side, sir.

Q.

They were fenced?

A.

Yes, there is, sir. [23]

The testimony of Feliciano from whom Jose purchased the property coincides with the observation made during the ocular inspection conducted by the RTC that there is an old fence, measuring about 40 meters which encloses the true and actual area purchased by Jose. Feliciano retained the upper portion of Lot No. 1305 which eventually became Lot No. 1305-A because it is along the national highway. The disputed 447 square meters property is located at the eastern side of Lot No. 1305-A. He gave Jose a right of way at the western side[24] of the lot he

retained for himself. This supports the theory that Feliciano was fully aware that the property at the eastern part of his property belonged to Andres from whom Federico inherited the said lot. This is the reason why a right of way going to the national highway was given to Jose between Lot No. 1305-A and Lot No. 1304. If the disputed property is part of the sale as claimed by Jose then Feliciano would not have given the said right of way but would rather keep it to himself.

"Settled is the rule that a person, whose certificate of title included by mistake or oversight the land owned by another, does not become the owner of such land by virtue of the certificate alone. The Torrens System is intended to guarantee the integrity and conclusiveness of the certificate of registration but is not intended to perpetrate fraud against the real owner of the land. The certificate of title cannot be used to protect a usurper from the true owner." [25]

Jose committed fraud in obtaining the title to the disputed property.

Anent the second issue, we rule that Jose committed fraud in obtaining title to the disputed property. The chain of events leading to the issuance of title in his name shows beyond cavil the bad faith or a fraudulent pattern on his part. The evidence on record disclosed that even before Jose purchased the 2,056 square meters from Feliciano, he had already caused on January 30, 1991 the survey of a 2,739 square meters lot. Although the document of sale expressly stated that the area sold was 2,056 square meters and is located at Dampol 1[st], Pulilan, Bulacan, however, when he filed his application for free patent in March 1991, he used the survey on the 2,739 square meters and indicated the same to be located at Dampol II, Pulilan, Bulacan. Also, in his application, he stated that the land described and applied for is not claimed or occupied by any person when in reality the same is owned and possessed by Federico.

Petitioners are entitled to an award of moral and exemplary damages.

Article 2217[26] of the Civil Code defines what are included in moral damages while Article 2219 enumerates the cases where they may be recovered. Moral damages are in the category of an award designed to compensate the claimant for actual injury suffered and not to impose a penalty on the wrongdoer.[27] "The person claiming moral damages must prove the existence of bad faith by clear and convincing evidence for the law always presumes good faith. It is not enough that one merely suffered sleepless nights, mental anguish, serious anxiety as the result of the actuations of the other party. Invariably such action must be shown to have been willfully done in bad faith or with ill motive." [28] In the same fashion, to warrant the award of exemplary damages, the wrongful act must be accompanied by bad faith, and an award of damages would be allowed only if the guilty party acted in wanton, fraudulent, reckless or malevolent manner.[29] As regards attorney's fees, the law is clear that in the absence of stipulation, attorney's fees may be recovered as actual or compensatory damages under any of the circumstances provided for in Article 2208[30] of the Civil Code.

Having ruled that Jose committed fraud in obtaining title to the disputed property then he should be liable for both moral and exemplary damages. Likewise, since petitioners were compelled to litigate to protect their rights and having proved that Jose acted in bad faith, attorney's fees should likewise be awarded.

WHEREFORE, the instant petition for review on certiorari is GRANTED. The assailed Decision of the Court of Appeals in CA-G.R. CV No. 83577 dated January 16, 2006 and its May 3, 2006 Resolution are REVERSED and SET ASIDE. The Decision of the Regional Trial Court of Bulacan, Branch 14 in Civil Case No. 1065-M-99 dated March 10, 2004 is reinstated and AFFIRMED.

SO ORDERED.

Corona, (Chairperson), Brion,[*] Abad, [**] and Perez, JJ., concur.

[*] Per Special Order No. 856 dated July 1, 2010.

[**] Per Special Order No. 869 dated July 5, 2010.

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

[2] *Rollo*, pp.12-31.

[3] *Id.* at 46-60; penned by Associate Justice Jose L. Sabio, Jr. and concurred in by Associate Justices Jose C. Mendoza (now a Member of this Court) and Arturo G. Tayag.

[4] *Id.* at 32-44; penned by Judge Petrita Braga Dime.

[5] *Id.* at 67-68.

[6] *Records*, Vol. I, p.9.

[7] *Id.* at 6-8.

[8] *Id.* at 11-12.

[9] *Id.* at 13.

[10] *Id.* at 86.

[11] *Id.* at 153.

[12] *Id.* at 10.

[13] *Id.* at 156.

[14] *Id.* at 155.

[15] *Id.* at 1-5.

[16] *Id.* at 50.

[17] *Rollo*, pp. 43-44.

[18] *Id.* at 46-60.

[19] *CA rollo*, pp. 109-110.

[20] *Records*, Vol. I, p. 201.

[21] *Id.* at 205.

[22] *Id.* at 237-241.

[23] *TSN*, September 18, 2001, pp. 4-11.

[24] *Records*, Vol. I, p. 201.

[25] *Heirs of Toribio Waga v. Sacabin*, G.R. No. 159131, July 27, 2009, 594 SCRA 41, 45.

[26] Art. 2217. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation, and similar injury. Though incapable of pecuniary computation, moral damages may be recovered if they are the proximate result of the defendant's wrongful act or omission.

[27] ABS-CBN Broadcasting Corp. v. Court of Appeals, 361 Phil 499, 529 (1999).

[28] Ace Haulers Corp. v. Court of Appeals, 393 Phil 220, 230 (2000).

[29] Francisco v. Ferrer, Jr., 405 Phil. 741, 750 (2001).

[30] It reads as follows:

ART. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

- (1) When exemplary damages are awarded;
- (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
- (3) In criminal cases of malicious prosecution against the plaintiff;
- (4) In case of a clearly unfounded civil action or proceeding against the plaintiff;
- (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim;
- (6) In actions for legal support;
- (7) In actions for the recovery of wages of household helpers, laborers and skilled workers;
- (8) In actions for indemnity under workmen's compensation and employer's liability laws;
- (9) In a separate civil action to recover civil liability arising from a crime;
- (10) When at least double judicial costs are awarded;
- (11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

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