

**AQUALAB PHILIPPINES, INC., PETITIONER, VS. HEIRS OF
MARCELINO PAGOBO, NAMELY: PELAGIO PAGOBO, GONZALO
PAGOBO, ANIANA PAGOBO, ALFREDO SALVADOR, SAMUEL PAGOBO,
REMEDIOS PAGOBO, VA...**

G.R. No. 182673. October 05, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

The Case

In this Petition for Review on Certiorari under Rule 45, Aqualab Philippines, Inc. (Aqualab) assails the March 15, 2007 Decision[1] and April 22, 2008 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 58540, which reversed the September 30, 1997 Order[3] of the Regional Trial Court (RTC), Branch 53 in Lapu-lapu City, Cebu. The RTC dismissed Civil Case No. 4086-L for Partition, Declaration of Nullity of Documents, Cancellation of Transfer Certificate of Titles, Reconveyance with Right of Legal Redemption, Damages and Attorney's Fees filed by respondents.

The Facts

Subject of the complaint initiated by respondents are Lots 6727-Q and 6727-Y of the Opon Cadastre, situated in Punta Engaño, Lapu-lapu City, Mactan Island, Cebu, particularly described as follows:

LOT NO. 6727-Q

A parcel of land (Lot 6727-Q of the subdivision on plan (LRC) Psd-117050, being a portion of Lot 6727 of the Cadastral Survey of Opon, L.R.C. (GLRO) Cad. Rec. No. 1004), situated in the Barrio of Punta Engaño, City of Lapu-lapu, Island of Mactan x x x containing an area of ONE THOUSAND (1,000) SQUARE METERS, more or less. All points referred to are indicated on the plan and marked on the ground as follows: x x x date of the original survey, Aug. 1927 - Dec. 1928, and that of the subdivision survey, Aug. 7, and 10, 1963, and Sept. 27 and 30, 1967.

LOT NO. 6727-Y

A parcel of land (Lot 6727-Y of the subdivision on plan (LRC) Psd-117050, being a portion of Lot 6727 of the Cadastral Survey of Opon, L.R.C. (GLRO) Cad. Rec. No. 1004), situated in the Barrio of Punta Engaño, City of Lapu-lapu, Island of Mactan x x x containing an area of SIXTEEN THOUSAND ONE HUNDRED SIXTY SEVEN (16,167) SQUARE METERS, more or less. All points referred to are indicated on the plan and marked on the ground as follows: x x x date of the original survey, Aug. 1927 - Dec. 1928, and that of the subdivision survey, Aug. 7, and 10, 1963, and Sept. 27 and 30, 1967.

Lot 6727-Q and Lot 6727-Y used to form part of Lot 6727 owned by respondents' great grandfather, Juan Pagobo, covered by Original Certificate of Title No. (OCT) RO-2246[4] containing an area of 127,436 square meters.

Lot 6727 was once covered by Juan Pagobo's homestead application. Upon his death on January 18, 1947,[5] his homestead application continued to be processed culminating in the issuance on December 18, 1969 of Homestead Patent No. 128470 for Lot 6727. On the basis of this homestead patent, OCT RO-2246 was issued in the name of Juan Pagobo. Apparently, from the description of the subdivision lots of Lot 6727, particularly those of subject Lots 6727-Q and 6727-Y above, and even before the issuance of OCT RO-2246, the mother Lot 6727 was surveyed in 1963 and 1967 and eventually subdivided into 34 subdivision lots denominated as Lots 6727-A to 6727-HH.

Incidentally, on the same date that OCT RO-2246 was issued covering Lot 6727, OCT RO-1277[6] was likewise issued also covering Lot 6727 in the name of the late Juan Pagobo also pursuant to Homestead Patent No. 128470. Subsequently, however, on August 10, 1977, OCT RO-1277 was canceled for being null and void pursuant to an Order issued on August 4, 1977 by the Court of First Instance in Lapu-lapu City in view of the issuance of OCT RO-2246.[7]

Shortly after OCT RO-1277 and OCT RO-2246 were issued, subject Lots 6727-Q and 6727-Y were subsequently sold to Tarcela de Espina who then secured Transfer Certificate of Title No. (TCT) 3294[8] therefor on April 21, 1970. The purchase by Tarcela de Espina of subject Lot 6727-Y from the heirs of Juan Pagobo and subject Lot 6727-Q from one Antonio Alcantara was duly annotated on the Memorandum of Incumbrances of both OCT RO-1277[9] and OCT RO-2246.[10]

Subsequently, Tarcela de Espina sold subject lots to Rene Espina who was issued, on September 28, 1987, TCT 17830[11] for Lot 6727-Q and TCT 17831[12] for Lot 6727-Y. Thereafter, Rene Espina sold subject lots to Anthony Gaw Kache, who in turn was issued TCT 17918[13] and TCT 18177,[14] respectively, on November 9, 1987. Finally, Aqualab acquired subject lots from Anthony Gaw Kache and was issued TCT 18442[15] and TCT 18443,[16] respectively, on May 4, 1988.

On August 10, 1994, respondents, alleging that Aqualab has disturbed their peaceful occupation of subject lots in 1991, filed a Complaint[17] for Partition, Declaration of Nullity of Documents, Cancellation of Transfer Certificate of Titles, Reconveyance with Right of Legal Redemption, Damages and Attorney's Fees against Aqualab, the Register of Deeds of Lapu-Lapu City, Cebu, and, for being unwilling co-plaintiffs and alleged refusal to have subject lots partitioned, the Heirs of Bernabe Pagobo, namely: Anastacio Pagobo, Demetrio Pagobo, Felix Pagobo, Olympia P. Tampus, Damasa Pagobo, Salud P. Maloloy-on, Candida Pagobo, and Adriana P. Mahusay.

The Complaint pertinently alleged that:

ALLEGATIONS COMMON TO ALL CAUSE OF ACTION

4. Plaintiffs are the absolute and legal owners and rightful possessors of Lot [no.] 6727-Q and Lot no. 6727-Y. These are ancestral lands which are part of a bigger parcel of land, registered in the name of the plaintiffs' great grandfather Juan Pagobo and more particularly described as follows:

x x x x

5. Ownership and Possession by plaintiff's [sic] predecessors-in-interest, and plaintiffs herein, respectively, over the said land, have been peaceful, continuous [sic] open, public and adverse, since the year 1936 or even earlier. Their peaceful possession was disturbed only in 1991 as hereinafter described.

x x x x

15. In the records with the office of the Registry of Deeds of Lapu-Lapu City, Lot No. 6727 of the Opon

Cadastre has been subdivided in to THIRTY-FOUR (34) lots and are denominated as Lots Nos. 6727-A to 6727-HH, respectively, as per subdivision plan, a machine copy of which is hereto attached and marked as Annex "A" hereof.

16. Defendants Anastacio Pagobo, x x x are the surviving children and grandchildren, respectively, of the late BERNABE PAGOBO and are herein joined as party-defendants for being "unwilling co-plaintiffs"; and also because despite demands by plaintiffs upon these aforementioned defendants for the partition of the aforesaid land, the latter refused and still refuses to have the same partitioned.

FIRST CAUSE OF ACTION AGAINST DEFENDANT
AQUALAB PHILIPPINES, INC. AND SANTIAGO TANCHAN, JR.

17. Sometime in 1991, defendant Aqualab Philippines Inc. represented by Santiago Tanchan, Jr., claiming ownership of Lot Nos. 6727-Q and 6727-Y, forcibly entered, and without any court Order, and against the will of the plaintiffs, said Lot no. 6727-Q and Lot no. 6727-Y. The truth of the matter is that these defendants despite full knowledge that absolute and legal ownership of Lot no. 6727-Q and Lot no. 6727-Y belonged to plaintiffs, and despite knowledge that peaceful, public and adverse possession were being continuously exercised by plaintiff over said land for a period in excess of THIRTY (30) years, did there and then, by the use of fraud and misrepresentation and without informing the plaintiffs, caused the transfer into the name of defendant Aqualab Philippines Inc., Lot no. 6727-Q and Lot no. 6727-Y, consisting of an area of ONE THOUSAND (1,000) SQUARE METERS and SIXTEEN THOUSAND ONE HUNDRED SIXTY SEVEN (16,167) SQUARE METERS, respectively. Lots No. 6727-Q and Lot no. 6727-Y are presently covered by Transfer Certificate of Titles No. 18442 and CTC No. 18443, respectively, copies of which are hereto attached as Annexes "B" and "C", respectively.

18. The defendants entered into transactions of the lands subject matter of this case, without the knowledge of plaintiffs and their predecessors-in-interest, and defendants did so despite full knowledge that ownership of said lands belonged to plaintiffs and their predecessors-in-interest; and that defendants entered into said transactions despite full knowledge by them and their predecessors-in-interest that the lots was [sic] covered by a homestead patent and as such cannot be alienated within twenty-five (25) years from its issuance on February 10, 1970.

SECOND CAUSE OF ACTION

x x x x

20. Granting, without necessarily admitting, that the transaction entered into by the defendants are legal and binding; Plaintiffs then have not been duly notified of the said sale and therefore, have the right to redeem the same under Article 1620 in relation to Article 1623 of the New Civil Code, and also under Commonwealth Acts [sic] No. 141, as amended.[18]

On August 26, 1994, the heirs of Bernabe Pagobo filed their Answer,[19] asserting that subject Lot 6727-Y was owned by their predecessor Bernabe Pagobo as evidenced by Tax Declaration No. (TD) 00520.[20] They maintained that even before the Second World War and before the death of Juan Pagobo on January 18, 1947, Bernabe Pagobo already had possession of subject Lot 6727-Y which was the portion assigned to him. Moreover, they contended that respondents never made any demands for partition of subject Lot 6727-Y.

On September 12, 1994, Aqualab filed its Motion to Dismiss[21] on the grounds of: (1) prescription of the action for declaration of nullity of documents, cancellation of transfer certificates of title, and reconveyance; and (2) no cause of action for partition and legal redemption of the mother title of subject lots, i.e., OCT RO-2246 had already been subdivided and several conveyances made of the subdivided lots.

Ruling of the Trial Court

By Order dated September 30, 1997, the RTC granted Aqualab's motion and dismissed respondents' complaint, disposing as follows:

Wherefore, in the light of the foregoing considerations, defendant Aqualab's motion to dismiss, being impressed with merit, is hereby granted. The complaint in the above-entitled case is hereby dismissed.

SO ORDERED. [22]

In granting Aqualab's motion to dismiss, the trial court ruled that prescription has set in. Moreover, the trial court held that Aqualab is an innocent purchaser for value and, thus, its rights are protected by law. Finally, it concluded that legal redemption or reconveyance was no longer available to respondents.

Undaunted, respondents appealed the above dismissal to the CA. The parties thereafter filed their respective briefs.

Ruling of the Appellate Court

The CA saw things differently. On March 15, 2007, it rendered the assailed decision, reversing the September 30, 1997 Order of dismissal by the RTC, declaring the sale of subject lots as null and void, and remanding the case to the trial court for partition proceedings. The fallo reads:

WHEREFORE, in view of the foregoing premises, the Order of the Regional Trial Court dismissing the instant Complaint for Partition, Declaration of Nullity of Documents, Cancellation of Transfer Certificates of Title, Reconveyance with Right of Legal Redemption, Damages and Attorney's Fees, and other Reliefs is REVERSED and SET ASIDE, and the instant appeal is GRANTED, hereby declaring the sale of the homestead and TCT Nos. 18442 and 18443 under the name of Aqualab null and void, and ordering the Register of Deeds for the City of Lapu-lapu to cancel both certificates of title and to issue new certificates of title over Lots 6727-Q and 6727-Y under the name of appellants, and let this case be REMANDED to the trial court for the presentation of evidence on the claim for partition and for damages.

SO ORDERED.[23]

The CA resolved the following issues: (1) the propriety of the dismissal of the complaint by the RTC; and, (2) whether respondents have the right to redeem subject lots. The CA ruled that the trial court erred in dismissing the complaint as the sale of subject lots to Tarcela de Espina was void, thus making the subsequent conveyances ineffective and no titles were validly transferred. Moreover, it ruled that Aqualab is not an innocent purchaser for value, and held that respondents, as heirs of the homestead grantee, never lost their valid title to the subject lots.

Through the equally assailed April 22, 2008 Resolution, the CA denied Aqualab's motion for reconsideration.

Hence, we have this petition.

The Issues

(A)

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A RADICAL DEPARTURE FROM THE USUAL AND ACCEPTED COURSE OF JUDICIAL PROCEEDINGS THAT WOULD WARRANT THE REVERSAL OF THE COURT OF APPEALS' DECISION

(B)

WHETHER OR NOT THE COMPLAINT SHOULD BE DISMISSED COMPLAINT [SIC] ON THE GROUND OF LACK OF CAUSE OF ACTION

(C)

WHETHER OR NOT THE TRANSFERS OF THE DISPUTED PROPERTY TO HEREIN PETITIONER'S PREDECESSORS-IN-INTEREST WERE VIOLATIVE OF THE FIVE (5) YEAR PROHIBITIVE PERIOD UNDER SECTION 118 OF THE PUBLIC LAND ACT SO AS TO WARRANT THEIR NULLIFICATION

(D)

WHETHER OR NOT THE PETITIONER IS AN INNOCENT PURCHASER IN GOOD FAITH

(E)

WHETHER OR NOT THE RESPONDENTS' CAUSE OF ACTION HAS PRESCRIBED WARRANTING THE DISMISSAL OF THEIR COMPLAINT ON THE GROUND OF PRESCRIPTION

(F)

WHETHER OR NOT THE RESPONDENTS' COMPLAINT CONSTITUTES A COLLATERAL ATTACK AGAINST THE TITLES OF HEREIN PETITIONER'S PREDECESSORS-IN-INTEREST WARRANTING THE DISMISSAL THEREOF

(G)

WHETHER OR NOT THE RESPONDENTS' APPEAL BEFORE THE COURT OF APPEALS SHOULD HAVE BEEN DISMISSED IN VIEW OF THE RESPONDENTS' ADMISSION THAT THE CONVEYANCE OF THE DISPUTED PROPERTY TO HEREIN PETITIONER WAS VALID

(H)

WHETHER OR NOT THE COURT OF APPEALS DEPRIVED THE PETITIONER OF ITS PROPERTY WITHOUT DUE PROCESS OF LAW WHEN IT NULLIFIED THE PETITIONER'S TITLE AND OWNERSHIP OVER SUBJECT PROPERTY WITHOUT TRIAL THEREBY DEPRIVING THE PETITIONER OF ITS PROPERTY WITHOUT DUE PROCESS OF LAW[24]

The Court's Ruling

The petition is partly meritorious.

The core issues raised in the instant petition are factual in nature and can be summed up into two: first, whether the action of respondents is barred by prescription; and second, whether Aqualab is an innocent purchaser for value.

Hypothetical Admission of Factual Allegations in the Complaint by Filing a Motion to Dismiss

In filing a motion to dismiss, the movant hypothetically admits the truth of the material and relevant facts alleged and pleaded in the complaint. The court, in resolving the motion to dismiss, must consider such hypothetical admission, the documentary evidence presented during the hearing thereof, and the relevant laws and jurisprudence bearing on the issues or subject matter of the complaint.

Dismissal by Trial Court on Prescription and Finding Defendant an Innocent Purchaser for Value

The trial court ruled that prescription has set in, since respondents alleged in the complaint fraud and misrepresentation in procuring the transfer of subject lots, and such transfer was made on April 21, 1970, while the instant complaint was filed only on August 10, 1994, or a little over 24 years. Relying on *Buenaventura v.*

Court of Appeals,[25] where the Court held that an action for reconveyance of title due to fraud is susceptible to prescription either within four or 10 years, the trial court held that the instant action is definitely barred. It also ruled that even if a constructive trust was created as averred by respondents, still, the instant action has prescribed for a constructive trust prescribes in 10 years, relying on *Tenio-Obsequio v. Court of Appeals*. [26]

Moreover, the trial court, also relying on *Tenio-Obsequio*, agreed with Aqualab's assertion that it was an innocent purchaser for value, which merely relied on the correctness of the TCTs covering subject lots, i.e., TCT 17918 and TCT 18177 in the name of Anthony Gaw Kache, and, as such, Aqualab, as vendee, need not look beyond the certificate of title and investigate the title of the vendor appearing on the face of said titles.

Finally, the trial court concluded that respondents cannot invoke legal redemption under Article 1620 in relation to Art. 1623 of the Civil Code and under Commonwealth Act No. (CA) 141, as amended,[27] for Lot 6727 had already been divided into subdivision lots, the subject of numerous transactions. Besides, it reasoned that legal redemption under CA 141 is only applicable to cases of proper conveyance of a land covered by a homestead patent, but not, as in the instant case, when the conveyances were assailed to be improper.

Aqualab Hypothetically Admitted the Fraudulent Conveyances and Respondents' Possession of Subject Lots

Respondents aver that they are the absolute and lawful owners of subject properties, i.e., Lots 6727-Q and 6727-Y, over which they have had actual possession since 1936 or earlier until sometime in 1991, when Aqualab disturbed such possession.[28] While the records show that respondents did not have in their names the certificate of titles over subject lots, the factual assertion of open, peaceful, public, and adverse possession is hypothetically admitted by Aqualab.

Moreover, respondents allege that the conveyances of subject lots were fraudulently made in violation of the restrictions on alienation of homesteads under CA 141, and that said conveyances were made without their knowledge and, thus, asserting their right to redeem the subject properties in line with the policy of CA 141 that the homestead should remain with the grantee and his family.[29] The alleged fraudulent conveyances were likewise hypothetically admitted by Aqualab.

On the other hand, Aqualab's co-defendants, the heirs of Bernabe Pagobo, to respondents' complaint, filed their Answer asserting possession and ownership over subject Lot 6727-Y by submitting TD 00520 to prove payment of the real estate tax thereon. However, on the allegation of disturbance of possession and fraudulent conveyances without knowledge of respondents, the heirs of Bernabe Pagobo merely maintained that they had no knowledge and information sufficient to form a belief as to the truth thereof.

It is, thus, clear that by filing its motion to dismiss, Aqualab hypothetically admitted the veracity of respondents' continuous possession of subject lots until 1991 when Aqualab disturbed such possession. Aqualab likewise hypothetically admitted the fraudulent and illegal conveyances of subject lots.

In its Motion to Dismiss, Aqualab moved for the dismissal of respondents' complaint on the ground of prescription, that it is an innocent purchaser for value whose rights are protected by law, and that the complaint failed to state a cause of action for partition and legal redemption.

Prescription Is Not Apparent on the Face of the Complaint

From the foregoing premises, the trial court erred in finding prescription. Prescription, as a ground for a motion to dismiss, is adequate when the complaint, on its face, shows that the action has already prescribed.[30] Such is not

the case in this instance. Respondents have duly averred continuous possession until 1991 when such was allegedly disturbed by Aqualab. Being in possession of the subject lots--hypothetically admitted by Aqualab--respondents' right to reconveyance or annulment of title has not prescribed or is not time-barred.

Verily, an action for annulment of title or reconveyance based on fraud is imprescriptible where the plaintiff is in possession of the property subject of the acts.[31] And the prescriptive period for the reconveyance of fraudulently registered real property is 10 years, reckoned from the date of the issuance of the certificate of title, if the plaintiff is not in possession.[32] Thus, one who is in actual possession of a piece of land on a claim of ownership thereof may wait until his possession is disturbed or his title is attacked before taking steps to vindicate his right.[33]

In the instant case, as hypothetically admitted, respondents were in possession until 1991, and until such possession is disturbed, the prescriptive period does not run. Since respondents filed their complaint in 1994, or three years after their possession was allegedly disturbed, it is clear that prescription has not set in, either due to fraud or constructive trust.

Besides, if the plaintiff, as the real owner of the property, remains in possession of the property, the prescriptive period to recover title and possession of the property does not run against him. In such a case, an action for reconveyance, if nonetheless filed, would be in the nature of a suit for quieting of title, an action that is imprescriptible.[34]

Thus, the trial court's reliance on Buenaventura[35] and Tenio-Obsequio[36] for prescription on the right of reconveyance due to fraud and constructive trust, respectively, is misplaced, for in both cases, the plaintiffs before the trial court were not in possession of the lots subject of their action.

Aqualab Not an Innocent Purchaser for Value Due to the Hypothetically Admitted Respondents' Possession of Subject Lots

In the instant case, again based on the hypothetically admitted allegations in the complaint, it would appear that Anthony Gaw Kache, Aqualab's predecessor-in-interest, was not in possession of subject lots. Such a fact should have put Aqualab on guard relative to the possessors' (respondents') interest over subject lots. A buyer of real property that is in the possession of a person other than the seller must be wary, and a buyer who does not investigate the rights of the one in possession can hardly be regarded as a buyer in good faith.[37]

Having hypothetically admitted respondents' possession of subject lots, Aqualab cannot be considered, in the context of its motion to dismiss, to be an innocent purchaser for value or a purchaser in good faith. Moreover, the defense of indefeasibility of a Torrens title does not extend to a transferee who takes it with notice of a flaw in the title of his transferor.[38]

The Complaint Sufficiently
States a Cause of Action

Upon the foregoing disquisitions, it is abundantly clear to the Court that respondents' complaint sufficiently stated, under the premises, a cause of action. Not lost on us is the fact that the RTC dismissed the complaint of respondents on the grounds of prescription and in the finding that Aqualab is an innocent purchaser for value of the subject lots. Quoting *Philippine Bank of Communications v. Trazo*,[39] the Court said in *Bayot v. Court of Appeals*[40] that:

A cause of action is an act or omission of one party in violation of the legal right of the other. A motion to dismiss based on lack of cause of action hypothetically admits the truth of the allegations in the complaint. The allegations in a complaint are sufficient to constitute a cause of action against the defendants if, hypothetically

admitting the facts alleged, the court can render a valid judgment upon the same in accordance with the prayer therein. A cause of action exists if the following elements are present, namely: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; (2) an obligation on the part of the named defendant to respect or not to violate such right; and (3) an act or omission on the part of such defendant violative of the right of the plaintiff or constituting a breach of the obligation of the defendant to the plaintiff for which the latter may maintain an action for recovery of damages.[41]

Indeed, to sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist rather than that a claim has been defectively stated or is ambiguous, indefinite, or uncertain.[42] However, a perusal of respondents' Complaint before the RTC, in light of Aqualab's motion to dismiss which hypothetically admitted the truth of the allegations in the complaint, shows that respondents' action before the RTC has sufficiently stated a cause of action. Hypothetically admitting fraud in the transfers of subject lots, which indisputably were first transferred in apparent violation of pertinent provisions in CA 141 prohibiting alienation of homesteads within five years from the grant of the homestead patent, and the continuing possession of respondents until 1991 of the subject lots, the action for reconveyance and nullification filed in 1994 not only sufficiently stated a cause of action but also has not yet prescribed.

Given the findings above, the trial court gravely committed an error of judgment in granting Aqualab's motion to dismiss.

The appellate court was, thus, correct insofar as it reversed and set aside the September 30, 1997 Order of dismissal of the trial court. Unfortunately, however, it went further, for it did not merely remand the case for further proceedings, i.e., for trial on the merits, but it also resolved and decided the case in favor of respondents without going into a full-blown trial on the merits. This violated Aqualab's right to due process.

The CA Committed Reversible Error in Deciding the Case on the Merits

The CA reversibly erred when it decided the case on the merits when what was appealed thereto was a dismissal of the case through a motion to dismiss. There was no trial on the merits. Thus, its resolution of the case on the merits had no factual basis. The lynchpins in the resolution of the motion to dismiss are in the issues of prescription and whether Aqualab is an innocent purchaser for value. On these two issues we ruled, as discussed above, that based on the motion to dismiss, the allegations in the complaint, and the pieces of documentary evidence on record, prescription has not yet set in and that Aqualab is apparently not a purchaser in good faith for, as hypothetically admitted, respondents had possession over subject lots until 1991.

Such hypothetical admission, however, is not equivalent to or constitutive of a judicial admission, for, after all, Aqualab has not yet filed its Answer. It was, therefore, erroneous for the CA to decide the case on the merits. And much less can the CA rule that Aqualab did not controvert respondents' allegation of disturbance in their possession. It was a hypothetically admitted fact but not the factual finding of the trial court.

The Parties' Assertions and Allegations Still Have to Be Proved by Trial on the Merits

First, the assertion of respondents that they had possession until 1991, a factual issue, still had to be established on trial. Indeed, he who asserts a fact has the burden of proving it. So, too, the contention of being an innocent purchaser for value by Aqualab still has yet to be determined through a trial on the merits. The hypothetical admission applied against a defendant is relied upon by the court only to resolve his motion to dismiss. Verily, the burden of proving the purchaser's good faith lies in the one who asserts the same--it is not enough to invoke the ordinary presumption of good faith.[43]

And if Aqualab is found to be truly an innocent purchaser for value, its rights as such is protected by law; more so in situations where there have been a series of transfers of the subject lots, in which case, respondents' rights, if any, will be for damages from those who perpetrated the fraudulent conveyances.

No Factual and Legal Bases for the
Cancellation of Certificates of Title

Second, and corollary to the first, given that there is no judicial factual finding that Aqualab is not an innocent purchaser for value, it is legally and factually without bases for the appellate court to order the cancellation of the certificates of title covering subject lots in the name of Aqualab.

Third, the issues of reconveyance or redemptive rights of respondents and their action for partition have to be resolved by the trial court in light of its eventual findings from a trial on the merits of the instant case.

We, thus, hold that the instant case should proceed to trial for the parties to adduce their respective evidence to support their contrary positions in the defense of their asserted rights.

WHEREFORE, this petition is hereby **PARTIALLY GRANTED**. The CA's Decision dated March 15, 2007 and Resolution dated April 22, 2008 in CA-G.R. CV No. 58540 are hereby **REVERSED** and **SET ASIDE**. The RTC's Order dated September 30, 1997 dismissing Civil Case No. 4086-L is likewise **REVERSED** and **SET ASIDE**. The instant case is hereby **REINSTATED**, and petitioner Aqualab is **REQUIRED** within the period available pursuant to Section 4 of Rule 16, 1997 Revised Rules of Civil Procedure **TO FILE** its answer before the trial court. The trial court is ordered to proceed with dispatch to the trial on the merits.

No costs.

SO ORDERED.

Carpio, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 27-40. Penned by Associate Justice Francisco P. Acosta and concurred in by Associate Justices Arsenio J. Magpale and Agustin S. Dizon.

[2] Id. at 52-54.

[3] Id. at 65-68. Penned by Presiding Judge Benedicto G. Cobarde.

[4] Id. at 475-486.

[5] Id. at 293. Certificate of Death issued by the Virgen de Regla Parish, Lapu-lapu City, Archdiocese of Cebu.

[6] Id. at 471-474.

[7] Id. at 474. Entry No. 21586, Memorandum of Incumbrances, OCT RO-2177.

[8] Id. at 199-200.

[9] Id. at 472. Entry Nos. 8137 and 8139.

[10] Id. at 476. Entry Nos. 8137 and 8139.

[11] Id. at 201-202.

[12] Id. at 203-204.

- [13] Id. at 205-207.
- [14] Id. at 208-209.
- [15] Id. at 177-179.
- [16] Id. at 180-181.
- [17] Id. at 162-175.
- [18] Id. at 166-171.
- [19] Id. at 288-291.
- [20] Id. at 292, dated February 17, 1967.
- [21] Id. at 182-186.
- [22] Id. at 68.
- [23] Id. at 39-40.
- [24] Id. at 622-623, Memorandum for the Petitioner dated March 25, 2009.
- [25] G.R. No. 50837, December 28, 1992, 216 SCRA 818.
- [26] G.R. No. 107967, March 1, 1994, 230 SCRA 550.
- [27] "An Act to Amend and Compile the Laws Relative to Lands of the Public Domain," otherwise known as the "Public Land Act," approved on November 7, 1936.
- [28] Paragraphs 5 and 17 of the Complaint.
- [29] Paragraphs 18, 19, and 20 of the Complaint.
- [30] Fil-Estate Golf and Development, Inc., G.R. No. 152575, June 29, 2007, 526 SCRA 51, 58; citing *Marquez v. Baldoz*, G.R. No. 143779, April 4, 2003, 400 SCRA 669.
- [31] *Llemos v. Llemos*, G.R. No. 150162, January 26, 2007, 513 SCRA 128, 134; citing *Delfin v. Billones*, G.R. No. 146550, March 17, 2006, 485 SCRA 38, 47-48; *Occeña v. Esponilla*, G.R. No. 156973, June 4, 2004, 431 SCRA 116, 126.
- [32] *Heirs of Salvador Hermosilla v. Remoquillo*, G.R. No. 167320, January 30, 2007, 513 SCRA 403, 408-409.
- [33] Id. at 409; citing *Arlegui v. Court of Appeals*, G.R. No. 126437, March 6, 2002, 378 SCRA 322, 324.
- [34] *Aguirre v. Heirs of Lucas Villanueva*, G.R. No. 169898, June 8, 2007, 524 SCRA 492, 494; citing *Alfredo v. Borrás*, G.R. No. 144225, June 17, 2003, 404 SCRA 145, 163-164, 166.
- [35] *Supra* note 25.
- [36] *Supra* note 26.
- [37] *Raymundo v. Bandong*, G.R. No. 171250, July 4, 2007, 526 SCRA 514, 530-531; citing *Potenciano v. Reynoso*, G.R. No. 140707, April 22, 2003, 401 SCRA 391.
- [38] *Samonte v. Court of Appeals*, G.R. No. 104223, July 12, 2001, 361 SCRA 173, 183.
- [39] G.R. No. 165500, August 30, 2006, 500 SCRA 242, 251-252.

[40] G.R. No. 155635, November 7, 2008, 570 SCRA 472.

[41] *Id.* at 492.

[42] *Universal Aquarius, Inc. v. Q.C. Human Resources Management Corp.*, G.R. No. 155900, September 12, 2007, 533 SCRA 38, 47; citing *Pioneer Concrete Philippines, Inc. v. Todaro*, G.R. No. 154830, June 8, 2007, 524 SCRA 153.

[43] *Raymundo*, *supra* note 37, at 529.

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