

SPS. ERNESTO V. YU AND ELSIE YU, PETITIONERS, VS. EULOGIO A. TOPACIO, JR., RESPONDENT.

G.R. No. 216024. September 18, 2019

Ponente: REYES, J. JR., J.

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REYES, J. JR., J.:

This resolves the Petition for Review on Certiorari under Rule 45 which assails the March 17, 2014 Decision[1] and the December 22, 2014 Resolution[2] of the Court of Appeals (CA), in CA-G.R CV No. 100590.

The case arose from an Amended Complaint[3] for Quieting of Title, Recovery of Possession, Reconveyance and Damages, filed by respondent Eulogio A. Topacio, Jr., (Topacio) which seeks to nullify Transfer Certificates of Title (TCT) Nos. T-490552 and T-289604, and to recover possession of the properties covered respectively by the said TCTs, from petitioners spouses Ernesto V. Yu and Elsie Yu (spouses Yu) and defendants a quo Benny Saulog and Spouses Jesus and Lorinda Mupas,[4] plus reasonable compensation for the use and occupation of the said parcels of land.

Topacio alleged that he is the registered owner of Lot 7402-E situated in Barangay Paliparan, Dasmarinas, Cavite covered by TCT No. T-348422 consisting of 9,878 square meters. That Spouses Yu were issued TCT No. T-490552 consisting of 606 square meters, more or less, which is a portion of the area covered by his title.

Topacio believed that said title issued to Spouses Yu is spurious, illegal and null and void as the same was issued much later than his title. Allegedly, said title of Spouses Yu casts a cloud on Topacio's title. Despite demand made by Topacio, Spouses Yu failed to cease and desist from fencing and constructing a house on Topacio's property, prompting the latter to file the instant action.

In their Answer with Counterclaim,[5] Spouses Yu claimed that they are the owners of the property covered by TCT No. T-490552 consisting of 606 square meters. They have acquired the said property from spouses Asislo Martinez and Norma Linatoc (Spouses Martinez) by virtue of an Absolute Deed of Sale dated June 10, 1994.[6] The said property was then covered by TCT No. T-267842 in the name of Asislo Martinez. Spouses Yu, thereafter, registered the sale of the said property causing the issuance of TCT No. T-490552.

Spouses Yu explained that their predecessors (Spouses Martinez) acquired the said property from the Bureau of Lands on June 9, 1989 by virtue of Sales Certificate No. 1793, Deed No. V-70973.[7] Based on the said Sales Certificate, the said property was surveyed by the Public Land Surveyor on July 18, 1938.

Spouses Yu averred that prior to their purchase of the said property, they caused the conduct of a relocation survey over the same to ascertain its boundaries.[8] The survey was conducted by Geodetic Engineer Antonio Pascual, Jr., who thereafter prepared a location survey plan.

After the execution of the Deed of Absolute Sale, spouses Yu took possession of the subject property, exercised dominion over the same and religiously paid real estate taxes due thereon. In November 1994, spouses Yu constructed a fence around the said property after obtaining a barangay permit and a fencing permit from the

Municipal Engineer's Office. At the time the fence was being constructed, no one stopped nor disturbed spouses Yu from completing the work. Neither did anybody claim ownership over the subject property.

Meanwhile, Topacio filed a Motion for Joint Survey[9] which was granted by the Regional Trial Court (RTC) in an Order[10] dated May 7, 2008, in aid of the early disposition of the case without going into trial.

On March 5, 2009, a survey team from the Community Environment and Natural Resources Office (CENRO) of Trece Martirez City led by Geodetic Engineer Ramoncito Tañola (Engr. Tañola) was constituted and on April 22, 2009, they conducted a verification survey on the parcels of land claimed by Topacio and spouses Yu in the presence of all the parties, who were duly assisted by their counsels and private geodetic engineers.

On February 25, 2010, Engr. Tañola submitted his Report of Verification Survey,[11] which in gist states, that Lot 7402-E registered in the name of Eulogio A. Topacio, Jr. and Lot 8142-New registered in the name of spouses Ernesto V. Yu and Elsie Yu, have the same points (which is Mon. 79) and when plotted using their respective Tie Lines it appeared that they fall apart with each other with the approximate distance of 1,526 meters. That based on the actual verification survey, the property claimed by spouses Yu with existing structure and with the total area of 450 square meters is inside the property of Topacio.

On December 28, 2011, the RTC, Branch 90 of Dasmarinas, Cavite rendered a Decision[12] dismissing Topacio's Complaint because there was no sufficient proof that spouses Yu and the other defendants obtained their respective titles by means of fraud. The RTC ruled that since spouses Yu's title was not shown to be fraudulent, there was no instrument, record, claim, encumbrance or proceeding that constituted a cloud of doubt upon Topacio's title. Thus:

WHEREFORE, premises considered, this case against all the defendants must perforce be DISMISSED for lack of merit. The counterclaims of the defendants-spouses must likewise be dismissed for lack of factual and legal bases.

SO ORDERED.[13]

Topacio moved to reconsider the RTC Decision but the motion was denied by the RTC in an Order[14] dated July 24, 2012.

Dissatisfied, Topacio filed an appeal[15] with the CA. The CA issued the now assailed Decision modifying the ruling of the RTC, as follows:

WHEREFORE, premises considered, the Appeal is partly GRANTED. The Decision dated December 28, 2011 and the Order dated July 24, 2012 of the Regional Trial Court, Branch 90 of Dasmarinas, Cavite, sitting in Imus, Cavite rendered in Civil Case No. 2215-00, are hereby MODIFIED inasmuch as defendants-appellees spouses Ernesto Yu and Elsie Ong are ordered to:

(1) vacate and transfer possession of the area of Lot 7402-E covered by TCT No. T-348422, that they are unlawfully occupying to plaintiff-appellant Eulogio B. Topacio Jr. and to remove at their own expense any improvements they introduced thereon;

(2) pay plaintiff-appellant reasonable compensation in the amount of P5,000.00 per month for the use and occupation of the portion of his property from November 29, 2000, the date of judicial demand, until they vacate the said portion of the subject property; and

(3) to pay plaintiff-appellant the amount of P25,000.00 for and as attorney's fees and the costs of this suit.

SO ORDERED.[16]

Spouses Yu filed a Motion for Reconsideration ascribing error on the part of the CA in ordering the transfer of possession of the subject property to [Topacio], and in directing spouses Yu to vacate the same. However, in the assailed Resolution dated December 22, 2014, the CA denied spouses Yu's Motion for lack of merit. Hence, the instant appeal anchored on the following grounds, to wit:

- THE COURT OF APPEALS ERRED IN RESOLVING THE LOCATION OR BOUNDARY OF TOPACIO'S PURPORTED PROPERTY IN THE CASE BELOW, WHICH IS AN ACTION FOR QUIETING OF TITLE; AND
- THE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN RELYING ON AND GIVING MUCH WEIGHT TO THE VERIFICATION SURVEY CONDUCTED BY ENGR. TAÑOLA OF THE CENRO-DENR.[17]

Spouses Yu fault the CA for its conflicting stance that despite its ruling that Topacio's action for quieting of title does not have merit, it still awarded in favor of Topacio the possession of the subject property on the basis of the verification survey report showing that spouses Yu were occupying the parcel of land which is a portion of the property belonging to Topacio. Spouses Yu argue that in so ruling, the RTC was actually settling a boundary dispute which is not proper in actions to quiet title.

We find that no error was committed by the CA. The CA was not contradicting itself when it denied Topacio's action to quiet title and granted his action to recover possession.

The object of the instant dispute is a parcel of land being physically occupied by spouses Yu. Topacio claims that said portion of the land is part of Lot 7402-E with an area of 9,878 square meters and covered by TCT No. T-348422, which was issued in his (Topacio's) name on June 25, 1992. Spouses Yu, on the other hand, claim that their possession of the said disputed parcel of land was based on TCT No. T-490552 issued to them on September 1, 1994, after they purchased the same from spouses Martinez.

Topacio was convinced that TCT No. T-490552 was spurious, illegal and null and void as it was issued much later than his title. Believing that said instrument casts a cloud on his title, Topacio filed an action consisting of three reliefs: (1) to quiet title; (2) to recover possession; and (3) to reconvey the property, with damages against spouses Yu.

In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, not only to place things in their proper place, to make the one who has no rights to said immovable respect and not disturb the other, but also for the benefit of both, so that he who has the right would see every cloud of doubt over the property dissipated, and he could afterwards without fear introduce the improvements he may desire, to use, and even to abuse the property as he deems best.[18] It has for its bases Articles 476 and 477 of the Civil Code, which provide:

ART. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

ART. 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject-matter of the action. He need not be in possession of said property.

As to the action for recovery of possession, the rule is settled that in order for it to prosper, it is indispensable that

he who brings the action fully proves not only his ownership but also the identity of the property claimed, by describing the location, area and boundaries thereof[19] Indeed, he who claims to have a better right to the property must clearly show that the land possessed by the other party is the very land that belongs to him.[20] Said action is governed by Article 434 of the Civil Code, which states that the property must be identified and the plaintiff must rely on the strength of his title and not on the weakness of defendant's claim.

An action for reconveyance is a legal and equitable remedy granted to the rightful landowner, whose land was wrongfully or erroneously registered in the name of another, to compel the registered owner to transfer or reconvey the land to him.[21] The plaintiff must allege and prove his ownership of the land in dispute and the defendant's erroneous, fraudulent or wrongful registration of the property.[22] As can be seen, reconveyance is the remedy of the rightful owner only.[23]

We find no error on the rulings of the courts below that the action for quieting of title is unavailing. Topacio's action for quieting of title was not given merit for the reason that Topacio failed to meet one of the requirements for quieting of title as set forth by law and jurisprudence, to wit:

In order that an action for quieting of title may prosper, two requisites must concur: (1) the plaintiff or complainant has a legal or equitable title or interest in the real property subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting cloud on his title must be shown to be in fact invalid or inoperative despite its prima facie appearance of validity or legal efficacy.[24]

While Topacio was able to prove his legal title over the disputed portion of the property as he was issued TCT No. T-348422, registered on June 25, 1992, he however failed to show that the title relied upon by spouses Yu as basis for their claim of possession, specifically TCT No. T-490552, was in fact invalid or ineffective. As a matter of fact, spouses Yu traced the origin of the said TCT issued to them and the mode of acquiring the same. Spouses Yu explained that they purchased the said lot from spouses Martinez by virtue of a Deed of Absolute Sale dated June 10, 1994. Their predecessors (spouses Martinez) in turn, acquired the said property from the Bureau of Lands on June 9, 1989, by virtue of Sales Certificate No. 1793, Deed No. V-70973.[25] Based on the said Sales Certificate, the said property was surveyed by the Public Land Surveyor on July 18, 1938.

Neither was there a showing that the TCT issued in favor of spouses Yu was procured through fraud. A Torrens title is generally conclusive evidence of ownership of the land referred to therein and a strong presumption exists that a Torrens title was regularly issued and valid.[26] Such that, imputations of fraud must be proved by clear and convincing evidence.[27] No such evidence of fraud was adduced in this case.

Under these circumstances, there is no reason to doubt the validity of the said TCT No. T-490552 issued in favor of spouses Yu. Indeed, as found by the CA, the two Certificates of Title cover two different parcels of land. Using as basis the technical description contained in the respective TCTs of the parties, we agree with the CA's conclusion that TCT No. T-348422 issued in the name of Topacio is entirely distinct from TCT No. T-490552 issued in the name of spouses Yu.

Apart from the Certificates of Title of the lots in question, it is also important to rely on the sketch plans and survey report prepared by an expert witness, which as worded by the CA, provides the necessary expert assistance in the determination of the actual location and metes and bounds of Lot 7402-E claimed by Topacio in relation to Lot 8142 of spouses Yu.

Spouses Yu complain of irregularities of the survey conducted by Engr. Tañola, to wit: (a) that Engr. Tañola did not make an independent survey of the properties; (b) that there were informal settlers that prevented Engr. Tañola from making actual measurements; (c) that Engr. Tañola was not familiar with the property and was merely pointed out to him by Engr. Galang; (d) that he was able to locate Mon. 79 at around 5:00 pm; (e) that no other

representatives of the parties were present during the survey, and (f) Engr. Tañola's findings were based on mere photocopies of the subject titles.

Despite this protestation, we cannot fault the CA for giving weight on the result of the survey conducted by Engr. Tañola of the Department of Environment and Natural Resources (DENR)/CENRO. It bears to stress that Engr. Tañola's appointment was ordered by the court upon the initiative of both parties through their Motion for Joint Survey.[28] The survey was also attended by all the parties with the assistance of their counsels and private surveyors.[29] As the survey was open to all parties, it was not Engr. Tañola's fault if the parties failed to send their other representatives to witness the conduct of the survey. And lastly, Engr. Tañola is a government official from DENR/CENRO. His acts as a government official are presumed to be regular, and in the absence of enough evidence to the contrary, the said legal presumption stands.[30] The irregularities cited by spouses Yu are not sufficient to overcome this presumption.

Thus, the Report of Verification Survey[31] (Survey Report) and the Sketch Plan Sheet I[32] submitted during the trial below categorically show that the two certificates of title do not cover the same land, thus:

After computing the actual side-shots of the properties, reference lot, it was verified and ascertained.

That Lot 7402-E, Psd-042106-054870 covered by TCT No. 348422 and registered in the name of Eulogio Topacio married to Alicia Cruz Tolentino with the total area of 9,878 square meters

That Lot 8142-New, Fls-2286, Imus Estate covered by TCT No. 490552 and registered in the name of Sps. Ernesto V. Yu and Elsie Yu with a total area of 606 square meters.

That the Tie Point of both Lot 7402-E, Psd-042106-054870 and Lot 8142-New, Fls-22 Imus Estate is Mon. No. 79, of Imus Estate and found out to be visible, undisturbed and still in con[not legible] position.

That the Tie Point of both Lot 7402-E, Psd-042106-054870 and Lot 8142-New, Fls-2286. Imus Estate and when plotted using their respective Tie Line appeared that they fall apart with each other with the approximate distance of 1,526 meters.[33] (Underlining supplied)

Thus, from the technical description of both TCT No. 348422 and TCT No. 490552, as well as the survey conducted, there is a clear showing of disparity in the location of the properties covered by the two certificates of titles of both parties. In other words, the TCT of Topacio covers an entirely different parcel of land than that of the TCT of spouses Yu. This is not a case of double registration where two certificates of titles are issued to different persons covering the same land in whole or in part.

Strictly speaking therefore, the existence of TCT No. 490552 in the name of spouses Yu, is not a cloud that prejudiced Topacio's title insofar as it pertains to a different land. Verily, there is no reason to quiet the title of Topacio and invalidate the title of spouses Yu. Thus, we affirm the ruling of the CA that the requisites for an action to quiet title are wanting in this case.

Since the property covered by TCT No. 490552, issued under spouses Yu rightfully belongs to the latter, there is, likewise, no factual or legal basis to order the reconveyance of the property in favor of Topacio as the latter has no better right to, and is not even a prior owner of the property covered by TCT No. 490552. Hence, the action for reconveyance must, likewise, be dismissed.

It appears, however, that in seeking to recover possession of the disputed property, Topacio relied mainly on the last part of the Survey Report which states:

That based on the actual verification survey the property claimed by Sps. Ernesto V. Yu and Elsie Yu with existing structure and with the total area of 450 square is inside the property of Eulogio A. Topacio, Jr. covered

by Lot 7402-E, Psd-042106-054870.[34]

We agree with the findings of the CA that the only plausible explanation for this is that spouses Yu took possession of a lot different from the lot described in their Torrens title.[35] In other words, spouses Yu physically possessed the portion of the lot belonging to Topacio which is not described in their TCT. We have here a case of physical encroachment of a parcel of land belonging to another.

Such being the case, Topacio, as a rightful titled owner of the said disputed parcel of land covered by TCT No. 348422 which was physically encroached by spouses Yu, has the right to seek recovery of its full possession. A person who possesses a title issued under the Torrens system is entitled to all the attributes of ownership including possession.[36]

The records, however, do not show that the spouses Yu was in bad faith when they possessed the disputed portion of Topacio's land. Spouses Yu were honestly convinced of the validity of their right to possess the disputed property on the basis of their valid title to it. Clearly, spouses Yu were in good faith when they built a house and fence on Lot No. 7402-E, since they honestly believed that it was covered by their TCT No. T-490552. Indeed, the essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim and absence of intention to overreach another.[37] Applied to possession, one is considered in good faith if he is not aware that there exists in his title or mode of acquisition any flaw which invalidates it.[38]

Since spouses Yu had introduced improvements on the said portion of land in good faith, Topacio as owner thereof, may exercise his option of choosing between appropriating as his own the structures constructed thereon by spouses Yu by paying the proper indemnity or value; or obliging spouses Yu to pay the price of the said lot if its value is considerably not more than that of the improvements. Otherwise, reasonable rent must be paid by spouses Yu if Topacio did not choose to appropriate the improvements, pursuant to Article 448 of the Civil Code, which provides:

ART. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof. (Emphasis supplied)

The choice belongs to the owner of the land, a rule that accords with the principle of accession that the accessory follows the principal and not the other way around.[39] Topacio must choose only one. Consequently, the Court deems it proper to delete the award of damages in favor of Topacio.[40] The damages that must be deleted in this case is the claim for compensation of P5,000.00 per month reckoned from November 29, 2000, the date of judicial demand.

As to the award of attorney's fees, the same must, likewise, be deleted. While Topacio was compelled to file this suit to vindicate his rights, this by itself will not justify the award of attorney's fees. As held by this Court:

It is settled that the award of attorney's fees is the exception rather than the rule and counsel's fees are not to be awarded every time a party wins suit. The power of the court to award attorney's fees under Article 2208 of the Civil Code demands factual, legal, and equitable justification; its basis cannot be left to speculation or conjecture. Where granted, the court must explicitly state in the body of the decision, and not only in the dispositive portion thereof, the legal reason for the award of attorney's fees.

Moreover, a recent case ruled that "in the absence of stipulation, a winning party may be awarded attorney's fees only in case plaintiffs action or defendant's stand is so untenable as to amount to gross and evident bad faith.[41]

As discussed, no bad faith on the part of spouses Yu obtains in the instant case.

WHEREFORE, the petition for review on certiorari is DENIED for lack of merit. The March 17, 2014 Decision and the December 22, 2014 Resolution of the Court of Appeals, in CA-G.R CV No. 100590 are hereby AFFIRMED with MODIFICATION such that the award of damages, in the form of reasonable compensation for the use, and attorney's fees are DELETED. Eulogio A. Topacio, Jr., however, has the right to exercise his option under Article 448 of the Civil Code. No costs.

SO ORDERED.

Carpio,* (Chairperson), Caguioa, Lazaro-Javier, and Zalameda, JJ., concur.

[*] Acting Chief Justice per Special Order No. 2703 dated September 10, 2019.

[1] Penned by Associate Justice Zenaida T. Galapate-Laguilles, with Associate Justices Celia C. Librea-Leagogo and Franchito N. Diamante, concurring; rollo, pp. 30-45.

[2] Id. at 47-48.

[3] Id. at 96-101.

[4] Later on, respondent filed a Motion to Discharge Saulog and Spouses Mupas upon learning that the properties they occupy were outside of his property.

[5] Rollo, pp. 86-94.

[6] Id. at pp. 72-73.

[7] Id. at 6.

[8] Id.

[9] Id. at 169-171.

[10] Id. at 173-176.

[11] Id. at 409-410.

[12] Id. at 49-60.

[13] Id. at 60.

[14] Id. at 61.

[15] Id. at 333-353.

[16] Id. at 44-45.

[17] Id. at 13.

[18] Spouses Basa v. Loy Vda. De Senly Loy, G.R. No. 204131, June 4, 2018,

- [19] *Seriña v. Caballero*, 480 Phil. 277, 288 (2004),
- [20] *Id.*
- [21] *Leoveras v. Valdez*, 667 Phil. 190, 199-200 (2011).
- [22] *Id.* at 200.
- [23] See *Leoveras v. Valdez*, 667 Phil. 190, 207 (2011).
- [24] *Phil-Ville Development and Housing Corp. v. Bonifacio*, 666 Phil. 325, 340 (2011).
- [25] *Rollo*, p. 6.
- [26] *Orquiola v. Court of Appeals*, 435 Phil. 323, 330 (2002).
- [27] *Alonso v. Cebu Country Club, Inc.*, 632 Phil. 637, 656-657 (2010).
- [28] *Supra* note 2, at 43.
- [29] *Id.*
- [30] *Chan v. Court of Appeals*, 359 Phil. 242, 256 (1998).
- [31] *Rollo*, p. 410.
- [32] *Id.* at 411.
- [33] *Id.*
- [34] *Id.*
- [35] See *supra* note 1, at 43.
- [36] *Tuazon v. Spouses Isagon*, 768 Phil. 292, 296 (2015).
- [37] *Ochoa v. Apeta*, 559 Phil. 650, 656 (2007).
- [38] *Id.*
- [39] *Id.* at 657.
- [40] *Bernas v. Estate of Felipe Yu Han Yat*, G.R. Nos. 195908 & 195910, August 15, 2018.
- [41] *Benedicto v. Villaflores*, 646 Phil. 733, 742 (2010) (Resolution), cited case omitted.

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