

LOURDES VALDERAMA, PETITIONER, VS. SONIA ARGUELLES AND LORNA ARGUELLES, RESPONDENTS.*G.R. No. 223660. April 02, 2018*

Ponente: TIJAM, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-223660/>**TIJAM, J.:**

Before this Court is a petition for review[1] under Rule 45 of the Rules of Court filed by Lourdes Valderama (petitioner) assailing the Decision[2] dated December 14, 2015 and Resolution[3] dated February 24, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 103744. In the said Decision, the CA dismissed the petitioner's appeal of the Resolutions[4] dated April 11, 2014 and July 31, 2014 of the Regional Trial Court (RTC) in Case No. P-09-499 LRC REC. No. 2400 ordering the cancellation of the Notice of Adverse Claim made as Entry No. 8957/Vol. 132/T-266311, Registry of Deeds of Manila.

The Antecedents

On December 11, 2009, Sonia Arguelles and Lorna Arguelles (respondents) filed a petition to cancel adverse claim[5] involving a parcel of land covered by Transfer Certificate of Title (TCT) No. 266311.[6] The petition was docketed as Case No. P-09-499, LRC Record No. 2400 before the RTC, Branch 4, Manila.

In their petition, respondents alleged that on November 18, 2004, Conchita Amongo Francia (Conchita), who was the registered owner of a parcel of land consisting of one thousand (1000) square meters located in Sampaloc, Manila and covered by TCT No. 180198 (subject property), freely and voluntarily executed an absolute deed of sale of the subject property in favor of respondents. The subject property was subsequently registered in the names of respondents under TCT No. 266311.[7]

On November 14, 2007, Conchita filed an affidavit of adverse claim[8] which was registered and annotated on TCT No. 266311. On January 24, 2008, Conchita died. As registered owners of the subject property, respondents prayed for the cancellation of the adverse claim in the petition subject of this controversy.[9]

On February 10, 2010, petitioner and Tarcila Lopez (Tarcila), as full-blooded sisters of Conchita, filed an opposition[10] to the petition. They claimed that upon Conchita's death, the latter's claims and rights against the subject property were transmitted to her heirs by operation of law.[11] They also argued that the sale of the subject property to the respondents was simulated as evidenced by the following, among others: (1) Conchita had continuous physical and legal possession over the subject property; (2) Conchita was the one paying for the real estate taxes for the subject property; and (3) Conchita had in her possession, up to the time of her death, the Owner's Duplicate Copy of the TCT No. 266311.[12]

Meanwhile, on September 24, 2013, while the petition to cancel adverse claim was pending before the RTC, respondents filed a complaint[13] for recovery of ownership and physical possession of a piece of realty and its improvements with damages and with prayer for the issuance of temporary restraining order and/or writ of preliminary injunction against petitioner and Tarcila, among others. The complaint was docketed as Civil Case

No. 13130761 and raffled to the RTC, Branch 47, Manila.

In light of the respondent's filing of the complaint, petitioner and Tarcila filed a notice of lis pendens[14] with respect to the TCT No. 266311 on October 22, 2013.

On November 21, 2013, respondents filed a manifestation and motion[15] praying for the outright cancellation of the adverse claim annotated on the TCT No. 266311 on the ground that petitioner's subsequent filing of notice of lis pendens rendered the issue moot and academic.

After an exchange of several pleadings between the parties, the RTC issued a Resolution[16] on April 11, 2014 ordering the cancellation of the adverse claim. In arriving at the said ruling, the RTC reasoned, thus:

From the examination of pleadings between the parties relative to Civil Case No. 13130761, ownership and physical possession are sufficiently made as issues between the parties in the said case. The parties have effectively submitted themselves to the jurisdiction and disposition of the court relative to claims of ownership and possession over the property covered by Transfer Certificate of Title No. 266311 of the Registry of Deeds for the City of Manila.

While this court is aware of the case of *Spouses Sajonas vs. Court of Appeals, Et Al.*, G.R. No. 102377 (July 5, 1996), it cannot disregard the pronouncement of the court in *Villaflor vs. Juerzan*, G.R. No. 35205 (April 17, 1990) which states that a Notice of Lis Pendens between the parties concerning Notice of Adverse Claim calls for the cancellation thereof. Hence, to reconcile with the two cases, this court orders the cancellation of the Adverse Claim in view of the Notice of Lis Pendens annotated on TCT No. 266311. Considering, however, the case between the parties pending before Branch 47, the cancellation brought about by the Notice of Lis Pendens is in no way in determination as to the veracity and substance of the adverse claim. The cancellation does not touch upon the issues of ownership and possession which is the property left to the jurisdiction disposition of Branch 47 of the Regional Trial Court of Manila. If this court will continue with determining the substance of the questioned adverse claim then there is a possibility that two adverse decisions will result. Thus, this court leaves the issues of ownership on possession of the wisdom of Branch 47 of the Manila Regional Trial Court.

WHEREFORE, premises considered, the Notice of Adverse Claim made as Entry No. 8957/Vol. 132/T-266311, Registry of Deeds of Manila is ordered CANCELLED. However, the cancellation is not a determination of the veracity and substance of the adverse claim and is not a final determination on the issue of ownership and possession.[17] (Emphasis supplied)

Petitioner and Tarcila filed a motion for reconsideration[18] but the same was denied in a Resolution[19] dated July 31, 2014. Aggrieved, petitioner and Tarcila appealed to the CA raising the lone assignment of error:

THE COURT A QUO COMMITTED A GRAVE AND REVERSIBLE ERROR IN ORDERING THE CANCELLATION OF THE ADVERSE CLAIM CAUSED TO BE ANNOTATED BY THE LATE CONCHITA FRANCIA SIMPLY BECAUSE A NOTICE OF LIS PENDENS WAS SUBSEQUENTLY CAUSED TO BE ANNOTATED BY OPPOSITORS- APPELLANTS ON TRANSFER CERTIFICATE OF TITLE NO. 266311[20]

Ruling of the CA

On December 14, 2015, the CA rendered a decision[21] dismissing petitioner's appeal for lack of merit. The CA held that the issue on cancellation of adverse claim is a question of law since its resolution would not involve an examination of the evidence but only an application of the law on a particular set of facts. Having raised a sole question of law, the petition was dismissed by the CA pursuant to Section 2, Rule 50 of the Rules of Court.[22] Nonetheless, the CA found no error in RTC's cancellation of the adverse claim, to wit:

In any case, oppositors-appellants' appeal before this Court has no merit. Oppositors-appellants insist that the RTC erred in ordering the cancellation of the notice of adverse claim annotated at the back of TCT No. 266311, appearing as Entry No. 8957/Vol. 132.

We do not agree.

In *Villaflor vs. Juezan*, the Supreme Court pronoun(c)ed:

"The principal issue in this appeal is whether or not an adverse claim annotated in a transfer certificate of title may be cancelled when the validity or invalidity of the claim is still subject of inquiry in a civil case pending resolution by the trial court.

x x x x

On February 22, 1961 the appellant registered his affidavit of adverse claim in Transfer Certificate of Title No. T-1217 (formerly a part of Original Certificate of Title 806) under primary entry No. 26083 of the Register of Deeds of Davao. The affidavit conformed to the requirements of Section 110, Act 496.

On March 1, 1961, the herein appellant filed Civil Case 3496 seeking from the defendant therein the surrender of owner's duplicate of Transfer Certificate of Title T-1217 in order that the deed of sale in favor of the herein appellant will be registered or annotated in the certificate of title.

In Civil Case No. 3496 the defendant's answer raised the issue of validity of the deed of sale in favor of the herein appellant. In fact, trial was had on this issue and the case until the present is pending decision in view of the death of Judge Abbas.

More than four (4) years after the appellant's adverse claim was annotated that is, on October 15, 1965 and while case No. 3496 is (sic) pending, the herein appellee presented for registration two (2) deeds of sale affecting the land subject of the action, the first dated March 21, 1963 conveying 8.6186 hectares and the second dated September 6, 1966 conveying the remaining 3.0219 hectares and as a consequence, Transfer Certificate of Title T-1217 was cancelled and in lieu thereof Transfer Certificate of Title T-7601 was issued to the appellee wherein the adverse claim annotated was carried on.

It is this adverse claim which the appellee seeks to be cancelled in this case.

x x x x

On August 21, 1968, petitioner-appellee filed a motion to dismiss appeal in the Court of Appeals on the ground that the issue involved has become moot and academic, because oppositor-appellant Jose Juezan filed a notice of lis pendens on the property covered by T.C.T. No. T-7601 and in connection with Civil Case No. 3496.

The basis of Civil Case No. 3496 is a deed of absolute sale dated July 7, 1956, allegedly executed by Simon Maghanay in favor of appellant Jose Juezan. This document is also the basis of the Affidavit of Adverse Claim ordered cancelled by the trial court. The purpose of said adverse claim is to protect the interest of the appellant pending this litigation.

Thus, considering that a notice of lis pendens had been annotated on T.C.T. No. T-7601 of petitioner-appellee, the Court finds no basis for maintaining the adverse claim.

This Court sees no reason for disturbing the questioned order of the trial court dated August 25, 1967 directing the cancellation of the oppositor-appellant's adverse claim at the back of transfer certificate of title No. T-7601. The notice of lis pendens filed by the oppositor-appellant affecting the same property in connection with Civil Case No. 3496 is sufficient.

Moreover, in the manifestation that was tiled by counsel for appellant on February 8, 1990, it appears that the related case pending in the Court of Appeals docketed as CA-G.R. No. 43818-R was terminated thus affirming

the decision of the trial court, and entry of judgment has been made per letter of transmittal dated November 5, 1975.

Consequently, the instant case has been rendered moot and academic.

WHEREFORE, the appeal is DISMISSED.

SO ORDERED.[23]

Petitioner and Tarcila moved for reconsideration[24] of the CA decision but the same was denied in a Resolution[25] dated February 24, 2016.

Undaunted, petitioner alone brought the instant petition raising the following issues:

- Whether the appeal filed before the CA involved a pure question of law;
- Whether the ruling of the Honorable Court in Villaflor vs. Juezan is inapplicable to this case; and
- Whether the adverse claim caused to be annotated by a person on a title may be cancelled merely because another person caused the annotation of a notice of lis pendens on the same title.[26]

Simply stated, the core issue to be resolved in this case is whether the subsequent annotation of a notice of lis pendens on a certificate of title renders the case for cancellation of adverse claim on the same title moot and academic.

Ruling of the Court

The CA did not err in dismissing the appeal for raising a pure question of law

Petitioner questions the CA's finding that no question of fact was raised before it. She argues that questions of fact were involved in her appeal, such as whether or not the facts of the case are similar to the facts in Villaflor vs. Juezan[27] so as to justify its application. Petitioner also mentioned that in the respondents' brief filed with the CA, the respondents called the attention of the CA to examine the peculiar facts surrounding the instant case and Civil Case No. 13130761. Respondents also questioned the legitimate interest of the petitioner over the subject property. Thus, petitioner posits that the CA should have resolved the appeal taking into consideration the evidence on record because the matters raised require the re-evaluation of the existence or relevance of surrounding circumstances.[28]

We are not persuaded.

Under Section 2, Rule 41 of the Rules of Court, there are three modes of appeal from decisions of the RTC, viz:

Section 2. Modes of appeal. -

(a) Ordinary appeal. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party. No record on appeal shall be required except in special proceedings and other cases of multiple or separate appeals where law on these Rules so require. In such cases, the record on appeal shall be filed and served in like manner.

(b) Petition for review. - The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review in accordance with Rule 42.

(c) Appeal by certiorari. - In all cases where only questions of law are raised or involved, the appeal shall be to the Supreme Court by petition for review on certiorari in accordance with the Rule 45. (Emphasis Ours)

Moreover, Section 2, Rule 50 of the Rules provide that an appeal to the CA raising only questions of law shall be dismissed outright, thus:

Section 2. Dismissal of improper appeal to the Court of Appeals. - An appeal under Rule 41 taken from the Regional Trial Court to the Court of Appeals raising only questions of law shall be dismissed, issues purely of law not being reviewable by said court. Similarly, an appeal by notice of appeal instead of by petition for review from the appellate judgment of a Regional Trial Court shall be dismissed.

An appeal erroneously taken to the Court of Appeals shall not be transferred to the appropriate court but shall be dismissed outright. (Emphasis Ours)

Applying the foregoing rules, there is no question that an appeal from the RTC to the CA raising only questions of law is an improper appeal which shall be dismissed outright. Thus, We now delve into the issue on whether petitioner's appeal before the CA raised purely questions of law thereby warranting its outright dismissal.

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[29]

As correctly observed by the CA, a careful perusal of the records reveals that the essential facts of the case are not disputed by the parties before the CA. Contrary to the petitioner's claim, the question of whether this Court's ruling in the case of *Villaflor* is applicable to the present case is not a question of fact. Given an undisputed set of facts, an appellate court may resolve the issue on what law or ruling is applicable without examining the probative value of the evidence before it.

Moreover, no other than the petitioner raised the issue on the cancellation of the adverse claim as the sole issue in her appeal before the CA. As such, the CA correctly concluded that the said issue involved a pure question of law as its resolution would not involve an examination of the evidence but only an application of the law on a particular set of facts. At any rate, the determination of whether an appeal involves only questions of law or both questions of law and fact is best left to the appellate court. All doubts as to the correctness of the conclusions of the appellate court will be resolved in favor of the CA unless it commits an error or commits a grave abuse of discretion.[30]

The CA, therefore, did not err in dismissing the appeal filed by the petitioner for being an improper appeal. The proper mode of appeal is an appeal by certiorari before this Court in accordance with Rule 45. Section 2 of the said Rule provides that appellant has a period of 15 days from notice of judgment or final order appealed from within which to perfect her appeal. In this case, petitioner filed the present petition before Us well beyond the said reglementary period.

Failure to perfect an appeal within the period provided by law renders the appealed judgment or order final and immutable. However, this rule is not without exceptions. In some cases, this Court opted to relax the rules and take cognizance of a petition for review on certiorari after an improper appeal to the CA "in the interest of justice and in order to write finis to [the] controversy"[31] and "considering the important questions involved in a [the] case." [32] As such, We proceed to decide the merits of the case considering the confusion brought by conflicting jurisprudence on the issue posed before Us.

Villaflor v. Juezan is not applicable in this case

At the outset, We rule that Villaflor v. Juezan is not applicable in this case. As aptly noted by the RTC, there is a need to reconcile the cases of Villaflor v. Juezan and Sajonas v. CA[33]. Hence, it is an opportune time for this Court to revisit the cases We decided delving on the issue before Us.

An adverse claim and a notice of lis pendens under P.D. 1529 are not of the same nature and do not serve the same purpose

An adverse claim and a notice of lis pendens are both involuntary dealings expressly recognized under Presidential Decree No. 1529 (P.D. 1529), otherwise known as the Property Registration Decree.

The remedy of annotation of an adverse claim was introduced under Act 496 or the Land Registration Act, Section 110, which reads:

Sec. 110. Whoever claims any right or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. The statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be canceled. If in any case the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble costs in its discretion. (Emphasis Ours)

Thereafter, P.D. 1529 introduced minor changes in the wordings of the law, as follows:

Sec. 70 Adverse Claim - Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of certificate of title of the registered owner, the name of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to. and shall state the adverse claimants residence. and a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of said period, the annotation of adverse claim may be canceled upon filing of a verified petition therefor by the party in interest: Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.

Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered canceled. If, in any case, the court, after notice and hearing shall find that the adverse claim thus registered was frivolous, it may fine the claimant in an amount not less than one thousand pesos nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect. (Emphasis Ours)

In the case of *Flor Martinez v. Ernesto G. Garcia and Edilberto M. Brua*,^[34] the Court held that:

The annotation of an adverse claim is a measure designed to protect the interest of a person over a piece of real property, where the registration of such interest or right is not otherwise provided for by the Land Registration Act or Act No. 496 (now P.D. No. 1529 or the Property Registration Decree), and serves a warning to third parties dealing with said property that someone is claiming an interest on the same or a better right than that of the registered owner thereof.^[35]

Also, in the case of *Teresita Rosal Arrazola v. Pedro A. Bernas and Soledad Bernas Alivio*,^[36] the Court explained:

The purpose of annotating the adverse claim on the title of the disputed land is to apprise third persons that there is a controversy over the ownership of the land and to preserve and protect the right of the adverse claimant during the pendency of the controversy. It is a notice to third persons that any transaction regarding the disputed land is subject to the outcome of the dispute.^[37]

As provided under the third paragraph of Section 70 of P.D. 1529:

The validity or efficaciousness of an adverse claim may only be determined by the Court upon petition by an interested party, in which event, the Court shall order the immediate hearing thereof and make the proper adjudication as justice and equity may warrant. And, it is only when such claim is found unmeritorious that the registration of the adverse claim may be cancelled.^[38]

On the other hand, the following Sections of P.D. 1529 govern the rule on annotation as well as cancellation of a notice of lis pendens:

Section 76. Notice of lis pendens. No action to recover possession of real estate, or to quiet title thereto, or to remove clouds upon the title thereof, or for partition, or other proceedings of any kind in court directly affecting the title to land or the use or occupation thereof or the buildings thereon, and no judgment, and no proceeding to vacate or reverse any judgment, shall have any effect upon registered land as against persons other than the parties thereto, unless a memorandum or notice stating the institution of such action or proceeding and the court wherein the same is pending, as well as the date of the institution thereof, together with a reference to the number of the certificate of title, and an adequate description of the land affected and the registered owner thereof, shall have been tiled and registered.

Section 77. Cancellation of lis pendens. Before final judgment, a notice of lis pendens may be canceled upon order of the court, after proper showing that the notice is for the purpose of molesting the adverse party, or that it is not necessary to protect the rights of the party who caused it to be registered. It may also be canceled by the Register of Deeds upon verified petition of the party who caused the registration thereof.

At any time after final judgment in favor of the defendant, or other disposition of the action such as to terminate finally all rights of the plaintiff in and to the land and/or buildings involved, in any case in which a memorandum or notice of lis pendens has been registered as provided in the preceding section, the notice of lis pendens shall be deemed canceled upon the registration of a certificate of the clerk of court in which the action or proceeding was pending stating the manner of disposal thereof. (Emphasis Ours)

Jurisprudence further provides in the case of *Fernando Carrascoso, Jr. v. The Hon. Court of Appeals*^[39] that:

The doctrine of lis pendens is founded upon reason of public policy and necessity, the purpose of which is to keep the subject matter of the litigation within the power of the court until the judgment or decree shall have been entered otherwise by successive alienations pending the litigation, its judgment or decree shall be rendered abortive and impossible of execution.^[40]

As distinguished from an adverse claim, the notice of lis pendens is ordinarily recorded without the intervention

of the court where the action is pending.[41]

Moreover, a notice of lis pendens neither affects the merits of a case nor creates a right or a lien. The notice is but an extrajudicial incident in an action. It is intended merely to constructively advise, or warn, all people who deal with the property that they so deal with it at their own risk, and whatever rights they may acquire in the property in any voluntary transaction are subject to the results of the action.[42] Corollarily, unlike the rule in adverse claims, the cancellation of a notice lis pendens is also a mere incident in the action, and may be ordered by the Court having jurisdiction of it at any given time. Its continuance or removal is not contingent on the existence of a final judgment in the action, and ordinarily has no effect on the merits thereof.[43]

Given the foregoing, the law and jurisprudence provide clear distinctions between an annotation of an adverse claim, on one hand, and an annotation of a notice of lis pendens on the other. In sum, the main differences between the two are as follows: (1) an adverse claim protects the right of a claimant during the pendency of a controversy while a notice of lis pendens protects the right of the claimant during the pendency of the action or litigation; and (2) an adverse claim may only be cancelled upon filing of a petition before the court which shall conduct a hearing on its validity while a notice of lis pendens may be cancelled without a court hearing.

A subsequent annotation of a notice of lis pendens on a certificate of title does not necessarily render a petition for cancellation of adverse claim on the same title moot and academic

Having laid down the differences between an annotation of an adverse claim and of a notice of lis pendens on a certificate title, We now delve into the issue of whether both annotations on the same certificate of title automatically constitute a superfluity that would warrant an outright cancellation of adverse claim in a petition for its cancellation on the ground of being moot and academic.

At the crux of the present controversy is this Court's ruling in the case of Villaflor[44]. In the said case, the appellant registered and annotated his affidavit of adverse claim on a certificate of title on the basis of a deed of sale issued in his favor pursuant to Section 110, Act 496. Subsequently, he filed a civil case seeking the surrender of defendant's owner's duplicate of the certificate of title in order that the deed of sale in his favor will be registered or annotated in the same certificate. In the civil case, defendant raised the issue of validity of the deed of sale in favor of appellant. More than four years after and while the civil case was pending, the appellee sought to cancel the annotation of the adverse claim. The lower court first ordered its cancellation, then reconsidered, and finally returned to its original stand. Thus, the sole issue on whether or not an adverse claim annotated in a transfer certificate of title may be cancelled when the validity or invalidity of the claim is still subject of inquiry in a civil case pending resolution by the trial court, reached this Court.[45]

In finding no basis for maintaining the adverse claim, this Court noted the manifestation filed by the appellant's counsel that the related case pending in the CA was terminated thus affirming the decision of the trial court, and entry of judgment has been made. Consequently, this Court ruled in Villaflor that the case has been rendered moot and academic.[46]

Admittedly, the present case involves the same issue resolved by this Court in Villaflor. However, the Villaflor ruling stemmed from a different factual milieu. As pointed out by the petitioner, in the case at bar, the respondents are the ones who filed the case subject of the notice of lis pendens. Further, the ruling in Villaflor specifically highlighted the fact that the related civil case was already terminated and attained finality. Here, the civil case filed by the respondents is still pending before the RTC.

To Our mind, the termination of the related case subject of the notice of lis pendens was a material factor in considering the petition for cancellation of adverse claim moot and academic in the case of Villaflor. As such, the

ruling in Villaflor is still good law if the same factual circumstances are attendant. Unfortunately, the facts in the present case calls for a different ruling.

The ruling of this Court in the case of *Ty Sin Tei v. Dy Piao* is applicable in this case

In the case of *Paz Ty Sin Tei v. Jose Lee Dy Piao*[47], this Court sitting En Banc discussed in-depth the present issue. Although the said case was decided in 1958, the rules on adverse claim were substantially the same under Act 496 and under P.D. 1529, notwithstanding a few changes in the wordings.

In *Ty Sin Tei*, the only issue presented before this Court is whether the institution of an action and the corresponding annotation of a notice of lis pendens at the back of a certificate of title invalidates a prior notation of an adverse claim appearing on the same title, where the aforementioned action and the adverse claim refer to the same right or interest sought to be recovered. Unlike in *Villaflor*, this Court, in *Ty Sin Tei*, set aside the lower court's order directing the cancellation of appellants adverse claim on the certificate of title. Pertinent portions of the decision are instructive, and reproduced as follows:

x x x the action taken by the lower Court in ordering the cancellation of the adverse claim before its validity could be passed upon, is not sanctioned by law.

But We have to give certain consideration to the implication created by the lower court's ruling that the institution of a court action for the purpose of securing or preserving the right which is also the object of an adverse claim invalidates the latter, irrespective of whether a notice of lis pendens has been annotated or not, for such a doctrine gives the impression that the 2 remedies are contradictory or repugnant to one another, the existence of one automatically nullifying the other. We are inclined to believe otherwise, for while both registrations have their own characteristics and requisites, it cannot be denied that they are both intended to protect the interest of a claimant by posing as notices and caution to those dealing with the property that same is subject to a claim. But while a notice of lis pendens remains during the pendency of the action, although same may be cancelled under certain circumstances as where the case is prolonged unnecessarily or for failure of the plaintiff to introduce evidence hearing out the allegations of the complaint (*Victoriano vs. Rovira*, 55 Phil., 1000; *Municipal Council of Parañaque vs. Court of First Instance of Rizal*, 40 Off. Gaz., 8th Supp., 196); and it has even been held that a court, in the absence of a statute, has the inherent power to cancel a lis pendens notice in a proper case (*Victoriano vs. Rovira*, supra), the same is not true in a registered adverse claim, for it may be cancelled only in one instance, i.e., after the claim is adjudged invalid or unmeritorious by the Court, acting either as a land registration court or one of general jurisdiction while passing upon a case before it where the subject of the litigation is the same interest or right which is being secured by the adverse claim. The possibility therefore, that parties claiming an interest in a registered property desire, for any other purpose, to have their cause ventilated in a court of general jurisdiction, may result in giving them two ways of making the registration of their claimed rights. In such instances, it would not only be unreasonable but also oppressive to hold that the subsequent institution of an ordinary civil action would work to divest the adverse claim of its validity, for as We have pointed out, a notice of lis pendens may be cancelled even before the action is finally terminated for causes which may not be attributable to the claimant. And it would similarly be beyond reason to confine a claimant to the remedy afforded by section 110 of Act 496 if there are other recourses in law which such claimant may avail of. But, if any of the registrations should be considered unnecessary or superfluous, it would be the notice of lis pendens and not the annotation of the adverse claim which is more permanent and cannot be cancelled without adequate hearing and proper disposition of the claim.

Wherefore, and on the strength of the foregoing considerations, the order appealed from directing the Register of Deeds of Manila to cancel the annotation of adverse claim at the back of Transfer Certificate of Title No. 58652, is hereby set aside and appellee's petition for cancellation dismissed, with costs against petitioner--appellee. It is so ordered.[48] (Emphasis Ours)

The aforecited rationale of this Court in *Ty Sin Tei* is more in accordance with the basic tenets of fair play and

justice. As previously discussed, a notice of lis pendens is a mere incident of an action which does not create any right nor lien. It may be cancelled without a court hearing. In contrast, an adverse claim constitutes a lien on a property. As such, the cancellation of an adverse claim is still necessary to render it ineffective, otherwise, the inscription will remain annotated and shall continue as a lien upon the property.[49]

Given the different attributes and characteristics of an adverse claim vis-a-vis a notice of lis pendens, this Court is led to no other conclusion but that the said two remedies may be availed of at the same time. In fact, in a later case[50] this Court ruled that the annotation of a notice of lis pendens at the back of a certificate of title does not preclude the subsequent registration on the same certificate of title of an adverse claim. Citing the ruling in *Ty Sin Tei*, this Court reasoned that the two remedies are not contradictory to one another.

It bears stressing that the court is given a mandate under Section 70 or P.D. 1529, i.e., upon a petition of any party in interest, it shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. Clearly, the validity of the adverse claim in this case was not inquired into by the RTC. The RTC, thus, reasoned that if it will continue to determine the substance of the questioned adverse claim, it may arrive into a decision which is adverse to the possible decision in the related case filed by the respondents. However, We are not swayed by such reasoning. The law is clear as to the mandate of the court hearing the petition for cancellation of adverse claim. Unless the subject controversy of the adverse claim is finally settled by another court in a related case, the court before which the petition for cancellation of adverse claim is filed can not excuse itself from hearing the validity of the said adverse claim.

Further, upholding the right of an opposing party to the outright cancellation of adverse claim on the sole basis of a subsequent notice of lis pendens on the same title would not achieve any sound purpose. It may even encourage a party to not avail the remedy of annotation of a notice of lis pendens if an adverse claim was already registered and annotated in the same party's favor. Furthermore, such ruling would result to a situation where the subject case of the notice of lis pendens may be dismissed on grounds not attributable to the adverse claimant. an example of which is, as pointed out by the petitioner, deliberate forum-shopping of the other party who filed the related case. Thus, the adverse claimant will be left with no other remedy in law to protect his or her rights. To Our mind, this is not the intent of the law.

In light of the foregoing, this Court finds merit in the present petition. The RTC erred in ordering the cancellation of the petitioner's adverse claim on the mere basis of a subsequent annotation of a notice of lis pendens on the same certificate of title. We reverse and set aside the Resolutions of the RTC and order the petition for cancellation of adverse claim dismissed.

WHEREFORE, premises considered, the petition is GRANTED. The Resolutions dated April 11, 2014 and July 31, 2014 of the Regional Trial Court (RTC) in Case No. P-09-499 LRC REC. No. 2400, ordering the cancellation of the Notice of Adverse Claim made as Entry No. 8957/Vol. 132/T-266311, Registry of Deeds of Manila are hereby SET ASIDE and respondents Sonia Arguelles and Lorna Arguelles's petition for cancellation DISMISSED.

SO ORDERED.

Sereno, C. J., (Chairperson), on leave.

Leonardo-De Castro,[**] Del Castillo, and Jardeleza, JJ., concurring.

[**] Designated as Acting Chairperson pursuant to Special Order No. 2540 dated February 28, 2018.

[1] Rollo, pp. 3-33.

[2] Penned by Associate Justice Magdangal M. De Leon, concurred in by Associate Justices Elihu A. Ybañez and Victoria Isabel A. Paredes; id. at 35-46.

[3] Id. at 48-49.

[4] Penned by Judge Jose Lorenzo R. Dela Rosa; id. at 200-201 and 214.

[5] Id. at 53-56.

[6] Id. at 58-60.

[7] Id. at 53-54.

[8] Id. at 63-66.

[9] Id.

[10] Id. at 80-96.

[11] Id. at 81-82.

[12] Id. at 84-85.

[13] Id. at 121-132.

[14] Id. at 166-168.

[15] Id. at 115-117.

[16] Id. at 200-201.

[17] Id.

[18] Id. at 202-212.

[19] Id. at 214.

[20] Id. at 221.

[21] Id. at 35-46.

[22] Id. at 41-43.

[23] Id. at 43-45 (citations omitted).

[24] Id. at 264-275.

[25] Id. at 48-49.

[26] Id. at 15.

[27] 263 Phil. 224 (1990).

[28] Rollo pp. 15-17.

[29] Leoncio, et al. v. Vera, et al., 569 Phil. 512 (2008).

[30] First Bancorp, Inc. v. CA, 525 Phil. 309, 326 (2006).

- [31] Municipality of Pateros v. Hon. CA, et al., 607 Phil. 104, 114 (2009).
- [32] City of Lapu-lapu v. Philippine Economic Zone Authority, 748 Phil. 473, 508 (2014).
- [33] 327 Phil. 689 (1996).
- [34] 625 Phil. 377 (2010).
- [35] Id. at 391-392.
- [36] 175 Phil. 452 (1978).
- [37] Id. at 456-457.
- [38] Atty. Ferrer v. Spouses Diaz, et al., 633 Phil. 244, 259 (2010).
- [39] 514 Phil. 48 (2005).
- [40] Id. at 79.
- [41] Villanueva v. Court of Appeals, 346 Phil. 289, 298 (1997).
- [42] Magdalena Homeowners Association, Inc. v. Court of Appeals, 263 Phil. 235, 241 (1990).
- [43] Id.
- [44] Villaflor, *supra* note 27.
- [45] Id.
- [46] Id.
- [47] 103 Phil. 858 (1958).
- [48] Id. at 868-869.
- [49] Sajonas vs. CA, 327 Phil. 689, 710 (1996).
- [50] A. Doronila Resources Dev., Inc. v. Court of Appeals, 241 Phil. 28 (1988).

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