

LEONARDO MONTINOLA, ROBERTO MONTINOLA, RODOLFO MONTINOLA, THRU HIS BROTHER AND ATTORNEY-IN-FACT LEONARDO MONTINOLA, LOLITA MONTINOLA, JOINED BY HER HUSBAND RUSTICO GARINGAN, AND...

G.R. No. 65584. July 20, 1990

Ponente: PARAS, J.

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PARAS, J.:

These are petitions for review on certiorari of the March 22, 1982 decision* of the Court of Appeals in CA-G.R. No. 60234-R reversing the March 24, 1975 decision of the then Court of First Instance of Agusan del Norte; and the October 27, 1983 resolution** of the then Intermediate Appellate Court denying the motion for reconsideration.

The controversy involved in this case is Lot No. 150 of the Cadastral Survey of Nasipit. The said lot is covered by two (2) certificates of title in the name of different owners - extrajudicially reconstituted TCT No. RT-331 (476) in the name of Carlos Rodriguez, the predecessor-in-interest of herein petitioner Leonardo Montinola, et al. (MONTINOLAS, for short); and judicially reconstituted OCT No. RO-265 (N.A.) in the name of Lorenzo Cardoniga, the predecessor-in-interest of herein private respondents Silveria Vda. de Cardoniga, et al. (CARDONIGAS, for short). Possession of the said lot is with Nasipit Lumber Company, Inc. (NLCI, for short) as lessee of MONTINOLAS since 1946.

The predecessor-in-interest of respondent CARDONIGAS, Lorenzo Cardoniga, having been declared the owner of Lot 150 (June 3, 1929 decision of the Cadastral Court of Agusan, Record on Appeal, pp. 70-74), demanded payment of rentals from petitioner NLCI who had occupied the property since 1946. NLCI, however, refused and demanded that the certificate of title to the land be shown. Lorenzo Cardoniga who lost his title to the land during World War II, took steps to reconstitute the same and after acquiring the reconstituted title, he again demanded from petitioner NLCI, but the latter again refused. Hence, on February 15, 1960, he filed Civil Case No. 770 with the then Court of First Instance of Agusan, but the same was dismissed without prejudice because petitioner NLCI set up the defense that it was leasing the lot in question from petitioner MONTINOLAS.

On February 16, 1972, respondent CARDONIGAS filed a second complaint against petitioner NLCI, docketed as Civil Case No. 1455 in the then Court of First Instance of Agusan del Norte (Record on Appeal, pp. 1-5), wherein it is alleged, among others, that they are the owners of Lot 150 and that in 1946 petitioner NLCI took possession of the same without their knowledge and without paying rentals thereon despite demand therefor.

Petitioner NLCI, in its Answer with Counterclaim (Ibid., pp. 6-9), admits possession of the said land since 1946, but claims that the same is being leased by it from the spouses Calixto Montinola and Dolores Rodriguez, now both deceased, and later from their successor-in-interest up to the present.

After respondent CARDONIGAS had filed their Answer to Counterclaim (Ibid., pp. 15-17), petitioner NLCI, with

leave of court, filed a Third Party Complaint against petitioner MONTINOLAS for satisfaction of all claim for damages and attorney's fees of respondent CARDONIGAS (Ibid., pp. 17-19).

Petitioner MONTINOLAS, in their Answer with Counterclaim (Ibid., pp. 27-30), claim that they are the true and lawful owners of the land in question as evidenced by Transfer Certificate of Title No. RT 1491 in their names.

After trial, the trial court, in a decision dated March 24, 1975 (Ibid., pp. 38-63), dismissed the complaint -

"WHEREFORE, judgment is hereby rendered dismissing the complaint, the third-party complaint, and the counterclaims in this case, with costs against the plaintiffs."

On May 23, 1975, respondent CARDONIGAS filed a Motion for Reconsideration and New Trial (Ibid., pp. 66-68), but the same was denied in an order dated February 23, 1976 (Ibid., p. 81).

Respondent CARDONIGAS appealed, and respondent Court of Appeals, in a decision promulgated on March 22, 1982 (Rollo of G.R. No. 65895, pp. 30-38), reversed the appealed decision -

"WHEREFORE, the decision appealed from is hereby reversed and set aside and another one entered, declaring the plaintiffs the owners of the land described in their complaint, ordering the Register of Deeds of Agusan del Norte to cancel Transfer Certificate of Title No. RT-331 (476) and any and all titles issued in lieu of TCT No. RT?331 (476), and ordering the defendant to vacate the land and to pay the plaintiffs the sum of P600.00 a month as rental from date of the filing of the complaint until it finally vacates the premises. Costs against the third-party defendants."

Both petitioners filed a separate motion for reconsideration, but the same were denied in a resolution promulgated on October 27, 1983 (Ibid., pp. 39-46). Hence, the instant petitions.

The First Division of this Court, after the filing of the required pleadings, in a resolution dated October 29, 1984 (Ibid., p. 86) resolved to give due course to the petition of petitioner NLCI, and to consolidate the same with the petition of petitioner MONTINOLAS which had previously been given due course.

Petitioner NLCI raised four (4) issues and reasons for the allowance of the petition, to wit:

I

RESPONDENT COURT ERRED IN HOLDING THAT THE RECONSTITUTED OCT NO. RO-265 (N.A.) IN THE NAME OF LORENZO CARDONIGA AS ORDERED BY JUDGE MONTANO ORTIZ, MUST PREVAIL OVER RECONSTITUTED TCT NO. RT-331 (476) IN THE NAME OF CARLOS RODRIGUEZ ISSUED ON MARCH 4, 1953;

II

RESPONDENT COURT ERRED IN CONSIDERING AS EVIDENCE IN THIS CASE THE CADASTRAL DECISION OF JUDGE BUYSON AS A NEWLY DISCOVERED EVIDENCE WITHOUT A NEW TRIAL;

III

RESPONDENT COURT ERRED IN ORDERING PETITIONER TO VACATE THE LAND IN QUESTION, AND TO PAY RENTALS TO PLAINTIFF IN THE SUM OF P600.00 A MONTH FROM THE DATE OF THE FILING OF THE COMPLAINT UNTIL IT VACATES THE PREMISES; and

IV

ASSUMING AD ARGUENDO THAT ITS DECISION AND RESOLUTION WERE CORRECT, RESPONDENT COURT ERRED IN NOT ABSOLVING PETITIONER AND IN NOT RESOLVING THE THIRD PARTY COMPLAINT BY MAKING THIRD PARTY DEFENDANTS ANSWERABLE FOR PLAINTIFFS' CLAIMS FOR RENTALS FROM THE TIME OF THE FILING OF THE COMPLAINT, ON THE STRENGTH OF THE WARRANTY ON PEACEFUL POSSESSION OF THE PREMISES ON THE PART OF SAID THIRD PARTY DEFENDANTS IN THE EXISTING CONTRACT OF LEASE. (pp. 20-21, Rollo in G.R. No. 65895)

Petitioner MONTINOLAS, on the other hand, likewise gave four (4) reasons to justify the allowance of their petition -

I

IT IS CLEAR AND PATENT ERROR FOR THE COURT OF APPEALS (EIGHT DIVISION) TO CONSIDER THE DECISION OF JUDGE BUYSON AS EVIDENCE IN THIS CASE;

II

EVEN ASSUMING THAT THE CADASTRAL DECISION OF JUDGE BUYSON MAY BE CONSIDERED AS EVIDENCE IN THIS CASE, IT WILL NOT ALTER THE RESULT;

III

THE RESPONDENT COURT ERRED IN HOLDING THAT AS BETWEEN THE RECONSTITUTED TCT No. RT-331 (476) ISSUED IN THE NAME OF CARLOS RODRIGUEZ ON MARCH 4, 1953 AND THE RECONSTITUTED OCT NO. RO-265 (N.A.) ISSUED IN THE NAME OF LORENZO CARDONIGA PER ORDER OF JUDGE MONTANO A. ORTIZ ON MARCH 2, 1959, THE LATTER SHOULD PREVAIL; AND

IV

THE RESPONDENT COURT ERRED IN ORDERING THE REGISTER OF DEEDS OF AGUSAN DEL NORTE TO CANCEL THE RECONSTITUTED TCT NO. RT-331 (476) IN THE NAME OF CARLOS RODRIGUEZ AND THE TITLES OF PETITIONER DERIVED THEREFROM. (pp. 23-24, 30, Rollo in G.R. No. 65584)

The instant petitions are devoid of merit.

The main issue in this case is whether or not the Court of Appeals erred in holding that the CARDONIGA's title to the lot in question prevails over the title of the MONTINOLAS.

The answer is in the negative.

It is the contention of the petitioners that the MONTINOLAS' title to the lot in question, TCT No. RT-331 (476) was issued on March 4, 1953; while that of the CARDONIGAS' title, OCT No. RO--265 (N.A.) was issued six (6) years after, or on March 8, 1959. Accordingly, they alleged that the Court of Appeals erred in holding that in point of priority of issuance, the CARDONIGAS' title prevails over the MONTINOLAS' title.

Petitioners' allegation is untenable.

It is true that the MONTINOLAS' title to the questioned lot was reconstituted ahead than that of the

CARDONIGAS. However, it must be stated that the title of MONTINOLAS' predecessor-in-interest was originally registered on September 5, 1927 (Exh. II, Record on Appeal, p. 59). On the other hand, in a cadastral decision dated June 3, 1925, penned by Judge M. Buyson Lampa, the questioned lot was awarded to the CARDONIGAS predecessor-in-interest:

"LOTE NO. 150, con las mejoras existentes en el, a favor de Lorenzo Cardoniga exclusivamente, casado con Silveria Namukatkat." (p. 49, Rollo)

It is clear, therefore, that in time of priority of issuance, the CARDONIGAS' title to the questioned lot is ahead of that of the MONTINOLAS.

Nevertheless, petitioners claim that the said decision of Judge Buyson is inadmissible in evidence until the same is presented in new trial. Such claim is untenable. It must be stated that the said decision is a part of the records in the trial court. Its authenticity was even admitted by the petitioners. Under the circumstances, it is evident that the remand of this case to the lower courts for reception of evidence as ruled by this Court, is not necessary if the appellate court could resolve the dispute on the records before it (*Group Developers and Financiers, Inc. vs. Policarpio*, G.R. 73421, November 29, 1988).

Moreover, as aptly stated by the Court of Appeals, the title of the MONTINOLAS' predecessor-in-interest is of doubtful validity. TCT No. 476, dated December 13, 1940, was the source of the administratively reconstituted title, dated March 4, 1953, in the name of spouses Calixto and Dolores Montinola. This TCT No. 46 was a transfer from OCT No. 918 which was recorded as originally registered on September 5, 1927 and reflected therein in the titles of their predecessors-in-interest. However, the original date of the decree of registration was in reality March 8, 1927, and not September 5, 1927 (Certificate of Godofredo R. Villasnor, Chief Surveyor and Acting Chief, Division of Original Registration).

Be that as it may, petitioner NLCI is the lessee of the MONTINOLAS and should therefore, be absolved from paying the awarded rentals. It should be ordered to pay rentals to the CARDONIGAS only after receipt of this decision until it vacates the premises. The MONTINOLAS should pay the awarded rentals.

PREMISES CONSIDERED, the questioned decision of the Intermediate Appellate Court (later the Court of Appeals) is hereby MODIFIED as follows: the MONTINOLAS, not the NLCI, are hereby ordered to pay the damages awarded by the trial court, and the NLCI is ordered to pay the subsequent rentals, upon receipt of this decision, to the CARDONIGAS until it vacates the premises.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

* Eight Division; penned by Associate Justice Porfirio V. Sison and concurred in by Associate Justices Oscar R. Victoriano and Mariano A. Zosa.

** Fourth Civil Cases Division of the then Intermediate Appellate Court; penned by Associate Justice Desiderio P. Jurado and concurred in by Appellate Justices Marcelino R. Veloso and Abdulwahid A. Bidin.

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