

NORMA S. TIRADO, PETITIONER, VS. LILIA SEVILLA, THOMAS S. ONG, CELSO UY AND COURT OF APPEALS, RESPONDENTS.

G.R. No. 84201. August 03, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This petition seeks to review on certiorari the decision of the Court of Appeals, dated March 1, 1988, which modified and/or amended the decision of the Regional Trial Court of Kalookan City by declaring private respondents Celso Uy and Thomas S. Ong purchasers in good faith and for value of a parcel of land (contrary to the findings of the trial court) as follows:

“WHEREFORE, IN VIEW OF THE ABOVE, the appealed decision is hereby MODIFIED and TCT--12456 issued in the names of Thomas S. Ong and Celso Uy is hereby declared valid without prejudice on the part of plaintiff-appellee to file a separate action for reimbursement for the value of said property from appellant Lilia Sevilla.

“Other than the modification above indicated, the rest of the decision appealed from dated April 25, 1984 is hereby AFFIRMED in toto. No pronouncement as to cost.

“SO ORDERED.” (p. 6, Rollo)

As culled from the decision of the trial court^[1] the facts of the case are as follows:

Petitioner Norma S. Tirado (hereafter Mrs. Tirado) acquired ownership of a parcel of land under a Deed of Assignment executed by her father Jose Dimzon on October 12, 1967. The deed assigned 73,000 sq. m. of Dimzon’s land consisting of 361,558 sq. m., (Plan of Lot B-2, Psd-4350, Exh. “C,” Lilia Sevilla) (p. 163, Rollo).

Tirado subsequently sought the assistance of respondent Lilia Sevilla to have her land titled, including that of her father. Mrs. Sevilla agreed, provided Mrs. Tirado sold one hectare of land to her. A deed of sale was finalized on September 30, 1974, under which Mrs. Sevilla would get 10,600 sq. m. (1 ha.) for a consideration of P500,000.00. Mrs. Sevilla failed to pay the downpayment of P50,000.00 within the agreed one-week period.

Keenly interested in having her land titled, Mrs. Tirado agreed to execute another deed of sale whereby she would sell 15,000 sq. m. (or 1.5 has.) to Mrs. Sevilla who, in turn, would deliver three (3) fishing boats worth P150,000.00 and advance initial expenses for the titling of the land. The first deed of sale would be deemed cancelled. The second document of sale was finalized on December 23, 1975.

Despite the lapse of several months, and repeated demands, Mrs. Sevilla failed to institute any proceedings nor to advance any money for the titling of Mrs. Tirado’s land. Instead, without Mrs. Tirado’s consent and knowledge, she filed a petition in her name (Civil Case 1755, CFI, Br. XXXII, Kalookan City) for the issuance of title over the entire area of Lot B-2, Psd-4350 (Dimzon’s land) which includes Mrs. Tirado’s 73,000 sq. m.

On December 23, 1976, TCT No. 4128 (covering both Mrs. Tirado and Dimsons’s lands, or the entire Lot B-2 of

Plan Psd-4350) was issued in Mrs. Sevilla's name. Later, Mrs. Sevilla submitted a subdivision plan on the basis of which three (3) transfer certificates of title (TCT Nos. C-5374, C-5379 and C-5380) were issued in lieu of TCT-4128, likewise in the name of Mrs. Sevilla.

On March 29, 1977, TCT No. C-5380 was cancelled and in its stead Transfer Certificate of Title Nos. C-10298 and C-10299 were issued, again in Mrs. Sevilla's name.

On November 8, 1977, Mrs. Sevilla sold 4/5 portion of TCT No. C-10299 to Thomas Ong and, on November 15, 1977, 1/5 portion thereof to Celso Uy (p. 77, Rollo). On February 14, 1978, TCT No. C-12456 was issued to Ong and Uy, (co-respondents in this petition).

On the other hand, Mrs. Tirado who had verified the issuance of TCT No. 4128, filed on December 23, 1977, this case (CC No. 6667, RTC, Br. XXXIII, Kalookan City) for the annulment of the judgment in Civil Case 1755 and the corresponding cancellation of TCT No. 4128. Respondent Sevilla was declared in default for failure to file her answer and petitioner was allowed to present her evidence ex parte. Ong and Uy, who had been impleaded on an amended complaint (filed on January 14, 1980) filed an answer with counterclaim and crossclaim against Lilia Sevilla, on September 12, 1980.

On February 20, 1984, Ong and Uy were likewise declared in default for failure of their counsel, who had been given a special power of attorney, to appear on their behalf at the pre-trial. Petitioner was likewise allowed to present her evidence ex parte against Ong and Uy.

On April 25, 1984, the trial court rendered a decision, the dispositive portion of which provides:

"WHEREFORE, judgment is rendered in favor of petitioner and against respondent Lilia Sevilla, ordering the questioned decision partly nullified and transfer certificate of title No. 4128 issued therefrom is hereby amended to exclude the claim of herein petitioner to the extent of 73,000 square meters. Necessarily, subsequent transfers, if any, from the said title particularly Transfer of Certificate Nos. C-5380, C-10298, C-10299 and C-12456, involving the property awarded to herein petitioner are declared null and void ab initio. As to petitioner's prayer that the Register of Deeds for the City of Kalookan be directed to issue separate transfer certificate of title in the name of herein petitioner for the area claimed by her totalling seventy three thousand (73,000) square meters, this Court cannot rule on this prayer considering that the issuance of such title by the Register of Deeds shall be subject to the submission of a subdivision plan duly approved by the Land Registration Commission. Further respondent Lilia Sevilla is ordered to pay unto petitioner the following:

"1. The amount of P30,000.00 for moral damages and the further sum of P20,000.00 as exemplary damages;

"2. The amount of P10,000.00 for and as attorney's fees; and

"3. The costs of suit.

"With regards (sic) to the cross-claim interposed against respondent Lilia D. Sevilla and as aforesated, respondent Lilia D. Sevilla is further ordered to pay respondents Thomas S. Ong and Celso Uy the following:

"1. The amount of the purchase price of the parcel of land purchased by respondents Thomas S. Ong and Celso Uy from respondent Lilia D. Sevilla and which property is more particularly described in the herein cancelled TCT No. C-12456;

"2. The amount of P10,000.00 for and as attorney's fees; and

"3. Costs of suit.

"The counterclaim as interposed by respondents Thomas Ong and Celso Uy are hereby DISMISSED for lack

of basis to support the same.

“SO ORDERED.” (pp. 55-56, RTC Decision, Rollo)

A motion for reconsideration filed by Ong and Uy was denied on October 23, 1984.

On appeal by Mrs. Sevilla, Ong and Uy, the Court of Appeals modified the decision by declaring Ong and Uy purchasers in good faith and for value, in effect depriving Mrs. Tirado of that portion of land to the extent covered by TCT No. 12456.

Hence, this petition by Mrs. Tirado questioning the validity of TCT No. C-12456 issued in the names of Ong and Uy.

We affirm the ruling of the Court of Appeals.

Mrs. Tirado anchors her argument on the *lis pendens* earlier inscribed on TCT Nos. 10298 and 10299 on July 29, 1977. This was, however, done at the instance of the counsel of Mrs. Tirado’s mother, Mrs. Roqueta Rodriguez--Dimson who had earlier filed CC-1836, in the then CFI, Br. 120, Kalookan City (p. 97, Rollo) for the annulment likewise of TCT No. 4128 and all titles emanating therefrom. The case was however subsequently dismissed on December 15, 1977 because Mrs. Dimson was not the real party-in-interest (p. 105, Rollo). The order cancelling Mrs. Dimson’s *lis pendens* was inscribed on February 7, 1978 (p. 75, Rollo) or seven (7) days prior to the issuance of TCT No. 12456 on February 14, 1978 in Ong and Uy’s name. Mrs. Tirado insists that since the *lis pendens* had been duly inscribed on TCT No. 5380 on July 29, 1977, and subsequently carried over to TCT Nos. 10298 and 10299, Ong and Uy had been duly forewarned about an infirmity in said title; hence, at the time they purchased subject property in November, 1977, they could not be considered purchasers in good faith, and the subsequent issuance of TCT 12456 was an error.

The purpose of filing notice of *lis pendens* is to charge strangers with notice of the particular litigation referred to in the notice; and if the notice is effective, a third person who acquires the property affected by the *lis pendens* takes same subject to the eventuality of the litigation. But when the adverse right fails in such litigation, the *lis pendens* loses its efficacy (*Atkins Kroll & Co. vs. Domingo*, 46 Phil. 362 1924) cited in *Noblejas and Noblejas, Registration of Land Titles and Deeds, Ann., 1986 Ed., p. 304*)

Thus, the Court of Appeals correctly ruled:

“x x x at the time appellants Ong and Uy purchased the realty in question (T.C.T. No. C-10299), they were well aware that it was involved in a litigation because of a notice of *lis pendens* filed by the counsel of Roqueta Rodriguez on July 28, 1977. However, they (Ong and Uy) took a calculated risk and brought (sic) it just the same from Lilia Sevilla, hoping all the while mayhap, that a decision would be rendered favorable to their predecessor-in-interest, Lilia Sevilla in Civil Case No. C-1836. And true enough and as per their expectation, after said sale to appellants (Ong and Uy), said notice of *lis pendens* was cancelled by virtue of the order of the Court of First Instance of Rizal, Caloocan, Branch XII on December 17, 1977, by virtue of a favorable decision rendered in favor of said Lilia Sevilla. On February 14, 1978, T.C.T. No. C-12456 was issued in the names of defendants-appellants Thomas S. Ong and Celso S. Uy (Exh. C, Uy-Ong; p. 177, Records). Said Torrens Title does not also show any notice (sic) *lis pendens* annotated therein. (pp. 39-40, Rollo, CA Decision)

“x x x.

“At bar, it is beyond question that at the beginning, Lilia Sevilla’s title to said property was contested by Roqueta Rodriguez. However, once the Court of First Instance of Caloocan, Branch XII rendered its decision in favor of said Lilia Sevilla, her title thereto became judicially settled so that it ineluctably follows that the title awarded to her is a legal title. It also logically follows that appellants Uy and Ong then stepped into the

shoes of Lilia Sevilla so that the latter (Uy and Ong) are to all intents and purposes purchasers in good faith and for value because their predecessor's title was held valid by the court in Civil Case No. 1836." (p. 72, Rollo, CA Resolution on Motion for Reconsideration)

To require Ong and Uy to go beyond the lis pendens annotation or to look beyond TCT No. 10299 would be to impose an additional burden on Ong and Uy since the lis pendens annotation sufficiently served its purpose.

Moreover, the lis pendens annotation, although considered a "general notice to all the world, x x x it is not correct to speak of it as a part of the doctrine of notice; the purchaser pendente lite is affected, not by notice, but because the law does not allow litigating parties to give to others, pending the litigation, rights to the property in dispute so as to prejudice the opposite party. The doctrine rests upon public policy, not notice." (2 Bouvier, Law Dictionary and Concise Encyclopedia, p. 2032, SCRA Annotation on Civil Law, the Public Land Act and the Property Registration Decree, 1983 Ed., Central Lawbook Publishing Co., Inc., pp. 118-119) (emphasis supplied).

It is now pointed out that Mrs. Tirado had likewise caused to be inscribed a lis pendens on TCT No. 10298 which had remained titled in Sevilla's name. The parcel of land covered by said title however was never the subject of any deed of sale between her and Ong and Uy. Moreover, such lis pendens was inscribed only on August 31, 1979, two years after Ong and Uy had brought the land covered by TCT No. 10299 in 1977, and a year after TCT No. 10299 was cancelled on February 14, 1978 to give way to TCT No. 12456 in Ong and Uy's name.

Petitioner again points out that she had likewise caused to be inscribed a lis pendens on TCT No. 12456 (p. 8, Rollo). This move however is irrelevant since the inscription was made on April 22, 1980, or two years after TCT 12456 had long become indefeasible. We quote from the CA decision:

"In a host of cases, our Supreme Court has enunciated the well-settled rule that 'The Certificate serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein. After the expiration of the one year period from the issuance of the decree of registration upon which it is based, it becomes incontrovertible (Pamintuan vs. San Agustin, 43 Phil. 558; Reyes and Nadres vs. Borbon and Director of Lands, 50 Phil. 791; Manuel Syjuco, et al. vs. Luis Francisco, 53 O.G. 2186, April 15, 1957; Brizuela, et al. vs. Ciriaco Vda. de Vargas, 53 O.G. 2822, May 15, 1987.'" (p. 41, Rollo)

Besides, Ong and Uy were impleaded by Mrs. Tirado on an amended complaint on January 14, 1980, two years after the issuance of TCT 12456.

ACCORDINGLY, We AFFIRM the decision of the Court of Appeals. No Costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Gancayco, and Grino-Aquino, JJ., concur.

[1] RTC, NCJR, CXXIII, Kalookan City

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