

THIRD DIVISION

[G.R. NO. 155225, September 23, 2005]

**PVC INVESTMENT & MANAGEMENT CORPORATION, PETITIONER,
VS. JOSE BORCENA AND NICOMEDES RAVIDAS, RESPONDENTS.**

D E C I S I O N

GARCIA, J.:

In this petition for review on *certiorari* under Rule 45 of the Rules of Court, petitioner PVC Investment & Management Corporation seeks the annulment and setting aside of the following issuances of the Court of Appeals (CA) in CA-G.R. CV No. 68887, to wit:

1. **Decision dated 21 November 2001,**^[1] granting the appeal taken by the herein respondents Jose Borcena and Nicomedes Ravidas *contra* the Order dated 26 May 2000 of the Regional Trial Court at Cagayan de Oro City in its Civil Case No. 2000-84; and
2. **Resolution dated 13 September 2002,**^[2] denying petitioner's motion for reconsideration.

The present litigation has its genesis in **Civil Case No. 5735** of the Regional Trial Court, Branch 25, Cagayan de Oro City, a suit thereat instituted by the herein petitioner PVC Investment & Management Corporation on 12 December 1977 against Casiano Olango, his wife Teofila Pacheco and District Land Officer Matias Vergara, Jr. for *Declaration of Nullity and/or Cancellation of Free Patent No. (X-1)1513 and Original Certificate of Title No. P-1180 and Recovery of Possession of Real Property*. Subject of the suit are two (2) parcels of land, denominated as **Lot 2509-A and Lot 2509-1**, both located in Cugman, City of Cagayan de Oro.

In that case, the trial court, in a decision dated 2 June 1998, rendered judgment for petitioner, as follows:

IN THE LIGHT OF THE FOREGOING CONSIDERATIONS, by preponderance of evidence, this Court hereby renders Judgment in favor of [petitioner], and against the defendants as follows:

- a. Declaring as Null and Void and cancelling [sic] Free Patent No. (X-1) 1513, issued by defendant Matias C. Vergara, Jr., District Land Officer, in the name of Casiano Olango married to Teofila Pacheco, covering the land in question, the same having been issued VOID Free Patent (X-1) 1513;
- b. Declaring [petitioner] to be the absolute owner of the land in question under TCT No. T-24157, including the

improvements thereon found;

- c. Ordering defendant Casiano Olango to vacate the premises together with all the improvements and to remove all the improvements illegally introduced and to restore possession over said property to [petitioner], PVC Investment and Management Corporation;
- d. Defendant Casiano Olango is likewise ordered to pay the sum of Ten Thousand Pesos (P10,000.00) as actual damages, and the sum of Five Thousand Pesos (P5,000.00) as attorney's fees, as prayed for, and to pay the costs.

SO ORDERED. (Words in bracket ours).

With the aforementioned decision having become final and executory, a writ of execution^[3] was issued commanding the Provincial Sheriff or any of his deputies to enforce the judgment. In compliance therewith, the sheriff served the writ to the herein respondents Jose Borcena and Nicomedes Ravidas who were then in possession of the lands subject of the case.

Respondents refused compliance with the writ, arguing that they were not parties to Civil Case No. 5735, much less impleaded as defendants therein, hence the judgment rendered in that case is unenforceable against them. On account thereof, the court issued an *Order of Demolition*^[4] which the sheriff was determined to enforce against respondents despite their having filed with the sheriff an affidavit of third-party claim in accordance with Section 16, Rule 39 of the 1997 Rules of Civil Procedure.

To forestall the demolition of their houses and their eviction from the premises, respondents then filed with the Regional Trial Court at Cagayan de Oro City a complaint^[5] against petitioner and the sheriff for ***Quieting of Title/Removal of Clouds from a Title With Application for Preliminary Injunction and/or Temporary Restraining Order and Recovery of Damages and Reimbursements***. This complaint was docketed as **Civil Case No. 2000-084** and raffled to Branch 24 of the court, from whence sprung the trial court's Order of 26 May 2000 which the respondents eventually elevated to the Court of Appeals in CA-G.R. CV No. 68887.

In their complaint, respondents, as plaintiffs therein, predicate their claim of ownership over the two (2) parcels of land in question on the basis of two (2) separate Deeds of Absolute Sale^[6] dated 14 May 1976 and 16 May 1976, respectively executed in their favor by Casiano Olango, a party-defendant in the earlier Civil Case No. 5735. They alleged that they acquired their respective landholdings in good faith from Casiano Olango, then the registered owner thereof under Original Certificate of Title No. P-1180^[7] which was issued on the basis of Free Patent No. (X-1) 1513 awarded to Olango in 1974 by the Bureau of Lands, Cagayan de Oro City, and that after Casiano Olango executed the aforementioned absolute deeds of conveyance, they took possession of their respective areas, paid the real estate taxes therefor and started introducing improvements thereon. They

assert that they are not only the equitable or beneficial owners of the subject premises but are in fact the legal owners of the same, having exercised and performed all acts of legitimate claim thereon in good faith for more than 20 years.

To the complaint, petitioner interposed a *Motion to Dismiss*^[8] on the following grounds:

I.

THAT THE PLEADING ASSERTING THE CLAIM STATES NO CAUSE OF ACTION. (RULE 16, SECTION 1, PARAGRAPH (g), 1997 RULES OF CIVIL PROCEDURE).

II.

THAT THE CAUSE OF ACTION IS BARRED BY PRIOR JUDGMENT. (RULE 16, SECTION 1, PARAGRAPH (F), 1997 RULES OF CIVIL PROCEDURE).

In an **Order dated 26 May 2000**,^[9] the trial court granted petitioner's motion to dismiss and accordingly dismissed Civil Case No. 2000-084, thus:

Acting on the motion to dismiss filed by [petitioner] and its opposition thereto, filed by [respondents], the Court resolves to grant said motion it appearing that [respondents] acquired the land subject of the action from Casiano Olango defendant in Civil Case No. 5735, RTC Branch 25 who lost in that case. As such, [respondents] are privies of defendant Casiano Olango. Being privies, they could be subject of the Writ of Demolition.

SO ORDERED. (Words in bracket ours).

With their motion for reconsideration having been denied by the same court in its subsequent Order of 21 July 2000,^[10] respondents elevated the adverse orders of the trial court to the Court of Appeals whereat their appeal *in contra* was docketed as **CA-G.R. CV No. 68887**.

As stated at the threshold hereof, the appellate court, in its **Decision**^[11] **dated 21 November 2001**, granted respondents' appeal and remanded Civil Case No. 2000-084 to the court of origin for further proceedings:

WHEREFORE, the appeal is **GRANTED**. The assailed Orders are hereby **SET ASIDE**. The records of **Civil Case No. 2000-084** are ordered **REMANDED** to the court of origin for further proceedings.

SO ORDERED.

With its motion for reconsideration having been denied by the appellate court in its **Resolution of 13 September 2002**,^[12] petitioner is now with us thru present recourse, faulting the Court of Appeals, as follows:

I.

THE PUBLIC RESPONDENT COURT MISAPPREHENDED THE FACTS OF THE CASE, AND IN SO DOING, ERRED IN FINDING THAT THE COMPLAINT

FILED BY PRIVATE RESPONDENTS IN CIVIL CASE NO. 2000-084 BEFORE RTC, BRANCH 24, CAGAYAN DE ORO CITY, SUFFICIENTLY STATES A CAUSE OF ACTION WHEN THE SAME HAS NONE, AS FOUND BY THE COURT A QUO;

II.

THE PUBLIC RESPONDENT COURT ERRED IN DECLARING THAT PRIVATE RESPONDENTS ARE NOT PRIVIES OF DEFENDANT CASIANO OLANGO IN CIVIL CASE NO. 5735, CONSIDERING THAT THE ORIGINAL CERTIFICATE OF TITLE P-1180 ISSUED BY THE BUREAU OF LANDS ON JANUARY 18, 1974, BY VIRTUE OF FREE-PATENT NO. (X-I) 1513, WAS DECLARED NULL AND VOID AND PORTIONS OF CADASTRAL LOT NO. 2509 WERE ALLEGEDLY SOLD TO PRIVATE RESPONDENTS BUT THE DEEDS WERE NOT REGISTERED OR ANNOTATED IN THE TITLE;

III.

THAT, PUBLIC RESPONDENT COURT OF APPEALS ERRED IN RESOLVING THAT RES JUDICATA DOES NOT APPLY TO CIVIL CASE NO. 2000-084 BEFORE THE COURT A QUO AND CIVIL CASE NO. 5735 DECIDED BY BRANCH 25 OF CAGAYAN DE ORO CITY, WHICH DECIDED WITH FINALITY THE OWNERSHIP OF THE WHOLE 2,128 SQUARE METERS OF LOT NO. 2509 CASE-7, CAD 237 PORTIONS OF WHICH ARE BEING CLAIMED BY PRIVATE RESPONDENTS, CONTRARY TO THE FINDINGS OF THE COURT A QUO.

In sustaining respondents' appeal, the Court of Appeals ratiocinated in the decision under review, to wit:

[Respondents] may not be considered successors-in-interest or privies of Casiano Olango in Civil Case No. 5735 within the meaning of Section 47(b) Rule 39 aforequoted so as to bring them within its purview and thus bound by the judgment against Olango. They did not acquire the subject properties at the time of the commencement or filing of Civil Case No. 5735 on December 12, 1977 or thereafter although the deed of sale was executed only in 1976 (Exhibit "C" and "D", Record, pp. 13-14). [Respondents] acquired the subject properties from Casiano in 1974 (Annexes "C", "D", "E", "F", "G" and "H", Complaint, Record, pp. 13 to 15-C).

On the other hand, [respondents'] Complaint plainly states a cause of action. xxx.

xxx xxx xxx

Finally, [respondents] did not participate nor were they parties in Civil Case No. 5735 where judgment was rendered against Casiano Olango. This being so, and as ruled by the Supreme Court in **Salud v. Court of Appeals, supra**, the doctrine of **res judicata** is inapplicable. It is a rule of justice and cannot be rigidly applied where it will result in injustice. And there can be no justice that satisfies unless the litigants are given