

SECOND DIVISION

[G.R. No. 215454, August 09, 2017]

HEIRS OF SPOUSES CORAZON P. DE GUZMAN AND FORTUNATO DE GUZMAN, REPRESENTED BY JENIE JANE DE GUZMAN-CARPIO, PETITIONERS, VS. HEIRS OF MARCELIANO BANDONG, REPRESENTED BY REGINA Z. BANDONG, RESPONDENTS.

D E C I S I O N

PERALTA, J.:

For resolution of this Court is the petition for review on *certiorari* filed by the Heirs of Spouses Corazon P. De Guzman and Fortunato De Guzman (*petitioners*), represented by their duly-authorized representative, Jenie Jane De Guzman-Carpio, assailing the Decision^[1] and Resolution,^[2] dated August 20, 2014 and November 20, 2014, respectively, of the Court of Appeals (CA), which reversed the Decision^[3] of the Regional Trial Court (RTC) of San Carlos City, Pangasinan, Branch 57.

The instant case stemmed from a Complaint^[4] filed by the Spouses Corazon De Guzman (*Corazon*) and Fortunato De Guzman (*Spouses De Guzman*) against the Spouses Marceliano Bandong (*Marceliano*) and Regina Zamora (*Spouses Bandong*), seeking nullity of title and free patent with damages.

Domingo Calzada (*Domingo*) was the owner of a parcel of unregistered land located in Barrio Angatel (now Barangay Real), Urbiztondo, Pangasinan, with an area of 3,018 square meters (*sq. m.*) (*Real property*). Through a Deed of Absolute Sale of Unregistered Land dated March 17, 1960 (*1960 Deed*),^[5] Domingo sold a 660 sq. m. portion of the property in favor of Emilio Bandong (*Emilio*) who then allegedly donated the same to his son Pedro Bandong (*Pedro*). Subsequently, by way of a Deed of Absolute Sale dated May 17, 1979 (*1979 Deed*),^[6] instead of selling only the 660 sq. m. portion, Pedro sold a 1,320 sq. m. portion of the subject property to his brother Marceliano.

On July 10, 1961, Domingo died intestate. Thereafter, his heirs executed an Extrajudicial Settlement of Estate and Deed of Absolute Sale dated August 29, 1984 (*1984 Deed*)^[7] conveying the supposedly remaining 2,358 sq. m. of the Real property to the Spouses De Guzman.

In the cadastral survey of the entire Urbiztondo, Pangasinan on January 22, 1992, the portions claimed by the Spouses Bandong and the Spouses De Guzman were designated as Lot Nos. 3011 and 3015, respectively.^[8]

On August 3, 1999, Marceliano applied for a free patent before the Department of Environment and Natural Resources - Community Environment and Natural Resources (*DENR-CENRO*) of the Region 1, Dagupan City, alleging, among others:

that the Real property designated as Lot No. 3011, Cad. 31-A has an area of 3,221 sq. m.; that it was a public land not claimed or occupied by any other person; that it was entered upon, cultivated and occupied sometime in 1940 by Pedro and his wife, Lourdes Viray; that he entered upon and began cultivation of the land on May 17, 1979; and that since that date, he had continuously cultivated and introduced improvements thereon. Marceliano also attached the 1979 Deed and tax declaration as evidence of acquisition and ownership of the Real property.^[9] Subsequently, the application was granted, and the Original Certificate of Title (OCT) No. P-41536 was issued and registered under the Spouses Bandong's name on October 25, 1999.^[10]

Sometime in 2001, Corazon learned from a certain Mariano Tapiador, the caretaker of the Spouses Bandong's property, about Marceliano's intention to sell the *Real* property, which included the 2,358 sq. m. portion of their property.

On January 2, 2002, the Spouses De Guzman filed a protest before the DENR-CENRO alleging that they own a portion of the land that was registered under the Spouses Bandong's name, and prayed for the issuance of a recommendation to the Office of the Solicitor General for the cancellation of the title. However, the DENR denied the protest on the ground of lack of jurisdiction. The *fallo* of the DENR's decision reads:

WHEREFORE premises considered, it is hereby ordered that the case be dismissed for lack of jurisdiction. The PROTESTANT is advised to seek relief from the regular courts for the cancellation of the title, recovery of possession and partition of the subject area.

SO ORDERED.^[11]

The Spouses De Guzman sought the services of Geodetic Engineer Leonardo V. De Vera (*De Vera*) to determine the extent of the alleged encroachment. De Vera evaluated the V-37 of Cad. Lot No. 3011, Cad. 31-A, Module 11, Urbiztondo, sketch of survey notification card prior to the cadastral survey and other pertinent documents, made ocular inspection and relocation survey of the premises, and made the conclusion in his letter, *viz.*:

x x x I also located the corresponding public land monument and the following are the findings I found, to wit:

Mon. No. 1 located at the Northern side of the property which is within the [alleged] [o]riginal property of [Marceliano] Bandong on the Northeastern side;

Mon. No. 2 located at Northeastern corner of the property and within the [a]lleged original property and bounded on the Provincial Road;

Mon. No. 3 located at Southeastern corner of the property and within your [a]lleged original property and bounded on the Provincial Road;

Mon. No. 4 located at Southwestern corner of the property and within the alleged [original property of Marceliano

Bandong and bounded on a creek; and

Mon. No. 5 located at Northwestern corner of the property and within the allege[d] [o]riginal property of [Marceliano] Bandong and bounded on a creek.

On the basis of the foregoing method of evaluation and validation, it is **my conclusion that the property identified and covered by Tax Declaration No. 1435 and identified under Property Index No. 013-43-0002 is within and/or inside Cad. Lot No. 3011 (Eastern side)**. Said property is now identical as Lot No. 3011-B as per prepared sketch plan under the ownership of Sps. Fortunato/Corazon de Guzman. That the **property has been effectively encroached and overlapped by the [title] applied by [Marceliano] Bandong which is now covered by Orihinal na Titulo Blg. P-41536** in the name of the latter.

Per existing natural boundaries, and records of ownership like Tax Declarations, survey notification cards, and actual possession and material occupation, the property show that ended there was (*sic*) two (2) lots exist (*sic*) prior to the conduct of the Cadastral Survey. x x x^[12]

Thereafter, the Spouses De Guzman filed the Complaint dated October 25, 2003 before the RTC of San Carlos City, Pangasinan, Branch 57. They asseverated that the Spouses Bandong committed fraud and misrepresentation when they claimed in their application for free patent that they occupied and cultivated the Real property since 1979 or prior thereto, and that the land was not claimed by any other persons. The Spouses De Guzman alleged that they are the owners of the eastern portion of the property as evinced by the 1984 Deed in their favor, and that they were not aware of the consolidation of the entire *Real* property and its registration under the Spouses Bandong's name.

In their Answer, the Spouses Bandong asserted their ownership of the whole Lot No. 3011 (*Real* property), including the eastern portion claimed by the Spouses De Guzman. The OCT in their favor was issued and registered following the procedure prescribed by law for the issuance of free patent and certificate of title. They invoked the doctrine of prescription because four (4) years had already lapsed from the time of the issuance of the OCT.

After weighing the evidence of both sides, the RTC ruled in favor of petitioners in its April 17, 2012 Decision. A pertinent portion of the decision reads:

x x x [T]he [petitioners'] lot lies between the Road and the lot of the [respondents]. This is depicted in the Survey Notification Card marked as Exhibit "G-2," dorsal portion (p. 19). This explains why Lot No. 3011 was subdivided into two portions delineating them with natural boundaries like trees and also barbwire and stone monuments. It was, therefore, an error for the Cadastral Survey contractor to have merged both properties into one lot. Furthermore, there being no satisfactory explanation as to why the area of the [respondents'] lot grew bigger, the Court cannot but deduce that it encroached upon the [petitioners'] lot. x x x The error in the Cadastral Survey which increased the area belonging to the [respondents] was taken advantage of by the latter, in that they caused

the revision of their tax declaration to include therein the mistakenly added portion belonging to the [petitioners]. On the basis of the revised tax declaration, [respondents] applied for free patent covering Lot No. 3011 which the DENR eventually approved and on the basis of which OCT No. P-41536 was issued in their favor. x x x.^[13]

x x x x

WHEREFORE, in light of the above disquisitions, the Court hereby directs the [Register] of Deeds of Pangasinan to cancel the Katibayan ng Orihinal na Titulo Big. P-41536 and to issue two (2) separate titles covering Lot No. 3011 Cad. 31-A, Urbiztondo, Pangasinan in accordance with the tenor of this decision, to wit:

a.)To the plaintiffs Spouses Corazon de Guzman and Fortunato de Guzman, the eastern portion covering the 2,102 square meters; and

b.)To the defendants Spouses Marceliano Bandong and Regina Zamora, the western portion covering the 1,119 square meters.

upon payment of lawful fees therefor (*sic*).

The private defendants are hereby directed to pay Thirty Thousand ([P]30,000.00) pesos as moral damages and Thirty-Five Thousand ([P]35,000.00) pesos as litigation expenses, plus cost of this suit.

SO ORDERED.^[14]

On appeal, the CA reversed and set aside the decision of the RTC. The CA did not find any clear and convincing evidence for the cancellation of the Spouses Bandong's free patent. The Spouses De Guzman's mere possession cannot overcome the Spouses Bandong's ownership by virtue of the notarized 1979 Deed, which enjoys the presumption of regularity and may be rebutted by evidence so clear, strong and convincing as to exclude all controversy as to falsity.^[15] It ruled that there is no substantial decrease in the Spouses De Guzman's land area considering that the 2,330 sq. m. lot designated as Lot No. 3015 and now covered by OCT No. P-46416 has almost the same area-2,358 sq. m. as described in the 1984 Deed. The *fallo* of the decision states:

WHEREFORE, the instant appeal is hereby GRANTED. The April 17, 2012 Decision of the Regional Trial Court, Branch 57, San Carlos City, Pangasinan in Civil Case No. SCC-2767 is REVERSED and SET ASIDE. Spouses Corazon and Fortunato de Guzman's complaint for declaration of nullity of title and free patent with damages is DISMISSED for lack of cause of action.

SO ORDERED.^[16]

Upon denial of their motion for reconsideration, petitioners filed before this Court the instant petition raising the following errors:

- a. It is respectfully submitted that this Honorable Court of Appeals committed irreversible error when it declared, "...Thus the plaintiff, in this case Spouses De Guzman, has the burden of proving by clear and convincing evidence the fact of fraud committed by Spouses Bandong and their pre-existing title to the disputed land."
- b. It is our humble submission that the Honorable Court of Appeals committed irreversible error when it declared, "Contrary to the findings of the RTC, this Court did not find any clear and convincing evidence for the cancellation of Spouses Bandong's free patent. Spouses De Guzman claimed that Spouses Bandong committed fraud in their application for free patent because their land area increased from 1,320 sq. m., as stated in the 1979 Deed of [S]ale, to 3,221 sq. m. after the 1992 cadastral survey. However, Spouses De Guzman failed to prove that such increase was brought by the wrongful inclusion of a portion of their land in Spouses Bandong's application for free patent."
- c. It is our humble submission that the Honorable Court of Appeals committed irreversible error when it declared, "...Spouses De Guzman claimed that the 1992 cadastral survey was erroneous as to Spouses Bandong's lot but they still used the same as basis of their application for free patent. This Court cannot permit Spouses De Guzman to get the best of both worlds at the expense of Spouses Bandong. 'They cannot have their cake and eat it too,' so to speak."
- d. We respectfully submit herein that this Honorable Court of Appeals committed irreversible error when it declared, "The RTC conveniently ignored the existence of Spouses De Guzman's OCT No. P-46416 and relied heavily on the 1984 Deed of Sale in ruling that plaintiffs-appellees' land was erroneously included in Spouses Bandong's Lot No. 3011. However, we take note of the fact that the 2,330-sq.m. lot designated as Lot No. 3015 and now covered by OCT No. P-46416 has almost the same area, 2,358 sq. m., as described in the 1984 Deed of Sale. There is no substantial decrease in Spouses De Guzman's land area to warrant a conclusion that they had been prejudiced by the increase in size of Spouses Bandong's lot."
- e. We respectfully submit herein that this Honorable Court of Appeals committed irreversible error when it declared, "Thus, the boundaries explicitly mentioned in the 1979 Deed of Sale would be controlling rather than the 1,320 sq. m. area stated therein. Clearly, the increase in the area of Spouses Bandong's Lot No. 3011 was brought by the accurate plotting of the boundaries of their land and not due to the alleged encroachment."
- f. We respectfully submit that this Honorable Court of Appeals committed a reversible error when it declared, "Besides, Spouses De Guzman's mere possession cannot overcome Spouses Bandong's ownership of the subject land by virtue of the 1979 Deed of Sale"