

THIRD DIVISION

[G.R. No. 187633, April 04, 2016]

**HEIRS OF DELFIN AND MARIA TAPPA, PETITIONERS, VS. HEIRS
OF JOSE BACUD, HENRY CALABAZARON AND VICENTE
MALUPENG, RESPONDENTS.**

D E C I S I O N

JARDELEZA, J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court assailing the Decision^[2] dated February 19, 2009 and Resolution^[3] dated April 30, 2009 of the Court of Appeals (CA) in CA-G.R. CV No. 90026, which reversed and set aside the Decision^[4] dated July 6, 2007 of Branch 5, Regional Trial Court (RTC) of Tuguegarao City, Cagayan in Civil Case No. 5560 for Quieting of Title, Recovery of Possession and Damages.

The Facts

On September 9, 1999, petitioners Delfin Tappa (Delfin)^[5] and Maria Tappa (Spouses Tappa) filed a complaint^[6] for Quieting of Title, Recovery of Possession and Damages (Complaint) against respondents Jose Bacud (Bacud),^[7] Henry Calabazon (Calabazon), and Vicente Malupeng (Malupeng).^[8] The property subject of the complaint is a parcel of land identified as Lot No. 3341, Pls-793 with an area of 21,879 square meters, located in Kongcong, Cabbo, Peñablanca, Cagayan (Lot No. 3341).^[9]

In their complaint, Spouses Tappa alleged that they are the registered owners of Lot No. 3341, having been issued an Original Certificate of Title No. P-69103 (OCT No. P-69103) on September 18, 1992, by virtue of Free Patent No. 021519-92-3194.^[10] Delfin allegedly inherited Lot No. 3341 from his father, Lorenzo Tappa (Lorenzo). Spouses Tappa claimed that both Delfin and Lorenzo were in open, continuous, notorious, exclusive possession of the lot since time immemorial.^[11]

In their Answer,^[12] respondents Bacud, Calabazon and Malupeng claimed that the original owner of Lot No. 3341 was Genaro Tappa (Genaro) who had two children, Lorenzo and Irene. Upon Genaro's death, the property passed on to Lorenzo and Irene by operation of law; and they became *ipso facto* co-owners of the property. As co-owners, Lorenzo and Irene each owned 10,939 square meters of the lot as their respective shares. Lorenzo had children namely, Delfin, Primitiva, and Fermina. Upon the death of Irene, her share in turn passed to her heirs, Demetria, Juanita, Pantaleon and Jose Bacud.^[13]

Respondents presented before the RTC a joint affidavit dated April 29, 1963 (1963

Affidavit) signed by Delfin, his sisters, Primitiva and Fermina, and their mother, Modesta Angoluan.^[14] The 1963 affidavit stated that Genaro originally owned Lot No. 3341. It further stated that one-half (1/2) of the property was owned by Lorenzo; but that the whole property was declared as his, only for taxation purposes.

Calabazon claimed that he became the owner of 2,520 square meters of Lot No. 3341 by virtue of two Deeds of Sale executed in his favor, one dated October 12, 1970 executed by Demetria, and another dated August 22, 1971 executed by Juanita.^[15] After the sale, Calabazon entered into possession of his portion and paid the real property taxes.^[16] He remains in possession up to this date.^[17]

Malupeng, on the other hand, claimed that he became the owner of 210 square meters of Lot No. 3341 by virtue of a Deed of Sale executed on November 30, 1970 by Pantaleon in his favor.^[18] After the sale, Malupeng entered into possession of his portion of property and paid the real property taxes.^[19] He remains in possession up to this date.^[20]

Bacud claimed ownership over 1,690 square meters of Lot No. 3341 in his own right as heir of Irene.^[21]

Respondents started occupying their respective portions after the sale made to each of them. They continued to occupy them despite several demands to vacate from Spouses Tappa.^[22]

Spouses Tappa claimed that the 1963 Affidavit was executed through force and intimidation.^[23] Bacud and Malupeng denied this allegation.^[24]

The Ruling of the RTC

The RTC issued its Decision,^[25] the decretal portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and the Court hereby orders:

1. Plaintiffs to be the owners of Lot 3341, Pls 793 and unqualifiedly vests in them the full and untrammelled rights of ownership;
2. All the defendants must, if still in possession of portions of the lot in issue, convey the same to the plaintiffs;
3. No pronouncement as to costs.

SO ORDERED.^[26]

The RTC ruled that the basic requirement of the law on quieting of title under Article 447 of the Civil Code was met, thus:

Delfin and Maria's title is clear and unequivocal, and its validity has never been assailed by the defendants - nor has any evidence been adduced that successfully overcomes the presumption of

validity and legality that the title of Delfin and Maria enjoys.^[27]
(Emphasis in the original.)

The RTC ruled that there was no document in the hands of respondents as strong and persuasive as the title in the name of the Spouses Tappa that will support respondents' claim of ownership and Irene's antecedent ownership.^[28] The RTC stated that the 1963 Affidavit contains nothing more than the allegations of the affiants and does not, by itself, constitute proof of ownership of land, especially as against documents such as titles.^[29]

Respondents appealed to the CA, raising the following arguments:

First, respondents alleged that Spouses Tappa fraudulently applied for, and were issued a free patent over Lot No. 3341, and eventually OCT No. P-69103 dated September 18, 1992.^[30] They alleged that Spouses Tappa committed fraud because they were not in possession of the lot since 1963, which possession was required for an applicant for a free patent under the law.^[31]

Second, respondents argued that the complaint should be dismissed because both extinctive and acquisitive prescription have already set in.^[32] Respondents claimed that both ordinary acquisitive prescription of 10 years, and extraordinary acquisitive prescription of 30 years in claiming ownership of immovable property apply in the case.^[33] They argued that more than 30 years have already lapsed from the time they entered possession of the subject lot in 1963 up to the filing of the complaint on September 9, 1999.^[34] They also pointed out that Spouses Tappa admitted in their complaint that respondents were in possession of the lot since 1963.^[35]

Particularly, Calabazon argued that the 10-year prescriptive period under Article 1134 of the Civil Code applies to him by virtue of the two duly executed Deeds of Sale in his favor.^[36] It was never alleged that he had any participation in the alleged duress, force and intimidation in the execution of the 1963 Affidavit.^[37] Hence, he is a purchaser in good faith and for value. Calabazon entered possession of the lot after the sale to him in 1970, thus, the prescriptive period of 10 years had long lapsed.^[38]

Bacud and Malupeng claimed that, even assuming that the execution of the 1963 Affidavit was attended with force and intimidation, the complaint against them should have been dismissed because the extraordinary acquisitive prescriptive period of 30 years under Article 1137 of the Civil Code applies to them.^[39] They also argued that the action for quieting of title had already prescribed since the possession of Bacud and Malupeng started in 1963, which fact was allegedly admitted by Spouses Tappa in their complaint.^[40] Thus, Spouses Tappa had only until 1993 to file a complaint, which they failed to do.

All respondents claimed that from the start of their possession, they (1) have paid real taxes on the lot, (2) have planted crops, and (3) have continued to possess the lot in the concept of owners.^[41]

Third, respondents alleged that Spouses Tappa failed to prove their right over the

subject lot because they cannot rely on the certificate of title issued to them on September 18, 1992 by virtue of a free patent.^[42] They asserted that Spouses Tappa fraudulently obtained the free patent on Lot No. 3341 by concealing material facts, specifically the fact of not being in possession of the lot since 1963.^[43]

The Ruling of the CA

The CA set aside the decision of the RTC.^[44] The relevant dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the appeal is hereby **GRANTED**. The assailed decision dated July 6, 2007 is hereby **REVERSED** and **SET ASIDE**, and another one entered **DISMISSING** the complaint.

SO ORDERED.^[45]

On the issue of prescription, the CA ruled in favor of respondents and explained that their possession over Lot No. 3341 already ripened into ownership through acquisitive prescription.^[46] The CA noted that Spouses Tappa acknowledged in their complaint that they have not been in possession of the lot, and that respondents have been continuously occupying portions of it since 1963.^[47] It explained:

The substantial length of time between 1963, up to the time of filing of the present complaint on September 9, 1999, which is more than 30 years, should be considered against [S]pouses Tappa, and in favor of defendants-appellants. Settled is the rule that an uninterrupted adverse possession of the land for more than 30 years could ripen into ownership of the land through acquisitive prescription, which is a mode of acquiring ownership and other real rights over immovable property. Hence, appellants' possession of the land has ripened into ownership by virtue of acquisitive prescription.^[48] (Citation omitted.)

On the merits of the case, the CA ruled that the two indispensable requisites for an action to quiet title under Articles 476 and 477 of the Civil Code were not met.^[49]

The first requisite is absent because Spouses Tappa do not have a legal or an equitable title to or an interest in the property. The CA explained that the free patent granted to Spouses Tappa produced no legal effect because Lot No. 3341 was a private land, thus:

As heretofore discussed, the open, continuous, exclusive, and notorious possession by appellants of the subject parcel of land within the period prescribed by law has effectively converted it into a private land. Consequently, the registration in the name of Maria Tappa on September 18, 1992 under OCT [No.] P-69103, by virtue of Free Patent No. 021519-92-3194, produces no legal effect. Private ownership of land—as when there is a *prima facie* proof of ownership like a duly registered possessory information or a clear showing of open, continuous, exclusive, and notorious possession, by present or previous occupants—is not affected by the issuance of a free patent over the same land, because the Public

Land [L]aw applies only to lands of the public domain.^[50] (Citation omitted.)

The CA further stated that while Spouses Tappa were able to obtain a free patent over the property, and were able to register it under the Torrens system, they have not become its owners. The CA said that "[r]egistration has never been a mode of acquiring ownership over immovable property—it does not create title nor vest one but it simply confirms a title already vested, rendering it forever indefeasible."^[51]

The second requisite that the deed, claim, encumbrance or proceeding claimed to be casting cloud on the title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity is likewise unavailing. The CA ruled that no other evidence (aside from Delfin's own testimony) was presented to prove the allegation of fraud and intimidation, making the testimony self-serving.^[52] The CA further noted that Delfin's own sister, Fermina, one of the signatories of the 1963 Affidavit, belied his testimony. Fermina testified that they went to the house of one Atty. Carag to sign the affidavit and they did so, on their own.^[53]

Spouses Tappa filed a Motion for Reconsideration,^[54] which the CA denied.^[55]

Hence, spouses Tappa filed a petition for review on *certiorari* before this court, raising the following issues:

- I. Whether the CA erred in dismissing Spouses Tappa's complaint for quieting of title against respondents;^[56]
- II. Whether the CA erred in not finding that Spouses Tappa's certificate of title cannot be collaterally attacked in this case;^[57] and
- III. Whether the CA erred in finding that respondents have acquired the property through acquisitive prescription.^[58]

The Ruling of the Court

We affirm the decision of the CA.

The action for quieting of title should not prosper.

The action filed by Spouses Tappa was one for quieting of title and recovery of possession. In *Baricuatro, Jr. v. Court of Appeals*,^[59] an action for quieting of title is essentially a common law remedy grounded on equity, to wit:

xxx Originating in equity jurisprudence, its purpose is to secure "... an adjudication that a claim of title to or an interest in property, adverse to that of the complainant, is invalid, so that the complainant and those claiming under him may be forever afterward free from any danger of hostile claim." In an action for quieting of title, the competent court is tasked to determine the respective rights of the complainant and other claimants, "... not only to place *things in their proper place*, to make the one who has no rights to said immovable *respect and not disturb* the other, but also for the *benefit of both*, so that he who has the right would