

## THIRD DIVISION

[ G.R. No. 155701, March 11, 2015 ]

**LIM TECK CHUAN, PETITIONER, VS. SERAFIN UY AND LEOPOLDA CECILIO, LIM SING CHAN @ HENRY LIM, RESPONDENTS.**

### D E C I S I O N

**REYES, J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 filed by Lim Teck Chuan (petitioner) assailing the Orders dated April 25, 2002<sup>[2]</sup> and October 21, 2002<sup>[3]</sup> of the Regional Trial Court (RTC) of Lapu-lapu City, Branch 27, in Civil Case No. 4786-L, which dismissed the case upon a joint motion of respondents Serafin Uy (Serafin) and Leopolda Cecilio (Leopolda) despite an opposition and manifestation of the petitioner to have his counterclaim prosecuted in the same action, and denied the petitioner's motion for reconsideration for being barren of merit, respectively.

The antecedent facts are as follows:

The subject matter of the present controversy is a piece of land known as Lot 5357 with an area of 33,610 square meters, covered by Transfer Certificate of Title (TCT) No. T-0500, situated in *Barrio* Agus, Lapu-lapu City, Cebu, owned and registered under the name of Antonio Lim Tanhu (Antonio), married to Dy Ochay.

Lot 5357 was sold by Antonio to the spouses Francisco Cabansag (Francisco) and Estrella Cabansag (Spouses Cabansag) as evidenced by a Deed of Sale executed on January 8, 1966. Apparently, Francisco failed to transfer the title of the property to their names because of his work and frequent travels abroad.<sup>[4]</sup>

In 1988, Spouses Cabansag sold the lot to Serafin, as evidenced by a Deed of Sale dated April 8, 1988. To pave the way for the transfer of title to Serafin's name, Spouses Cabansag attempted to have the same transferred under their names first. However, Francisco failed to do so as he lost the owner's copy of TCT No. T-0500 together with other documents pertaining to the sale of the subject lot. This prompted Serafin to exert efforts to secure copies of the lost documents himself. On May 15, 1996, Serafin filed a petition before the RTC, docketed as Cadastral Case No. 21 praying for the issuance of a new owner's duplicate TCT in his name, thereby cancelling TCT No. T-0500 in the name of Antonio.<sup>[5]</sup>

Serafin's petition for the issuance of a new owner's copy of TCT No. T-0500 was raffled to the RTC of Lapu-lapu City, Branch 27, then sitting as a cadastral court (Cadastral Court). After due notice and hearing, the Cadastral Court issued an Order<sup>[6]</sup> on June 14, 1996 directing the Register of Deeds of Lapu-lapu City to issue a new owner's duplicate copy of TCT No. T-0500.

However, the aforesaid order was recalled and nullified on September 3, 1996<sup>[7]</sup> on the ground that the petitioner filed an *Opposition and/or Motion for Reconsideration with Manifestation for Special Appearance*<sup>[8]</sup> dated August 22, 1996 alleging that he is one of the six legitimate descendants of Antonio; and that the original owner's copy of TCT No. T-0500 was not lost and has always been in his custody. The court further directed the petitioner to deposit the said owner's copy of TCT No. T-0500 with said court.

In the meantime, on August 2, 1996, Lim Sing Chan alias Henry Lim (Henry) executed an *Affidavit of Sole Adjudication/Settlement of the Estate of Antonio Lim Tanhu with Deed of Sale*<sup>[9]</sup> (Affidavit of Self-Adjudication) claiming that he is the only surviving heir of Antonio. In the same document, Henry sold Lot 5357 to Leopolda in the amount of P500,000.00.

With this turn of events, Serafin filed on July 25, 1997 a Complaint<sup>[10]</sup> for **quieting of title, surrender of owner's copy of certificate of title, declaration of nullity of affidavit of adjudication and sale, annulment of tax declaration, and other reliefs with a prayer for preliminary injunction** before the RTC, docketed as Civil Case No. 4786-L. Impleaded as defendants were Leopolda, Henry, and the herein petitioner.

Leopolda filed her Answer<sup>[11]</sup> (*with counterclaim, and cross-claim against Henry*), asserting that she was the buyer in good faith and for value of Lot 5357. She alleged that the said property was never encumbered to any person during the lifetime of Antonio; that the deed of sale in favor of Spouses Cabansag was simulated and spurious; and that the said document was never registered with the proper government agency, nor was it ever annotated on the certificate of title covering the said property. She claimed that the lot in question was sold to her as evidenced by the Affidavit of Self-Adjudication executed by Henry; that she caused the issuance of a new tax declaration over the said property in her name; that since then, she has been in open, actual and material possession of the subject lot in the concept of an owner.

For his part, the petitioner averred in his Answer<sup>[12]</sup> (*with counterclaim, and cross-claims against Leopolda and Henry*), that Lot 5357 was never transferred nor encumbered to any person during Antonio's lifetime. The deed of sale in favor of Spouses Cabansag was simulated and spurious, and was intended to defraud the estate of Antonio. Furthermore, the petitioner questioned Henry's claim that he was an heir of Antonio, much less the only surviving heir of the latter. Corollarily, the petitioner questioned the validity of Henry's Affidavit of Self-Adjudication and Leopolda's claim of title to the subject property.

On November 11, 1997, Leopolda filed her Answer<sup>[13]</sup> to the petitioner's cross-claim. She basically reiterated her allegations raised in her Answer to Serafin's complaint.

Henry did not file an answer to any of the claims against him.

On December 22, 1998, the pre-trial conference<sup>[14]</sup> was conducted where the

parties agreed to the following stipulation of facts:

[T]hat Antonio Lim Tanhu was the registered owner of Lot 5357 of the Cadastral Survey of Opon located in Lapu-lapu City[;] that Antonio Lim Tanhu died on April 13, 1991[;] that Antonio Lim Tanhu was succeeded upon his death by his six children, namely, the defendant Lim Teck Chuan, Lim Sing Tai, Helen Lim, Lenesita Lim, Warlito Lim and Michael Lim Tan Ho[;] that the defendant Lim Sing Chan is actually a fictitious person[;] that there exists an ancient document denominated as Deed of Absolute Sale of Lot 5357 executed on January 8, 1966 by Antonio Lim Tanhu in favor of the spouses Francisco Cabansag and Estrella M. Cabansag (Exhibit A)[;] that there also exists a document denominated as Deed of Absolute Sale (Exhibit B) of Lot 5357 executed on April 8, 1988 by the spouses Francisco Cabansag and Estrella M. Cabansag in favor of the plaintiff[;] and that there exists, too, a document denominated as Affidavit of [Sale] Adjudication/Settlement of Estate of Antonio Lim Tanhu with Deed of Sale executed on May 2, 1996 by a certain Lim Sing Chan (Exhibit 1-Cecilio). x x x.<sup>[15]</sup>

The parties also agreed to the following issues:

1. Whether or not the plaintiff has valid causes of action for quieting of title, declaration of nullity of documents of sale and tax declarations, reconveyance of title and damages against the defendants[;]
2. Whether or not the defendants Leopolda Cecilio and Lim Teck Chuan have valid counterclaims against the plaintiff; and
3. Whether or not the defendant Lim Teck Chuan has a valid cross-claim against the defendant Leopolda Cecilio.<sup>[16]</sup>

Thereafter, the pre-trial order was amended such that it should not be considered as established and stipulated facts that Henry is a fictitious person and that the Deed of Sale of Lot 5357 purportedly executed by Antonio on January 8, 1966 is genuine and authentic since there were actually no admissions made on these circumstances.<sup>[17]</sup>

In the same Order<sup>[18]</sup> dated July 17, 1999, the RTC denied Serafin's *motion for summary judgment*<sup>[19]</sup> because under the circumstances, there were actually genuine issues of fact to be resolved and passed upon by the court.

Eventually, the RTC set the initial trial of the case on March 28, 2001.<sup>[20]</sup> However, it was postponed upon motion of Leopolda's counsel and upon the manifestation of Serafin's counsel that there was an on-going negotiation for an amicable settlement. For his part, the petitioner's counsel manifested that the petitioner was not involved in any negotiation for amicable settlement. The scheduled hearing was reset to July 11, 2001<sup>[21]</sup> and later to November 12, 2001.<sup>[22]</sup>

On September 20, 2001, Serafin and Leopolda submitted a *Joint Motion to Dismiss*.

[23] They averred that:

1. That the case at [bench] is filed by the Plaintiff Serafin Uy against the defendants for "quieting of title, surrender of owner of certificate of title, declaration of nullity of affidavit of adjudication and sale annulment of tax declaration, and other reliefs consistent with law, justice and equity[?];
2. That in the case at bench, Plaintiff Serafin Uy seeks the quieting of title on his right over Lot 5357 of the Cadastral Survey of Opon situated at Barangay Agus, Lapu-lapu City, in view of the affidavit of adjudication and Sale dated August 2, 1996 (Annex "F") of the Complaint, and Tax Decl. No. 01532 issued in the name of Leopolda Cecilio both of which documents affected Lot 5357 (Annex G to the Complaint);
3. That Plaintiff Serafin Uy and Defendant Leopolda Cecilio have amicably settled their differences in the case at bench and Def. Leopolda Cecilio has agreed to waive her counterclaim for damages in the instant case;
4. That Plaintiff Serafin Uy has already secured a certificate of title to Lot No. 5357 in his name dated July 26, 2001, and has also agreed for the cancellation of the same, and for issuance of a new one, over said Lot 5357, in their common names;
5. That whatever claim defendant Lim Teck Chuan may have on said Lot No. 5357, the same may be ventilated by said defendant in an appropriate independent action that he may initiate and file[.]

#### P R A Y E R

WHEREFORE, this Honorable Court is most respectfully prayed and humbly implored to dismiss the Complaint and the respective counterclaims of the defendants in the case at bench. [24]

On October 4, 2001, the petitioner filed his *Opposition/Comment* [25] praying for the denial of the Joint Motion to Dismiss on the ground of bad faith, and to prohibit Serafin and Leopolda from undertaking any further transaction involving the subject lot. The pertinent portion of his opposition reads as follows:

1. That the [petitioner] opposes the 'Joint Motion to Dismiss' filed by [Serafin] and [Leopolda] on the grounds:
  - 1.1 that there [is] BAD FAITH on the part of [Serafin] and [Leopolda];

- 1.2. That the [petitioner] was not involved in any amicable settlements between [Serafin] and [Leopolda] because both [Serafin] and [Leopolda] connived to MISLEAD this Honorable Court and to DEFRAUD the estate of [Antonio];
- 1.3. That the [petitioner] has valid counterclaims against [Serafin] for moral damages of P 5,000,000[.00]; exemplary damages of P 1,200,000[.00]; and Attorney's fees of P 50,000[.00]; on the ground that [Serafin] maliciously and deliberately presented to this Honorable Court the FALSIFIED AND FICTITIOUS 'deed of sale' PURPORTEDLY executed by [Antonio] in favor of [Francisco];
- 1.4. That the [petitioner] has valid cross[-]claims against Cross-defendants Lim Sing Chan alias Henry Lim whose real name is Henry Lim Ormoc, and [Leopolda] for moral damages of P 5,000,000[.00] each, attorney's fees of P 50,000[.00] each, and exemplary damages of P 1,000,000[.00] for [Henry] and P 1,600,000[.00] for [Leopolda] because [Henry] and [Leopolda] connived with each other to defraud the estate of [Antonio] on the ground that [Henry] MISREPRESENTED himself as an heir of [Antonio] while [Leopolda] has KNOWLEDGE of such MISREPRESENTATION;
- 1.5. That the [petitioner] manifest[s] to this Honorable Court of his preference that the above-counterclaims and cross-claims be resolved in the present case[.]<sup>[26]</sup>

The petitioner further averred that the transfer of Antonio's title under TCT No. T-0500 in the name of Serafin is irregular and illegal since the true owner's copy of TCT No. T-0500 remained in his possession.

Henry continued to remain silent.

On October 10, 2001, Serafin filed his Reply<sup>[27]</sup> to the comment/opposition of the petitioner. He substantially averred that:

1. With the end in view of registering Lot 5357 in his name, he instituted the instant case due to the existence of certain documents affecting his title thereto, namely: Henry's **Affidavit of Self-Adjudication with Deed of Sale** dated August 2, 1996 naming Leopolda as the buyer, and **Tax Declaration No. 01532** issued in the name of the latter;
2. Under his **Affidavit of Self-Adjudication**, Henry already transferred whatever right and interest he had on the subject lot to Leopolda. On the other hand, by reason of the amicable settlement between him (Serafin) and Leopolda, the latter waived and abandoned all her rights to Lot 5357. Ergo, as far as Leopolda is concerned, her waiver negated all the legal consequences of Tax Declaration No. 01532 and Henry's Affidavit of Self-Adjudication. Since the same were the very documents that cast clouds on his (Serafin) title over Lot 5357, his main causes of action in the case at bench had become moot and