

## FIRST DIVISION

[ G.R. No. 202632, July 08, 2015 ]

**ROBERTO STA. ANA DY, JOSE ALAINEO DY, AND ALTEZA A. DY FOR THEMSELVES AND AS HEIRS/SUBSTITUTES OF DECEASED-PETITIONER CHLOE ALINDOGAN DY, PETITIONERS, VS. BONIFACIO A. YU, SUSANA A. TAN, AND SOLEDAD ARQUILLA SUBSTITUTING DECEASED-RESPONDENT ROSARIO ARQUILLA, RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> are the Decision<sup>[2]</sup> dated April 25, 2012 and the Resolution<sup>[3]</sup> dated July 18, 2012 of the Court of Appeals (CA) in CA-G.R. CV No. 92962, which affirmed the Decision<sup>[4]</sup> dated August 15, 2007 of the Regional Trial Court (RTC) of Naga City, Branch 26 (RTC-Branch 26) in Civil Case No. '98-4100 declaring, *inter alia*, respondents Bonifacio A. Yu (Bonifacio), Susana A. Tan (Susana), and Soledad Arquilla (Soledad), children and herein substitutes of the late Rosario Arquilla (Rosario), as the absolute owners of Lot No. 1519-A, a subdivided portion of Lot 1519,<sup>[5]</sup> a 522-square meter residential lot located at Zamora Street, Sabang, Naga City.

#### The Facts

In 1936, Adriano Dy Chiao (Dy Chiao), the original owner of Lot 1519, gave said lot to his wife Manuela Sta. Ana (Manuela) and their children, namely, Carlos, Lilia, and herein petitioner Roberto, all surnamed Dy (Dy children).<sup>[6]</sup> After the death of Dy Chiao and Manuela, the surviving children executed an Extrajudicial Settlement with Sale<sup>[7]</sup> dated October 4, 1982 to partition their parents' estate<sup>[8]</sup> which consisted only of Lot 1519 and Lot 1531. In the said document, both Carlos and Lilia sold their respective shares over the properties to Roberto.<sup>[9]</sup>

Sometime in 1984 and on the basis of the extrajudicial settlement, Roberto filed an application<sup>[10]</sup> for registration of Lot 1519 before the RTC of Naga City, Branch 23, docketed as Land Reg. Case No. RTC '83-4. In a **Decision dated October 14, 1986**, the RTC ruled in favor of Roberto and was issued **Original Certificate of Title (OCT) No. 511**<sup>[11]</sup> by the Office of the Register of Deeds for the City of Naga on **October 6, 1987**.<sup>[12]</sup>

Lot 1519-A, having been included in OCT No. 511, became the subject matter of three separate cases, which proceedings are detailed as follows:

**First Case: Civil Case No. RTC '89-1782**

## **(Recovery of Possession and Damages)**

On **May 22, 1989**, Roberto filed a complaint<sup>[13]</sup> for **recovery of possession with damages** against **Susana and her husband, Sixto Tan** (Sixto), before the RTC of Naga City, Branch 24 (RTC-Branch 24), docketed as **Civil Case No. '89-1782 (Recovery Case)**.

He alleged, among others, that he is the registered owner of Lot 1519 under OCT. No. 511, which he acquired by virtue of the Extrajudicial Settlement with Sale executed between him and his siblings after the death of their parents Dy Chiao and Manuela. During the lifetime of Manuela, the latter, by mere accommodation, permitted Rosario to temporarily occupy a portion of Lot 1519 (which would turn out to be Lot 1519-A after the mother lot's subdivision<sup>[14]</sup>) covering approximately 80 square meters, as well as to construct a house thereon, with the understanding that she would vacate the premises upon demand.<sup>[15]</sup> Rosario took possession of the property, who was later succeeded by Susana and Sixto. However, despite repeated demands to vacate, Susana and Sixto refused to do so.<sup>[16]</sup> Thus, Roberto prayed that the possession of said premises be surrendered to him, and that he be paid reasonable rent and damages.<sup>[17]</sup>

The complaint against Sixto was eventually dropped in an Order<sup>[18]</sup> dated August 15, 1989, as he had already been separated from Susana for more than twenty (20) years.<sup>[19]</sup>

Susana, for her part,<sup>[20]</sup> denied that Manuela merely allowed them to temporarily occupy Lot 1519-A, claiming that said portion was ceded to her mother, Rosario, by Roberto's father, Dy Chiao, by way of donation in 1938. Since then, Rosario (and later, Susana) had been in open and continuous possession of the property in the concept of an owner, having built a residential house thereon<sup>[21]</sup> and even declared it for tax purposes in Rosario's name.<sup>[22]</sup> Susana added that the Extrajudicial Settlement with Sale executed by Roberto and his siblings was a nullity since they were not the compulsory heirs of the late Dy Chiao, being mere illegitimate children.<sup>[23]</sup> She further claimed that Roberto's application for registration, *i.e.*, OCT No. 511, which included Lot 1519-A, was secured through fraud and misrepresentation.<sup>[24]</sup>

Meanwhile, Rosario moved to intervene in the proceedings and in her Answer-in-Intervention,<sup>[25]</sup> claimed that the property occupied by her and Susana was segregated from a bigger parcel of land by way of Subdivision Plan survey<sup>[26]</sup> and identified as Lot 1519-A containing a total area of 174 square meters.<sup>[27]</sup> The said portion was donated to her by Dy Chiao in 1938 (as evidenced by a written document in Chinese<sup>[28]</sup>), and that she has since been in continuous possession of the same for over 50 years.<sup>[29]</sup> She also maintained that she owned the house constructed thereon and that she requested Susana to live with her.<sup>[30]</sup> Moreover, she averred that Roberto's title over Lot 1519 that included the Lot 1519-A was acquired through fraud, having intentionally concealed in his application for land registration her adverse possession thereof in the concept of an owner.<sup>[31]</sup> To further justify their claims, Susana and Rosario submitted to the RTC-Branch 24 a

document entitled "Declaration of Ownership"<sup>[32]</sup> dated January 11, 1979, which Rosario executed over the subject portion, duly registered with the Registry of Property of Naga City.<sup>[33]</sup> Accordingly, they prayed for the dismissal of the Recovery Case, and that Rosario be declared the owner of Lot 1519-A, as well as the residential house constructed thereon.<sup>[34]</sup>

In a Decision<sup>[35]</sup> dated March 30, 1990, the RTC-Branch 24 dismissed Roberto's complaint for lack of merit and thereby declared Rosario as the lawful owner of Lot 1519-A. It held that while the donation of the subject portion by Dy Chiao in favor of Rosario was found to be void for failure to comply with the formalities provided under the Civil Code, the latter had, nonetheless, acquired ownership thereof by acquisitive prescription given her actual, public, and continued possession of Lot 1519-A in good faith and in the concept of an owner for more than ten (10) years.<sup>[36]</sup> The RTC-Branch 24 added that since the nature of Rosario's Answer-in-Intervention amounted to an action for reconveyance and the subject portion was found to have been fraudulently included and registered by Roberto, the latter was ordered to reconvey said portion to Rosario being its rightful owner and to further pay attorney's fees, as well as costs of suit.<sup>[37]</sup>

Unfazed, Roberto filed an appeal<sup>[38]</sup> to the CA, docketed as **CA-G.R. CV No. 27322.**<sup>[39]</sup>

Pending resolution of the appeal, Roberto and his wife, herein petitioner Chloe Dy (Chloe), executed a Deed of Donation of Real Property<sup>[40]</sup> dated June 28, 1994 (June 28, 1994 Deed of Donation) in favor of their children petitioners Jose Alaineo A. Dy (Jose) and Alteza A. Dy (Alteza) over Lot 1519. As a result, OCT No. 511 was cancelled and a new Transfer Certificate of Title (TCT) No. 26227<sup>[41]</sup> was issued in favor of Jose and Alteza.

On July 22, 1998, the CA rendered a Decision<sup>[42]</sup> in CA-G.R. CV No. 27322, reversing the March 30, 1990 Decision. It ruled that Rosario's defenses attacking the validity of OCT No. 511 on the ground of fraud amounted to a prohibited collateral attack on Roberto's title. It pointed out that if fraud attended the issuance of said title, the proper remedy was to institute a proceeding mainly for that purpose.<sup>[43]</sup>

Rosario's motion for reconsideration was denied by the CA in a Resolution<sup>[44]</sup> dated April 28, 1999, prompting her to elevate the matter to the Court via petition for review, docketed as G.R. No. 138561.<sup>[45]</sup> However, the petition and her subsequent motion for reconsideration were both denied by the Court in Minute Resolutions dated June 30, 1999<sup>[46]</sup> and September 8, 1999,<sup>[47]</sup> respectively, thereby upholding the validity of OCT No. 511. The foregoing attained finality and consequently recorded in the Book of Entries of Judgment<sup>[48]</sup> of the Court.

### **Second Case: Civil Case No. RTC '98-4073 (Reconveyance with Damages)**

Prior to the resolution of Rosario's motion for reconsideration in CAG.R. CV No. 27322 (which is the appeal of the Recovery Case) or on August 3, 1998, **Rosario**

**filed a complaint**<sup>[49]</sup> for **reconveyance with damages** against **Roberto** before the **RTC-Branch 26**, docketed as **Civil Case No. RTC '98-4073 (Reconveyance Case)**. Essentially, Rosario alleged the same matters as that contained in her Answer-in-Intervention filed in the Recovery Case, among others: (a) that Lot 1519-A was conveyed to her by its original owner Dy Chiao, by way of donation in 1938; (b) that she has since been in actual, public, and continued possession thereof in the concept of an owner; (c) that the Extrajudicial Settlement with Sale executed by Roberto and his siblings was a nullity since they were not the compulsory heirs of the late Dy Chiao; and (d) that OCT No. 511, which application included Lot 1519-A, was procured by Roberto through fraud and misrepresentation.<sup>[50]</sup>

In his Answer,<sup>[51]</sup> Roberto raised, *inter alia*, the affirmative defense of forum shopping, and further mentioned that the land covered by OCT No. 511 had already been transferred to another.<sup>[52]</sup> He also interposed a counterclaim for damages, purporting that Rosario had filed a baseless suit.<sup>[53]</sup>

In an Order<sup>[54]</sup> dated November 3, 1998, the RTC-Branch 26 dismissed the Reconveyance Case on the ground of *litis pendentia* and forum shopping since the appeal of the Recovery Case, which was still pending appeal before the CA, *i.e.*, CA-G.R. CV No. 27322, involved the same parties, subject matter, and relief sought.

On the other hand, the RTC-Branch 26 allowed<sup>[55]</sup> Roberto to present evidence on his counter-claim, prompting Rosario to appeal<sup>[56]</sup> said directive before the CA, docketed as **CA-G.R. CV No. 62480**, which, however, was subsequently declared abandoned and dismissed on February 24, 2000<sup>[57]</sup> for her failure to file the required appellant's brief.

### **Third Case: Civil Case No. RTC '98-4100 (Annulment and/or Rescission of Deed of Donation)**

Meanwhile, on August 12, 1998, Rosario discovered that Lot 1519 together with Lot 1519-A had been transferred by Roberto to his children, Jose and Alteza, by way of donation, and that said lot was eventually registered in their names under TCT No. 26227.<sup>[58]</sup>

Thus, on September 4, 1998, **Rosario filed another complaint**,<sup>[59]</sup> this time for the **annulment and/or rescission of the June 28, 1994 Deed of Donation with damages** against **petitioners Roberto, Chloe, Jose, and Alteza (petitioners)** also before the **RTC-Branch 26**, docketed as **Civil Case No. RTC '98-4100 (Annulment Case)**. Rosario alleged that the donation of the property to Jose and Alteza was illegal, considering that Roberto's title, which application included Lot 1519-A, was fraudulently procured by him. Ultimately, Rosario prayed for the cancellation of TCT No. 26227 and the reconveyance of Lot 1519-A.<sup>[60]</sup>

Petitioners moved to dismiss<sup>[61]</sup> the complaint, raising, among others, the pendency of the Recovery Case which involved the same parties for the same cause, which motion Rosano opposed.<sup>[62]</sup>

In an Order<sup>[63]</sup> dated January 27, 2000, the RTC-Branch 26 dismissed the

Annulment Case on the ground of *litis pendentia* and forum shopping, reasoning that CA-GR. CV No. 62480, which stemmed from the Reconveyance Case, and involved the same parties, subject matter, and relief sought, was still pending before the CA.

However, on reconsideration,<sup>[64]</sup> the Annulment Case was reinstated in an Order<sup>[65]</sup> dated May 11, 2000, finding that the controversy principally involved annulment of donation, which is not identical with the Recovery and Reconveyance Cases.

Subsequently, Rosario moved to amend<sup>[66]</sup> her complaint in the Annulment Case to include the cancellation of TCT No. 26227, reconveyance, and quieting of title, which the RTC-Branch 26 granted in the Order<sup>[67]</sup> dated November 6, 2000.

In the interim, or on October 10, 2000, Rosario died and was substituted by her compulsory heirs, namely, respondents Bonifacio, Susana, and Soledad (respondents).<sup>[68]</sup>

### **The RTC Ruling (Annulment Case)**

In a Decision<sup>[69]</sup> dated August 15, 2007, the RTC-Branch 26 ordered the annulment and/or rescission of the Deed of Donation, as well as the reconveyance of Lot 1519-A, in respondents' favor.

It upheld respondents' claim of ownership over Lot 1519-A not on account of the donation made by Dy Chiao to Rosario in 1938, which was found to be void for failure to comply with the formalities of the Civil Code, but by virtue of acquisitive prescription as it was shown that Rosario was in actual, open, public, and continuous possession of the same in the concept of an owner for more than thirty (30) years.

<sup>[70]</sup> It likewise found actual fraud on the part of Roberto in concealing in his application for land registration the adverse possession of respondents in violation of Section 15 of Presidential Decree No. (PD) 1529.<sup>[71]</sup> Accordingly, petitioners were ordered to reconvey the said portion in favor of the respondents. In addition, petitioners were also ordered to pay respondents attorney's fees and costs of suit.<sup>[72]</sup>

Aggrieved, petitioners appealed<sup>[73]</sup> to the CA, docketed as CA-G.R. CV No. 92962, posturing that the case should have been dismissed on the grounds of forum-shopping aside from the fact that it is already barred by prior judgments or *res judicata* in the Recovery and Reconveyance Cases, and that acquisitive prescription should not obtain in respondents' favor as it was not duly raised.<sup>[74]</sup>

### **The CA Ruling (Annulment Case)**

In a Decision<sup>[75]</sup> dated April 25, 2012, the CA affirmed the ruling of the RTC-Branch 26.

It held that there was no *res judicata* since the dismissal of the Reconveyance Case was not based on the merits, but upon the mere say-so of the court *a quo* that forum shopping existed.<sup>[76]</sup> Neither would the case be barred by the judgment in the Recovery Case since there it was ruled that the recourse of respondents to attack OCT No. 511 was to file an action for reconveyance, which precisely what