

## THIRD DIVISION

[ G.R. No. 174004, October 09, 2013 ]

**VIRGILIO G. CAGATAO, PETITIONER, VS. GUILLERMO ALMONTE, ARTHUR AGUILAR, SPS. ERNESTO FERNANDEZ AND AVELINA FERNANDEZ, MARVIN JOHN FERNANDEZ, MARSON FERNANDEZ, AND MARJUN FERNANDEZ, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure assailing the March 9, 2006 Amended Decision<sup>[1]</sup> and the August 7, 2006 Resolution<sup>[2]</sup> of the Court of Appeals (CA), in CA-G.R. CV No. 72094, modifying the June 22, 2001 Decision<sup>[3]</sup> of the Regional Trial Court, Branch 24, Echague, Isabela (RTC), in Civil Case No. Br. 24-0458, an action for annulment of sale, cancellation of title and damages.

#### The Facts

This case stemmed from an action for annulment of deeds of sale, cancellation of title and damages filed on April 18, 1996 by petitioner Virgilio G. Cagatao (*Cagatao*) against respondents Guillermo Almonte (*Almonte*), Arthur Aguilar (*Aguilar*), Spouses Ernesto and Avelina Fernandez (*Spouses Fernandez*), and Marvin John Fernandez, Marson Fernandez and Marjun Fernandez (collectively the *Fernandez Siblings*).<sup>[4]</sup>

On February 16, 1949, a homestead patent over the property subject of this controversy (Lot No. 5598, Pls-67) was issued in favor of Juan Gatchalian.<sup>[5]</sup> Cagatao claimed that sometime in 1940, Gatchalian sold the lot to Delfin Manzulin (*Manzulin*) in exchange for one carabao, as embodied in a barter agreement which was unfortunately destroyed or lost during the Second World War.<sup>[6]</sup> In 1990, Manzulin allegedly executed a private written document in the Ilocano dialect, transferring ownership over the property to his son-in-law, Cagatao.<sup>[7]</sup> The latter then occupied and cultivated the land until the Fernandez Siblings attempted to take possession of the lot, thereby prompting him to file the subject complaint before the RTC.<sup>[8]</sup>

The respondents, on the other hand, contended that on April 3, 1993, the Spouses Fernandez purchased the property from Almonte and Aguilar who had in their possession a tax declaration covering the said land.<sup>[9]</sup> To protect their interest, on January 17, 1996, Spouses Fernandez once again bought the same property for P220,000.00 from Emmaculada Carlos (*Carlos*), believed to be the owner of the lot by virtue of Transfer Certificate of Title (TCT) No. T-12159-A, a *reconstituted title* in her name.<sup>[10]</sup> The former, in turn, executed a deed of sale, dated January 22,

1996, in favor of their children, the Fernandez Siblings, resulting in the issuance of TCT No. T-249437 in their names.<sup>[11]</sup>

In his Memorandum before the RTC, Cagatao questioned the sale to Spouses Fernandez by Carlos because, at that time, Manzulin was already the owner of the subject property. He also pointed out that it was highly irregular that Spouses Fernandez would buy the same property from two different vendors on two different occasions. Apart from these anomalous transactions, Cagatao insisted that TCT No. T-249437 in the name of the Fernandez Siblings was a nullity because the sale from the Spouses Fernandez was simulated, as testified to by Avelina Fernandez (*Fernandez*) who confirmed that she and her husband did not sign the deed of sale purporting to have transferred ownership of the property to the Fernandez Siblings.<sup>[12]</sup>

The respondents claimed that Cagatao was unable to present proof of title or any public document embodying the sale of the property from Gatchalian to Manzulin and from the latter to Cagatao. They also argued that even if a homestead patent was indeed issued to Gatchalian, the same became void when he (Gatchalian) did not occupy the land himself, in violation of Commonwealth Act No. 141 (Public Land Act of 1936).<sup>[13]</sup>

Pending litigation, the RTC issued a writ of preliminary injunction restraining the respondents from disturbing Cagatao's possession of the land in question during the pendency of the case.<sup>[14]</sup> In its Decision, dated June 22, 2001, however, the RTC ruled that Cagatao's evidence was insufficient to prove his ownership over the land in question because Manzulin never acquired a lawful title to the property from his predecessor, Gatchalian. The court explained that the transfer to Manzulin was null and void because it failed to comply with Section 20<sup>[15]</sup> of Commonwealth Act No. 141. As to the supposed conveyance of the lot from Manzulin to Cagatao, it could not have been valid because the document alleged to be a deed of sale was a private document which did not conclusively establish his (Cagatao's) right to the property because of the requirement in contract law that the transmission of rights over an immovable property must be contained in a public document.

The RTC, after noting that Cagatao had no valid title, ruled that his claim of possession could not prevail over the claim of ownership by Spouses Fernandez as evidenced by a certificate of title. Accordingly, it upheld the validity of the deed of sale, dated January 17, 1996, between Spouses Fernandez and Carlos. It, however, nullified the transfer from Spouses Fernandez to Fernandez Siblings because Avelina herself admitted that she and her husband never signed the deed of sale which transferred ownership to their children. Finally, the RTC sustained the validity of TCT No. T-12159-A in the name of Carlos, theorizing that someone must have applied for an original certificate of title from which the said title was derived.<sup>[16]</sup> Thus, the RTC disposed:

1. the dismissal of the plaintiff's [Cagatao's] Complaint;
2. the Cancellation and setting aside of the writ of preliminary injunction;
3. the Register of Deeds to cancel Transfer Certificate of Title No. T-249437 issued in favor of Marvin, Marson and Marjun, all surnamed

Fernandez, the Deed of Sale (Exhibit "C") dated January 22, 1996 being null and void; and

4. declaring the Deed of Sale (Exhibit "2") dated January 17, 1996 in favor of Sps. Avelina M. Fernandez and Ernesto S. Fernandez and TCT No. T-12159-A registered in the name of Emmaculada G. Carlos as valid and binding.

SO ORDERED.<sup>[17]</sup>

Aggrieved, Cagatao elevated the case to the CA. On July 29, 2005, the CA partly granted his petition and modified the decision of the RTC. The CA deemed as speculative and without legal basis<sup>[18]</sup> the trial court's conclusion that Gatchalian might have abandoned his homestead patent, leaving it open for another person to apply for a patent and secure an original certificate of title from which TCT No. T-12159-A in the name of Carlos originated. In other words, the ownership of the land remained with Gatchalian by virtue of the homestead patent in his name, and neither the alleged transfer to Manzulin nor the theory of abandonment of the RTC could divest him of said title.

In addition, the CA took note of Entry No. 7259 in the memorandum of encumbrances at the dorsal side of TCT No. T-12159-A, which disclosed the existence of another deed of sale entered into by Carlos and the respondents on January 17, 1979. Holding that the two sales could not overlap, it invalidated the January 17, 1996 deed of sale between Carlos and Spouses Fernandez. It also considered as void the sale of the same property by Almonte to Spouses Fernandez and observed that neither the latter nor the Fernandez siblings invoked this transaction as the basis of their claim.

Although the CA declared that Cagatao's claim of ownership could not be recognized, it nevertheless ruled that his possession could not be disturbed because only the true owner could challenge him for possession of the subject property. Leaving the parties where it found them, the CA disposed:

1) the Register of Deeds is ORDERED TO CANCEL Transfer Certificate of Title No. 249437 issued in favor of Marvin, Marson and Marjun, all surnamed Fernandez; 2) the Deed of Sale dated January 17, 1996 between Emmaculada Carlos and the Fernandez spouses is declared NULL and VOID; 3) the Deed of Sale dated January 22, 1996 between defendants-appellees Fernandez siblings and the Fernandez spouses is DECLARED NULL and VOID; 4) the Deed of Sale dated April 3, 1993 between the Fernandez spouses and Guillermo Almonte and Arthur Aguilar is likewise DECLARED NULL and VOID; 5) the verbal sale between Delfin Manzulin and plaintiff-appellant is DECLARED NULL and VOID. The Writ of Preliminary Injunction against defendants-appellants Fernandez siblings is made PERMANENT.<sup>[19]</sup>

The respondents moved for a reconsideration of the CA decision on August 24, 2005. On March 9, 2006, the CA rendered the questioned *Amended Decision*, reversing itself when it ruled that the deed of sale between Carlos and Spouses Fernandez could not be declared null and void, especially because Carlos was not impleaded as a party in the case. It, however, stressed that Cagatao's possession of

the subject property should be respected. Any party, including the respondents, who would like to assert their claim of ownership or a better right over the lot should assert their right in an appropriate action in court against him.

Not in conformity, Cagatao moved for reconsideration but the motion was denied by the CA in its Resolution, dated August 7, 2006.<sup>[20]</sup>

Hence, this petition.

### **The Issues**

In his petition, Cagatao raises the following issues:

- I. Whether or not the Court of Appeals erred in not ruling that the reconstituted TCT No. 12159-A in the name of Emmaculada Carlos is void.**
- II. Whether or not the Court of Appeals erred in not ruling that homestead title holder Juan Gatchalian and the petitioner as his successors-in-interest are the true owners of the subject property.**
- III. Whether or not the Court of Appeals erred in rendering the challenged Amended Decision by deleting from the dispositive portion of the original Decision its ruling that the Deed of Sale between Emmaculada Carlos and respondents Spouses Fernandez over the subject property is void.<sup>[21]</sup>**

### **The Court's Ruling**

Cagatao's entire petition revolves around the assertion that the reconstituted TCT No. 12159-A in the name of Carlos was a fake and should have been declared void. This claim is based on the existence of an allegedly falsified annotation (Entry No. 7259), the speculative nature of the RTC's declaration that the said title appeared valid, and the fact that the respondents were not able to present an affidavit of loss or any proof of judicial reconstitution.<sup>[22]</sup>

The Court cannot accommodate the petitioner.

*The validity of TCT No. 12159-A cannot be attacked collaterally; Carlos is an indispensable party*

From the arguments of Cagatao, it is clear that he is assailing the validity of the title of Carlos over the land in question. Section 48 of P.D. No. 1529 clearly states that "a certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law." An attack on the validity of the title is considered to be a collateral attack when, in an action to obtain a different relief and as an incident of the said action, an attack is made against the judgment granting the title.<sup>[23]</sup> Cagatao's original complaint before the RTC was for the cancellation of TCT No. T-249437 in the name of the Fernandez Siblings and the nullification of the deeds of sale between the Fernandez Siblings and Spouses Fernandez, and the earlier one between the latter and Almonte