

## SECOND DIVISION

[ G.R. No. 163125, April 18, 2012 ]

**JOSE ABELGAS, JR. AND LETECIA JUSAYAN DE ABELGAS,  
PETITIONERS, VS. SERVILLANO COMIA, RURAL BANK OF  
SOCORRO INC. AND RURAL BANK OF PINAMALAYAN, INC.  
RESPONDENTS.**

### DECISION

**SERENO, J.:**

Before this Court is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, seeking to review the Court of Appeals (CA) 20 March 2003 Decision and 31 March 2004 Resolution in CA-G.R. CV No. 46241. The assailed Decision nullified the Deed of Relinquishment, Renunciation of Rights and Quitclaim executed by respondent Servillano Comia in favor of petitioner spouses Jose Abelgas, Jr. and Letecia Jusayan de Abelgas, as well as the encumbrances executed by the spouses in favor of respondent banks.

The pertinent facts are as follows:

On 4 April 1971, Comia obtained a free patent over Lot No. 919-B situated in Pinamalayan, Oriental Mindoro with an area of 6,790 square meters.<sup>[1]</sup> Pursuant to this free patent, Lot No. 919-B was originally registered on 26 April 1976 as Original Certificate of Title (OCT) No. P-8553.

Subsequently, on 1 May 1971, by virtue of a notarized Deed of Relinquishment, Renunciation of Rights and Quitclaim, Comia voluntarily conveyed a 3,000-square-meter (3,000-sqm) portion of Lot No. 919-B to the spouses Abelgas. It was stated in the said Deed that the subject portion was the sole property of the spouses; and that it had only been included in the title of Comia for it adjoined his land. Indeed, based on the Subdivision Survey, the 3,000-sqm portion of Lot No. 919-B bordered Lot No. 919-E owned by Jose Abelgas, Jr.<sup>[2]</sup>

By virtue of this subsequent voluntary dealing over the property, the Register of Deeds cancelled OCT No. P-8553 in the name of Comia and Transfer Certificate of Title (TCT) No. T-46030<sup>[3]</sup> was issued on 3 May 1971 in the names of "CO-OWNERS, (1) SERVILLANO COMIA, married to Estelita Amaria, and (2) SPS. JOSE ABELGAS, JR. AND LETECIA JUSAYAN DE ABELGAS"<sup>[4]</sup> as co-owners of Lot No. 919-B. There is no explanation in the records on how TCT No. T-46030 came about to be recorded in the names of these people when the subject portion should have been, as a consequence of the 1971 Deed of Relinquishment, Renunciation of Rights and Quitclaim, in the name of the spouses Abelgas only.

Thereafter, the spouses subdivided their 3,000-sqm portion into twelve (12) lots as

evidenced by TCT Nos. T-46374 to 46375.<sup>[5]</sup> Using their TCTs, they used the lots to secure their loan obligations with Rural Bank of Pinamalayan, Inc. (RBPI), Rural Bank of Socorro, Inc. (RBSI), and the Philippine National Bank (PNB).

Specifically, on 6 July 1971, the spouses Abelgas constituted a mortgage on TCT No. 46366 to secure a loan for ₱1,000. Then, to secure another loan for ₱600, the spouses mortgaged on 23 August 1971 the lot covered by TCT No. T-46367. Petitioners defaulted on their obligations and hence, the lots were sold at a public auction, wherein RBPI prevailed as the winning bidder.<sup>[6]</sup> After the lapse of the redemption period, TCT Nos. T-17448 and T-17445 were issued in the name of RBPI.<sup>[7]</sup>

As for the remaining lots, the spouses mortgaged most<sup>[8]</sup> of these to RBSI in 1971 to 1972 as security for the spouses' various loans. Petitioners defaulted on their obligations, and, thus, the mortgagee bank foreclosed the securities wherein it emerged as the winning bidder. Thus:<sup>[9]</sup>

TCT Nos.	Security Date	Auction Date	Loan (P)
46364	04 September 1971	19 December 1974	800
46365	15 June 1971	26 January 1976	1,000
46369 & 46370	13 November 1971	21 December 1973	1,000
46372 & 46373	19 April 1972	21 December 1973	2,000

Of these properties, lots covered by TCT Nos. 46369 and 46370 had certificates that were cancelled and a new one, TCT No. 71198,<sup>[10]</sup> was issued in RBSI's name.

Comia contested the issuance of these titles. He claimed that he was the sole owner of Lot No. 919-B; and that the Deed of Relinquishment, Renunciation of Rights and Quitclaim, which resulted in the issuance of TCT Nos. T-46030, and T-4634 to 46375, is fictitious and nonexisting.<sup>[11]</sup> Thus, Comia demanded the recovery of Lot No. 919-B under OCT No. P-8553 and the cancellation of the subsequent titles.<sup>[12]</sup>

He pursued his action before the Regional Trial Court (RTC) by filing a Complaint for cancellation and recovery of, and/or quieting of title to real property and damages against the Abelgas spouses, RBPI, RBSI, and PNB.<sup>[13]</sup> For their answer, the spouses asserted that they had been in possession of the 3,000-sqm portion of Lot No. 919-B.<sup>[14]</sup> During trial, Jose Abelgas Jr. testified that before 1971, he had already purchased the said portion from respondent.<sup>[15]</sup>

In turn, the mortgagee banks, RBPI and RBSI, filed cross-claims against the spouses for them to pay their obligations in the event that the TCTs offered as security for their loans would be declared as null and void. Respondent assailed the encumbrances in favor of the mortgagee banks as void *ab initio* and obtained in bad faith as these were executed within the period of prohibition to dispose lands subject of a free patent under Section 118 of the Public Land Act (CA 141). Claiming lack of notice of any defect in the certificates, both banks denied Comia's allegations.

Section 118 of CA 141<sup>[16]</sup> prohibits the alienation of lands subject to a free patent

within five years from the issuance of the grant. Additionally, any disposition made after the prohibited period must be with the consent of the Secretary of Environment and Natural Resources. Evidently, the Deed and the mortgages were executed within the prohibited period and without the Secretary's consent.

The RTC dismissed the Complaint of Comia.<sup>[17]</sup> It found that the Deed as signed by him voluntarily relinquished the subject parcel of land in favor of its rightful owner and possessors – the spouses Abelgas.<sup>[18]</sup> The trial court also upheld the validity of the mortgages, since encumbrances made in favor of banks are exempted according to the amendatory laws of the Public Land Act.<sup>[19]</sup> Moreover, based on *Decolongon v. CA*,<sup>[20]</sup> the approval of the Secretary of Environment and Natural Resources is only directory.

Accordingly, the dispositive portion reads:<sup>[21]</sup>

WHEREFORE, premises considered, judgment is hereby rendered in favor of defendants spouses JOSE ABELGAS, Jr. and LETECIA JUSAYAN DE ABELGAS; RURAL BANKS OF SOCORRO, INC. and RURAL BANK OF PINAMALAYAN, INC., against plaintiff SERVILLANO COMIA, as follows:

1. Dismissing plaintiff's Amended Complaint;
2. Declaring Transfer Certificate of Title No. T-46030, and Transfer Certificates of Title Nos. T-46364 to T-46375 and subsequent certificates of title thereto in the name of defendants Rural Bank of Socorro, Inc. or defendant Rural Bank of Pinamalayan, Inc. as valid and existing;
3. Ordering the plaintiff to pay the following:
  - (a) Defendants spouse (sic) Jose Abelgas, Jr. and Letecia Jusayan de Abelgas the sum of P5,000.00 as attorney's fees;
  - (b) Defendant Rural Bank of Socorro, Inc., the sum of P50,000.00 as damages for besmirched reputation being a bank institution with good standing; P2,000.00 as attorney's fee, and P1,000.00 as litigation expenses;
  - (c) Defendant Rural Bank of Pinamalayan, Inc., the sum of P50,000.00 as damages for besmirched reputation being a bank institution with good standing; P2,000.00 as attorney's fee, and P1,000.00 as litigation expenses; and
4. The costs.

SO ORDERED.

Comia appealed to the CA, which modified the RTC's Decision. While the appellate court sustained the due execution of the Deed of Relinquishment, Renunciation of Rights and Quitclaim, it construed the document as an alienation prohibited by CA

141. The CA pronounced that in an attempt to circumvent the law, it was made to appear that the 3,000 square meters adjoining the land of Comia was owned by the spouses. However, based on testimonial evidence, Abelgas purchased the said portion contrary to law.<sup>[22]</sup>

Likewise, the CA nullified the mortgages, as the exemption of the banks had been removed by Commonwealth Act 456<sup>[23]</sup> amending Section 118 of Commonwealth Act 141, which took effect on 8 June 1939.<sup>[24]</sup> Nevertheless, the banks may recover the value of the loans with interest.<sup>[25]</sup>

In view of the Deed's nullity, and in the absence of escheat proceedings, the CA restored to Comia Lot No. 919-B. The appellate court ruled thus:<sup>[26]</sup>

**WHEREFORE**, the Decision appealed from is **REVERSED** and **SET ASIDE**, and another one entered as follows:

1. Declaring the deed of relinquishment and renunciation of rights and quitclaim as null and void;
2. Declaring the deeds of real estate mortgage executed by defendants-appellees Jose Abelgas, Jr. and Letecia Jusayan de Abelgas in favor of Rural Bank Pinamalayan, Inc. and Rural Bank of Socorro, Inc., as well as the foreclosure proceedings and certificates of sale, null and void;
3. Ordering the Register of Deeds of the Province of Oriental Mindoro to cancel TCT nos. T-46030, 465364 to 465375, 46821, 71171 and 71198 and to reinstate OCT No. P-8553 in the name of plaintiff-appellant Servillano Comia;
4. Ordering defendants-appellees Jose Abelgas, Jr. and Letecia Jusayan de Abelgas to pay Rural Bank of Pinamalayan, Inc., their indebtedness in the total amount of P1,600.00 plus interest thereon at the legal rate from the date of maturity of promissory notes, attached as Annexes "1-A", and "2-A" to its cross-claim, and the amount of P3,000.00 as attorney's fees.
5. Ordering defendants-appellees Jose Abelgas, Jr. and Letecia Jusayan de Abelgas to pay Rural Bank of Socorro, Inc. their indebtedness in the total amount of P5,600.00, plus interest thereon at the legal rate from the date of maturity of the promissory notes, attached as Annexes "1", "2," "3" and "4" to its cross-claim, and the amount of P3,000.00 as attorney's fees.

**SO ORDERED.**

Hence, the central issue in this Petition filed by the aggrieved spouses is whether the CA gravely erred in declaring the Deed of Relinquishment, Renunciation of Rights and Quitclaim and the mortgages in favor of mortgagee banks, as null and

void for being contrary to the provisions of CA 141 and its amendatory laws.

Section 118 of CA 141<sup>[27]</sup> requires that before the five year prohibition applies, **there should be an alienation or encumbrance of the land acquired under free patent or homestead.**

Section 118. Except in favor of the Government or any of its branches, units, or institutions, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations.

No alienation, transfer, or conveyance of any homestead after five years and before twenty-five years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Commerce, which approval shall not be denied except on constitutional and legal grounds.

Thus, to ascertain the correctness of the CA's Decision, there is a need to verify **whether in executing the Deed of Relinquishment, Renunciation of Rights and Quitclaim, Comia alienated the 3,000-sqm portion after the grant of the free patent.** Although this is a finding of fact generally beyond this Court's jurisdiction,<sup>[28]</sup> this Court will consider the issue, considering the conflicting factual and legal conclusions of the lower courts.

In real property law, alienation is defined as the transfer of the property and possession of lands, tenements, or other things from one person to another. It is the "act by which the title to real estate is voluntarily resigned by one person to another and accepted by the latter, in the forms prescribed by law."<sup>[29]</sup> In this case, Comia did not transfer, convey or cede the property; but rather, he relinquished, renounced and "quitclaimed" the property considering that **the property already belonged to the spouses.** The voluntary renunciation by Comia of that portion was **not an act of alienation**, but an act of correcting the inclusion of the property in his free patent.

The evidence on record reveals that prior the grant of the free patent, the spouses already owned the property. This fact can be inferred from the following testimony of Jose Abelgas, Jr.:<sup>[30]</sup>

A: It was in **1971** when he (Servillano Comia) went to our house bringing with him an Original Certificate of Title issued to him by the Bureau of Lands.

Q: What was his purpose of bringing to you Original Certificate of Title (sic) issued by the Bureau of Lands?

A: He wants to segregate the 3,000 square meters out of 6,790 square meters from the Original Certificate of Title **which I**