692 Phil. 652

THIRD DIVISION

[G.R. No. 184746, August 15, 2012]

SPOUSES CRISPIN GALANG AND CARLOAD GALANG, PETITIONERS, VS. SPOUSES CONRADO S. REYES AND FE DE KASTRO REYES (AS SUBSTITUTED BY THEIR LEGAL HEIR: HERMENIGILDO K. REYES), RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This petition for review on certiorari under Rule 45 seeks to reverse and set aside the April 9, 2008 Decision[1] of the Court of Appeals (CA) and its October 6, 2008 Resolution,[2] in CA-G.R. CV. No. 85660.

The Facts

On September 4, 1997, spouses Conrado S. Reyes and Fe de Kastro Reyes *(the Reyeses)* filed a case for the annulment of Original Certificate of Title *(OCT)* No. P-928 against spouses Crispin and Caridad Galang *(the Galangs)* with the Regional Trial Court, Antipolo, Rizal (RTC),docketed as Civil Case No. 97-4560.

In their Complaint,[3] the Reyeses alleged that they owned two properties: (1) a subdivision project known as Ponderosa Heights Subdivision *(Ponderosa)*, and (2) an adjoining property covered by Transfer Certificate of Title (TCT) No. 185252, with an area of 1,201 sq.m.;[4] that the properties were separated by the Marigman Creek, which dried up sometime in 1980 when it changed its course and passed through Ponderosa; that the Galangs, by employing manipulation and fraud, were able to obtain a certificate of title over the dried up creek bed from the Department of Environment and Natural Resources *(DENR),* through its Provincial Office *(PENRO)*; that, specifically, the property was denominated as Lot 5735, Cad 29 Ext., Case-1, with an area of 1,573 sq.m. covered by OCT No. P-928; that they discovered the existence of the certificate of title sometime in March 1997 when their caretaker, Federico Enteroso *(Enteroso)*, informed them that the subject property had been fraudulently titled in the names of the Galangs; that in 1984, prior to such discovery, Enteroso applied for the titling of the property, as he had been occupying it since 1968 and had built his house on it; that, later, Enteroso requested them to continue the application because of financial constraints on his part;[5] that they continued the application, but later learned that the application papers were lost in the Assessor's Office;[6] and that as the owners of the land where the new course of water passed, they are entitled to the ownership of the property to compensate them for the loss of the land being occupied by the new creek.

The Galangs in their Answer[7] denied that the land subject of the complaint was

part of a creek and countered that OCT No. P-928 was issued to them after they had complied with the free patent requirements of the DENR, through the PENRO; that they and their predecessor-in-interest had been in possession, occupation, cultivation, and ownership of the land for quite some time; that the property described under TCT No. 185252 belonged to Apolonio Galang, their predecessor-in-interest, under OCT No. 3991; that the property was transferred in the names of the Reyeses through falsified document;[8] that assuming *ex gratia argumenti* that the creek had indeed changed its course and passed through Ponderosa, the Reyeses had already claimed for themselves the portion of the dried creek which adjoined and co-existed with their property; that Enteroso was able to occupy a portion of their land by means of force, coercion, machinations, and stealth in 1981; that such unlawful entry was then the subject of an Accion Publiciana before the RTC of Antipolo City (Branch 72); and that at the time of the filing of the Complaint, the matter was still subject of an appeal before the CA, under CA-G.R. CV No. 53509.

The RTC Decision

In its Decision,[9] dated July 16, 2004, the RTC dismissed the complaint for lack of cause of action and for being an erroneous remedy. The RTC stated that a title issued upon a patent may be annulled only on grounds of actual and intrinsic fraud, which much consist of an intentional omission of fact required by law to be stated in the application or willful statement of a claim against the truth. In the case before the trial court, the Reyeses presented no evidence of fraud despite their allegations that the Galangs were not in possession of the property and that it was part of a dried creek. There being no evidence, these contentions remained allegations and could not defeat the title of the Galangs. The RTC wrote:

> A title issued upon patent may be annulled only on ground of actual fraud.
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> Such fraud must consist [of] an intentional omission of fact required by law to be stated in the application or willful statement of a claim against the truth. It must show some specific facts intended to deceive and deprive another of his right. The fraud must be actual and intrinsic, not merely constructive or intrinsic; the evidence thereof must be clear, convincing and more than merely preponderant, because the proceedings which are being assailed as having been fraudulent are judicial proceedings, which by law, are presumed to have been fair and regular. (Libudan v. Palma Gil 45 SCRA 17)
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> However, aside from allegations that defendant Galang is not in possession of the property and that the property was part of a dried creek, no other sufficient evidence of fraud was presented by the plaintiffs. They have, thus, remained allegations, which cannot defeat the defendants title.[10]

The RTC added that the land, having been acquired through a homestead patent, was presumably public land. Therefore, only the State can institute an action for the annulment of the title covering it.

It further opined that because the Reyeses claimed to have acquired the property by right of accretion, they should have filed an action for reconveyance, explaining "[t]hat the remedy of persons whose property had been wrongly or erroneously registered in another's name is not to set aside the decree/title, but an action for reconveyance, or if the property has passed into the hands of an innocent purchaser for value, an action for damages."[11]

The Court of Appeals Decision

In its Decision, dated April 9, 2008, the CA *reversed* and *set aside* the RTC decision and ordered the cancellation of OCT No. P-928 and the reconveyance of the land to the Reyeses.

The CA found that the Reyeses had proven by preponderance of evidence that the subject land was a portion of the creek bed that was abandoned through the natural change in the course of the water, which had now traversed a portion of Ponderosa. As owners of the land occupied by the new course of the creek, the Reyeses had become the owners of the abandoned creek bed *ipso facto*. Inasmuch as the subject land had become private, a free patent issued over it was null and void and produced no legal effect whatsoever. A *posteriori*, the free patent covering the subject land, a private land, and the certificate of title issued pursuant thereto, are null and void.[12]

The Galangs moved for a reconsideration,[13] but their motion was denied in a Resolution dated October 6, 2008.

Hence, this petition.

Issues

The Galangs present, as warranting a review of the questioned CA decision, the following grounds:

> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN NOT RESOLVING THAT THE OFFICE OF THE SOLICITOR GENERAL, NOT THE PRIVATE RESPONDENTS, HAS THE SOLE AUTHORITY TO FILE [CASES FOR] ANNULMENT OF TITLE INVOLVING PUBLIC LAND.**
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> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HOLDING THAT PRIVATE RESPONDENTS HAVE [A] CAUSE OF ACTION AGAINST PETITIONERS EVEN WITHOUT EXHAUSTION OF ADMINISTRATIVE REMED[IES].**
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> **THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DEVIATING FROM THE FINDINGS OF FACT OF THE TRIAL COURT AND INTERPRETING ARTICLE 420 IN RELATION TO ARTICLE 461**

OF THE CIVIL CODE OF THE PHILIPPINES BY SUBSTITUTING ITS OWN OPINION BASED ON ASSUMPTION OF FACTS.[14]

A reading of the records discloses that these can be synthesized into two principal issues, to wit: (1) whether the Reyeses can file the present action for annulment of a free patent title and reconveyance; and (2) if they can, whether they were able to prove their cause of action against the Galangs.

The Court's Ruling

Regarding the first issue, the Galangs state that the property was formerly a public land, titled in their names by virtue of Free Patent No. 045802-96-2847 issued by the DENR. Thus, they posit that the Reyeses do not have the personality and authority to institute any action for annulment of title because such authority is vested in the Republic of the Philippines, through the Office of the Solicitor General. [15]

In this regard, the Galangs are mistaken. The action filed by the Reyeses seeks the transfer to their names of the title registered in the names of the Galangs. In their Complaint, they alleged that: first, they are the owners of the land, being the owners of the properties through which the Marigman creek passed when it changed its course; and second, the Galangs illegally dispossessed them by having the same property registered in their names. It was not an action for reversion which requires that the State be the one to initiate the action in order for it to prosper. The distinction between the two actions was elucidated in the case of *Heirs of Kionisala v. Heirs of Dacut*,[16] where it was written:

> **An ordinary civil action for declaration of nullity of free patents and certificates of title is not the same as an action for reversion**. The difference between them lies in the allegations as to the character of ownership of the realty whose title is sought to be nullified. **In an action for reversion, the pertinent allegations in the complaint would admit State ownership of the disputed land.** Hence in *Gabila v. Barriga* where the plaintiff in his complaint admits that he has no right to demand the cancellation or amendment of the defendant's title because even if the title were cancelled or amended the ownership of the land embraced therein or of the portion affected by the amendment would revert to the public domain, we ruled that the action was for reversion and that the only person or entity entitled to relief would be the Director of Lands.
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> **On the other hand, a cause of action for declaration of nullity of free patent and certificate of title would require allegations of the plaintiff's ownership of the contested lot prior to the issuance of such free patent and certificate of title as well as the defendant's fraud or mistake; as the case may be, in successfully obtaining these documents of title over the parcel of land claimed by plaintiff**. In such a case, the nullity arises strictly not from the fraud or deceit but from the fact that the land is beyond the jurisdiction of the Bureau of Lands to bestow and whatever patent or certificate of title

obtained therefor is consequently void ab initio. **The real party in interest is not the State but the plaintiff who alleges a pre-existing right of ownership over the parcel of land in question even before the grant of title to the defendant**. In *Heirs of Marciano Nagano v. Court of Appeals* we ruled –

> x x x x from the allegations in the complaint x x x private respondents claim ownership of the 2,250 square meter portion for having possessed it in the concept of an owner, openly, peacefully, publicly, continuously and adversely since 1920. This claim is an assertion that the lot is private land x x x x Consequently, merely on the basis of the allegations in the complaint, the lot in question is apparently beyond the jurisdiction of the Director of the Bureau of Lands and could not be the subject of a Free Patent. Hence, the dismissal of private respondents' complaint was premature and trial on the merits should have been conducted to thresh out evidentiary matters. It would have been entirely different if the action were clearly for reversion, in which case, it would have to be instituted by the Solicitor General pursuant to Section 101 of C.A. No. 141 x x x x

It is obvious that private respondents allege in their complaint all the facts necessary to seek the nullification of the free patents as well as the certificates of title covering Lot 1015 and Lot 1017. Clearly, they are the real parties in interest in light of their allegations that they have always been the owners and possessors of the two (2) parcels of land even prior to the issuance of the documents of title in petitioners' favor, hence the latter could only have committed fraud in securing them –

> x x x x That plaintiffs are absolute and exclusive owners and in actual possession and cultivation of two parcels of agricultural lands herein particularly described as follows [technical description of Lot 1017 and Lot 1015] x x x x 3. That plaintiffs became absolute and exclusive owners of the abovesaid parcels of land by virtue of inheritance from their late father, Honorio Dacut, who in turn acquired the same from a certain Blasito Yacapin and from then on was in possession thereof exclusively, adversely and in the concept of owner for more than thirty (30) years x x x x 4. That recently, plaintiff discovered that defendants, without the knowledge and consent of the former, fraudulently applied for patent the said parcels of land and as a result thereof certificates of titles had been issued to them as evidenced by certificate of title No. P-19819 in the name of the Hrs. of Ambrocio Kionisala, and No. P20229 in the name of Isabel Kionisala x x x x 5. That the patents issued to defendants are null and void, the same having been issued fraudulently, defendants not having been and/or in actual possession of the litigated properties and the statement they may have made in their application are false