

THIRD DIVISION

[G.R. No. 150462, June 15, 2011]

**TOP MANAGEMENT PROGRAMS CORPORATION, PETITIONER, VS.
LUIS FAJARDO AND THE REGISTER OF DEEDS OF LAS PIÑAS
CITY, RESPONDENTS.**

DECISION

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari under Rule 45 seeking the reversal of the Decision^[1] dated May 30, 2001 and Resolution^[2] dated October 23, 2001 of the Court of Appeals (CA) in CA-G.R. CV No. 60712 which affirmed the Order^[3] of the Regional Trial Court (RTC) of Las Piñas City, Branch 275 in Civil Case No. 94-564 dismissing petitioner's complaint for quieting of title and damages against private respondent.

The factual antecedents:

On December 31, 1964, Emilio Gregorio (Gregorio) filed an application for registration of title over Lots 1 to 4 of Plan Psu-204785 situated at Mag-asawang Mangga, Las Piñas, Rizal, before the then Court of First Instance (CFI) of Rizal, Branch II (LRC Case No. N-5053, LRC Rec. No. N-27523). On January 4, 1966, said court issued an order declaring as abandoned the reserved oppositions of Jose T. Velasquez and Pablo Velasquez. Thereafter, the case proceeded to trial.

Meanwhile, on July 29, 1965, Jose T. Velasquez (Velasquez) filed an application for registration of title over six lots denominated as Lots 7 and 9 of Psu-80886, Ap-5538, and Lots 1, 7, 9 and 11 of Psu-56007 Amd., Ap-11135, situated at Almanza, Las Piñas, Rizal, in LRC Case No. N-5416, LRC Rec. No. N-28735, before the same court.

On January 31, 1966, the CFI rendered a decision^[4] in LRC Case No. N-5053 declaring Gregorio to be the absolute owner of Lots 1, 2, 3 and 4 described in Plan Psu-204785. On March 9, 1966, an order was issued by said court for the issuance of the decree of registration, stating that the January 31, 1966 had become final.

On March 30, 1966, the same court promulgated a decision in LRC Case No. N-5416 adjudicating Lots 1, 7, 9 and 11 of Psu-56007-Amd, plan Ap-11135, and Lots 7 and 9 of Psu-80886 (Ap-5538) to Jose T. Velasquez. On May 3, 1966, said court ordered the issuance of a decree of registration in view of the finality of the March 30, 1966 decision.

In the meantime, on July 25, 1966, the LRA called the attention of the Director of Lands regarding the overlapping of Lots 1, 7 and 11 of Psu-56007-Amd awarded to Velasquez, with Lots 1 to 4 of Psu-204785 adjudicated to Gregorio, and requested

that portions of these lots that are not in conflict be segregated. On September 16, 1966, the LRA informed the CFI that Lots 1 and 7 of Psu-56007-Amd (Ap-11135) had been amended by the Bureau of Lands to exclude therefrom portions covered by Lot 2, Psu-64894, Psu-96904, and Lots 1 to 4, Psu-204785 of Gregorio.^[5] On the basis of the LRA report, Velasquez petitioned the CFI to set aside the award earlier made in favor of Gregorio in LRC Case No. N-5035 on the ground of lack of jurisdiction and to give due course to his application over the said lots in LRC Case No. N-5416. On November 23, 1966, the CFI issued an Order in LRC Case Nos. N-5053 and N-5416 declaring that the application of Velasquez be given due course insofar as Lots 1 and 7 of Ap-11135 which are identical to Lots 1 to 4, Plan Psu-204785, and the January 31, 1966 decision in LRC Case No. N-5053 in favor of Gregorio respecting the same lots as null and void.^[6] On December 6, 1966, Decree Nos. N-111862 to N-111865 and the corresponding certificates **OCT Nos. 5677, 5678, 5679 and 5680** were issued in favor of Velasquez.

On January 7, 1967, Gregorio appealed the November 23, 1966 decision of the CFI to the CA (CA-G.R. No. 40739-40-R). On July 30, 1971, the CA rendered its Decision^[7] reversing the CFI, as follows:

WHEREFORE, the order appealed from is hereby reversed and, in lieu thereof, another is hereby rendered declaring null and void the Decision of the Court of First Instance of Rizal, dated March 30, 1966, in Land Registration Case No. N-5416, LRC Rec. No. N-28735, insofar as it adjudicates in favor of appellee Jose T. Velasquez Lots Nos. 1 and 7 of Plan Ap-11315; and directing that the Order of March 9, 1966 for the issuance of the decree in Land Registration Case No. N-5053, LRC Rec. No. N-27523, over Lots 1, 2, 3 and 4 of Plan Psu-204785, in the name of appellant Emilio Gregorio, be given due course.

No costs.

IT IS SO ORDERED.^[8]

Per entry of judgment issued by the CA, the above decision became final and executory on February 1, 1972.^[9] It appears, however, that a petition for review had been filed by Velasquez with this Court, docketed as G.R. Nos. L-34239-40 ("*Jose T. Velasquez v. Emilio Gregorio*"), which was given due course per Resolution dated March 7, 1972 of the Second Division. Eventually, this Court denied the petition under Resolution^[10] dated February 8, 1984 stating that:

We have carefully scrutinized the arguments of the parties stated in their respective briefs as well as the reasons adduced by the Court of Appeals to support its decision sought to be reviewed and We have Resolved to RECONSIDER the resolution of March 7, 1972, and enter instead another resolution DENYING the petition for lack of merit with COSTS against the petitioners.^[11]

The above resolution became final and executory on March 2, 1984 as per entry of

judgment^[12] issued by this Court. Prior to this however, on October 31, 1972, Decree No. N-141990 over Lots 1, 3 and 4 of Plan Psu-204785 were issued by the LRA and the corresponding **OCT No. 9587** in the name of Gregorio, was subsequently issued on November 21, 1972.^[13]

Lots 1, 3 and 4, Plan Psu-204785 covered by OCT No. 9587 also became the subject of Civil Case No. 16977 of the CFI of Rizal. Gregorio sought the annulment of the deed of sale over the said lots in favor of Luciana Parami. The CFI dismissed the complaint of Gregorio in a decision rendered on May 8, 1974. Gregorio appealed to the CA (CA-G.R. No. 56015-R, entitled "*Emilio Gregorio v. Spouses Luciana and Corpus Parami and the Register of Deeds of Rizal*") which reversed the CFI. In its decision dated February 7, 1978, the CA declared the aforesaid deed of sale null and void, and ordered the cancellation of certificate of title (No. 38433) in the name of the Paramis and issuance of an OCT in favor of Gregorio covering Lots 1, 3 and 4, Plan Pasu-204785. On November 20, 1979, the court in the same case issued an order declaring the children (Ana, Paz, Carmen, Remedios and Rolando, all surnamed Gregorio) of the deceased Emilio Gregorio "as his compulsory heirs to substitute the said plaintiff."^[14] Pursuant to the said decision, OCT No. 9587 in the name of Emilio Gregorio was cancelled and a new certificate of title, TCT No. S-91911 in favor of his heirs was issued.^[15]

In a Report dated September 12, 1984, the LRA informed the CFI in LRC Case No. N-5416 that compliance with the July 30, 1971 CA decision in CA-G.R. No. 40739-40-R adjudicating Lots 1, 3 and 4 of Plan Psu-204785 in favor of Gregorio will result in duplication of titles over the said properties. The report further stated:

21. *That based on the records of this Commission, Lots 1, 3 and 4 of plan Psu-204785 were already covered by **TCT No. S-91911** in the name of the Heirs of Emilio Gregorio with several annotations of encumbrances x x x;*

22. *That among those encumbrances are the deeds of sale executed by them in favor of Herminia Galman covering an undivided portion of aforesaid Lot 1, and of Everlita Talusan of the whole Lots 3 and 4 denominated as Entry No. 21079/S-97421, and that the latter vendee E. Talusan had already acquire[d] TCT No. S-97421 over said two lots in her name also with several annotation of encumbrances x x x;*

23. *That as per our verification from the Registry of Deeds of Makati, corresponding titles were issued in the name of J.T. Velasquez denominated as OCT Nos. 5678, 5677, 5679 and 5680 x x x;*

24. *And that these certificates of title were all cancelled and assigned in favor of J.V. Development Corporation as per Entry Nos. 99377/T-195606, 195605, 195605 and 19505 all inscribed on July 27, 1967.*

WHEREFORE, these facts are respectfully brought to the attention of this Honorable Court with the recommendation:

That Decree Nos. N-111862 to N-111865 issued on December 6, 1966

over Lots 1 to 4, Psu-204785, in favor of Jose T. Velasquez, as well as existing subsequent titles emanating from the same shall be declared null and void and ordered cancelled.^[16]

On April 9, 1984, the heirs of Emilio Gregorio filed an *ex-parte* motion for execution before the RTC of Pasig, Metro Manila, Branch 152 in LRC Case Nos. N-5053 and N-5416. On March 21, 1986, the RTC of Pasig issued the following Order^[17]:

Considering that the Resolution issued on February 8, 1984 by the Supreme Court in G.R. No. L-34239-40, entitled "Jose T. Velasquez vs. Emilio Gregorio", denying the petition for review on certiorari of the judgment of the Court of Appeals in CA-G.R. No. 40739-40-R, had on March 2, 1984 become final and executory in favor of Emilio Gregorio, and considering further the recommendation contained in the Report dated September 12, 1984 of the Acting Commissioner of Land Registration thru Silverio G. Perez, Chief, Division of Original Registration, relative to LRC Case No. N-5053, LRC Record No. N-27523, wherein Emilio Gregorio is the applicant and in LRC Case No. N-5416, LRC Record No. N-28735, wherein Jose T. Velasquez is the applicant, which report is hereby approved, the Court declares as null and void Decree Nos. N-111862 to N-111865, inclusive, issued on December 6, 1966, covering Lots 1, 2, 3 and 4, Psu-204785 in favor of Jose T. Velasquez in LRC Case No. No. 5416 as well as all existing subsequent titles emanating therefrom, and any and all encumbrances constituted against said Lots 1, 2, 3 and 4, Psu-204785 and other acts of disposition affecting the same.

WHEREFORE, the Register of Deeds of Pasay City is hereby directed to cancel Original Certificates of Title Nos. 5677, 5678, 5679 and 5680 issued in the name of Jose T. Velasquez and all titles and transactions emanating therefrom and which are annotated at the back of the said Certificates of Title, and to issue, in lieu thereof, new Certificates of Title in the name of the Heirs of Emilio Gregorio, after paying the prescribed fees therefor, pursuant to the Order for issuance of a decree dated March 9, 1966 in the LRC Case No. N-5053, Record No. N-27523.

SO ORDERED.^[18]

On April 29, 1986, **TCT Nos.** 107727, 107728 and **107729** (covering Lot 1)^[19] was issued by the Register of Deeds of Pasay City in the name of the Heirs of Emilio Gregorio. Subsequently, by virtue of a Partition Agreement with Herminia Galman, the property was subdivided into two lots between the heirs of Gregorio (Lot 1-A consisting of 20,000 sq. ms.) and Galman (Lot 1-B consisting of 27,536 sq. ms.). Consequently, TCT No. 107729 was cancelled and in lieu thereof TCT No. 4635 in the name of the heirs of Gregorio and TCT No. 4636 in the name of Herminia Galman, were issued by the Register of Deeds of Las Piñas.^[20]

Undeniably, the duplication of titles over Lot 1, Psu-204785 with the issuance of **TCT No. S-91911** (transfer from **OCT No. 9587**) and **TCT No. 107729** and its derivative title, TCT No. 4635, both in the name of the same owners, gave rise to

the present controversy.

***The Claim of Luis Fajardo
(TCT No. 27380, now
TCT No. T-34923)***

As earlier mentioned, Gregorio appealed the November 23, 1966 CFI decision in LRC Case Nos. N-5053 and N-5416 awarding Lots 1 to 4 of Psu-204785 in favor of Velasquez, docketed as CA-G.R. No. 40739-40-R. Sometime after this, he entered into an agreement with Tomas Trinidad (Trinidad) and Luis Fajardo (Fajardo) entitled "*Kasunduan na may Pambihirang Kapangyarihan.*" By virtue of this agreement, Fajardo would finance the cost of the litigation and in return he would be entitled to one-half of the subject property after deducting twenty per cent (20%) of the total land area as attorney's fees for Trinidad if the appeal is successful.

After the CA rendered a favorable ruling on Gregorio's appeal, Fajardo and Trinidad filed Civil Case No. 35305 before the RTC of Pasig, Branch 164 to enforce their agreement with Gregorio. On May 8, 1986, said court rendered judgment in their favor, as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering herein defendants:

- (1) to convey to Atty. Tomas Trinidad as honorarium for his services an area of 14,684 sq.m. which is twenty percent (20%) of 72,424 sq.m. the total area of Lots 1, 2, 3 and 4;
- (2) to convey to Luis Fajardo an area of 29,369 sq.m. representing fifty percent (50%) of the remainder of the property after deducting the honorarium of Atty. Trinidad.
- (3) to pay the cost of suit and litigation expenses.

SO ORDERED.^[21]

The heirs of Gregorio appealed the above decision but their appeal was declared abandoned and dismissed by the CA. By virtue of an Entry of Judgment issued by the CA dated December 8, 1988, Trinidad and Fajardo filed a motion for the issuance of a writ of execution. However, the writ issued remained unsatisfied as per the Return filed by the Sheriff on April 10, 1989. On August 14, 1989, the court appointed Deputy Sheriff Marcial Estrellado to execute the deed of conveyance in favor of the plaintiffs.

Deputy Sheriff Estrellado executed the Officer's Deed of Conveyance^[22] dated August 15, 1989 in favor of Trinidad and Fajardo. While the plaintiffs moved for the approval of the subdivision plan needed for the transfer and issuance of separate titles as per decision, the Register of Deeds of Las Piñas wrote a letter-reply^[23] to the Deputy Sheriff indicating that the deed of conveyance and Order of the Court dated August 14, 1989 entered as Entry No. 6503 and 6504 in their docket book could not be pursued because the subject property was already sold to other parties.