

FIRST DIVISION

[G.R. No. 142676, June 06, 2011]

EMERITA MUÑOZ, PETITIONER, VS. ATTY. VICTORIANO R. YABUT, JR. AND SAMUEL GO CHAN, RESPONDENTS.

[G.R. NO. 146718]

EMERITA MUÑOZ, PETITIONER, VS. SPOUSES SAMUEL GO CHAN AND AIDA C. CHAN, AND THE BANK OF THE PHILIPPINE ISLANDS, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before Us are the following consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court.

In **G.R. No. 142676**, Emerita Muñoz (Muñoz) is seeking the reversal, annulment, and setting aside of the Decision ^[1] dated July 21, 1995 and Resolution ^[2] dated March 9, 2000 of the Court of Appeals in CA-G.R. SP No. 35322, which affirmed the Orders ^[3] dated June 10, 1994 and August 5, 1994 of the Regional Trial Court, Branch 88 (RTC-Branch 88) of Quezon City in Civil Case No. Q-94-20632. The RTC dismissed Civil Case No. 8286, the forcible entry case instituted by Muñoz against Atty. Victoriano R. Yabut, Jr. (Atty. Yabut) and Samuel Go Chan before the Metropolitan Trial Court (MeTC), Branch 33 of Quezon City; and nullified the MeTC Order ^[4] dated May 16, 1994, granting Muñoz's prayer for the issuance of a writ of preliminary mandatory injunction which restored possession of the subject property to Muñoz.

In **G.R. No. 146718**, Muñoz is praying for the reversal, setting aside, and nullification of the Decision ^[5] dated September 29, 2000 and Resolution ^[6] dated January 5, 2001 of the Court of Appeals in CA-G.R. SP No. 40019, which affirmed the Orders ^[7] dated August 21, 1995 and October 3, 1995 of the Quezon City RTC, Branch 95 (RTC-Branch 95) in Civil Case No. Q-28580 denying Muñoz's Motion for an Alias Writ of Execution and Application for Surrender of the Owner's Duplicate Copy of TCT No. 53297 ^[8] against respondents Bank of the Philippine Islands (BPI) and the spouses Samuel Go Chan and Aida C. Chan (spouses Chan).

I FACTS

The subject property is a house and lot at No. 48 Scout Madriñan St., Diliman, Quezon City, formerly owned by Yee L. Ching. Yee L. Ching is married to Emilia M. Ching (spouses Ching), Muñoz's sister. Muñoz lived at the subject property with the

spouses Ching. As consideration for the valuable services rendered by Muñoz to the spouses Ching's family, Yee L. Ching agreed to have the subject property transferred to Muñoz. By virtue of a Deed of Absolute Sale, seemingly executed by Yee L. Ching in favor of Muñoz, [9] the latter acquired a Transfer Certificate of Title (TCT) No. 186306 covering the subject property in her name on December 22, 1972. [10] However, in a Deed of Absolute Sale dated December 28, 1972, Muñoz purportedly sold the subject property to her sister, Emilia M. Ching. As a result, TCT No. 186306 was cancelled and TCT No. 186366 was issued in Emilia M. Ching's name. Emilia M. Ching, in a Deed of Absolute Sale dated July 16, 1979, sold the subject property to spouses Go Song and Tan Sio Kien (spouses Go), hence, TCT No. 186366 was cancelled and replaced by TCT No. 258977 in the spouses Go's names.

On October 15, 1979, Muñoz registered her adverse claim to the subject property on TCT No. 258977 of the spouses Go. The next day, on October 16, 1979, Muñoz filed a complaint for the annulment of the deeds of absolute sale dated December 28, 1972 and July 16, 1979, the cancellation of TCT No. 258977 in the spouses Go's names, and the restoration and revival of TCT No. 186306 in Muñoz's name. The complaint was docketed as Civil Case No. Q-28580 and raffled to RTC-Branch 95. On October 17, 1979, Muñoz caused the annotation of a notice of *lis pendens* on TCT No. 258977 of the spouses Go. In an Order dated December 17, 1979, the RTC-Branch 95 granted the spouses Go's motion for the issuance of a writ of preliminary mandatory injunction and ordered the sheriff to put the spouses Go in possession of the subject property. The writ was implemented by the sheriff on March 26, 1980, driving Muñoz and her housemates away from the subject property.

Muñoz filed a petition for *certiorari* and prohibition before the Court of Appeals, assailing the issuance of the writ of preliminary mandatory injunction, which was docketed as CA-G.R. SP No. 10148. The appellate court dismissed Muñoz's petition on January 4, 1980. Yee L. Ching and his son Frederick M. Ching filed an urgent motion for leave to intervene in CA-G.R. SP No. 10148 and for the issuance of a temporary restraining order (TRO). The Court of Appeals issued a TRO. However, in a Resolution dated March 18, 1980, the appellate court denied the motion to intervene of Yee L. Ching and Frederick M. Ching, and cancelled the TRO previously issued. Yee L. Ching and Frederick M. Ching challenged before this Court, in G.R. No. 53463, the Resolution dated March 18, 1980 of the Court of Appeals. Eventually, in a Resolution dated June 3, 1981, the Court dismissed the petition in G.R. No. 53463, for lack of merit and failure of Yee L. Ching and Frederick M. Ching to substantially show that the RTC-Branch 95 and the Court of Appeals gravely abused their discretion. In a subsequent Resolution dated June 21, 1982, the Court clarified that its Resolution of June 3, 1981 was without prejudice to the continuation of the litigation in Civil Case No. Q-28580 still pending before the trial court, "in order that proper and final adjudication may be made of whether or not the deed of sale by Emerita L. Muñoz in favor of Emilia M. Ching is a real, genuine and authentic transaction, thereby to settle once and for all the issue of ownership of the property herein in question." [11]

Trial in Civil Case No. Q-28580 proceeded before RTC-Branch 95.

In the meantime, Muñoz's adverse claim and notice of *lis pendens* on TCT No. 258977 was cancelled on October 28, 1982 on the basis of an alleged final judgment in favor of the spouses Go. [12] The spouses Go obtained a loan of P500,000.00

from BPI Family Savings Bank (BPI Family) and to secure the same, they constituted a mortgage on the subject property on November 23, 1982. [13] When the spouses Go defaulted on the payment of their loan, BPI Family foreclosed the mortgage. BPI Family was the highest bidder at the auction sale of the subject property. The spouses Go failed to exercise their right of redemption within the prescribed period, thus, BPI Family was finally able to register the subject property in its name on October 23, 1987 under TCT No. 370364. [14] Apparently, the original copy of TCT No. 370364 was among those razed in the fire at the Quezon City Register of Deeds on June 11, 1988. As a result of the administrative reconstitution of the lost title, TCT No. RT-54376 (370364) was issued to BPI Family. On December 3, 1990, BPI Family executed in favor of the spouses Samuel Go Chan and Aida C. Chan (spouses Chan) a Deed of Absolute Sale [15] covering the subject property for and in consideration of P3,350,000.00. Consequently, TCT No. RT-54376 (370364) in the name of BPI Family was cancelled and TCT No. 53297 was issued in the spouses Chan's names on January 28, 1991. [16] The spouses Chan obtained a loan from BPI Family on October 2, 1992 for the construction of a building on the subject property, and to secure the same, constituted a mortgage on the subject property in favor of BPI Family. [17]

On July 19, 1991, RTC-Branch 95 rendered its Decision [18] in Civil Case No. Q-28580, against Emilia M. Ching, Yee L. Ching, and the spouses Go (Emilia M. Ching, *et al.*). It found that Muñoz's signature on the Deed of Absolute Sale dated December 28, 1972 was forged; that Muñoz never sold the subject property to her sister, Emilia M. Ching; and that the spouses Go were not innocent purchasers for value of the subject property. The *fallo* of the said decision reads:

WHEREFORE, judgment is hereby rendered dismissing for lack of merit [Emilia M. Ching, *et al.*'s] respective counterclaims, cross-claims, and counter-cross-claim, declaring as null and void ab initio the following documents, to wit: (a) Deed of Absolute Sale dated December 28, 1972, copy of which is marked in evidence as Exh. M; (b) TCT No. 186366 of the Registry of Deeds for Quezon City, copy of which is marked in evidence as Exh. N; (c) Deed of Absolute Sale dated July 16, 1979, copy of which is marked in evidence as Exh. 3; and, (d) TCT No. 258977 of the Registry of Deeds for Metro Manila District III, copy of which is marked in evidence as Exh. 4, and directing defendant Register of Deeds of Quezon City to cancel from the records of the subject property the registrations of all the said documents and to restore and revive, free from all liens and encumbrances, TCT No. 186306 of the Registry of Deeds for Quezon City, copy of which is marked in evidence as Exh. L, as well as ordering defendants Emilia M. Ching, Go Song and Tan Sio Kien jointly and severally to pay [Muñoz] the sum of P50,000.00 as and for attorney's fees and to pay the costs of suit. The court also hereby dismisses the rest of the claims in [Muñoz's] complaint, there being no satisfactory warrant therefor. [19]

Emilia M. Ching, *et al.*'s, appeal of the foregoing judgment of the RTC-Branch 95 was docketed as CA-G.R. CV No. 33811 before the Court of Appeals. In its Decision [20] dated March 4, 1993, the appellate court not only affirmed the appealed

judgment, but also ordered the spouses Go and their successors-in-interest and assigns and those acting on their behalf to vacate the subject property, to wit:

WHEREFORE, premises considered, the decision appealed from is AFFIRMED, with costs against [Emilia M. Ching, *et al.*]. The writ of preliminary mandatory injunction issued on December 17, 1979 is hereby set aside and declared dissolved. Defendants-appellants Go and Tan, their successors-in-interest and assigns and those acting on their behalf, are ordered to vacate the disputed premises and to deliver the same to [Muñoz] immediately upon receipt of this decision. [21]

Emilia L. Ching, *et al.*, filed before this Court a motion for extension of time to file their petition for review, which was assigned the docket number G.R. No. 109260. However, they failed to file their intended petition within the extended period which expired on April 23, 1993. In a Resolution [22] dated July 12, 1993, the Court declared G.R. No. 109260 terminated. The Resolution dated July 12, 1993 of the Court in G.R. No. 109260 became final and executory on July 15, 1993 and was entered in the Book of Entries of Judgments on even date. [23]

More than two months later, on September 20, 1993, the RTC-Branch 95 issued a writ of execution to implement the judgment in Civil Case No. Q-28580.

The spouses Chan, who bought the subject property from BPI Family, then came forward and filed before the RTC-Branch 95 on October 22, 1993 an Urgent Motion to Stop Execution as Against Spouses Samuel Go Chan and Aida Chan, [24] opposing the writ of execution issued in Civil Case No. Q-28580. The spouses Chan asserted ownership and possession of the subject property on the basis of a clean title registered in their names under TCT No. 53297. The spouses Chan further contended that the final judgment in Civil Case No. Q-28580 could not be executed against them since they were not parties to the said case; they were not successors-in-interest, assigns, or acting on behalf of the spouses Go; and they purchased the subject property from BPI Family without any notice of defect in the latter's title.

It was only at this point that Muñoz, upon her own inquiry, discovered the cancellation on October 28, 1982 of her adverse claim and notice of *lis pendens* annotated on the spouses Go's TCT No. 258977, and the subsequent events that led to the transfer and registration of the title to the subject property from the spouses Go, to BPI Family, and finally, to the spouses Chan.

In its Order [25] dated December 28, 1993, the RTC-Branch 95 denied the spouses Chan's urgent motion to stop the execution. According to the RTC-Branch 95, the photocopy of TCT No. 370364 in the name of BPI Family, submitted by the spouses Chan with their motion, could hardly be regarded as satisfactory proof that Muñoz's adverse claim and notice of *lis pendens* annotated therein were also missing from the original copy of said certificate of title. Muñoz's adverse claim and notice of *lis pendens* were annotated on TCT No. 258977 in the spouses Go's names as P.E.-8078 and P.E.-8178, respectively. So when TCT No. 258977 of the spouses Go was cancelled and TCT No. 370364 was issued to BPI Family, it could be presumed

that the Register of Deeds regularly performed his official duty by carrying over Muñoz's adverse claim and notice of *lis pendens* to TCT No. 370364. In addition, the RTC-Branch 95 pointed out that in this jurisdiction, the entry of the notice of *lis pendens* in the day book of the Register of Deeds was already sufficient notice to the whole world of the dispute over the subject property, and there was no more need to annotate the same on the owner's duplicate of the certificate of title. Finally, the RTC-Branch 95 held that TCT No. RT-54376 (370364) of BPI Family and TCT No. 53297 of the spouses Chan shall be subject to the reservation under Section 7 of Republic Act No. 26 [26] "[t]hat certificates of title reconstituted extrajudicially, in the manner stated in sections five and six hereof, shall be without prejudice to any party whose right or interest in the property was duly noted in the original, at the time it was lost or destroyed, but entry or notation of which has not been made on the reconstituted certificate of title." Thus, the spouses Chan were deemed to have taken the disputed property subject to the final outcome of Civil Case No. Q-28580.

On January 3, 1994, the RTC-Branch 95 issued an Alias Writ of Execution. [27] On January 10, 1994, the writ was enforced, and possession of the subject property was taken from the spouses Chan and returned to Muñoz. [28] In its Orders dated April 8, 1994 and June 17, 1994, the RTC-Branch 95 denied the spouses Chan's motion for reconsideration and notice of appeal, respectively. [29]

G.R. No. 142676

Pending resolution by the RTC-Branch 95 of the spouses Chan's motion for reconsideration and notice of appeal in Civil Case No. Q-28580, Muñoz instituted before the MeTC on February 4, 1994 a Complaint for Forcible Entry with Prayer for Preliminary Mandatory Injunction [30] against Samuel Go Chan and Atty. Yabut, docketed as Civil Case No. 8286. Muñoz alleged in her complaint that she had been in actual and physical possession of the subject property since January 10, 1994. She hired a caretaker and two security guards for the said property. On February 2, 1994, Samuel Go Chan and Atty. Yabut, along with 20 other men, some of whom were armed, ousted Muñoz of possession of the subject property by stealth, threat, force, and intimidation. Muñoz prayed for the issuance of a writ of preliminary mandatory injunction directing Samuel Go Chan and Atty. Yabut and all persons claiming right under them to vacate the subject property. Muñoz additionally prayed for judgment making the mandatory injunction permanent and directing Samuel Go Chan and Atty. Yabut to pay Muñoz: (1) compensation for the unlawful occupation of the subject property in the amount of P50,000.00 per month, beginning February 2, 1994 until the said property is fully and completely turned over to Muñoz; (2) attorney's fees in the amount of P50,000.00, plus P1,500.00 per court appearance of Muñoz's counsel; and (3) costs of suit.

Samuel Go Chan and Atty. Yabut denied Muñoz's allegations, insisting that Samuel Go Chan is the valid, lawful, and true legal owner and possessor of the subject property. Samuel Go Chan and Atty. Yabut averred that the Turn-Over of Possession and Receipt of Possession dated January 10, 1994 - attached to Muñoz's complaint as proof that the subject property had been placed in her possession - is a falsified document. The Writ of Execution issued on September 20, 1993 in Civil Case No. Q-28580 had already expired and the Sheriff's Return on the Writ - another document purporting to show that possession of the subject property was turned-over to