

## THIRD DIVISION

[ G.R. No. 163684, April 16, 2008 ]

**FAUSTINA CAMITAN and DAMASO LOPEZ, Petitioners, vs.  
FIDELITY INVESTMENT CORPORATION, Respondent.**

### D E C I S I O N

**NACHURA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court of the Decision<sup>[1]</sup> dated November 28, 2003 and of the Resolution<sup>[2]</sup> dated May 12, 2004, both of the Court of Appeals (CA) in CA-G.R. SP No. 37291 entitled *Fidelity Investment Corporation v. Alipio Camitan, Faustina Camitan, Damaso Lopez, the Regional Trial Court of Calamba, Laguna (Branch 37) and the Register of Deeds of Calamba, Laguna*.

The case arose from the Petition<sup>[3]</sup> for the issuance of another duplicate copy of Certificate of Title No. T-(12110) T-4342 (TCT) filed in 1993 by herein petitioners, together with Alipio Camitan, before the Regional Trial Court (RTC) of Calamba, Laguna. The case was raffled to Branch 37 of the said court and was docketed as SLRC Case No. 1198-93-C.

The petition contained, among others, the allegations that: (1) the petitioners are the true and lawful registered co-owners of a parcel of land located at Maunong, Calamba, Laguna, consisting of 30,000 square meters covered by the TCT; (2) the lot is declared for tax purposes under Tax Declaration No. 14187; (3) petitioners paid the realty taxes on the said property until 1993; (4) the owner's duplicate copy was lost and could not be found despite diligent efforts to locate it; (5) per Certification<sup>[4]</sup> dated June 21, 1993 of the Register of Deeds of Calamba, Laguna, there were no legal claims annotated at the back of the TCT filed with that office; (6) petitioners filed with the Register of Deeds an affidavit of loss of the said owner's duplicate copy; (7) they secured a certified true copy of the original TCT from the Register of Deeds with the affidavit of loss annotated at the back thereof; (8) at the last page of the original certificate of title, a mortgage was annotated, which upon verification was found to have already been paid; (9) the Register of Deeds of Calamba could not cancel the mortgage from the original copy of the title until presentation of the owner's duplicate copy to the bank; and (10) petitioners were in possession of the subject property.

After due proceedings, the RTC, in its Order<sup>[5]</sup> dated April 8, 1994, granted the petition, directed the Register of Deeds of Calamba, Laguna to issue a second owner's duplicate copy of the TCT, and declared void the first owner's duplicate copy thereof.

Later, on May 25, 1995, herein respondent Fidelity Investment Corporation (Fidelity)

filed a Petition<sup>[6]</sup> for annulment of judgment and cancellation of title before the CA. According to Fidelity, on December 16, 1967, it purchased the property covered by the subject certificate of title from the registered owners thereof pursuant to a Deed of Absolute Sale<sup>[7]</sup> of the same date. It said that upon execution of the Deed of Absolute Sale and the payment in full of the purchase price, the vendors delivered to Fidelity their owner's duplicate copy of the TCT, which has been in its possession since. It also alleged that it had been in actual physical possession and continuous occupation of the subject property and that it had been paying the real estate taxes due thereon.

It further said that, sometime in March 1995, upon verification with the Register of Deeds of Calamba, Laguna, it learned for the first time of the issuance of a second owner's duplicate copy as recorded under Entry No. 357701 dated May 26, 1994 and annotated on the TCT. Thus, it caused the sale of the property in its favor to be annotated on the TCT. The notice of the sale was annotated on March 28, 1995 as Entry No. 384954. Fidelity then filed, on April 26, 1995, a Notice of Adverse Claim with the concerned Register of Deeds, which was annotated on the TCT as Entry No. 387483.

In fine, Fidelity argued that the Order dated April 18, 1994 is null and void, the RTC having no jurisdiction to issue the same as the owner's duplicate copy of the TCT was in its possession all along and the respondents therein had no standing to file the petition on account of the Deed of Absolute Sale they executed in its favor. It claimed that the petitioners perjured themselves before the RTC when they stated that the duplicate copy of the TCT was lost and that they gave notice to all who had interest in the property, because they failed to notify Fidelity despite knowledge of the latter's possession of the property.

In their Comment,<sup>[8]</sup> private respondents [herein petitioners] Faustina Camitan, Damaso Lopez, and the surviving heirs of deceased Alipio Camitan, denied having committed falsehoods in their petition before the trial court, which they claimed had jurisdiction over the case. They submitted that the long, unexplained, and questionable silence of Fidelity on its alleged possession of the owner's duplicate copy of the TCT and the Deed of Absolute Sale over the property and the non-registration and titling thereof in its name for about 27 years since the purported sale, was tainted with malice and bad faith, thus, subjecting it to estoppel and laches.

By its Resolution dated May 27, 1997, the CA gave due course to the petition for annulment of judgment, and a preliminary conference was set, directing Fidelity to bring the owner's duplicate copy of the TCT. At the preliminary conference, Fidelity's counsel presented what was claimed to be the owner's duplicate copy of the TCT. Counsel for private respondents examined the certificate of title and admitted that it is the genuine owner's copy thereof. Thereafter, counsel for Fidelity manifested that they were no longer presenting other evidence. On the other hand, counsel for private respondents prayed that an additional issue, the question of the validity of the deed of sale in favor of Fidelity, be likewise resolved. Fidelity's counsel objected on the ground of irrelevancy. However, in order to expedite the proceedings, he agreed to have private respondents amplify their position in their memorandum.

In their Memorandum, private respondents retracted their counsel's admission on the genuineness of the owner's duplicate copy of the TCT presented by Fidelity, citing honest mistake and negligence owing to his excitement and nervousness in appearing before the CA. They pointed to some allegedly irreconcilable discrepancies between the copy annexed to the petition and the exhibit presented by Fidelity during the preliminary conference. They also reiterated the issue on the validity of the purported deed of sale of the property in favor of Fidelity.

In its Comment to the Memorandum, Fidelity countered that there were no discrepancies between the owner's duplicate copy it presented and the original copy on file with the Registry of Deeds of Calamba, Laguna. It argued that private respondents are bound by the judicial admission made by their counsel during the preliminary conference. It, likewise, objected to the inclusion of the issue on the validity of the deed of sale over the property.

In the Decision dated November 28, 2003, the CA ruled in favor of Fidelity. It declared that the RTC was without jurisdiction to issue a second owner's duplicate copy of the title in light of the existence of the genuine owner's duplicate copy in the possession of petitioner, as admitted by private respondents through counsel. According to the CA, a judicial admission is conclusive upon the party making it and cannot be contradicted unless previously shown to have been made through palpable mistake or that no such admission was made. It said that honest mistake and negligence, as raised by private respondents in retracting their counsel's admission, are not sufficient grounds to invalidate the admission.

Hence, this petition, raising the sole issue of -

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT DID NOT CONSIDER THAT THE JUDICIAL ADMISSION OF THE COUNSEL OF THE PETITIONERS DURING THE HEARING IN C.A.-G.R. SP. NO. 37291 WAS A PALPABLE MISTAKE.

Herein petitioners argue that despite the existence of a judicial admission, there is still some leeway for the court to consider other evidence presented. They point out that, even as early as in their Memorandum before the CA, they had already retracted their counsel's admission on the genuineness of the owner's duplicate copy of the TCT presented by Fidelity, and claim that their counsel was honestly mistaken and negligent in his admission owing to his excitement and nervousness in appearing before the CA. Petitioners likewise cite, in support of their position, the circumstances they alleged in their petition before the RTC which convinced the latter to issue them a new owner's duplicate copy of the TCT. Further, petitioners raise in issue the discrepancies between the certificate of title on file with the Register of Deeds of Calamba, Laguna and that submitted by Fidelity during the preliminary conference before the CA.

In its Comment,<sup>[9]</sup> Fidelity reiterate the arguments it presented before the CA.

We find for the respondent.

At the outset, we emphasize that the core issue in this case is the validity of the issuance by the RTC of a new owner's duplicate copy of the TCT in favor of

petitioners. The applicable law is Section 109 of Presidential Decree (P.D.) No. 1529 (Property Registration Decree), which states:

*SEC. 109. Notice and replacement of lost duplicate certificate.* - In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

Petitioners were able to convince the RTC that their owner's duplicate copy had indeed been lost. They appeared to have complied with the requirements of the law. This led the RTC to grant their petition.

Upon discovery of the issuance of a new owner's duplicate copy of the TCT, Fidelity went to the CA seeking to annul the judgment of the RTC. Unfortunately for petitioners, their counsel admitted the genuineness of the owner's duplicate copy of the TCT presented by Fidelity during the preliminary conference at the CA. The following exchange is revealing:

J. MARTIN:

**Counsel for the private respondent, will you go over the owner's copy and manifest to the court whether that is a genuine owner's copy?**

ATTY. MENDOZA:

**Yes, Your Honor.**

J. MARTIN:

Alright. **Make it of record that after examining the owner's copy of TCT NO. (T-12110) T-4342, counsel for the private respondent admitted that the same appears to be a genuine owner's copy of the transfer certificate of title.** Do you have a certified true copy of this or any machine copy that you can compare?

ATTY. QUINTOS:

Yes, Your Honor.

J. REYES:

Including all the entries at the back page.

ATTY. QUINTOS:

Yes, Your Honor.

J. MARTIN:

Does it include all the list of the encumbrances?

ATTY. QUINTOS:

Yes, Your Honor.

ATTY. MENDOZA:

We do not admit, Your Honor this being only a xerox copy and not certified . . .

J. MARTIN:

It is only for purposes of substitution. **Will you compare that with the other copy which you already admitted to be a genuine owner's copy.**

ATTY. MENDOZA:

**Yes, Your Honor.**

J. MARTIN:

Alright. Counsel, are you marking that?

ATTY. QUINTOS:

Your Honor, we request that this copy of the transfer certificate of title No. T-12110, T-4342 be marked as Exhibit A to A-3 for the petitioner?

J. MARTIN:

Preliminary conference.

Alright, **after examining the machine copy consisting of three pages and comparing the same with the admittedly genuine owner's copy of the transfer certificate of title, counsel prayed for the substitution of the machine copy - after marking them as Exhibits A-A-3 inclusive.** We will return the