

THIRD DIVISION

[G.R. No. 153263, August 28, 2008]

EMMA VER-REYES, PETITIONER, VS. HONORABLE COURT OF APPEALS, THE LAND REGISTRATION AUTHORITY, THE REGISTER OF DEEDS OF CAVITE, AND IRENE MONTEMAYOR, RESPONDENTS.

DECISION

NACHURA, J.:

For resolution is a petition for review on *certiorari* under Rule 45 of the Rules of Court of the Decision^[1] dated January 18, 2002 and the Resolution^[2] dated April 25, 2002 of the Court of Appeals (CA) in CA-G.R. SP No. 63820.

Petitioner Emma Ver-Reyes claims to have acquired a 41,837-square-meter lot (Lot No. 6961 Psd-20246, Imus Estate, G.L.S.O. Record No. 8843) located in Dasmariñas, Cavite and covered by Transfer Certificate of Title (TCT) No. 58459 in the name of the spouses Marciano and Virginia Cuevas by virtue of a Deed of Absolute Sale^[3] dated October 8, 1976 executed by the latter in her favor. While she religiously paid the real estate taxes on the property, petitioner failed to register her title over the same.

Later, it appeared that the Cuevas spouses executed another Deed of Absolute Sale^[4] on November 10, 1992 over the same property in favor of respondent Irene Montemayor. This time, the sale was registered, eventually leading to the cancellation of TCT No. 58459 and the issuance of TCT No. 369793 in the name of respondent.

When this came to her knowledge, petitioner filed on February 18, 1994 a petition for reconveyance, docketed as Civil Case No. 878-94, with the Regional Trial Court (RTC), Branch 21 of the Province of Cavite against respondent, accusing her of forgery and fraudulently causing the issuance of a new certificate of title in her name.

After trial, the RTC, Branch 21, Cavite, rendered its Decision^[5] dated October 7, 1996 dismissing the complaint for reconveyance and finding respondent as the true and lawful owner of the property described in TCT 369793.

Petitioner appealed the RTC Decision to the CA on July 11, 1997. Pending appeal, or in August 1998, petitioner learned of the cancellation of respondent's TCT over the property in favor of a certain Engracia Isip (Engracia), after which a mortgage was constituted thereon by Engracia's heirs.

Acting on this information, petitioner conducted an investigation, and her inquiry revealed the following:

1. Respondent Irene Montemayor executed on January 15, 1998 a Waiver and Quitclaim,^[6] recognizing the genuineness of TCT No. 769357 in the name of Engracia Isip which had been transferred to her heirs (Apolonia I. R. Alcaraz, Eliza I. Reyes-Gloria, Victor Isip Reyes and Epitacio Isip Reyes) covered by TCT No. T-784707, declaring that all documents relative to the issuance of subsequent TCTs, including TCT No. 369793 in her name were simulated and fictitious, and renouncing all her claims to the property in favor of Engracia and her heirs, executors, administrators, and assigns.
2. The Register of Deeds of Cavite, notwithstanding being impleaded as a party to the pending appeal before the CA, cancelled TCT No. T-369793^[7] in the name of respondent by virtue of the Waiver and Quitclaim. It also caused the annotation of the Waiver and Quitclaim on both TCT Nos. T-369793 and T-784707^[8] in the name of Engracia's heirs.
3. The technical descriptions under TCT Nos. T-769357^[9] and T-784707 showed that the property described therein is the same property subject of the pending appeal before the CA.
4. The basis of Engracia's title under TCT No. 769357 is Bureau of Lands Sales Contract/Certificate No. V-139^[10] dated January 9, 1954 and Department of Agriculture and Natural Resources/Bureau of Lands Deed of Conveyance No. V-9039^[11] dated March 30, 1965. It appeared that TCT No. 769357 was issued or entered only on October 24, 1997.
5. The subject parcel of land was originally part of Original Certificate of Title No. 1002 (RT-17577)^[12] under the name of the Republic of the Philippines.
6. By virtue of the above Certificate No. V-139 and Deed of Conveyance No. V-9039, both in favor of Engracia, TCT No. 13105^[13] dated April 23, 1965 was issued in her name.
7. There were a series of conveyances made and several titles were issued thereon - TCT No. 13105 was cancelled and TCT No. 13113^[14] dated April 26, 1965 was issued to Rosalinda Puspos; TCT No. 13113 was cancelled and TCT No. T-45574^[15] dated July 20, 1970 was issued in favor of Belen R. Carungcong (pursuant to a Deed of Absolute Sale dated July 21, 1970 executed by Rosalinda Puspos); TCT No. T-45574 was cancelled and TCT No. T-57845^[16] dated February 28, 1972 was issued in the name of Aurelia de la Cruz; and TCT No. T-57845 was cancelled and TCT No. T-58459^[17] dated April 3, 1972 was issued in the name of the spouses Marciano and Virginia M. Cuevas by virtue of a Deed of Absolute Sale dated March 27, 1972 executed by Aurelia de la Cruz.

8. Notwithstanding the foregoing transfers of title, TCT No. T-769357 dated October 24, 1997 was issued in the name of Engracia Isip based on the same Certificate No. V-139 and Conveyance No. V-9039.
9. TCT No. T-784707 in the name of Engracia's heirs was issued by virtue of a Deed of Extra-Judicial Settlement of the Estate of Deceased Engracia Isip^[18] dated September 24, 1997. Engracia Isip died way back on January 12, 1981.
10. TCT No. T-784707 dated December 15, 1997 in the name of Engracia's heirs had been mortgaged to a certain Potentiano Ponce for P6,500,000.00 on January 13, 1998. The mortgage was annotated on the TCT on January 14, 1998.

On October 20, 1998, petitioner filed an Urgent Manifestation^[19] before the CA to advise it of the above information she had discovered. On November 6, 1998, she served a Notice of Lis Pendens^[20] affecting the property under TCT No. T-784707 in the name of Engracia's heirs upon the Register of Deeds of Cavite.

In a letter dated November 17, 1998, the Register of Deeds of Cavite through Deputy Registrar of Deeds Perfecto G. Dumay-as denied the annotation of petitioner's Notice of Lis Pendens on the following grounds -

1. The cancelled title of IRENE VILLAMAYOR [sic] (TCT No. T-369993) does not bear an inscription as to the pendency of Civil Case No. 878-94 involving the said property;
2. Further, the title of the Heirs of Engracia Isip (TCT No. T-784707) did not originate from the cancelled title of Irene Montemayor (TCT No. T-369793);
3. That the Waiver/Quitclaim was done in recognition of a better and stronger title and to avoid unnecessary, time consuming [sic] and costly legal confrontation [sic] between the parties;
4. That the title of the Isips (TCT No. T-784707) is a derivative title from TCT No. T-769357 (Engracia Isip) which originated from a Deed of Conveyance duly issued by the Land Management Bureau, an immediate transfer from OCT No. 1002 (Republic of the Philippines);
5. That the late Engracia Isip nor her heirs were not a party to the ongoing court litigation between Emma Ver Reyes, et al. vs. Irene Montemayor, et al., hence, the said notice of Lis Pendens does not meet the necessary requirement of its registrability.^[21]

Petitioner elevated the matter to the Land Registration Authority (LRA) via Consulta No. 3039 dated December 7, 1998.^[22] In its Resolution dated August 21, 2000, the LRA denied the registration of the Notice of Lis Pendens, sustaining the ground that "the late ENGRACIA ISIP nor her heirs were not impleaded as parties to the pending suit or proceedings."

Petitioner moved to reconsider the Resolution dated August 21, 2000. In an Order^[23] dated January 8, 2001, the LRA denied the motion for lack of merit.

In a petition for review under Rule 43 of the Rules of Court, petitioner questioned before the CA the Resolution dated August 21, 2000 and the Order dated January 8, 2001 of the LRA.

In the Decision^[24] promulgated on January 18, 2002, the CA denied the petition on the ground that the stance taken by the LRA was the most logical under the circumstances; and while the remedy of a notice of lis pendens is for the protection of third parties, it should not prejudice the right of the party in whose favor the property is titled without him being impleaded in the pending case.

Petitioner filed her motion for reconsideration of the CA Decision but said motion was denied, for lack of merit, in the Resolution^[25] dated April 25, 2002. The CA held -

This Court is of the opinion and so holds that if it is desired to have a Notice of *Lis Pendens* annotated, it must appear that the present registered owners are impleaded in the pending case. We do not argue with the petitioner's contention that **"it is not necessary for the applicant to prove his ownership or interest over the property sought to be effected by lis pendens"** (citing *Villanueva vs. Court of Appeals*, 281 SCRA 298). But what We are saying is that the notice of *Lis Pendens* should not prejudice the right of the party in whose favor the property is duly titled without giving them their day in court.

Thus, this petition, raising the sole issue of whether the Register of Deeds was justified, under the attendant circumstances, in denying the annotation of the Notice of Lis Pendens on TCT No. T-784707.

Petitioner maintains that it is required neither under Section 14^[26] of Rule 13 of the Rules of Court nor under Section 76^[27] of Presidential Decree No. 1529 (Property Registration Decree) that a registered owner of real property should first be impleaded in the pending case for a notice of lis pendens to be annotated in a TCT. She posits that these provisions do not state the grounds to justify the refusal by the Register of Deeds and/or the LRA to effect the said annotation. Petitioner also cites *Voluntad v. Spouses Dizon*^[28] wherein the annotation of a notice of lis pendens was allowed on the TCT of Carmen and Maria Voluntad despite the registered owners not being parties to the pending case.

Petitioner further claims that the duty to record the notice of lis pendens filed by a party to a pending case is ministerial on the part of the Register of Deeds of the province where the property is located as long as the requisites for the recording thereof - the names of the parties, the object of the action or defense, and a description of the property in that province affected thereby - are indicated in the notice.

Citing our rulings that a notation of lis pendens does not create a right or a lien upon the subject property,^[29] and that the applying party is not required to prove