

## SECOND DIVISION

**[ G.R. NO. 163340, November 23, 2007 ]**

**HERMENEGILDA DE LA CRUZ LOYOLA, PETITIONER, VS.  
ANASTACIO MENDOZA, RESPONDENT.**

### DECISION

**QUISUMBING, J.:**

Before us is an appeal from the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> dated October 21, 2003 and May 3, 2004, respectively, of the Court of Appeals in CA-G.R. CV No. 70229. The Court of Appeals had reversed the Decision<sup>[3]</sup> dated August 17, 2000 of the Regional Trial Court (RTC), Branch 69, Pasig City, in Civil Case No. 66016 annulling Original Certificate of Title (OCT) No. 213.

The facts are as follows:

On May 11, 1984, respondent Anastacio Mendoza was issued, by virtue of a free patent, OCT No. 213 over a 1,668-square meter parcel of land located in Sta. Ana, Taguig by the Register of Deeds for Metro Manila D-IV.<sup>[4]</sup>

On September 1, 1995, petitioner Hermenegilda de la Cruz Loyola, who was in possession of the land, filed with the Department of Environment and Natural Resources (DENR) a complaint<sup>[5]</sup> for annulment and/or reconveyance of respondent's OCT No. 213 on the ground that respondent obtained said title through fraud.

The DENR found that petitioner and her predecessors-in-interest had been in possession of the subject land since 1948 or more than 30 years at the time OCT No. 213 was issued in 1984. The DENR concluded that fraud attended the issuance of OCT No. 213; hence, it issued an Order<sup>[6]</sup> dated September 19, 1996 to the Office of the Solicitor General (OSG) to file on behalf of petitioner a petition for the cancellation of OCT No. 213.

The OSG, however, advised petitioner to file the case herself.

On December 2, 1996, petitioner filed with the RTC of Pasig City a complaint for annulment of OCT No. 213 with damages.<sup>[7]</sup>

Petitioner alleged that the land was originally part of a 4,060-sq. m. land owned by her grandfather by affinity, Julio Pili, who was issued on August 31, 1948 Tax Declaration No. 518<sup>[8]</sup> by the Provincial Assessor of Rizal.

In 1950, Julio transferred 2,030 square meters to her father, Francisco de la Cruz, who was issued Tax Declaration No. 6941<sup>[9]</sup> on October 4, 1950 and Tax Declaration

No. 2008<sup>[10]</sup> on September 30, 1965. Francisco remained in possession of the land from 1950 until around 1976, when he gave possession to Victoriano Cruz and Trinidad Espiritu to whom he had mortgaged the land. The two mortgagees remained on the lot until 1995 when petitioner redeemed it.

Petitioner also alleged that she later discovered that on January 2, 1976, unknown to her father and the two mortgagees, the land had been transferred to Juana de la Cruz Vda. De Mendoza. Juana was issued Tax Declaration No. 13912<sup>[11]</sup> on the same date and then the next day entered into a simulated sale of the land with her son, respondent Anastacio Mendoza. A year later, respondent obtained the assailed OCT in his favor. Petitioner alleged that she demanded from respondent the cancellation of the title and surrender of the land, but to no avail.

Petitioner averred that OCT No. 213 was obtained through fraud since neither Juana nor Anastacio had ever been in possession of the property and no notice of the free patent application, which respondent filed in 1977, was ever sent to Francisco. Petitioner added that there was likewise no document evidencing the transfer of the property from Francisco to Juana, who were not related to each other.

In his Answer,<sup>[12]</sup> respondent made a general denial of the material averments of the complaint, but argued that petitioner had no legal personality to file the complaint that should have been filed by the OSG; that OCT No. 213 is now incontestable; and that petitioner's cause of action, if any, had already prescribed.

Petitioner testified on the material averments in her complaint.<sup>[13]</sup> Atty. John Emmanuel Felipe Madamba<sup>[14]</sup> from the OSG testified that petitioner had to file the case herself since the land had already become private land by virtue of acquisitive prescription. He added that the OSG's nonparticipation was warranted under the proposed DENR *Guidelines in the Evaluation of Cases for Cancellation and Reversion*.

Respondent, for his part, presented only the contested OCT.

On August 17, 2000, the trial court ruled that petitioner had acquired ownership of the subject land by acquisitive prescription and that respondent obtained OCT No. 213 through fraud. The trial court held:

WHEREFORE, premises considered, judgment is hereby rendered declaring the nullity of the Free Patent issued in the name of Anastacio Mendoza, known as OCT No. 213, and requiring the DENR/Register of Deeds of Taguig, to issue another title in the name of the [petitioner] Hermenegilda de la Cruz Loyola, after payment of the prescribed fees. [Respondent] is further ordered to pay to the [petitioner] attorney's fee in the amount of Php 50,000.00 and the costs.

SO ORDERED.<sup>[15]</sup>

Respondent received a copy of the trial court's decision on October 26, 2000. On November 6, 2000, respondent filed a Motion to Declare "Decision" to be "Null and Void" and Motion for Reconsideration<sup>[16]</sup> contending that (1) the pairing judge was without authority to decide the case on the merits and that (2) the trial court's

decision was not based on the evidence presented in the trial court and therefore should be reconsidered. Respondent, however, failed to point out specifically the findings or conclusions of the decision which he alleged were not supported by the evidence or contrary to law.

Petitioner opposed the motion on the ground that it was *pro forma* and without merit. Petitioner also pointed out that Supreme Court Circular No. 19-98<sup>[17]</sup> dated February 18, 1998, explicitly authorized the pairing judge to act not only on incidental or interlocutory matters and those urgent matters requiring immediate action on cases pertaining to the paired court, but also on all other matters therein.<sup>[18]</sup>

On November 29, 2000, the trial court denied the motion for lack of merit.<sup>[19]</sup>

Respondent received a copy of the trial court's denial on January 4, 2001. He filed a second motion for reconsideration on January 16, 2001, on the same grounds. Again, he did not specify which portions of the decision were supposedly unsupported by evidence or contrary to law. Said motion was likewise denied.<sup>[20]</sup>

Aggrieved, respondent filed a notice of appeal on March 12, 2001.<sup>[21]</sup>

On appeal, the Court of Appeals reversed the trial court's decision and dismissed the complaint for annulment of OCT No. 213. Petitioner's motion for reconsideration was likewise denied. Hence, this petition.

Petitioner raises now the following as issues:

I.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN REVERSING THE DECISION OF THE PASIG CITY REGIONAL TRIAL COURT, BRANCH 69.

II.

WHETHER THE PETITIONER AND HER PREDECESSORS-IN-INTEREST WERE THE TRUE AND RIGHTFUL OWNERS OF THE SUBJECT PROPERTY.

III.

WHETHER THE DOCUMENTARY EVIDENCE PRESENTED BY THE PETITIONER IS INSUFFICIENT TO WARRANT A BELIEF THAT SHE IS ENTITLED TO RECONVEYANCE OF THE SUBJECT PARCEL OF LAND.

IV.

WHETHER THERE WAS IRREGULARITY IN THE APPLICATION AND SUBSEQUENT GRANT OF FREE PATENT TO THE PRIVATE RESPONDENT.

V.