

FIRST DIVISION

[G.R. NO. 160832, October 27, 2006]

THE HEIRS OF EMILIO SANTIOQUE, REPRESENTED BY FELIMON W. SANTIOQUE, PETITIONERS, VS. THE HEIRS OF EMILIO CALMA, FABIAN CALMA, AGATONA CALMA, AND DEMETRIA CALMA, REPRESENTED BY LOPE AKOL AND LUCIA CALMA-AKOL, AND THE REGISTER OF DEEDS OF THE PROVINCE OF TARLAC, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 65352 affirming the Decision^[2] of the Regional Trial Court (RTC) in Civil Case No. 8634, as well as the Resolution dated November 21, 2003 which denied the motion for reconsideration thereof.

On March 31, 1932, the Governor General granted a homestead patent over a 20.9740-hectare parcel of land located in Barrio Tibag, Tarlac, Tarlac. On the basis of said patent, Original Certificate of Title (OCT) No. 1112 was issued by the Register of Deeds on April 21, 1932. The title was cancelled by Transfer Certificate of Title (TCT) No. 13287. On November 27, 1953, TCT No. 13287 was cancelled by TCT No. 19181 under the names of Agatona Calma, Fabian Calma, Emilio Calma and Demetria Calma.^[3] On September 23, 1954, the parties executed a contract of lease in favor of the Spouses Lope A. Akol, who then executed an Assignment of Leasehold Rights under the Contract of Lease in favor of the Rehabilitation Finance Corporation (RFC) on January 26, 1955.^[4]

In the meantime, Fabian Calma died intestate. A petition for the administration of his estate was filed in the RTC of Tarlac docketed as Special Proceedings No. 1262. Lucia Calma was appointed as administratrix of the estate. The heirs executed a Deed of Partition over the property on April 17, 1967. On September 13, 1967,^[5] TCT No. 19181 was cancelled by TCT No. 71826 in the names of Agatona Calma, Emilio Calma, Demetria Calma and Fabian Calma.

Meanwhile, in 1967, a 20.564-ha parcel of land located in Tibag, Tarlac and identified as Lot No. 3844 of Pat-H-132104 - prt. was declared for taxation purposes under the name of Emilio Santioque (Tax Dec. No. 19675).^[6] However, the declaration did not bear the name and signature of the declarant.

On June 3, 1973, Santioque died intestate. His children, Felimon, Rose, Filomena, Jose, Josefina, Ana, Rufino, and Avelina, all surnamed Santioque, filed on February 29, 1998, a complaint in the RTC of Tarlac for declaration of nullity of title, reconveyance, with damages, over a piece of land situated in Tibag, Tarlac City. The

case was docketed as Civil Case No. 8634.

The heirs claimed that on March 31, 1932, Emilio was awarded Homestead Patent No. 18577 by virtue of Homestead Application No. 132104 over a lot located in Barrio Tibag, Tarlac City; the said lot was identified as Lot No. 3844 of the Tarlac Cadastre No. 274, with an area of 20.5464 hectares; OCT No. 1112 was issued to Emilio on April 21, 1932, and from then had enjoyed full ownership and dominion over the said lot; and prior to his death, Emilio ordered Felimon to work for the recovery of the said property.^[7] They further averred that when Felimon went to the Register of Deeds of Tarlac for a final verification, he discovered that the lot covered by OCT No. 1112 was already registered in the names of Agatona, Fabian, Emilio and Demetria, all surnamed Calma, under TCT No. 19181 issued on November 27, 1953. It appeared from the said TCT No. 19181 that the title was a transfer from TCT No. 13287.^[8]

The heirs contended that Emilio was the first registrant of the subject lot and, as such, was its lawful owner. The land could no longer be the subject matter of subsequent cadastral proceedings, and any title issued pursuant thereto would be void. They prayed that judgment be rendered in their favor, as follows:

WHEREFORE, it is most respectfully prayed that after due notice and hearing, judgment be rendered ordering the nullification of TCT No. 19181 and TCT No. 13287 of the Register of Deeds of Tarlac and upholding and declaring the existence, legality and validity of the Homestead Patent bearing No. 18577 and OCT No. 1112 issued in the name of the late Emilio Santioque and -

1. Ordering Defendants to reimburse to the Plaintiffs the income, profits or benefits unjustly derived by them from TCT No. 19181 and 13287 the estimation of which is left to the sound discretion of the Honorable Court;
2. Ordering the Defendants to pay to the Plaintiffs the amount of P50,000.00 as attorney's fees;
3. Cost of suit;
4. Any and all remedies just and equitable under the premises.^[9]

The heirs of Calma filed a motion to dismiss the complaint alleging that (a) the action had prescribed and was barred by laches; (b) the claim has been abandoned, and (c) the complaint stated no cause of action.^[10] The court denied the motion.

The heirs of Calma filed their answer, reiterating the grounds and allegations in their motion to dismiss by way of special and affirmative defenses.^[11]

During trial, Felimon Santioque testified for the plaintiffs. He admitted that they had no copy of OCT No. 1112; the Register of Deeds likewise had no record of the said title, nor TCT No. 13287.^[12] He discovered from the said office that the subject lot was covered by TCT No. 19181 with the names of Agatona Calma and her co-heirs as owners.^[13] The title was, in turn, cancelled and replaced by TCT No. 71286 also in the names of Agatona Calma and her co-heirs.

On cross-examination, Felimon declared that his father, Emilio, mentioned the property to the plaintiffs sometime before he died in 1973. From that time on, he tried to ascertain the particulars of the property and succeeded in 1990 only when he went through the records at the Community Environment and Natural Resources Office (CENRO).^[14]

Felimon declared that, on August 4, 1992, he secured a document from the Lands Management Bureau (LMB) stating that on March 1 to 6, 1930, a parcel of land with an area of 209,746 square meters located in Tibag, Tarlac, Tarlac, was surveyed by W. Santiago and approved on February 27, 1932.^[15] However, the document was not certified by the Chief Geodetic Engineer. Neither did the plaintiffs present the employee of the Bureau who prepared the document to testify on its authenticity.

Felimon admitted that Amando Bangayan, Chief, Records Management Division of the LMB certified that, based on the survey records of Cadastral Survey No. 274 and as indicated in the Area Sheet of Lot 3844, Cad. 274, Emilio Santioque was the claimant of the lot. However, the Bureau had no available records of Homestead Application No. 132104 and Homestead Patent No. 18577 dated March 31, 1932.^[16] Felino Cortez, Chief, Ordinary and Cadastral Decree Division of the Land Registration Authority (LRA), certified that after due verification of the records of the Book of Cadastral Lots, Lot 3844 had been the subject of Cadastral Case No. 61, LRC Cad. Record No. 1879; the case had been decided but no final decree of registration had been issued; and the lot was subject to the annotation "*con patent No. 18577 segun report of B.L.*"^[17] The Register of Deeds of Tarlac stated that, on January 25, 1998, despite diligent efforts, he could not locate TCT No. 13287 and OCT No. 1112 or any other document leading to the issuance of TCT No. 19181. He explained that in 1987 and 1988, his office had to be reconstructed, and titles and documents had to be moved from one place to another.^[18] The Register of Deeds issued a certification^[19] dated September 10, 1998 stating that despite diligent efforts, he could not locate OCT No. 1112 or any document showing how it was cancelled. The Records Officer of the Register of Deeds in Tarlac City also certified that OCT No. 1112 and TCT No. 13287 could not be found despite diligent efforts.^[20]

After the heirs of Santioque rested their case, the defendants, heirs of Calma, demurred to plaintiffs' evidence and sought its dismissal on the ground that the latter failed to establish a preponderance of evidence to support their ownership over the property.^[21]

On August 11, 1999, the trial court issued an Order^[22] granting the demurrer and dismissing the complaint on the ground that plaintiffs failed to establish their case.

The heirs of Santioque appealed said order to the CA claiming that

I

THE TRIAL COURT ERRED IN HOLDING THAT PLAINTIFFS-APPELLANTS FAILED TO PROVE THAT ORIGINAL CERTIFICATE OF TITLE NO. 1112 WAS ISSUED IN THE NAME OF EMILIO SANTIOQUE, THE PLAINTIFFS' PREDECESSOR-IN-INTEREST, DESPITE THE FACT THAT SUFFICIENT,

ADEQUATE AND CONVINCING EVIDENCE HAVE BEEN PRESENTED TO PROVE THAT SAID OCT 1112 WAS ISSUED IN THE NAME OF EMILIO SANTIOQUE.

II

THE TRIAL COURT ERRED IN RESORTING TO SPECULATIONS, SURMISES AND CONJECTURES WHEN IT RULED THAT OCT 1112 COULD HAVE BEEN ISSUED TO ANOTHER PERSON OTHER THAN THE LATE EMILIO SANTIOQUE.

III

THE TRIAL COURT ALSO RESORTED TO SPECULATIONS, SURMISES AND CONJECTURES WHEN IT HELD THAT THERE WAS NO EVIDENCE TO PROVE THAT PATENT NO. 18577 WAS ISSUED TO EMILIO SANTIOQUE, THUS DISREGARDING THE COMPETENT AND SUFFICIENT EVIDENCE ADDUCED BY PLAINTIFFS-APPELLANTS TO PROVE THAT SAID PATENT WAS ISSUED TO EMILIO SANTIOQUE.

IV

THE TRIAL COURT ERRED IN HOLDING THAT TCT NO. 19181 ISSUED TO DEFENDANTS-APPELLEES WAS PRESUMED TO HAVE BEEN ISSUED IN THE ORDINARY COURSE OF BUSINESS WHEN IN FACT ITS ISSUANCE IS PLAINLY FRAUDULENT AND EVIDENTLY ANOMALOUS.

V

THE TRIAL COURT ERRED IN SWEEPINGLY CONCLUDING THAT DEFENDANTS-APPELLEES HAVE ACQUIRED THE SUBJECT PROPERTY BY ACQUISITIVE PRESCRIPTION AND IN RULING THAT PLAINTIFFS-APPELLANTS HAVE SLEPT ON THEIR RIGHT FOR MANY YEARS AND THAT THEY HAVE CONSTRUCTIVE NOTICE OF THE ISSUANCE OF DEFENDANTS-APPELLEES' TITLE, THUS THEY ARE ESTOPPED BY LACHES.

VI

THE TRIAL COURT ERRED IN REFUSING WITHOUT VALID CAUSE TO ISSUE *SUBPOENA DUCES TECUM* AND *AD TESTIFICANDUM* TO THE REGISTER OF DEEDS OF TARLAC AND THE LAND REGISTRATION AUTHORITY IN ORDER TO SHED LIGHT ON THE WHEREABOUTS OF OCT 1112 AND THE ISSUANCE OF TCT NOS. 13287, 19181 AND 71826.^[23]

On August 30, 2000, Felimon Santioque wrote to the Director of the National Bureau of Investigation (NBI), Federico Opinion, Jr., requesting for his assistance in "investigating the disappearance" of the copy of the Registrar of Deeds of Tarlac of OCT No. 1112 and TCT No. 13287.^[24] Attached to the said letter were the following certifications and investigation reports of the LRA:

1. Xerox copy of TCT No. 71826 dated September 13, 1967 under the names of Agatona Calma, Emilio Calma, Dorotea Calma and Lucia

Calma.^[25]

2. Certified xerox copy Tax Declaration No. 22116 in the name of Agatona Calma, et al;^[26]
3. Certified xerox copy of Tax Declaration No. 39766 in the name of Agatona Calma, et al;^[27]
4. Certified xerox copy of Tax Declaration No. 35226 in the names of Agatona Calma, et al;^[28]
5. Certified xerox copy of the Investigation Report of Mr. Felix Cabrera Investigator, Land Registration Authority, dated September 30, 1999, finding that there are no documents in the Registry supporting the cancellation of OCT 1112 and the issuance of TCT Nos. 13287, and that TCT No. 71826 is irregularly issued inasmuch as no transaction which would justify its issuance appears in the Primary Entry Book;^[29]
6. Certification of Mr. Andres B. Obiena, Records Officer I of the Register of Deeds of Tarlac, Tarlac, dated April 5, 1999, that OCT No. 1112 could not be located in the archives;^[30]
7. Certification of Mr. Meliton I. Vicente, Jr., Community Environment and Natural Resources Officer of the DENR, Region III, that Lot No. 3844 is already covered by Homestead Application No. 132104 with Patent No. 1877 issued to Emilio Santioque on March 31, 1932;^[31]
8. Certified xerox copy of Record Book Page 383 signed by Florida S. Quiaoit, Records Management Unit, CENRO III-6, Tarlac City, showing that Emilio Santioque is a claimant of Lot No. 3844 under Homestead Application No. HA-132104 and Patent No. 1877;^[32]
9. Certified xerox copy of Area Sheet over Lot 3844 prepared for Emilio Santioque, certified by Emilanda M. David, Record Officer 1, DENRO, San Fernando, Pampanga dated February 29, 2000;^[33]
10. Certified xerox copy of Case No. 6, Cad Record No. I, showing that Emilio Santioque was the claimant of Lot No. 3844, under Pat-H-132104 Part.^[34]

The heirs of Santioque did not present the said documents at the trial below but they included the same in their appellants' brief.

Without waiting for the report of the NBI on their request, the heirs of Santioque filed a motion with the CA for the early resolution of the case.^[35] On June 27, 2003, the CA affirmed the appealed decision.^[36] The appellate court did not give probative weight to the certifications and other documents submitted by the heirs of Santioque, as their authenticity had not been established and the signatories therein were not presented for cross-examination. It noted that none of the "crucial