

SECOND DIVISION

[G.R. NO. 122202, May 26, 2005]

HEIRS OF THE LATE FAUSTINA ADALID ALSO KNOWN AS CRISTINA ADALID NAMELY ELENA JAMITO, ELENO JAMITO, ANECITA JAMITO, PETRINIO JAMITO, LABORA JAMITO, ELISA JAMITO, ESTELITA JAMITO, GLICERIA JAMITO, TERESITA LAS PINAS, ALICIA JAMITO, ANA JAMITO, MARISSA JAMITO, CHERRYL JAMITO, AND DONNA JAMITO, PETITIONERS, VS. THE COURT OF APPEALS, THE REGISTER OF DEEDS OF BAIS CITY, AND SPOUSES HERMAN GREGORIO AND CORNELIA MONTESA GREGORIO, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.:

Before Us is a petition for review on *certiorari* which seeks to set aside the Decision^[1] and Resolution^[2] of the Court of Appeals dated 28 April 1995 and 29 September 1995, respectively. The said Decision and Resolution affirmed the Order of the Regional Trial Court, Branch 45, Bais City dated 22 January 1992^[3] dismissing the original complaint docketed as Civil Case No. 136-B for Annulment of Titles and Damages filed by herein petitioners against the respondents, on the ground of *res judicata*.

THE FACTS

A complaint for Annulment of Titles and Damages^[4] was filed before the Regional Trial Court, Branch 45, Bais City, docketed as Civil Case No. 136-B, entitled "*Heirs of the Late Faustina Adalid also known as Cristina Adalid, namely: Elena Jamito, Eleno Jamito, Anecita Jamito, Petrinio Jamito, Labora Jamito, Elisa Jamito, Estelita Jamito, Lucia Jamito, Responcito Jamito, Glicerita Jamito, Teresita Las Piñas and Constanza Las Piñas, Plaintiffs, versus, German Gregorio and Spouse Cornelia Montesa Gregorio, Atty. Jaime Muñoz, in his capacity as Register of Deeds of Bais City, Alicia Jamito, Ana Jamito, Marissa Jamito, Cherryl Jamito and Donna Jamito, Defendants*" dated 25 October 1990. Being unwilling co-plaintiffs, Alicia, Ana, Marissa, Cherryl and Donna, all surnamed Jamito, were included as party defendants.

As summed up by the Court of Appeals, the complaint alleged:

. . . [T]hat plaintiff-appellants and their ascendants and predecessors-in-interest had been in continuous, uninterrupted, peaceful, exclusive and public possession and occupation of Lot No. 211 situated along Burgos St., Bais City, in the concept of owner, even prior to the year 1900, and that the property had passed on through generations to herein plaintiff-appellants who are the surviving descendants or heirs of Faustina, also known as Cristina Adalid. These heirs claimed that the property had been

declared for taxation purposes in the name of said Faustina beginning 1906, then declared in the name of Juan Jamito and brothers, grandsons of Faustina, from 1925 up to the present. They further alleged that they had introduced improvements thereon; that Lot No. 211 had been surveyed on November 15 and 16, 1916 for the plaintiffs-appellants; that in Cadastral Case No. 7, LRC Cadastral Records No. 161, Lot No. 211, Bais Cadastre, they were included in the list of claimants for said Lot No. 211; that in said Cadastral Case No. 7, Cadastral Decree No. 260144 was issued on June 6, 1927 in favor of the conjugal partnership of Gorgonio Montesa and Manuela Teves of Bais City, despite the fact that they had never been the actual occupants of Lot No. 211; that Decree No. 260144 was issued based on the fraudulent declaration of ownership made by Maria Zerna and Gorgonio Montesa in the answers they filed in Cadastral Case No. 7, LRC Cadastral Records No. 161; that plaintiff-appellants discovered said fraudulent declarations only recently; that pursuant to Decree No. 260144, Original Certificate of Title No. 5367 was issued on July 29, 1927 in favor of Gorgonio Montesa and Manuela Teves; that Original Certificate of Title No. 5367 had been cancelled and Transfer Certificate of Title No. T-4344 had been issued to defendant-appellees Gregorio spouses, who allegedly knew about the nullity and invalidity of the Original Certificate of Title No. 5367; that defendant-appellees, as well as their predecessor-in-interest had never been in possession of the land in question. . .^[5]

The private respondent Gregorio spouses denied the material allegations of the complaint. They alleged, among other things, that spouses Gorgonio Montesa and Manuela Teves, in whose favor Decree No. 260144 had been issued, were the owners and actual occupants of the subject property even before the issuance of said decree. They also averred that the fact of possession and ownership of Lot No. 211 had long been settled in Civil Case No. 4049 per decision of the Court of First Instance, Branch 1, Negros Oriental, dated 22 February 1974, which was later affirmed by the Court of Appeals. By way of affirmative and special defense, the Gregorio spouses maintained that the petitioners herein had no cause of action against them. They appended in their Answer a Motion to Dismiss the complaint on the ground of prescription, laches, operation of the Torrens system, and *res judicata*.

The respondent Register of Deeds of Bais City, in his Answer, likewise denied the allegations in the complaint, and further asserted that the issuance of Cadastral Decree No. 260144 in favor of spouses Gorgonio Montesa and Manuela Teves and the corresponding issuance of the certificate of title covering Lot No. 211 were done after due notice and hearing by the cadastral court. As his affirmative and special defense, he contended that the action was already barred by *res judicata*. He eventually adopted the motion to dismiss filed by the Gregorio spouses.

The petitioners filed their reply and opposition to the motion to dismiss on 26 November 1990. They insisted that they never recognized the Gregorio spouses as the rightful owners and possessors of the subject property, and the latter are not innocent purchasers for value. The prior judgment in Civil Case No. 4049, according to them, was not a bar to the filing of their complaint. They pointed out that the issue in Civil Case No. 4049 was the validity or nullity of Cadastral Decree No. 260177 issued in Cadastral Case No. 7, Cadastral Record No. 161 of the Bais

Cadaastre, while at issue in Civil Case 136-B is the validity or nullity of Cadastral Decree No. 260144. They manifested that the subject matters of the two cases are different, they having different cadastral decree numbers.

On 19 November 1990, the trial court ordered the transmission to it of the entire records of Civil Case No. 4049 for the proper disposition of the motion to dismiss and the opposition thereto. On 22 January 1992, the trial court, after due hearing, issued the assailed order, the pertinent portions of which are quoted hereunder:

Clearly, Lot No. 211 of the Bais Cadaastre originally titled under Cadastral Case No. 26(0)144 was the subject matter in Civil Case No. 4049, wherein the plaintiffs or their successors-in-interest in the case at bar were the defendants in said case (Civil Case No. 4049)... Although the prefatory portion of the aforesaid decision cited Cadastral Decree No. 260177, the said number should be considered a typographical error, as the complaint in that case specifically mentioned of Cadastral Decree No. 260144. Understandably, a similar error is contained in the latter portion of the decision wherein it stated of another Decree No. 260977. However, except for errors in the number of cadastral decree, the records are consistent in referring to Lot No. 211 of the Bais Cadaastre, and G.L.R.O. Cadastral Record No. 161.

The mis-stated Decree No. 260177 clearly covers Lot No. 303 of the Cadastral survey of Bais, an entirely different land to Lot No. 211. (Exhibit "3")

. . .

Admittedly, the judgment in Civil Case No. 4049 has become final.

From the foregoing, it is clear that the requisites of *res judicata* to bar this case are present. . .

Premises considered, finding the motion to dismiss by defendants being impressed with merit, this case is hereby ordered dismissed.^[6]

The petitioners moved for the reconsideration of the above-quoted order, which the trial court denied.

The petitioners interposed an appeal^[7] with the Court of Appeals, docketed as CA-G.R. CV Case No. 37369. They contended that the trial court had no authority or power in holding that the mentioned Cadastral Decree No. 260177 in Civil Case No. 4049 should be considered a typographical error; that the trial court gravely erred in holding that the judgment in Civil Case No. 4049 is a bar to Civil Case No. 136-B which was an action to declare Original Certificate of Title (OCT) No. 5367 and Transfer Certificate of Title (TCT) No. T-4344 a nullity; and that the trial court gravely erred in dismissing the complaint.

On 28 April 1995, the Court of Appeals promulgated its Decision affirming *in toto* the Order of the trial court. The Court of Appeals held in part:

The appellants erroneously assumed that the lower court amended or modified the final judgment in Civil Case No. 4049. The lower court committed no such thing. It merely made a finding that the mention of Cadastral Decree No. 260177 was a typographical error in answer to appellants' contention that the subject matter of the prior case, Civil Case No. 4049, and this present case, are not the same piece of property. The lower court merely considered the decision in said prior case as evidence that the subject matters in these two cases were identical, and did not make any new pronouncements as regards the issues litigated in the earlier case.

. . .

The cadastral decree number is not the only basis for identifying the property being contested in Civil Case No. 4049... Such detailed description of the land involved in Civil Case No. 4049 shows that the property is the same one involved here in the present case. Furthermore, appellants' own complaint shows that the property they are contesting is that which is covered by Transfer Certificate of Title No. T-4344, and the decision in Civil Case 4049 shows that the subject matter of that case is also the lot covered by Transfer Certificate of Title No. T-4344. Most convincing is the fact that the dispositive portion of the decision in Civil Case No. 4049 specifically mentions Lot No. 211 and not Lot 303. All these circumstances point to the fact that indeed, the subject matter of Civil Case No. 4049 and the present case, are one and the same property.^[8]

On the application of the principle of *res judicata*, the Court of Appeals held that the lower court committed no error in finding that the requisites of *res judicata* exist in this case.

The petitioners moved for the reconsideration of the decision, which was however denied by the Court of Appeals in its Resolution dated 29 September 1995.

Unfazed, the petitioners filed a petition for review on *certiorari*^[9] before this Court dated 20 November 1995. In the instant petition, Alicia, Ana, Marissa, Cherryl and Donna, all surnamed Jamito, who were formerly impleaded party defendants as they were unwilling co-plaintiffs, are now included as petitioners. Also, per Manifestation of the counsel for the private respondents dated 25 March 1996^[10], the Court was informed that private respondent Herman Gregorio died on 07 February 1992, as evidenced by a certified true copy of the Death Certificate.^[11] Private respondent Herman Gregorio was substituted by his heirs, namely: his spouse Cornelia M. Gregorio, and surviving children Herman M. Gregorio, Jr., Gloria Fe G. Escaño, Rizal M. Gregorio and Corman M. Gregorio.^[12]

ASSIGNMENT OF ERRORS

The petitioners assign as errors the following:

THE FINDINGS AND CONCLUSION OF THE HONORABLE COURT OF APPEALS THAT THE MENTION BY PRIVATE RESPONDENT OF CADASTRAL DECREE NO. 260177 IS MERELY A TYPOGRAPHICAL ERROR IS CONTRADICTED BY THE EVIDENCE ON RECORD.

II

THE CONCLUSION OF THE COURT OF APPEALS THAT CADASTRAL DECREE NO. 260177 IS MIS-STATED IS AN AMENDMENT OR MODIFICATION OF A FINAL JUDGMENT WHICH IS PROHIBITED BY THE RULES.

III

THE DECISION IN CIVIL CASE NO. 4049 (CA 59842-R) DOES NOT CONSTITUTE A BAR TO THE INSTITUTION OF C.C. NO. 136-B WHICH IS AN ACTION TO ANNUL OCT [NO.] 5367 AND TCT NO. 4344.

IV

THE PRINCIPLE OF *RES JUDICATA* SHOULD BE DISREGARDED IF ITS APPLICATION WOULD INVOLVE THE SACRIFICE OF JUSTICE TO TECHNICALITY.

V

THE FACTS AND EVIDENCE SET FORTH BY APPELLANTS IN THEIR BRIEF [WERE] NOT DISPUTED BY PRIVATE RESPONDENTS.

VI

THE ACTION FOR THE ANNULMENT OF OCT NO. 5367 AND TCT NO. 4344 IS THE REMEDY PROVIDED FOR BY LAW FOR OWNERS WHOSE LAND WAS ERRONEOUSLY TITLED BY ANOTHER.

VII

DEFENDANTS IN CIVIL CASE NO. 4049 WHO ARE PREDECESSORS-IN-INTEREST OF HEREIN PETITIONER WERE DENIED THEIR CONSTITUTIONAL RIGHTS TO DUE PROCESS AND FREE ACCESS TO THE COURTS BY REASON OF POVERTY.

VIII

PRIVATE RESPONDENTS WERE NEVER IN POSSESSION OF LOT 211.

IX

THE DOCUMENTARY EVIDENCE RELIED UPON BY PRIVATE RESPONDENTS DO NOT SHOW THAT LOT 211 WAS SOLD BY CRISTINA ADALID,