

THIRD DIVISION

[G.R. No. 133805, June 29, 2004]

**AGUSTINA SENO TAN, PETITIONER, VS. PACITA GANLAG TAN,
ASSISTED BY HER HUSBAND, TERESO TAN, RESPONDENT.**

DECISION

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] dated November 28, 1997 and Resolution^[2] dated May 20, 1998 of the Court of Appeals in CA-G.R. CV No. 47308, "*Pacita Ganlag Tan vs. Heirs of Graciano Seno, namely: Virgilio Seno; Heirs of Pablo Seno, namely: Florencio Seno, Norma Basiga, Añana Basiga, Buenaventura Basiga, Constanca Ducao, and Hilario Seno; and Heirs of Roman Seno, namely: Miguel Seno, Eugenia Ramonal Codoy, Rosario L. Benoto, Manuel Lincaro; and Eugenio Codoy.*"

The factual antecedents as borne by the records are:

On December 13, 1971, the Registry of Deeds of Mandaue City issued Transfer Certificate of Title (TCT) No. 673 in the name of Eustaquio Seno. This title covers a 673-square meter parcel of land (Lot 264-G) situated in Barrio Banilad, Mandaue City.

Immediately, Miguel Seno filed with the Mandaue City Registry of Deeds an adverse claim which was annotated by the same Register of Deeds as Entry No. 610-V-1-D.B. This adverse claim stemmed from his complaint for partition^[3] filed with the Regional Trial Court (RTC), Branch 5, Cebu City against Eriberta Seno and Eustaquio Seno, docketed as Civil Case No. R-12114. In due course, the RTC rendered a Decision^[4] dated January 4, 1972 ordering the parties therein as co-owners to partition Lot 264-F and the subject Lot 264-G.

Subsequently or on October 28, 1980, Eustaquio sold Lot 264-G to Antonio Albano for P80,000.00.^[5] In turn, on December 15, 1980, Antonio sold the same lot to Pacita Ganlag Tan, respondent, for P120,000.00 as shown by a deed of sale registered on December 24, 1980. Forthwith, TCT No. 673 was cancelled by the same Register of Deeds and in lieu thereof, TCT No. 15376 was issued in the name of respondent Pacita Ganlag Tan.

On January 2, 1990, the heirs of Graciano Seno, including petitioner Agustina Seno Tan, filed with the RTC, Branch 5, Cebu City a petition for cancellation of respondent's TCT No. 15376. They prayed for the issuance of a new TCT in their names.

This prompted respondent to file with the RTC, Branch 21, Cebu City a complaint for quieting of title and damages against the same heirs, docketed as Civil Case No. CEB-8682.

On April 15, 1994, the trial court rendered a Decision, the dispositive portion of which reads:

"WHEREFORE, the Court finds for plaintiff and hereby renders judgment ordering:

1. Removal of all existing clouds of doubts on the validity of plaintiff's title to Lot No. 264-G as covered by TCT No. 15376 in the name of plaintiff, Pacita Ganlag Tan, who is by this same token hereby also declared the absolute owner and legally rightful possessor of said parcel of land, thus rendering said title rid of all such, similar and future doubts whatsoever that may tend to assail the validity of said title; thus, in short, declaring such title clean and quieted;
2. The Register of Deeds of the City of Mandaue to note the foregoing Order of this Court;
3. The defendants to pay plaintiff, jointly and severally, the sums of P50,000.00 in concept of nominal damages, P20,000.00 for attorney's fees, and P10,000.00 for litigation expenses;
4. The dismissal of defendants' counterclaim; and
5. The defendants to pay the costs.

SO ORDERED."

In finding for respondent Pacita Ganlag Tan, the trial court ruled that she is the rightful owner of Lot 264-G, being a buyer in good faith, thus:

"Now the fact is patent: **when plaintiff bought property from Albano, the title to the property bares and bears no adverse claim or any notice of lis pendens or any other annotation that could arouse suspicion on the validity of said title.** That plaintiff should have exercised prudence, and that prudence should have moved her to inquire or investigate to determine flaws in the title, or to especially ask Antonio Albano if, as seller, he had already had the title to the property, is too specious an argument to warrant any prolonged consideration. Crying over these supposed plaintiff's omissions does not prove that she indeed was guilty of imprudence as a buyer, much less evidences her being a buyer in bad faith.

As Annex B shows, plaintiff Pacita Ganlag was issued a Transfer Certificate of Title over Lot 264-G. A last inscription on the title, dated 21 July 1982 (3:00 p.m.), was a court order (CFI, Branch V) 'directing the Register of Deeds of Mandaue to cancel the annotation of adverse claim on this certificate of title ...' In short, **it was a clean title.** x x x.