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SECOND DIVISION

[G.R. No. 121038, July 22, 1999]

TEOTIMO EDUARTE, PETITIONER, VS. COURT OF APPEALS, DOMINGO BELDA AND ESTELITA ANA, RESPONDENTS.

D E C I S I O N

BUENA, J.:

Assailed in this petition for review on *certiorari* is the decision[1] of the Court of Appeals in CA-G.R. No. 40183 which affirmed with modification the decision[2] of the Regional Trial Court of Irosin, Sorsogon, Branch 55 ordering petitioner, as defendant below, to vacate a parcel of land and to surrender the possession thereof to the respondents.

The facts are undisputed:

Respondents are the registered owners of a parcel of land situated at Sua, Matnog, Sorsogon, denominated as Lot No. 118, Pls 661-D with an area of 27,167 square meters and covered by Original Certificate of Title No. P-4991 issued on October 5, 1962.

It appears that on March 1, 1963, a letter was sent by the Land Investigator Serafin Valcarcel of the Bureau of Lands to respondent Belda and Cipriano Bulan calling them to a conference to settle the wrongful issuance of title to the property they both occupy.[3] At this conference, neither respondent Belda nor Bulan appeared but petitioner did.

On August 9, 1963, petitioner wrote a letter to the Director of Lands requesting him not to give due course to respondents' application for a free patent title over lot 118 since what respondent is occupying is lot 138 which was also titled in the name of Bulan who refused to accept said title.[4]

On January 31, 1964, the Office of the Director of Lands took note of the protest and ordered the District Land Officer of Sorsogon to investigate and verify whether the patentee, herein respondent Belda, is in actual possession of lot 118 to enable the Director of Lands to determine whether sufficient facts exist to warrant the filing of a suit for cancellation of the title issued to respondent Belda.[5]

The investigation conducted by the District Land Officer of Sorsogon revealed that petitioner is in actual possession of lot 118 while respondents occupy lot 138. The District Land Officer recommended that the free patent application of respondents should refer to lot 138 and the homestead application of petitioner should refer to lot 118.[6]

Based on the report, the Director of Lands on March 26, 1968, issued an Order , the dispositive portion of which reads:

> "IN VIEW OF HEREOF, the Homestead Application no. 11-860 of Teotimo Eduarte is hereby amended to cover Lot 118, Pls-116-D, Matnog, Sorsogon and as thus amended, it shall be given further due course. x x x"[7]

However, in spite of the said findings, neither the Director of Lands nor petitioner initiated a suit to cancel the free patent issued to respondents.

Petitioner remained and continuously occupied lot 118 until on December 10, 1986 respondents filed with the Regional Trial Court of Irosin, a complaint[8] for recovery of possession and damages against herein petitioner which was docketed as Civil Case No. 263. In their complaint, respondents averred that sometime in August 1985, petitioner by means of force, threats and intimidation entered the subject lot without respondents' consent thereby depriving them of their possession of the premises.

Traversing the complaint, petitioner asserts that he is the rightful owner of the property in question; that he has been in possession of the same since 1942; that the title relied upon by respondents was erroneously issued in their name which was acknowledged by the Bureau of Lands; that respondents fully know that they are not the owners of the lot in dispute. Petitioner therefore prays that he be declared the owner of lot 118 and that respondents be ordered to reconvey the same.[9]

After trial on the merits, the lower court rendered judgment on July 15, 1991 in favor of respondents ratiocinating that petitioner's long inaction to take the necessary steps to ask for judicial relief is fatal to his cause of action. The lower court also ruled that petitioner can attack the validity of respondents' title only through a direct and not by a collateral proceeding. Thus the lower court said:

> "The defendant Teotimo Eduarte (petitioner herein) should not have waited for the plaintiff Domingo Belda to file this case against him. He should have taken the initiative to directly attack the validity of the title within one (1) year from the issuance of the decree of registration, in this case from November 29, 1962.
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> > `The settled rule is that a decree of registration and the certificate of title issued pursuant thereto may be attacked on the ground of actual fraud within one (1) year from the date of its entry and such an attack must be direct and not by a collateral proceeding. The validity of the certificate of title in this regard can be threshed out only in an action expressly filed for the purpose.' Arcadio Melquiades, *et.al*. *vs*. IAC, *et.al*. (*supra*.)'
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> "And when this period expired Teotimo Eduarte is accorded the remedy to file `an ordinary action in the ordinary court of justice for reconveyance.' Again the defendant did not do this but waited until the year 1985 when this case was filed to ask for the remedy of reconveyance as a special and affirmative defense in his answer or after the lapse of 23 years from

the issuance of Original Certificate of Title No. 4991 over Lot No. 118 in the name of Domingo Belda."[10]

On appeal, the Court of Appeals affirmed the decision of the lower court, with the modification that the case shall be remanded to the trial court for determination of the rights of respondents as owners of the property in dispute and of petitioner as a builder, planter or sower in good faith. It held:

"In the case at bar, plaintiff-appellees' right of dominion is shown by the Original Certificate of Title No. P-4991.

"It is a well settled principle that a title registered under the Torrens System of Land Registration cannot be defeated by adverse, open and notorious possession neither can it be defeated by prescription. Likewise, an action by the registered owner to recover possession based on a Torrens title is not barred by laches. Thus, appellant's contentions that appellee's right to reconveyance is barred by laches.

"Appellant also faults the lower court for failing to cancel the title of appellee which was allegedly erroneously titled in favor of the latter.

"On this point the Supreme Court has held that it is erroneous to question the validity of an Original Certificate of Title in an ordinary civil action for recovery of possession filed by the registered owner of the said lot. Appellant's reliance on the records of the Bureau of Lands is a defense which partakes of the nature of a collateral attack against a certificate of title brought under the operation of the Torrens System of Registration.

"Section 48 of P.D. 1529 explicitly states that a certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or cancelled except in a direct proceeding in accordance with law. Appellant's remedy, therefore, is not in the case at bench.

"It appears, however, that appellant has made certain improvements on the property in dispute. He is, therefore, entitled to specific rights as builder in good faith, in accordance with Article 448 of the Civil Code x x x:

x x x x x x x x x

"It thus becomes necessary for this case to be remanded to the court of origin for reception of evidence necessary for determination of the rights of the parties with respect to Article 448 of the Civil Code."[11]

Aggrieved, petitioner now comes to this Court raising two issues, namely:

1. Whether or not petitioner can, in an ordinary civil action for recovery of possession filed by respondents, the registered owners, assail the validity of their title.

2. Whether or not private respondents' right to recover possession has been barred by laches.