

## THIRD DIVISION

[ G.R. No. 122801, April 08, 1997 ]

**RURAL BANK OF COMPOSTELA, PETITIONER, VS. COURT OF  
APPEALS AND SPOUSES NICOLAS M. JORDAN AND PRUDENCIA  
F. JORDAN, RESPONDENTS.  
D E C I S I O N**

**DAVIDE, JR., J.:**

This is a petition for review under Rule 45 of the Rules of Court seeking to annul the 23 December 1994 decision of the Court of Appeals in CA-G.R. CV No. 21373,<sup>[1]</sup> which reversed the decision of the Regional Trial Court of Cebu, Branch VIII, in Civil Case No. CEB-3286.<sup>[2]</sup>

Civil Case No. CEB-3286 was an action for quieting of title and damages commenced on 3 January 1985 by private respondents spouses Nicolas M. Jordan and Prudencia F. Jordan (hereinafter JORDANS) against the heirs of Potenciano Barrosa and Ceferina Jugalbot, Edmundo E. Veloso, and the Rural Bank of Compostela (Cebu), Inc.<sup>[3]</sup>

The factual antecedents as summarized by the Court of Appeals are as follows:

The spouses Potenciano Barrosa (Potenciano) and Ceferina Jugalbot were the registered owners of Lot No. 2039 covered by Original Certificate of Title No. 1680 issued on March 15, 1968 as a result of the issuance to them of Free Patent No. 388156. The lot contains an area of 2,542 sq. m. situated in Catarman, Liloan, Cebu. Ceferina died in 1972.

On May 5, 1978, Amado Barrosa, a son of Potenciano and his deceased wife, by a Deed of Absolute Sale (Exhibit "2"), sold for P1,620 to Atty. Cornelio Albos a 273 sq. m. portion of Lot 2039 referred to therein as Lot No. 2039-A, Cad 07-01-000435 of the subdivision plan.

Before May 2, 1980, one Fidela Dolloso, who was requested by Potenciano and his children to sell a portion of the lot "to answer for medical expenses because of his swollen legs", offered the same to Nicolas Jordan. Follow-up negotiations with Jordan were made in the presence of Potenciano who told Jordan that the property was mortgaged for P2,000 to Atty. Albos who thus had in his possession the title to the lot.

After agreeing to buy a 614 sq. m. portion of the lot and to enable Potenciano to repossess the title to the lot, Jordan advanced P2,000.00 to Potenciano which the latter, in the presence of Jordan's daughter Lilian and Fidela turned over to Atty. Albos' wife, Isabel Albos, who issued a typewritten receipt dated May 2, 1980 acknowledging the receipt of

P2,000.00 from Lilian Jordan and Potenciano Barrosa for the repurchase of land identified as Lot No. 2039-A.

Geodetic Engineer Renato Cabigon thereupon conducted a survey of the area that was to be sold to Jordan in the presence of Potenciano who furnished "the boundaries and limits" therefor.

On May 24, 1980, Potenciano and his five children, namely, Teofista, Hugo, Concepcion, Carlota, and Jovita, executed an Extrajudicial Settlement of Estate and Definite Sale for a consideration of P6,000.00 in favor of plaintiffs-appellants covering a portion of Lot No. 2039 containing an area of 614 sq. m. which was therein particularly described as follows:

A determinate portion of land as surveyed by Geodetic Engineer Renato B. Cabigon, known as Lot 2039-A, with an area of SIX HUNDRED AND FOURTEEN (614) square meters, bounded on the N. [by] Lot 2040, Pls-823, with measurements of 36.15 m.; on the S. by Lot 1749, Pls-823, with measurements of 19.73 m.; and W.; the remaining portion with measurements of 18.57 m., with visible monuments consisting of concrete posts. (Exhibits "C" and "D")

This document was not notarized.

In order to reduce the capital gains tax, another Extrajudicial Settlement and Definite Sale was executed by Potenciano and his abovenamed five children and two other children, namely, Amado and Faustina with the same terms and conditions save only for the consideration which was made to appear as P1,000.00 and, this time, the document was notarized.

The Jordan spouses registered the deed of sale at the local registry of deeds on August 21, 1984 by virtue of which Original Certificate of Title No. 1680 was cancelled and in its stead was issued Certificate of Title No. P-2093 in their name and the Barrosas as co-owners. No separate title could be issued to the Jordans over the 614 sq. m. portion of Lot No. 2039 as, based on the survey plan prepared by Geodetic Engr. Trason M. Pedrera, a portion of the 614 sq. m. lot consisting of 400 square meters, identified as Lot No. 7666, was covered by Original Certificate of Title No. O-10288 issued on September 26, 1974 in the name of one Edmundo Veloso, one of the defendants herein. This 400 sq. m. lot had in fact been bought by the Rural Bank of Compostela, also a defendant herein, after Veloso mortgaged it, and the mortgage was foreclosed but Veloso failed to redeem it.

Hence, the complaint [petition] for quieting of title and damages filed by the Jordan spouses against the Barrosas, Edmundo Veloso, and the Rural Bank of Compostela.

In their answer, defendants Barrosas alleged that the defendant Amado Barrosa sold in May 1978 to Atty. Albos his share in Lot No. 2039 consisting of 273 square meters; that Atty. Albos transferred his rights over said 273 sq. m. lot to plaintiffs who requested them (Barrosas) as

co-owners of Lot No. 2039 to confirm the sale to them (plaintiffs) by Atty. Albos, only Amado having solely executed the sale of a portion of the lot to Atty. Albos despite the fact that there was yet no partition of the co-owned Lot No. 2039; that they signed the deed of sale in favor of plaintiffs-appellants upon the latter's representation that it was a mere confirmation of the sale of the 273 sq. m. lot to Atty. Albos as in fact they did not receive any consideration from plaintiffs-appellants; and that the area of the lot appearing in the sale to plaintiffs-appellants was misrepresented by them (plaintiffs-appellants) to be 614 sq. m. instead of only 273 sq. m.

Defendant Rural Bank of Compostelo [sic], on the other hand, while admitting that the plaintiff bought a parcel of land from the Barrosas, denied that Veloso's land, which it purchased at an extrajudicial foreclosure sale after Veloso failed to redeem the mortgage thereon, and which was covered by OCT. No. O-10288 arising from a free patent issued to Veloso, was a portion of the land of the Barrosas.

Defendant Edmundo Veloso was declared in default.

In finding for the defendants Barrosas, the court a quo held as follows, quoted verbatim:

It is the view of this court that what the plaintiff purchased through redemption by Lilian and Potenciano Barrosa supposedly from Atty. Albos, the latter in his capacity as the mortgagee, was Lot No. 2039-A, but only with a limited area of 273 square meters, and naturally so because [the] Barrosa spouses could not have sold to the plaintiff an area bigger than what was the share of Amado that what was sold to Atty. Albos. This Court repeats, the Extra-Judicial Settlement and Definite Sale that was eventually executed on May 24, 1980, in favor of the plaintiffs was merely a confirmation of the redemption by the Barrosas but using the money of the said plaintiffs in the amount of P2,000.00. (Underscoring supplied).<sup>[4]</sup>

The dispositive portion of the decision of the trial court reads as follows:

THE FOREGOING CONSIDERED, judgment is hereby rendered in favor of the defendants and against the plaintiffs, directing dismissal of this case as against the co-defendants, heirs of Potenciano Barrosa and Ceferina Jugalbot, Teofista, Hugo, Concepcion Barrosa, Carlota, Jovita, Amado Barrosa and Faustino; declaring as valid the original Certificate of Title No. 10288 that was issued in favor of Edmundo Veloso on September 26, 1974; and finally, with costs against the plaintiffs.<sup>[5]</sup>

The plaintiffs, herein private respondents JORDANS, appealed from the decision to the Court of Appeals, which docketed the case as CA-G.R. CV No. 21373.

Before the Court of Appeals, the JORDANS ascribed the following errors to the trial court:

... IN RULING THAT THE ACTUAL AREA SOLD TO PLAINTIFFS-APPELLANTS WAS ONLY TWO HUNDRED SEVENTY THREE (273) SQUARE METERS;

**II**

... IN RULING THAT THE AREA PREVAILS OVER THE SPECIFIC MENTION OF THE BOUNDARIES;

**III**

... IN DECLARING OCT. NO. 0-10288 COVERING LOT 7666 VALID;

**IV**

... IN NOT TAKING COGNIZANCE OF THE EXISTENCE OF OCT. NO. 1680.<sup>[6]</sup>

The dispositive portion of the 23 December 1994 decision of the Court of Appeals reads as follows:

WHEREFORE, the assailed judgment is REVERSED and another is rendered

- 1) declaring OCT No. 0-10288 null and void and accordingly ordering its cancellation; and
- 2) declaring the sale by defendants Barrosas of the 614 sq. m. portion of Lot No. 2039, covered by OCT No. 0-680 in favor of plaintiffs-appellants valid.

SO ORDERED.<sup>[7]</sup>

The Court of Appeals ruled in favor of the JORDANS and upheld the validity of the second deed of sale covering 614 square meters for the following reasons: (1) the Barrosas could not have been misled because they furnished the information regarding the boundaries and limits of the land subject of the said deed of sale; (2) the document was notarized and its contents could only be overcome by clear, strong, and convincing evidence as to its falsity which the Barrosas failed to do; and (3) the second deed of sale was not a mere confirmation of the first sale of a portion of 273 square meters of Lot No. 2039 because there was nothing to confirm, since the first sale was already evidenced by a receipt issued by Mrs. Albos.

As to its ruling that OCT No. 0-1680 should prevail over OCT No. 0-10288, the Court of Appeals ratiocinated as follows:

A homestead patent, once registered under the Land Registration Act (Act No. 496), automatically comes under the operation of Section 38 of said act and subject to all the safeguards therein provided, particularly the indefeasibility of such certificate upon the expiration of one year from the promulgation of the Order of the Director of Lands for the issuance of the patent (*Firmalos v. Tutaan* 53 SCRA 505; *Lopez et al. v. Padilla et al.*, 45 SCRA 44, *Republic v. Heirs of Carle*, 105 Phil. 1227).

Since the property covered by OCT 1680 in the name of the Barrosa couple became

a [sic] private property in 1968 and, therefore, beyond the control of the Director of Lands, the subsequent grant of a portion thereof by way of approving the homestead patent -- basis of OCT No. 0-10228 issued in 1972 in the name of defendant Edmundo Veloso was null and void (Herico v. Dar, 95 SCRA 437; Mesina v. Pineda vda. De Souza, 108 Phil. 251).

The Rural Bank of Compostela, as a purchaser at an extrajudicial foreclosure sale, merely stepped into the shoes of mortgagor Edmundo Veloso. It could not acquire a better right than what Veloso had. Hence, its claim on Lot 7666, covered by OCT 0-10288 which is null and void, fails.

The petitioner's motion for reconsideration<sup>[9]</sup> was denied as the matters raised therein had been considered in the decision and the petitioner's reliance on Director of Lands v. Insa<sup>[10]</sup> was misplaced. The Court of Appeals held that the said case provided an exception to the doctrine upholding the dominance of the prior decree over the later one in the event of overlapping claims over property when such is due to the fact that the land description in the older decree is taken from a grossly inaccurate plan. The petitioner, however, did not even question the land description in the original certificate of title.<sup>[11]</sup>

In this petition, only the Rural Bank of Compostela seeks redress from this Court, the Barrosas opting not to join cause.

The petitioner alleges that the Court of Appeals erred: (1) in not holding that OCT No. O-10288, although issued later than OCT No. O-1680, prevails over the latter because it was issued on the basis of an approved plan while OCT No. O-1680 was issued without any basis whatsoever; and (2) in not holding that the petitioner had a right to rely on OCT No. O-10288 and was not duty bound to investigate the title of its mortgagor.<sup>[12]</sup>

In their Comment, the Jordans argue that the petitioner failed to prove any error of law committed by the Court of Appeals as required by Rule 45 of the Rules of Court; the arguments raised were already passed upon below; and the Manila Office of the Bureau of Lands had jurisdiction to issue the certificate of title at the time it issued OCT No. O-1680.

We resolved to give due course to the petition after the filing by the petitioner of its Reply to the Comment. The parties then submitted their respective memoranda.

OCT No. O-10288 issued in the name of Edmundo Veloso cannot prevail over OCT No. O-1680 issued in the name of Potenciano G. Barrosa.

OCT No. O-1680 was transcribed in the Registration Book of the Office of the Register of Deeds of the Province of Cebu and issued on 16 August 1968 pursuant to Free Patent No. 388156 granted on 15 March 1968 by the President through Fernando Lopez, then Secretary of Natural Resources.<sup>[13]</sup> The property covered by the said Free Patent OCT is described as Lot No. 2039, Pls-823 located in Catarman, Liloan, Cebu, and the technical description thereof appears on page A of the OCT. This description states that the lot "was surveyed in accordance with law and existing regulations promulgated thereunder by Conrado Menchavez, Public Land Surveyor, on February 5, 1965"; and approved "For the Director of Lands" by