

TWENTY-SECOND DIVISION

[CA-G.R. CV NO. 02829-MIN, May 29, 2014]

**BOLAO BANGON, PLAINTIFF-APPELLANT, VS. HADJI ACMAD
ORANGOTAN MASBOD, DEFENDANT-APPELLEE.**

DECISION

CAMELLO, J.:

Before us is an appeal seeking to reverse the 18 February 2012 Decision^[1] of the Regional Trial Court (RTC) in Civil Case No. 382-91. The dispositive part of the Decision reads:

WHEREFORE, premises considered judgment is hereby rendered for the defendant Hadji Acmad Orangotan Masbod and as against plaintiff Bolao Bangon, as follows:

- a. Declaring the Deed of Sale dated August 29, 1983 between vendor Bangon Alamada and vendee-defendant Hadji Acmad O. Masbod as valid and enforceable;
- b. Ordering the plaintiff Bolao Bangon to vacate subject premises and surrender possession and ownership thereof to herein defendant; and
- c. Directing the claims for damages by plaintiff dismissed for lack of factual and legal basis and the counterclaim for damages is likewise dismissed as the complaint does not appear to be frivolous or maliciously instituted.

Accordingly, the complaint for quieting of title is hereby dismissed for utter lack of merit and cause of action.

No costs.

SO ORDERED.^[2]

The facts, gathered from the records of the case, are as follows;

This case is about Lot No. 24, a parcel of land in Banggolo, Marawi City, encompassing an area of 1,503 square meters and covered by Original Certificate of Title [OCT] No. RO-38(78-845)^[3] issued in the names of Mangonut Inay Pangilaman, Bangon Alamada, Mangaroma Managasa, and Mora Into.

Plaintiff-appellant Bolao Bangon claims that he and his predecessors-in-interest have been in actual, open, continuous, and adverse possession of the land since time immemorial. He traces his right of ownership to his father Bangon Alamada, one of the owners of the subject property who died on 3 December 1983.

On 5 February 1984, barely three months after the death of their father, Bangon and the other heirs executed a Joint Affidavit^[4] declaring that they have no knowledge of the whereabouts of the owner's duplicate copy of OCT No. RO-38(78-845) and, hence requested the Register of Deeds of Marawi City "not to make any entry or annotation in the original title now in your office without our consent and knowledge..."^[5]

On 10 July 1991, plaintiff-appellant filed this instant complaint for quieting of title or quitclaim with injunction against defendant-appellee Hadji Acmad Orangotan Masbod.^[6] Plaintiff-appellant alleged that after the death of his father, defendant-appellee claimed ownership of the subject property relying on falsified sale and falsified will, for which defendant-appellee is liable. Plaintiff-appellant insists that his father never sold nor bequeathed the parcel of land to defendant-appellee. In actuality, the parcel of land in question was leased to Dimatingcal Sultan who is operating a motor shop as evidenced by a lease contract executed on 01 July 1990.^[7]

Defendant-appellee Hadji Acmad Orangotan Masbod, in his answer,^[8] specifically denied plaintiff-appellant's allegations in his complaint. He averred that on 29 August 1983, Bangon Alamada sold his share over the subject property as evidenced by an Absolute Deed of Sale^[9] executed on 29 August 1983 in his favor. The contract was notarized by Atty. Nasser Munder, and was registered in the Registry of Deeds on 04 January 1985^[10] and inscribed at the back of OCT No. RO-38(78-845) as Entry No. 2210 on 10 August 2000.^[11]

On 8 February 2012, Judge Wenida B.M. Papandayan of the court *a quo* decided in favor of defendant-appellee and against plaintiff-appellant. The trial court declared the contract of sale valid and ordered the plaintiff-appellant to vacate the premises and surrender possession and ownership to the defendant-appellee.

Undeterred by the unfavorable decision, plaintiff-appellant is now before us charging that the trial court gravely erred in:

I.

...FINDING THAT HEREIN PLAINTIFF-APPELLANT FAILED TO PROVE HAVING ANY LEGAL OR EQUITABLE TITLE OR INTEREST IN THE DISPUTED PARCEL OF LAND.

II.

... DISREGARDING THE TESTIMONIES OF PLAINTIFF-APPELLANT'S OTHER WITNESSES NAMELY: HARON TOMAWIS AND MACABANDING PAGALAD ALLEGEDLY FOR BEING MATTERS OF MINOR DETAILS.

III.

... FINDING THAT HEREIN PLAINTIFF-APPELLANT IS THE OWNER IN FEE SIMPLE OF THE DISPUTED PROPERTY AND HAD BEEN EXERCISING RIGHTS OF OWNERSHIP THEREOF SINCE THE DEATH OF HIS FATHER UP TO THE PRESENT.

IV.

... RECEIVING WITH PRECIPITATE CREDULITY THE ALLEGED DEED OF SALE EXECUTED BY THE LATE BANGON ALAMADA DESPITE THE PRESENCE OF EVIDENCE OF NOT BEING AUTHENTIC AND A PRODUCT OF FORGERY.

V.

... BRUSHING ASIDE THE TESTIMONY OF WITNESS TORONAN ALAMADA RECANTING HER EARLIER TESTIMONY IN THE INSTANT CASE.^[12]

The main contention of the plaintiff-appellant is that being the legal heir of Bangon Alamada, he has the legal and equitable title to the property. He claims that upon the death of his father, he took possession and control over the property and leased it to Dimatingcal Sultan. He insists that his late father never executed the deed of sale in favor of the defendant-appellee, and that it was the latter who caused the preparation of the fictitious document to buttress his claim of ownership.

An action to quiet title, like Civil Case No. 382-91, is essentially a common law remedy for the removal of any cloud upon or doubt or uncertainty with respect to title to real property.^[13] In action to quiet title, the plaintiff or complainant must demonstrate a legal or an equitable title to, or an interest in, the subject real property.^[14] Likewise, the plaintiff must show that the deed, claim, encumbrance or proceeding that purportedly casts a cloud on plaintiff's title is in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.^[15] This point is clear from Article 476 of the Civil Code, which reads:

Art. 476. Whenever there is a cloud on title to real property or any interest therein, by reason of any instrument, record, claim, encumbrance or proceeding which is apparently valid or effective but is in truth and in fact invalid, ineffective, voidable, or unenforceable, and may be prejudicial to said title, an action may be brought to remove such cloud or to quiet the title.

An action may also be brought to prevent a cloud from being cast upon title to real property or any interest therein.

In turn, Article 477 of the same Code identifies the party who may bring an action to quiet title, *viz*:

Article 477. The plaintiff must have legal or equitable title to, or interest in the real property which is the subject-matter of the action. He need not be in possession of said property.

The primary inquiry, then, is whether the plaintiff-appellant is possessed of that legal or equitable title *vis-à-vis* the land in dispute.

We hold that he has none. We do not find in the record evidence sufficient to overcome the finding made by the trial court; on the contrary, the records strongly support the judge's ruling.

According to Article 477 of the Civil Code, the plaintiff, in an action to remove a cloud on or to quiet title, must have legal or equitable title to, or interest in, the real property which is the subject matter of the action.^[16] The ground or reason for filing a complaint for quieting of title must therefore be "an instrument, record,