

SPECIAL NINETEENTH DIVISION

[CA-G.R. CV NO. 02670, June 30, 2014]

HEIRS OF AGUSTINA BAGANO, NAMELY: IRENEO SECRETARIA, LUCIA S. VILLANUEVA, RODRIGO SECRETARIA, JR., PLAINTIFFS-APPELLANTS, VS. SPOUSES PRISCO DIAO AND CRISTITA T. DIAO, HEIRS OF RENE CAMPANILLA, SPOUSES ANACLETO BANA-AY AND JOSEPHINE BANA-AY, JUANITO CORTES, ULДАРICO AND ROSITA ANTIG, SPOUSES ANDRES AND OLIVIA MOJAR, AND SPOUSES MARIETTA DIAZ AND CONRADO DIAZ, DEFENDANTS-APPELLEES.

D E C I S I O N

LAGURA-YAP, J.:

Before Us in an Appeal^[1] from the July 15, 2008 Judgment^[2] of the Regional Trial Court (RTC), Branch 6 of Cebu City in Civil Case No. CEB-21299, the dispositive of which reads as follows:

“WHEREFORE, judgment is hereby rendered dismissing the (plaintiffs-appellants) complaint against the (defendants-appellees) Prisco and Cristita Diao, Anacleto and Josephine Bana-ay, Andres and Olivia Mojar, and Juanito R. Cortes, Jr., with costs against the (plaintiffs-appellants). The said (defendants-appellees) counterclaims are likewise dismissed.”

The appeal prays that We set aside the judgment appealed from and render a new one, declaring the plaintiffs-appellants as owners of the undisposed portion of 1,119 square meters, and ordering the defendants-appellees Spouses Prisco and Cristita Diao, Spouses Anacleto and Josephine Bana-ay, and Spouses Amores and Olivia Mojar to return the disputed portion to the plaintiffs-appellants.

THE ANTECEDENTS

The instant case was commenced on December 8, 1997 by a *Complaint for "Declaration of Nullity of OCT 176, Recovery of Possession and Ownership of Lot No. 1422-T, etc."*^[3] filed before the RTC by plaintiffs-appellants, Heirs of Agustina Bagano, namely Ireneo Secretaria, Lucia S. Villanueva, Dennis Secretaria and Rodrigo Secretaria, Jr. against the original defendants, Spouses Prisco Diao, Cristita Diao, Filomena S. Campanilla and Rene Campanilla, Spouses Anacleto Bana-ay, and Josephine Bana-ay, Juanito Cortes, Gloria Blanco, Uldarico and Rosita Antig, and Spouses Amores and Olivia Mojar.

On April 26, 1999, the RTC, upon motion of plaintiffs-appellants,^[4] issued an Order, striking out the name of Filomena Campanilla as defendant. In the same order, Gloria Blanco was also dropped as defendant and in her stead, the Philippine National Bank (PNB) was impleaded as new defendant.^[5]

On April 5, 2001, the original complaint was amended for the first time.^[6] The PNB was named defendant in lieu of Gloria Blanco, and the Heirs of Rene Campanilla were substituted for Rene Campanilla who died on May 4, 2000.^[7]

On January 9, 2002, the complaint was again amended, and this time, defendant Philippine National Bank was replaced by the Spouses Marietta and Conrado Diaz.^[8] The Second Amended Complaint^[9] alleged as follows:

The plaintiffs-appellants are the legal heirs of Agustina Bagano who died intestate on January 15, 1945. Agustina Bagano was the owner and possessor of Lot No. 1442-T with an area of 1, 943 square meters, more or less. Lot No. 1442-T was carved out from Lot No. 1442, which had an Original Certificate of Title issued, pursuant to decree No. 4666^[10] dated October 10, 1910. Lot No. 1442 was covered by Decree No. 4666 issued on October 10, 1910. The original copy and the owner's copy of Transfer Certificate of Title of Lot No. 1442-T were lost during World War II. The title had not been transferred to any heirs or persons, thus, until now, it remains registered in the name of Agustina Bagano. Agustina Bagano had only one child, Felicidad Bagano Traya, who predeceased her on November 15, 1940. Felicidad Bagano Traya was married to Juanito Secretaria, with whom she had three children, namely: Ireneo Secretaria, Lucia Secretaria Villanueva and Rodrigo Secretaria, Sr. who is deceased, had two children, namely: Rodrigo Secretaria, Jr. and Dennis Secretaria.

Upon the death of Agustina Bagano, her legitimate heirs Rodrigo Secretaria, Sr., Ireneo Secretaria and Lucia Secretaria Villanueva inherited all her properties including Lot No. 1442-T. When Rodrigo Secretaria, Sr. died on November 9, 1996, his two children inherited all his properties, including his interest in Lot 1442-T. On April 4, 1961, Rodrigo Secretaria, Ireneo Secretaria and Lucia Secretaria Villanueva sold a 174 square meter portion of Lot No. 1442-T in favor of spouses Luis and Francisca Gloria. On May 22, 1961, Rodrigo Secretaria, Sr., Ireneo Secretaria, and Lucia Secretaria Villanueva sold another portion consisting of 579 square meters of Lot No. 1442-T to Anastacio Campanilla. The total land area sold was therefore 753 square meters, leaving 1,119 square meters to the plaintiffs. Plaintiffs-appellants have not sold any portion of the remaining area. A petition for reconstitution was filed before the Court of First Instance, 4th Branch, Cebu City but it was denied by the court on June 24, 1963. Despite the denial thereof, on January 11, 1965, Petronio and Flora Gica, Prisco and Cristita Diao, Anastacio and Filomena Campanilla, Francisco and Belen Gica, and Gloria Gica filed an application/petition for registration of title of said lot with the Court of First Instance, 3rd Branch, bringing the said lot under the operation of the Land Registration Act for the second time. On November 29, 1965, the court granted their petition. Despite the opposition to the November 29, 1965 order by the Commissioner of Land Registration Commission and a manifestation of the land Register of Deeds of Cebu that Lot 1442 had been subdivided and titles were issued to the sub-lots, the Court issued subsequent orders dated January 22, 1966 and

September 27, 1967,^[11] forcing the Commissioner to issue Decree No. N-177382 on November 7, 1967 on Land Registration Case No. N-601, LRC Record No. N-27713. Accordingly, on December 18, 1967, the Land Registration Commission issued Original Certificate of Title No. 176.^[12]

From OCT 176 was derived all the subsequent Transfer Certificates of Title (TCT) issued on Lot 1442-T, and the said TCTs are now in the names of the following defendants-appellees, who allegedly own portions of the land, as follows:

Title No. 40444, Lot No. 1442-T-1 with an area of 110 sq. meters in the names of Prisco Diao and Cristita Diao;^[13]

Title No. 154991, Lot No. 1442-T-2 with an area of 47 sq. meters in the names of spouses Marietta Diaz and Conrado Diaz;

Title No. 106949, Lot No. 1442-T-3 with an area of 577 sq. meters in the names of Filomena S. Campanilla;^[14]

Title No. 129787, Lot No. 1442-T-4 with an area of 174 sq. meters in the name of Spouses Anacleto Bana-ay and Josephine Bana-ay;^[15]

Title No. 12229, Lot No. 1442-T-5 with an area of 169 sq. meters in the name of Juanito R. Cortes, Jr.;^[16]

Title No. 56968, Lot No. 1442-T-6 with an area of 182 sq. meters in the name of Uldarico Antig and Rosita Antig;^[17] and

Title No. 106778, Lot No. 1442-T-7 with an area of 684 sq. meters in the name of spouses Andres Mojar and Olivia Mojar.^[18]

Upon discovery of this unlawful act, the plaintiffs-appellants confronted and demanded the return of ownership of the lot but the defendants refused. The case was brought to Barangay Sambag for settlement and conciliation but to no avail. Hence this present action xxx with the prayer that a decision be rendered in favor of the plaintiffs-appellants, declaring the Original Certificate of Title No. 176, its subsequent transfer of certificate of title as null and void and ordering the Register of Deeds of Cebu City to cancel said title and its subsequent transfer; declaring plaintiffs-appellants Lucia Villanueva, Ireneo Villanueva 1/3 share each and Dennis and Rodrigo, Jr. 1/6 share each as the rightful owners and possessors of Lot 1442-T with respect to the undisposed portion of 1,119 sq. meters more or less; and ordering defendants-appellees Spouses Frisco Diao and Cristita Diao, Juanito R. Cortes, Jr., Spouses Uldarico Antig and Rosita Antig, and Spouses Andres Mojar and Olivia Mojar to return their possession and ownership of the Lot in question to plaintiffs-appellants.

To counter the complaint, defendants-appellees separately filed their respective answers, viz:

Defendants-appellees Spouses Prisco Diao and Cristita T. Diao, narrated in their Answer the history of their ownership over their claimed portion.^[19] They alleged that sometime on January 11, 1965, they, together with other applicants, filed an Application for Registration of Lot 1442-T in LRC No. 601, LRC Record No. N-27713, entitled "Petronio M. Gica, et.al." at the CFI, 3rd Branch, which thereafter found in its November 29, 1965 Decision as follows:

1. That Lot No. 1442-T originally belonged to Agustina Bagano, who died and was survived by her heirs, Rodrigo, Ireneo and Lucia, all surnamed Bagano;
2. That the said heirs partitioned the property among themselves, which was approved by the probate court;
3. That Lot No. 1442-T-1-A-3, with an area of 124 sq meters, was later sold to defendant Francisco Diao who purchased it from the spouses Herminigildo Trazo and Adelaida Mancalos, who in, turn, had earlier acquired it from the original owners; and
4. That the spouses Prisco A. Diao and Cristita T. Diao were therefore the owners of Lot No. 1442-T-1-A-3 with an area of 124 sq. meters and were entitled to confirmation of their titles.

Defendants-appellees Spouses Diao averred that as a consequence of the November 29, 1965 Decision, Decree No. N-117382 was issued and pursuant thereto, Transfer Certificate of Title No. T-40444 was issued to them. The plaintiffs therefore have no cause of action against them because they have been in open, public and adverse possession for more than 30 years, and thus the complaint is barred by prescription, estoppel and laches.

The *defendants-appellees Spouses Conrado and Marietta Diaz* alleged in their Answer^[20] that TCT No. 154991 covering Lot No. 1442-T-2 had been legally issued in their favor as purchasers for value and in good faith. They bought the lot on November 16, 1999 from Clarita Guillena, who purchased it from the Philippine National Bank (PNB). They claim that they have never met plaintiffs-appellants and have been in peaceful, public, open and continuous possession in concept of true owners of the land in question for more than 10 years. The complaint is therefore barred by prescription or laches, and is moreso dismissible for the reason that the condition precedent for filing a claim under the Katarungang Pambarangay Law has not been complied with.

In their Answer,^[21] the *defendants-appellees Spouses Anacleto Bana-ay and Josephine Bana-ay* averred:

1. That in 1963, Rodrigo Secretaria, heir of Agustina Bagano, filed a Petition for the Reconstitution of the Transfer Certificate of Title supposedly covering Lots 1442-E and 1442-T. The said petition was however dismissed for lack of proof that his predecessor, Agustina had title to the land.

2. That sometime on January 11, 1965, the Spouses Luis P. Gloria and Francisca Gloria, together with other applicants, filed an application for registration of Lot 1442-T in LRC No. N-601, LRC Rec. No. N-27713, entitled "Petronio N. Gica, et. al. The court found therein that Lot 1442-T originally belonged to Agustina Bagano, but that upon her death, it was partitioned, and the portions were sold by the heirs, Rodrigo, Ireneo and Lucia, in favor of the Spouses Luis and Francisca Gloria, among others. Judgment was therefore rendered by the said court on November 29, 1965 in favor of the applicants and the spouses Luis and Francisca Gloria were declared owners of Lot 1442-T-1-B-4 and 1442-T-1-A-1 with an area of 63 sq meters and 111 sq meters of their respective titles.

3. That on June 14, 1967, the Commissioner of Land Registration reported to the CFI Branch III that the November 29, 1965 Order in LRC Case 601, LRC Record N-27713 had already been decided but the final decree of registration was yet pending issuance. The applicants submitted a Certified Copy of the Order of the CFI Branch IV dated June 4, 1963 which dismissed the 1963 Petition for Reconstitution of Rodrigo Secretaria and on that strength, the CFI Branch III ordered the issuance of Decree No. N-117382 over lot 1144-declaring all the applicants, including spouses Gloria, owners in fee simple of the same lot. Pursuant to the said decree, a Certificate of Title was issued on February 22, 1968.

4. That on August 13, 1991, Francisca Gloria, the surviving spouse and sole heir of Luis Gloria, executed an Extrajudicial Adjudication of the Estate of Luis Gloria with a Deed of Sale in favor of defendants-appellees Spouses Anacleto Bana-ay and Josephine Bana-ay. The deed ceded and transferred to spouses Bana-ay Lot No. 1442-T-4 for which they were issued TCT No. 129787.

5. That based on the foregoing, plaintiffs-appellants have no cause of action against them. And granting that a cause of action exists, the same is barred by prescription, estoppel and laches as they, through their predecessors-in-interest, have been in open, public and adverse possession of the property for more than 30 years.

The *defendants-appellees Heirs of Spouses Rene and Filomena Campanilla* alleged in their Answer^[22] that their predecessor-in-interest was a legitimate buyer in good faith of Lot 1442-T-3 covered by TCT No. 106949. They adopted en toto all special and affirmative defenses contained in the answer of defendants-appellees Spouses Bana-ay and the allegations in the answer of defendants-appellees Antig. They prayed for the dismissal of the complaint.

Defendant Juanito Cortes, Jr., in his Answer^[23] denied all the allegations in the complaint and alleged that he was a buyer in good faith and for value of Lot No. 1442-T-5 which was previously registered and declared under the name of Spouses Francisco Cubelo and Maxima B. Cubelo under TCT No. 40449. He bought the 169 sq. m. lot on March 16, 1971 and was issued TCT No. 122229 by the Registry of Deeds of Cebu City. He had been in peaceful, open, continuous and public possession of the land in controversy for the past 27 years. The plaintiffs-appellants allegedly have no cause of action against him, and if there is any, plaintiffs-