

SECOND DIVISION

[CV No. 88930, February 28, 2008]

TERESITA C. ALISASIS, PLAINTIFF-APPELLEE, VS. RAFAEL Z. DULALIA, DEFENDANT-APPELLANT.

DECISION

Defendant appeals from the Decision dated July 27, 2006^[1] rendered by the Regional Trial Court (RTC) of Caloocan City, Branch 122 dismissing his Counterclaim in Civil Case No. C-20872 entitled "*TERESITA C. ALISASIS, Plaintiff, versus, RAFAEL Z. DULALIA, ET. AL., Defendants*" for Quieting of Title and Damages, thus:

"WHEREFORE, premises considered, the defendant's counterclaim is hereby is dismissed for lack of sufficient evidence."

The facts:

In her Complaint for Quieting of Title and Damages^[2] filed on August 15, 2004 against the Defendant-Appellant Rafael Z. Dulalia and his co-defendants, namely: Atty. Regulo B. Coloma, former Register of Deeds of Caloocan City; Atty. Ferdinand U. Valbuena; and the incumbent Register of Deeds of Caloocan City in his/her official capacity, Plaintiff-Appellee Teresita C. Alisasis alleged that she is the lawful owner of Lot 534 registered in her name under Transfer Certificate of Title (TCT) No. 361269^[3] with an area of 46,604 square meters located at Tala Estate in Caloocan City. Lot 534 was formerly registered under TCT No. 15715^[4] in the name of Diega Zuniga married to Pablo Dulalia Jr., herein appellant's parents. On March 28, 1958, Spouses Dulalia, Jr. conveyed Lot 534 by virtue of a Deed of Absolute Sale^[5] in favor of Salvador Veloso in the amount of One Hundred Ten Thousand Pesos (PHP110,000.00). On September 4, 2002, Marlina V. Veloso,^[6] heir and daughter of Salvador Veloso,^[7] sold Lot 534 by virtue of a Deed of Absolute Sale^[8] in her favor for Thirteen Million Nine Hundred Eighty One Thousand Two Hundred Pesos (PHP13,981,200.00). Within the same month, Alisasis sought the cancellation of TCT No. 15715 with the Registry of Deeds of Caloocan City and on September 30, 2002, TCT No. 361269 covering Lot No. 534 was issued in her name as attested by the former Register of Deeds defendant Atty. Regulo B. Coloma. Alisasis further alleged that on February 6, 2003, defendant-appellant Rafael Z. Dulalia caused the annotation of an adverse claim^[9] in TCT No. 361269 claiming that he is the lawful owner of the property covered by TCT No. 361269 which claim was allegedly anomalously procured through falsification of documents by Atty. Coloma and the then Branch Clerk of Court defendant Atty. Ferdinand U. Valbuena of RTC Caloocan City Branch 126; that both Coloma and Valbuena demanded money from plaintiff to facilitate the issuance of the TCT in her name; and that the said anomaly and the adverse claim of Dulalia cast a cloud of doubt on TCT No. 361269. Plaintiff prayed that the incumbent Register of Deeds of Caloocan City be directed to cancel the adverse claim of the appellant annotated in TCT No. 361269 and to declare her as an innocent purchaser for value. She also prayed for the court to order the Register

of Deeds to cancel TCT No. 361269 and issue a new TCT in her name, and to order appellant Dulalia, Atty. Coloma and Atty. Valbuena to pay moral and exemplary damages, and attorney's fees.

In his Answer with Counterclaim dated June 25, 2004,^[10] Dulalia alleged that he is one of the lawful heirs of spouses Diega Zuniga and Pablo Dulalia; that TCT No. 15715 is not lost and in fact in his possession; that when he was about to pay the 4th quarter real property tax for 2002, he was informed that TCT No. 15715 was already transferred to Alisasis under TCT No. 36129; that he discovered that the reason for the transfer was the Deed of Absolute Sale dated September 30, 2002 executed between Diega Zuniga and Alisasis. Dulalia contended that there are irregularities attending the issuance of TCT No. 361269, namely; (a) that his father's signature does not appear in the Deed of Absolute Sale; (b) that the said Deed as basis of the transfer could not have been executed as his mother died December 30, 2002; and (c) the Certificate Authorizing Registration (CAR)^[11] issued by the Bureau of Internal Revenue (BIR) presented by Alisasis for the issuance of TCT No. 361269 was not actually issued by the BIR^[12] because it was issued three (3) days ahead of the Deed of Absolute Sale; that because of these irregularities, he filed a criminal case dated March 24, 2003^[13] with the Office of the City Prosecutor of Caloocan City, charging the appellee and Atty. Coloma with Falsification of Public Document and Use of Falsified Document; and that on October 10, 2003, the Office of the City Prosecutor filed an Information against appellee and Atty. Coloma for Falsification of Public Documents.^[14]

In his Counterclaim, Dulalia prayed for the following reliefs:

"WHEREFORE, it is respectfully prayed for this Honorable Court that judgment be rendered:

1. Declaring Transfer Certificate No. C-361269 in the name of Teresita C. Alisasis, null and void, directing defendant Registry of Deeds of Caloocan City to cancel the same and to reinstate Transfer Certificate of Title No. 15715.
2. Ordering plaintiff to pay defendant the amount of P500,000.00, representing his expenses for the investigation, fencing and filing of the criminal complaint.
3. Ordering plaintiff to pay defendant the amounts:

P1,030.433.01 actual damages
P 400,000.00 moral damages
100.000.00 exemplary damages

P1.530.453.00 Total
4. Ordering plaintiff to pay defendant the amount of P200,000.00 plus P5,000.00 per court appearance as and by way of attorney's fees.
5. Dismiss plaintiffs complaint and she pays cost of suit.

DEFENDANT prays for such other reliefs or remedies just and equitable under the circumstances.

On November 15, 2004, the Complaint against Atty. Valbuena was dismissed by the trial court for failure to state a cause of action against him.^[15] On February 27, 2006, the trial court ordered the dismissal of the Alisasis' Complaint against Atty. Coloma and Dulalia for failure to prosecute.^[16]

Thereafter, on March 3, 2006, Dulalia was allowed to present evidence ex-parte in support of his counterclaim consisting, among others, of the following:^[17]

- (1) TCT No. 15715 of Lot 534;^[18]
- (2) Certificate of True Copy Live Birth of Rafael Dulalia on February 3, 1931 ;^[19]
- (3) Letter dated April 9, 2003 to BIR of Caloocan City seeking verification of the issuance of Certificate Authorizing Registration with Serial No. 0032392 in favor of Alisasis which was used in the issuance of TCT No. 361269;^[20]
- (4) Copy of Certificate Authorizing Registration with Serial No. 0032392 issued by the BIR in favor of Alisasis and stating that a sale of Lot 534 took place between Alisasis and Diega Zuniga;^[21]
- (5) Certification from BIR Caloocan City in response to the letter dated April 9, 2003 stating that the Certificate Authorizing Registration was not issued by the BIR;^[22]
- (6) Deed of Absolute Sale dated September 30, 2002 between Diega Zuniga and Alisasis;^[23]
- (7) TCT No. 361269 in the name of Alisasis;^[24]
- (8) Annotation of the Notice of Adverse Claim filed by Dulalia on February 6, 2003 in TCT No. 361369 with the Register of Deeds of Caloocan City;^[25]
- (9) The Affidavit of Adverse Claim dated February 6, 2003 executed by Dulalia;^[26]
- (10) Information in Criminal Case No. 224450 charging Alisasis and Atty. Coloma with Falsification of Public Document;^[27]
- (11) Certification from Pambansang Sinumpaan Records Management and Archive Division dated February 23, 2005 certifying that the Deed of Sale dated March 25, 1958

executed between Diega Zuniga and Salvador Veloso notarized by Julian G. Tubig as Doc. No. 55, Page No. 12, Book No. IV, Series of 1958 rs not available in their office; [28]

(12) Deed of Absolute Sale dated March 25, 1958 between Diega Zuniga and Salvador Veloso over Lot 534 covered by TCT No. 15715; [29] and

(13) A Certified True Copy of Page 53, Book No. V of the Notarial Report of Notary Public Jose Constantino showing that Document No. 262 thereof is a Deed of Absolute Sale of a Motor Vehicle dated September 7, 1993 and not the Deed of Sale between Diega Zuniga and Salvador Veloso. [30]

On June 2, 2006, the trial court issued an Order admitting the evidence presented in support of Dulalia's counterclaim. [31]

However, in the appealed Decision dated July 27, 2006, the trial court denied Dulalia's counterclaim for lack of sufficient evidence. Likewise, the trial court denied for lack of merit Dulalia's prayer to declare TCT No. 361269 null and void and to reinstate TCT No. 15715. The trial court ratiocinated that Dulalia's counterclaim cannot be allowed as it constitutes a collateral attack upon a certificate of title, whether or not it was fraudulently issued; that any question as to the validity of plaintiff's title can only be raised in an action expressly instituted for that purpose.

Appellant's Motion for Reconsideration dated September 11, 2006 [32] of the Decision was denied by the trial court on April 4, 2007. [33]

Hence, this appeal with the following assignment of errors:

First
Error -

The Lower Court erred in dismissing Dulalia's counterclaim for lack of sufficient evidence.

Second
Error -

The Lower Court erred in dismissing Dulalia's counterclaim to declare Alisasis TCT No. C-361269 null and void, cancel it and to reinstate TCT No. 15715 in the name of Diega Zuniga married to Pablo Dulalia.

Third
Error -

The Lower Court erred in denying Dulalia's claim for actual, moral and exemplary damages for being untenable and bereft of legal basis. [34]