

SECOND DIVISION

[G.R. NO. 152627, September 16, 2005]

SPOUSES AMANCIO AND LUISA SARMIENTO AND PEDRO OGSINER, PETITIONERS, VS. THE HON. COURT OF APPEALS (SPECIAL FORMER FIFTH DIVISION), RODEANNA REALTY CORPORATION, THE HEIRS OF CARLOS MORAN SISON, PROVINCIAL SHERIFF OF PASIG, M.M., MUNICIPAL (CITY) TREASURER OF MARIKINA, JOSE F. PUZON, THE HON. EFICIO ACOSTA, REGIONAL TRIAL COURT OF PASIG CITY, BRANCH 155 AND REGISTER OF DEEDS OF MARIKINA (CITY), RIZAL, RESPONDENTS.

D E C I S I O N

CHICO-NAZARIO, J.

In a case for recovery of possession based on ownership (*accion reivindicatoria*), is the defendant's third-party complaint for cancellation of plaintiff's title a collateral attack on such title?

This is the primary issue that requires resolution in this petition for review on *certiorari* of the Decision^[1] of the Court of Appeals dated 27 November 2001 and its Resolution^[2] dated 08 March 2002 affirming the Decision of the Regional Trial Court (RTC) of Pasig, Branch 162, in Civil Case No. 54151, finding for then plaintiff (private respondent herein) Rodeanna Realty Corporation (RRC).

The relevant antecedents of this case have been summarized by the Court of Appeals as follows:

The subject of the present controversy is a parcel of land situated in Marikina covered by Transfer Certificate of Title No. N-119631 and registered in the name of the plaintiff-appellee RODEANNA REALTY CORPORATION.

The aforementioned land was previously owned by the Sarmiento spouses by virtue of a deed of absolute sale executed on July 17, 1972 and as evidenced by a Transfer Certificate of Title No. 3700807. Upon acquisition of the land, the Sarmiento spouses appointed PEDRO OGSINER as their overseer.

On August 15, 1972, the subject land was mortgaged by the Sarmiento spouses to Carlos Moran Sison (Mr. Sison) as a security for a sixty-five thousand three hundred seventy pesos and 25/100 loan obtained by the Sarmiento spouses from Mr. Sison.

Upon failure of the Sarmiento spouses to pay the loan, Mr. Sison initiated

the extra-judicial foreclosure sale of the mortgaged property, and on October 20, 1977, the said property was foreclosed through the Office of the Sheriff of Rizal, which accordingly, issued a certificate of sale in favor of Mr. Sison, and which Mr. Sison caused to be annotated on the title of Sarmiento spouses on January 31, 1978.

On August 25, 1982, JOSE PUZON (Mr. Puzon) purchased the same property in an auction sale conducted by the Municipal Treasurer of Marikina for non-payment of taxes. After paying P3,400.00, he was issued a certificate of sale and caused it to be registered in the Registry of Deeds of Marikina. No redemption having been made by the Sarmiento spouses, a final bill of sale was issued in his (Mr. Puzon) favor. Thereafter, Mr. Puzon filed a petition for consolidation of ownership and issuance of new title over the subject property before the Regional Trial Court of Pasig, Branch 155. The said petition, which was docketed as LRC Case No. T-3367, was granted by the court in its Order dated August 03, 1984. Thereafter, Transfer Certificate of Title No. 102902 was issued in the name of Jose Puzon.

On August 16, 1986, Mr. Puzon sold the property in question to herein plaintiff-appellee. By virtue of such sale, a transfer certificate of title over the subject property was issued in favor of the plaintiff-appellee. Records show that Mr. Puzon assured the plaintiff-appellee that he (Jose Puzon) will take care of the squatters in the subject property by filing an ejectment case against them. However, Mr. Puzon failed to comply with his promise.

On December 19, 1986, plaintiff-appellee filed a complaint for recovery of possession with damages against the Sarmiento spouses and Pedro Ogsiner, the Sarmiento spouses' caretaker of the subject property who refused to vacate the premises. In its complaint, plaintiff-appellee alleged that the Sarmiento spouses lost all the rights over the property in question when a certificate of sale was executed in favor of Mr. Sison for their failure to pay the mortgage loan.

On January 30, 1987, the Sarmiento spouses filed a motion for leave to file a third-party complaint against Mr. Sison, the Provincial Sheriff of Pasig, Mr. Puzon, the Judge of Regional Trial Court of Branch 155 in LRC Case No. R-3367 and the Register of Deeds of Marikina. On the same date the Sarmiento spouses filed their answer to the complaint. Expectedly, plaintiff-appellee opposed the motion.

In its order dated June 16, 1987, the trial court denied the motion of the Sarmiento spouses. Records show that the said order of the trial court was set aside in a petition for certiorari filed before this Court. Hence, the third-party complaint was admitted. Consequently, Mr. Sison, the Register of Deeds of Marikina filed their answer, while Mr. Puzon filed a motion to dismiss the third-party complaint on the grounds of misjoinder of causes of action and non-jurisdiction of the trial court over said third-party complaint. In a motion to set for hearing its special and affirmative defenses, the Register of Deeds of Marikina moved for the dismissal of the third-party complaint against them. The motion of Mr. Puzon was held

in abeyance by the trial court ratiocinating that the issues raised in the motion still do not appear to be indubitable.

On October 20, 1988, Mr. Puzon filed his answer.

In its order dated February 22, 1989, the trial court dismissed the third-party complaint against the Register of Deeds of Marikina on the ground that the case may proceed even without the Register of Deeds being impleaded.

On April 29, 1991, the trial court issued its assailed decision in favor of the plaintiff-appellee. A timely appeal was filed by the Sarmiento spouses. In their manifestation filed on July 17, 1989, the Heirs of Mr. Sison prayed for substitution for their late father. Consequently, the Heirs of Mr. Sison moved for new trial or reconsideration on the ground that they were not properly represented in the case after the death of Mr. Sison. In its order dated November 28, 1991, the trial court granted the motion.

On February 4, 1993, the trial court dismissed the claim of Mr. Sison as represented by his heirs, that he is the beneficial owner of the subject property. In its order dated May 18, 1993, the court a quo denied the motion for reconsideration of the Heirs of Mr. Sison.^[3]

The dispositive portion of the trial court ruling dated 29 April 1991 reads as follows:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff against all defendants:

- 1) ordering defendant Pedro Ogsiner and all persons claiming rights under him to vacate the premises and surrender peaceful possession to the plaintiff within fifteen (15) days from receipt of this order;
- 2) ordering defendant spouses Sarmiento to pay the sum of P20,000.00 as and for attorney's fees;
- 3) ordering the defendants jointly and severally to pay the sum of P300.00 a month as reasonable compensation for the use of the property in question starting June, 1986 until such time that they actually surrendered the possession of the property to the plaintiff;
- 4) ordering defendant spouses Sarmiento to pay the cost of this suit.

Defendant's third-party complaint against all third-party defendants is hereby dismissed for lack of sufficient merit.^[4]

On appeal by herein petitioners Amancio and Luisa Sarmiento (Sarmiento spouses) and by the heirs of Carlos Moran Sison, the Court of Appeals rendered the assailed Decision, dated 27 November 2001, the dispositive portion of which reads:

WHEREFORE, for lack of merit, the instant appeal is hereby DISMISSED. The assailed April 29, 1991 Decision of the Regional Trial Court of Pasig, Metro Manila is hereby AFFIRMED with the modification that the award of

P 20,000.00 as attorney's fees is hereby DELETED. The February 03, 1993 Resolution and the May 18, 1993 Order of the trial court are also hereby AFFIRMED.^[5]

On 08 March 2002, the Court of Appeals rendered the assailed Resolution denying petitioners' motion for reconsideration.

The Sarmiento spouses anchor their petition on the following legal arguments:

- 1) The ruling of the Court of Appeals that private respondent RRC's certificate of title cannot be collaterally attacked and that their right to claim ownership over the subject property is beyond the province of the action for recovery of possession is contrary to law and applicable decisions of the Supreme Court;
- 2) The ruling of the Court of Appeals that private respondent RRC is entitled to ownership of subject property simply by virtue of its title as evidenced by Transfer Certificate of Title (TCT) No. N-119631 is contrary to law and jurisprudence and is not supported by evidence; and
- 3) The affirmation by the Court of Appeals of the award of rentals to private respondent RRC lacks factual and legal basis.

First Issue:

The Court of Appeals, in holding that the third-party complaint of the Sarmiento spouses amounted to a collateral attack on TCT No. N-119631, ratiocinated as follows:

In resolving the errors/issues assigned by the herein parties, We should be guided by the nature of action filed by the plaintiff-appellee before the lower court, and as previously shown it is an action for the recovery of possession of the property in question with damages. Thus, from the said nature of action, this Court believes that the focal point of the case is whether or not the plaintiff-appellee has a better right to possess the contested real property. Corollary, it must also be answered whether or not the Transfer Certificate of Title No. N-119631 can be collaterally attacked in an action for recovery of possession.

. . .

In their assigned errors, the Sarmiento spouses alleged that the plaintiff-appellee is not a purchaser in good faith, as they were chargeable with the knowledge of occupancy by Pedro Ogsiner in behalf of the Sarmiento spouses, and that the auction sale of the property in favor of Mr. Puzon is null and void for its failure to comply with the requirement of notice provided by the law. The same have been argued by the Heirs of Mr. Sison.

The above assertions, We rule, amounts to a collateral attack on the certificate of title of the plaintiff-appellee. A collateral attack is made when, in another action to obtain a different relief, an attack on the

judgment is made as an incident in said action. This is proper only when the judgment on its face is null and void, as where it is patent that the court, which rendered said judgment has no jurisdiction. On the other hand, a direct attack against a judgment is made through an action or proceeding the main object of which is to annul, set aside, or enjoin the enforcement of such judgment, if not carried into effect, or if the property has been disposed of, the aggrieved party may sue for recovery.

In the present case, to rule for the nullity of the auction sale in favor of Mr. Puzon will result in ruling for the nullity of the order of Branch 155 of the Regional Trial Court of Pasig City, granting the petition for consolidation of ownership over the subject property filed by Mr. Puzon. It will also result in the nullity of title issued in the name of Mr. Puzon. Hence, the end objective in raising the aforementioned arguments is to nullify the title in the name of the plaintiff-appellee. In fact, a reading of the answer of the Sarmiento spouses and the Heirs of Mr. Sison reveals that they are asking the court to nullify all documents and proceedings which led to the issuance of title in favor of the plaintiff-appellee. This is obviously a collateral attack which is not allowed under the principle of indefeasibility of torrens title. The issue of validity of plaintiff-appellee's title can only be raised in an action expressly instituted for that purpose. A certificate of title shall not be subject to collateral attack. It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law. Case law on the matter shows that the said doctrine applies not only with respect to the original certificate of title but also to transfer certificate of title. Hence, whether or not the plaintiff-appellee has a right to claim ownership over the subject property is beyond the province of the present action. **It does not matter whether the plaintiff-appellee's title is questionable because this is only a suit for recovery of possession. It should be raised in a proper action for annulment of questioned documents and proceedings, considering that it will not be procedurally unsound for the affected parties to seek for such remedy.** In an action to recover possession of real property, attacking a transfer certificate of title covering the subject property is an improper procedure. The rule is well-settled that a torrens title as a rule, is irrevocable and indefeasible, and the duty of the court is to see to it that this title is maintained and respected unless challenged in a direct proceeding.^[6] (Emphasis and underscoring supplied)

An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title, and thus challenge the judgment pursuant to which the title was decreed.^[7] The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement.^[8] On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.^[9]

In its analysis of the controversy, the Court of Appeals, alas, missed one very crucial detail which would have turned the tide in favor of the Sarmiento spouses. What the Court of Appeals failed to consider is that Civil Case No. 54151 does not merely consist of the case for recovery of possession of property (filed by RRC against the