

FIRST DIVISION

[G.R. No. 133547, February 10, 2000]

**HEIRS OF ANTONIO PAEL AND ANDREA ALCANTARA AND
CRISANTO PAEL, PETITIONERS, VS. COURT OF APPEALS, JORGE
H. CHIN AND RENATO B. MALLARI, RESPONDENTS.**

[G.R. No. 133843]

**MARIA DESTURA, PETITIONER, VS. COURT OF APPEALS, JORGE
H. CHIN AND RENATO B. MALLARI, RESPONDENTS. LUIS M.
MENOR, INTERVENOR.**

D E C I S I O N

YNARES-SANTIAGO, J.:

These are separate petitions for review assailing the Decision dated April 29, 1998 of the Court of Appeals in CA-G.R. SP No. 45425.^[1] The two petitions were ordered consolidated by this Court on August 16, 1999.^[2]

This case has its beginnings in a complaint filed by Maria Destura on December 9, 1993 against herein private respondents Jorge H. Chin, Renato B. Mallari and plaintiff's own husband, Pedro Destura. The complaint was docketed as Civil Case No. Q-93-18569 of the Regional Trial Court of Quezon City, Branch 96.^[3]

About a year earlier, on January 20, 1993, the husband, Pedro Destura, had filed a substantially similar complaint against the same defendants, respondents Chin and Mallari. The complaint against Jorge H. Chin and Renato B. Mallari, for annulment of title, reconveyance and specific performance, damages and nullification of the Memorandum of Agreement, was docketed as Civil Case No. Q-93-14522 of the Regional Trial Court of Quezon City, Branch 99.

The above-stated Memorandum of Agreement (MOA) dated March 26, 1992 was among Chin and Mallari, as first parties; Pedro Destura, as second party; and a certain Jaime B. Lumasag, Jr., as third party, whereby the parties agreed to sell the property subject of this petition to an interested buyer and to share in the proceeds, with Lumasag acting as broker of the sale. However, the prospective buyer of Lumasag backed out and the sale did not materialize.

Upon defendants Chin and Mallari's motion, on November 5, 1993, the trial court issued an Order dismissing the complaint for lack of cause of action.

Pedro Destura then appealed to the Court of Appeals. On December 10, 1996, the Court of Appeals' Twelfth Division affirmed the order of dismissal.^[4] The Court of Appeals not only declared the MOA as valid, it also upheld the titles of Chin and Mallari by expressly declaring that they have a better title to the property. This

decision has long been final and executory per entry of judgment.

In spite of the decision against her husband, Maria Destura filed a similar action one month after the decision, docketed as Civil Case No. Q-93-18569 of the Regional Trial Court of Quezon City, Branch 96.^[5] As stated, the Court of Appeals affirmed the dismissal by the Regional Trial Court of Pedro Destura's complaint for lack of cause of action. In an obvious attempt to avoid application of *res judicata* or *litis pendentia* doctrine, Maria impleaded her own husband as a defendant. Significantly, after the complaint was filed, Maria dropped Pedro Destura as a party-defendant, alleging that the two had amicably settled their differences.

In her complaint, Maria Destura averred that on May 22, 1979, she and Pedro purchased from Crisanto Pael, through attorney-in-fact Lutgarda Marilao, a tract of land consisting of 77.9477 hectares, situated in Barrio Culiati, Quezon City and covered by Transfer Certificate of Title No. 36048 in the name of "*Antonio Pael y Andria Alcantara, conyuges, y Crisanto Pael, hijo.*" The owner's duplicate of title and approved survey plan were allegedly delivered to Pedro but he misplaced them, and he suspected that they were taken from his office by a certain Luis Menor. Inasmuch as title to the land was still in the name of the Pael, Pedro caused the execution of an extrajudicial settlement of the estate of the deceased spouses Antonio Pael and Andria Alcantara with sale of real property, as well as an affidavit of self-adjudication.

Thereafter, with the intention of disposing of the property, Pedro allegedly executed a special power of attorney to sell in favor of Renato Mallari and Jorge Chin. The latter failed to sell the property, whereupon Pedro executed a deed of conditional sale in favor of Chin, but the sale was allegedly not consummated due to Chin's non-compliance with certain conditions. Pedro thereafter went to Canada and, when he returned, he allegedly discovered that the title to the property had been transferred in the names of Chin and Mallari, as TCT Nos. 52928^[6] and 52929^[7].

When Pedro was about to prosecute Chin and Mallari, the latter allegedly offered to settle their dispute. This resulted in the execution of the MOA sought to be nullified in both the complaints of Pedro and Maria.

On January 24, 1995, the trial court in the Maria Destura case, presided by Judge Lucas Bersamin, rendered a decision based on default, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing considerations, judgment is hereby rendered:

1. Nullifying the memorandum of agreement dated March 26, 1992;
2. Ordering the defendant Register of Deeds of Quezon City to cancel Transfer Certificate of Title Nos. 52928 and 52929 in the names of Jorge Chin and Renato Mallari and the transfer certificates of title from which said certificates were derived until but not including Transfer Certificate of Title NO. 36048 and thereafter to reinstate Transfer Certificate of Title No. 36048 in the names of Spouses Antonio Pael and Andrea Alcantara and Crisanto Pael; and

3. Sentencing the defendants to pay costs of suit.

The cause of action for damages is hereby dismissed for lack of evidence.

SO ORDERED.

The above-quoted decision of Civil Case No. Q-93-18569 was rendered after Chin and Mallari were declared in default for failure to answer the complaint. Thus, judgment by default was issued nullifying the MOA and ordering the cancellation of Chin's and Mallari's TCT Nos. 52928 and 52929. Surprisingly, the trial court did not award any affirmative relief to the plaintiff therein, Maria Destura. Instead, the trial court ordered the reinstatement of TCT No. 36048 in the names of the Paels, who were non-parties in the case. In fact, petitioners, heirs of the Paels, were not impleaded in the case below, did not intervene, and were non-parties in every sense of the word. These notwithstanding, valuable property was awarded to them.

Maria Destura did not appeal the trial court's decision. It, therefore, became final insofar as it awarded titles to non-parties and declined to grant any of the prayers of the plaintiff therein. In spite of the finality of the decision as against her, Maria Destura surprisingly came in as intervenor on the later stage of this petition before this Court.

Maria raised matters that are more proper for her lost appeal and not in a last minute intervention in the Supreme Court.

On February 13, 1995, Atty. Oliver O. Lozano, counsel for respondents Chin and Mallari, filed a notice of appeal,^[8] which was approved by the trial court and given due course.^[9] Later, on February 21, 1995, Atty. Lozano filed a Motion for New Trial,^[10] alleging that his clients' failure to answer was due to honest mistake and that they have a good and valid defense. Atty. Lozano's notice of appeal did not state when the notice of the decision was received by the appellants.

On February 14, 1995, the trial court approved the notice of appeal and directed the forwarding of the records to the Court of Appeals.

On March 3, 1995, Atty. Lozano filed a supplemental motion.^[11]

On March 7, 1995, Maria Destura filed a motion to dismiss the motion and supplemental motion for new trial.^[12]

On April 11, 1995, respondents Chin and Mallari, through new counsel Atty. Ponciano H. Gupit, filed an Omnibus Motion^[13] alleging that their sad plight to present on time their side of the controversy was due to the censurable negligence of their counsel, Atty. Lozano, whose services they had engaged to file their answer.

On August 28, 1995, the trial court issued an Order, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing:

1. The *motion for new trial, supplemental motion, and omnibus motion,*

all filed by the defendants, are hereby denied for lack of merit;

2. The appeal allowed in the Order of February 14, 1995 is hereby considered *abandoned* and is accordingly *dismissed*; and

3. The decision dated January 24, 1995 is hereby declared to be *final and executory*.

SO ORDERED.^[14]

From the adverse decision and order of the trial court, private respondents filed a petition for annulment of judgment before the Court of Appeals, which required the respondents named therein to comment on the petition.

In the meantime, one Letty Sy, claiming to have legal, direct and material interest in the matter in litigation and having learned that Maria Destura will not file her comment on the petition, filed on October 22, 1997 a "Motion for Leave to Substitute Party Respondent With Prayer that She be Allowed to File Comment on the Petition for Annulment of Judgment Within a Reasonable Period of Time".^[15] Private respondents opposed this motion on November 26, 1997. The Court of Appeals, in its Resolution dated January 8, 1998, denied Letty Sy's motion.^[16]

Previously, on November 17, 1997, Maria Destura decided to file her comment and opposition to the petition,^[17] to which respondents Chin and Mallari filed a vigorous reply dated December 1, 1997.^[18]

On the other hand, the heirs of Antonio Pael filed a motion for extension to file comment on the petition. On October 29, 1997, Roberto Pael, as administrator of the estate of the Paels, filed a short comment. Because the titles of private respondents Chin and Mallari were cancelled by the trial court not on substantial grounds but on their alleged default and abandonment of their case compounded by various unusual procedural errors, the Court of Appeals passed upon the issue of the intrinsic validity of the disputed land titles.

On April 29, 1998, the Court of Appeals rendered the assailed decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the decision dated January 24, 1995 and the Order dated August 28, 1995, both issued in Civil Case No. Q-93-18569, are hereby ANNULLED and SET ASIDE, and accordingly, judgment is issued:

a) DECLARING as valid the memorandum of agreement dated March 26, 1992;

b) DECLARING as null and void both the cancellation of the titles, Transfer Certificates of Title Nos. 52928 and 52929 of petitioners Jorge H. Chin and Renato B. Mallari over the subject property and reinstatement of the title Transfer Certificate No. 36048, in the names of Antonio Pael, Andrea Alcantara and Crisanto Pael;

c) DECLARING the petitioners as the true and absolute owners of the subject property and ORDERING the Register of Deeds of Quezon City to REINSTATE the aforementioned titles, TCT Nos. 52928 and 52929 in favor of petitioners Jorge H. Chin and Renato B. Mallari;

d) DIRECTING Sheriff Mr. Jose G. Martinez of the trial court, or whoever has taken his place, to surrender forthwith the owner's duplicate copy (original) of TCT No. 36048 to the Register of Deeds of Quezon City within ten (10) days from finality of this decision.

In the event that Sheriff Martinez or his replacement fails to surrender the said original owner's duplicate copy of TCT No. 36048 within the said ten (10) day period, the Register of Deeds of Quezon City is hereby directed to CANCEL the said title, TCT No. 36048, and to EFFECT forthwith the reinstatement of the titles, TCT Nos. 52928 and 52929 in the names of Chin and Mallari.

e) DENYING the petitions-in-intervention of Letty Sy and PFINA Properties, Inc. Motion for Reconsideration for lack of merit; and

f) DENYING the prayer for damages sought for by petitioners, not having been proven by a preponderance of evidence.

No pronouncement as to costs.

SO ORDERED.^[19]

While the petition for annulment was pending before the Court of Appeals, or on January 28, 1998, a certain corporation called PFINA Properties, Inc. (PFINA, for brevity) filed a motion for leave of court to intervene and to admit petition-in-intervention. It alleged that PFINA acquired the property subject of the litigation for substantial and valuable consideration from Roberto A. Pael and the Heirs of Antonio Pael, Andrea Alcantara and Crisanto Pael, by virtue of a deed of assignment dated January 25, 1983, and that the title was issued in its name by the Register of Deeds of Quezon City. This motion was opposed by private respondents. They cite the fact that the alleged acquisition of the property by PFINA supposedly occurred as early as January 25, 1983, and for fifteen (15) years, inspite of numerous proceedings before different courts and agencies involving the disputed property, both the Pael and PFINA were silent about the alleged change of ownership. No steps to register the sale or secure transfer titles were undertaken during this period.

Private respondents filed an Omnibus Motion for the cancellation and declaration as null and void of the title illegally obtained by PFINA in its name and to hold the officials of PFINA, their counsel, and the Register of Deeds of Quezon City in contempt of court. The grounds for the Omnibus Motion are as follows:

Private respondents caused on October 8, 1997 the annotation of the Petition for Annulment of Judgment with the Registry of Deeds of Quezon City which was granted.

The manner and the haste and the speed by which the new title, TCT No. 186662, was issued in the name of PFINA Properties, Inc. was