

## SECOND DIVISION

[ G.R. No. 205004, August 17, 2016 ]

**SPOUSES ERNESTO IBIAS, SR. AND GONIGONDA IBIAS,  
PETITIONERS, VS. BENITA PEREZ MACABEO, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

G.R. No. 205004 is a petition for review<sup>[1]</sup> assailing the Decision<sup>[2]</sup> promulgated on 30 May 2012 as well as the Resolution<sup>[3]</sup> promulgated on 11 December 2012 by the Court of Appeals (CA) in CA-G.R. CV No. 88552. The CA affirmed the Decision<sup>[4]</sup> dated 7 March 2006 of Branch 33 of the Regional Trial Court of Manila (RTC) in Civil Case No. 01-102236.

The RTC ruled in favor of respondent Benita Perez Macabeo (Benita) and against petitioners Spouses Ernesto Ibias, Sr. (Ernesto) and Gonigonda Ibias (collectively, Spouses Ibias) and ordered the Register of Deeds of Manila to cancel Transfer Certificate of Title (TCT) No. 245124 under the name of the Spouses Ibias and reinstate TCT No. 24605.

#### The Facts

The CA recited the facts as follows:

[Benita] filed a complaint for annulment of title against [Spouses Ibias] on 12 November 2001. She averred, among others, that she is one of the heirs of Albina Natividad Y. Perez and Marcelo Ibias, both deceased and registered owners of the parcel of land covered by [TCT] No. 24605 of the Register of Deeds of Manila. On 13 August 1999, [Ernesto] executed an Affidavit of Loss alleging that the Owner's Duplicate of TCT No. 24605 was missing among his files. In support of his petition for reconstitution, he testified that said owner's duplicate [of] title was lost while in his parents' possession. Such petition was granted and the title was reconstituted, now TCT No. 245124 under the names of [Spouses Ibias]. For this reason, [Benita] filed a perjury case against defendant-appellant Ernesto docketed as Criminal Case No. 348152 pending before the Metropolitan Trial Court (MeTC) of Manila.

[Benita] averred that defendant-appellant Ernesto made it appear that the title was lost or misplaced while in the possession of the registered owners when in truth and in fact, he knew fully well that said title was in the possession of [Benita]. Proof of such knowledge was shown by his letter dated 23 July 1999 where he asked [Benita] for TCT No. 24605,

which was in the latter's possession. At the time defendant-appellant Ernesto executed the Affidavit of Loss and filed his petition for reconstitution, he knew that the title was intact and in the possession of [Benita]. The issuance of the reconstituted title in favor of [the Spouses Ibias] thus deprived [Benita] and her other siblings of their right over the subject property.

Defendant-appellant Ernesto countered that he is the registered owner of the land described in TCT No. 245124. He claimed that he and his late brother Rodolfo are the only heirs of Marcelo and Albina Ibias. The subject property was acquired and titled sometime in 1950. He and his late parents have been living in the same house during the lifetime of the latter. After the death of his parents, he diligently exerted efforts to locate TCT No. 24605 but [these] attempts proved futile. He inquired from his half-sister, plaintiff-appellee Benita Macabeo, about the whereabouts of said title. [Benita] claimed that she was in possession of the title but asked defendant-appellant Ernesto for the amount of PI 1,000.00 in exchange for the title and as her share in the property. Defendant-appellant Ernesto paid said amount, but when he asked for the turnover of the title, [Benita] failed to deliver the title nor show the document. Defendant-appellant Ernesto was thus convinced that [Benita] had neither possession nor knowledge of the whereabouts of the title.

Believing in good faith that the title was indeed lost, he executed the Affidavit of Loss dated 13 August 1999. Thereafter, he instituted a petition for issuance of new owner's duplicate certificate of title. [Benita] did not oppose or object to the petition. Eventually, the new TCT No. 245124 was issued in favor of [Spouses Ibias] by the Register of Deeds.

[5]

### **The RTC's Ruling**

The RTC ruled in favor of Benita.

The RTC stated that Ernesto's assertions did not coincide with its findings. When Ernesto filed a petition for reconstitution on 19 August 1999, Ernesto claimed that the owner's duplicate of TCT No. 24605 was lost. However, Ernesto knew that the title was in Benita's possession. Ernesto himself wrote a letter dated 23 July 1999 to Benita to ask for the title. Prior to this, Ernesto borrowed the title from Benita in 1996 for the connection of his water system to NAWASA.

Ernesto also falsely declared in the Deed of Extrajudicial Settlement of Estate with Waiver of Rights that he and his brother Rodolfo Ibias are the only surviving heirs of Albina Natividad. Ernesto and Rodolfo actually have four older half-sisters with their mother Albina: Avelina, Abuendia, Seferiana, and Benita. To the RTC, it is clear that Ernesto was able to procure the new title in his name through fraudulent means.

The dispositive portion of the RTC's decision reads:

WHEREFORE, judgment is hereby rendered in favor of [Benita] and against the [Spouses Ibias]. The Register of Deeds of Manila is ordered to

cause the cancellation of Transfer Certificate of Title No. 245124 under [the] name of [Spouses Ibias] and REINSTATE TCT No. 24605. The [Spouses Ibias are] ordered to pay the costs of the suit. The counter-claim is DISMISSED for lack of merit.

SO ORDERED.<sup>[6]</sup>

The Spouses Ibias filed a notice of appeal<sup>[7]</sup> on 19 July 2006. The RTC released an Order<sup>[8]</sup> elevating the complete records of the case on 26 July 2006.

### **The CA's Ruling**

The CA dismissed the Spouses Ibias' appeal and affirmed the decision of the RTC.

The CA affirmed, the RTC's findings of fact. Ernesto knew that TCT No. 24605 was with Benita for safekeeping. Ernesto's 23 July 1999 letter to Benita categorically stated that he asked for TCT No. 24605 and acknowledged that the TCT was in her possession. Ernesto wrote:

Sa kadahilanang nabanggit sa itaas ako at ang aking kapatid na si RODOLFO IBIAS ay tuwiran hinihingi sa iyo **ang titulo ng lupa na may No. 24605 na nasa iyong pag-iingat.** x x x<sup>[9]</sup>

In her letter to Ernesto dated 16 August 1999, Benita explained that the money for the purchase of the land came from the GSIS death benefit of her sister Abuendia Natividad Perez (Abuendia). It was Abuendia's wish to put the title of the property in their mother's name. The name of Ernesto's father, Marcelo, was in TCT No. 24605 only because he was married to Albina. Marcelo had no capacity to buy the property. The PI 1,000 was for the purpose of including the names of their siblings Rodolfo Ibias and Avelina Perez. The title was in Benita's possession only because Albina entrusted it to her. Benita wrote:

Para sa kaalam [sic] mo, totoong matagal nang nasa pag-iingat ko ang kopya ng titulo ng ating lupa. Hindi ko iyon tinatanggi. Ito'y nasa akin hindi dahil sa gusto ko itong kamkamin (katulad ng gusto mo ngayong palabasin) kundi dahil sa ito'y inihabilin sa akin ng ating namatay na inang si ALBINA NATIVIDAD y PEREZ at ito'y alam mo, aminin mo man o hindi.<sup>[10]</sup>

The Spouses Ibias did not dispute these letters. The correspondence shows that Ernesto knew that Benita had the owner's duplicate of TCT No. 24605 in her possession prior to the filing of the present case. The CA identified the strained relations between the parties as the reason why Ernesto could not compel Benita to turn over the owner's duplicate of TCT No. 24605 to him. The CA concluded that because the Spouses Ibias could not force Benita to give them the title, Ernesto executed an Affidavit of Loss so as to pull one over on Benita. The tenor of the correspondence belies the Spouses Ibias' claim of good faith when the Affidavit of Loss was executed.

Ernesto falsely stated in the Deed of Extrajudicial Settlement of Estate with Waiver of Rights that he and his brother Rodolfo are the only surviving heirs of Albina and Marcelo. However, in his 23 July 1999 letter, as well as in his pleadings, Ernesto

asserted that he and Benita have the same mother.

Ernesto also impliedly recognized Benita's right over the property when he claimed to have given her PI 1,000 as her supposed share in the property.

Both Benita's and Ernesto's witnesses testified that Marcelo had no resources to purchase the land. Flordeliza Natividad, Benita's witness, testified that Abuendia was the breadwinner of the family and purchased the land on installment. When Abuendia passed away, her family used her death benefits to make full payment for the land. Pedro Mercado, Ernesto's witness, testified that Marcelo had not been working since 1949. Ernesto did not present any evidence to show that Marcelo had the resources to buy the land.

The CA summarized its findings as follows:

In view of the above documentary and testimonial evidence, the court *a quo* was correct in canceling TCT No. 245124 and reinstating TCT No. 24605. There is preponderance of evidence to prove that [the Spouses Ibias] knew for a fact that TCT No. 24605 was not lost, but in the possession of [Benita]. There is also clear and convincing evidence that [the Spouses Ibias] committed fraud or fraudulent acts in order to obtain the reconstituted title. By omitting material facts and perpetrating untruths in the affidavit of loss, petition for reconstitution, and deed of extrajudicial settlement, [the Spouses Ibias] were issued TCT No. 245124 to the damage and prejudice of [Benita] and the other legal heirs of Albina Natividad.<sup>[11]</sup>

The Spouses Ibias filed their Motion for Reconsideration<sup>[12]</sup> on 19 June

2012, while Benita filed her Comment<sup>[13]</sup> on 14 August 2012.

The CA denied the Spouses Ibias' motion in a Resolution<sup>[14]</sup> dated 11 December 2012. The CA stated that the Spouses Ibias merely rehashed the same issues which were already passed upon by the CA in their decision, and there was no cogent reason or novel issue to warrant a modification or reversal of the decision.

The Spouses Ibias filed the present petition for review on 1 February 2013, Benita filed her comment on 2 May 2013. On 17 July 2013, this Court required the Spouses Ibias to file a reply to the comment within 10 days from notice. This period expired on 27 September 2013.<sup>[15]</sup> On 11 June

2014, this Court issued another Resolution denying the Spouses Ibias' petition for failure to comply with our lawful order without any valid cause. On 26 August 2014, the Spouses Ibias filed a motion for reconsideration of our 11 June 2014 Resolution. We granted the Spouses Ibias' motion in a Resolution dated 1 October 2014. The Spouses Ibias filed a manifestation stating that they reiterate the contents and allegations in their petition and adopt the same as their reply.

### **The Issue**

The Spouses Ibias presented this sole assignment of error: