

## FIRST DIVISION

[ G.R. No. 199777, June 17, 2015 ]

**HEIRS OF DATU DALANDAG KULI, REPRESENTED BY DATU CULOT DALANDAG, PETITIONERS, VS. DANIEL R. PIA, FILOMENA FOLLOSCO, AND JOSE FOLLOSCO, SR., RESPONDENTS.**

### D E C I S I O N

**SERENO, C.J.:**

The present case stems from a Petition for Review<sup>[1]</sup> filed by the heirs of Datu Dalandag Kuli (petitioners), praying for the reversal of the Decision<sup>[2]</sup> of the Court of Appeals (CA), Cagayan de Oro City dated 28 January 2011 and subsequent Resolution<sup>[3]</sup> dated 6 December 2011. The CA affirmed the Judgment<sup>[4]</sup> rendered by the Regional Trial Court (RTC), Branch 18, Midsayap Cotobato, on 16 January 2004, dismissing the case for the quieting of title filed by petitioners. The RTC found that petitioners failed to overcome the presumption of regularity in the issuance of Transfer Certificate of Title (TCT) No. 1608 in the name of Daniel R. Pia (respondent Pia).

The parcel of land subject of this case (Lot 2327) was awarded to Datu Kuli through cadastral proceedings.<sup>[5]</sup> Thereafter, the Register of Deeds of Cotobato City registered the property in his name on 12 November 1935 as evidenced by Original Certificate of Title (OCT) No. 1654. When Datu Kuli died on 8 July 1985, the possession of Lot 2327 was passed on to his heirs, the present petitioners, who continue to hold possession thereof.

When petitioners sought to have Datu Kuli's title reconstituted, they were informed by the Register of Deeds that a different title had already been issued in the name of Jose Follosco, Sr. (respondent Jose).<sup>[6]</sup>

It appears from the records that on 21 December 1940, TCT 1608 covering Lot 2327 was issued in respondent Pia's name. Although the Register of Deeds could no longer produce a copy of the alleged Deed of Sale,<sup>[7]</sup> it issued a Certification that a Deed of Sale executed by Datu Kuli in respondent Pia's favor had been presented to it.<sup>[8]</sup> On the strength of this deed, Datu Kuli's OCT 1654 was cancelled, and TCT 1608 issued.

On 14 July 1948, the Register of Deeds administratively reconstituted TCT 1608 using a duplicate of respondent Pia's title as the source.<sup>[9]</sup> On even date, after another Deed of Conveyance was supposedly executed by respondent Pia in favor of Filomena Follosco (respondent Filomena),<sup>[10]</sup> the former's reconstituted title was cancelled and a new title (TCT T-374) issued in the name of respondent Filomena. Again, on 22 September 1954, the latter title was cancelled and TCT T-2911 issued

in the name of respondent Jose.<sup>[11]</sup>

Claiming that they had always been in possession of the property and that Datu Kuli never sold the property to any of the respondents, petitioners filed a Complaint for Quieting of Title with the RTC, praying for the restoration of OCT No. 1654 and the annulment of all the subsequently issued titles covering Lot 2327 under the names of respondents.<sup>[12]</sup>

Upon the filing of the Complaint, efforts were made to serve summons on respondents. Because none of these could be served on any of them, on 12 May 1999 petitioners moved for the service of summons by publication. In an Order dated 24 May 1999, the RTC granted petitioners' motion. The branch clerk of court then issued summons by publication on 30 June 1999.<sup>[13]</sup>

On 12 July 2000, the RTC issued its Order granting petitioners' motion to declare respondents in default. This Order was likewise published.<sup>[14]</sup>

After evaluating the evidence presented by petitioners, the RTC, in its Judgment dated 16 January 2004, ruled in respondents' favor. According to the trial court, even though Atty. Maria Theresa B. Pescadera (Atty. Pescadera), an officer of the Register of Deeds of Cotabato City, was not able to produce the Deed of Conveyance stating that Datu Kuli had sold Lot 2327 to respondent Pia,<sup>[15]</sup> it was convinced that "there was indeed a conveyance from Datu Dalandag Kuli to Daniel R. Pia over Lot No. 2327."<sup>[16]</sup>

The dispositive portion of the RTC Judgment reads:

WHEREFORE, in the light of all the foregoing considerations, the court finds and so holds that the plaintiffs were not able to prove their affirmative allegations and the existence of a valid cause of action. The court, therefore, renders Judgment in favor of the defendants and against the plaintiffs:

(1) Holding as valid the issuance of Transfer Certificate of Title No. RT-168 (1608) in the name of Daniel R. Pia.

(2) Holding as valid the subsequent transfer and issuance of TCT No. T-374 and TCT No. T-2911 in the names of Filomena Follosco and Jose Follosco, Sr. respectively.

(3) Dismissing this case for lack of a valid cause of action.

IT IS SO DECIDED.<sup>[17]</sup>

Petitioners appealed the foregoing to the CA, which dismissed their Petition on 28 January 2011.

Hence, the present Petition for Review on *Certiorari*.<sup>[18]</sup>

In a Resolution<sup>[19]</sup> dated 21 March 2012, the Court ordered respondents to

Comment on the Petition, but copies of the Resolution were returned unserved.<sup>[20]</sup> It made several attempts to resend the copies, but all were returned to this Court with the following notations: "RTS-insufficient address" and "RTS-party deceased."<sup>[21]</sup> The Court hereby resolves to consider the Resolution as served.

Petitioners ask that this Court declare that the CA committed error in upholding the validity of TCT 1608.

The Petition is denied. The Court affirms the appreciation of the evidence by the CA as well as by the RTC.

In the Complaint for Quieting of Title filed with the RTC, petitioners prayed for the restoration of OCT No. 1654 and the annulment of all the subsequently issued titles covering Lot 2327 under the names of respondents.<sup>[22]</sup>

The following requisites must concur, so that an action for quieting of title may prosper: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property, subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting a cloud on the title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.<sup>[23]</sup>

Assuming *arguendo* that the continued possession of the property by petitioners establishes their legal or equitable interest thereon and thus fulfills the first requisite, the RTC still correctly declared that they failed to establish that they had a valid cause of action,<sup>[24]</sup> because they did not succeed in proving that respondent Pia had failed to present a copy of the Deed of Sale with the Register of Deeds or that even if they did, it is invalid.

Petitioners insist that the failure of the Register of Deeds to produce a copy of the Deed of Conveyance used as basis to cancel Datu Kuli's OCT proves that the property was never sold to respondent Pia.

The argument of petitioners holds no water. While the law requires the Register of Deeds to obtain a copy of the Deed of Conveyance before cancelling the seller's title, its subsequent failure to produce the copy, after a new title had already been issued is not a sufficient evidence to hold that the claimed sale never actually happened.

We agree with the RTC and rule that even though copies of the Deed of Sale and the OCT of Datu Kuli can no longer be produced now, the evidence presented sufficiently shows that the deed conveying the property to respondent Pia was presented to the Register of Deeds on 21 December 1940, and that this deed was the basis for the cancellation of Datu Kuli's original title.

The failure on the part of the Register of Deeds to present a copy of the Deed of Sale when required by the trial court was duly explained by them. It appears that the records containing the Deed of Sale are no longer readable, because they are "very much mutilated."<sup>[25]</sup> Nevertheless, the Register of Deeds was able to certify that the following entry or notation was found in the first volume of its Primary Entry Book:<sup>[26]</sup>