

THIRD DIVISION

[G.R. No. 173987, February 25, 2013]

**PADILLA MERCADO, ZULUETA MERCADO, BONIFACIA MERCADO,
DAMIAN MERCADO AND EMMANUEL MERCADO BASCUG,
PETITIONERS, VS. SPOUSES AGUEDO ESPINA AND LOURDES
ESPINA, RESPONDENTS.**

D E C I S I O N

PERALTA, J.:

Assailed before the Court via a petition for review on *certiorari* under Rule 45 of the Rules of Court are the Decision^[1] and Resolution,^[2] dated April 27, 2005 and July 12, 2006, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 84537.

Subject of the instant controversy is a 338 square meter parcel of land located at the Poblacion of the then Municipality of Maasin (now a city), in the Province of Southern Leyte.

On May 8, 2000, herein petitioners filed with the Regional Trial Court (RTC) of Maasin, Southern Leyte, a Complaint for Recovery of Property and Declaration of Nullity of Deed of Sale, Certificate of Title and Damages. The case was docketed as Civil Case No. R-3147.

Petitioners alleged in their Complaint that they are the heirs of the late spouses Santiago and Sofronia Mercado, who were the owners of the subject parcel of land; after the death of Santiago and Sofronia, petitioners inherited the disputed lot, possessing the same as owners; sometime in 1996, herein respondents claimed ownership over the subject parcel of land, alleging that they bought the same from one Josefa Mercado Espina (Josefa) who, in turn, previously bought the same in 1939 from a certain Genivera Mercado Kavanaugh; that Genivera supposedly purchased the same property from one Escolastico Mercado in 1937 who, in turn, allegedly bought it from Santiago Mercado. Petitioners further alleged that in 1962, Josefa, through fraudulent machinations, was able to obtain a title (Original Certificate of Title No. 35) over the subject property in her name. Asserting that the above-mentioned contracts of sale never happened, petitioners prayed for the declaration of nullity of the deeds of sale between Santiago and Escolastico, Escolastico and Genivera, and between Genivera and Josefa. They prayed that the Transfer Certificate of Title (TCT) in the name of herein respondents be nullified and that petitioners be declared as the owners of the disputed lot. They asked that the court award them actual, moral and exemplary damages, and attorney's fees.

On June 29, 2000, respondents filed a Motion to Dismiss on grounds that the RTC has no jurisdiction over the case due to the failure of the complainant to state the assessed value of the property, that petitioners' cause of action is barred by prescription, laches and indefeasibility of title, and that the complaint does not state

sufficient cause of action against respondents who are buyers in good faith.^[3]

The RTC denied respondents' Motion to Dismiss. Respondents then filed a motion for reconsideration, but the same was denied by the RTC.

Respondents then filed a special civil action for *certiorari* with the CA assailing the above orders of the RTC.

In its Resolution^[4] dated March 13, 2001, the CA denied due course and dismissed respondents' petition for *certiorari*. Respondents filed a motion for reconsideration, but the same was denied by the CA in its Resolution dated October 21, 2003.

Meanwhile, on August 17, 2000, petitioners, by leave of court, filed an Amended Complaint to include the assessed value of the subject property.^[5]

On November 21, 2003, respondents filed a Motion to Dismiss Amended Complaint on grounds of prescription, laches, indefeasibility of title and lack of cause of action.^[6]

On February 18, 2004, the RTC issued an Order^[7] denying respondents' Motion to Dismiss Amended Complaint. Respondents filed a motion for reconsideration, but the RTC denied it in its Order dated April 19, 2004.^[8]

Respondents filed a special civil action for *certiorari* with the CA praying that the February 18, 2004 and April 19, 2004 Orders of the RTC be set aside and petitioners' complaint dismissed.

On April 27, 2005, the CA promulgated its assailed Decision, the dispositive portion of which reads as follows:

WHEREFORE, the petition is granted. The assailed orders of the Regional Trial Court dated February 18, 2004 and April 19, 2004 must be as they are hereby, SET ASIDE. The COMPLAINT in Civil Case No. R-3147 is DISMISSED. The Regional Trial Court of Maasin City, Branch 25 is hereby **enjoined** from proceeding with the case. No pronouncement as to costs.

SO ORDERED.^[9]

The CA ruled that respondents' title has become indefeasible and incontrovertible by lapse of time and that petitioners' action is already barred by prescription. The CA also held that since petitioners did not allege that respondents were not buyers in good faith, the latter are presumed to be purchasers in good faith and for value.

Petitioners filed a motion for reconsideration, but the CA denied it in its Resolution^[10] dated July 12, 2006.

Hence, the instant petition for review on *certiorari* raising the following issues:

- 1) Procedurally, whether or not the Court of Appeals erred in giving due course to respondents' second motion to dismiss filed on November 21, 2003 on the amended complaint filed on August 16, 2000;
- 2) Substantively, whether or not the Court of Appeals erred in ordering the Regional Trial Court to dismiss the case and enjoining it from proceeding with the case on the ground of indefeasibility of title, prescription and/or laches.^[11]

On the first issue, petitioners contend that respondents' Motion to Dismiss Amended Complaint was filed beyond the period allowed by the Rules of Court. Petitioners also aver that the above Motion to Dismiss Amended Complaint is a circumvention of the Rules of Court, because the matters raised therein are mere reiterations of their first motion to dismiss, which was dismissed by the RTC and, on petition for *certiorari*, was denied due course by the CA.

Anent the second issue, petitioners argue that respondents' ground of indefeasibility of title in their Motion to Dismiss Amended Complaint is not an authorized ground under Rule 16 of the Rules of Court. Petitioners also assert that the other grounds, *i.e.*, good faith, lack of cause of action and prescription, raised by respondents in their motion are not supported by evidence.

The petition lacks merit.

As to the first issue, there is no dispute that the issue of timeliness of respondents' Motion to Dismiss petitioners' Amended Complaint was not raised by petitioners before the RTC. Neither was this issue raised in their Comment to respondents' petition for *certiorari* filed with the CA. It was only in their Motion for Reconsideration of the CA Decision that this matter was raised. It is well established that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel.^[12] Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.^[13] Basic considerations of due process impel the adoption of this rule.^[14]

Moreover, respondent's filing of their Motion to Dismiss Amended Complaint may not be considered as a circumvention of the rules of procedure. Under Section 8, Rule 10 of the Rules of Court, an amended complaint supersedes an original one. As a consequence, the original complaint is deemed withdrawn and no longer considered part of the record.^[15] In the present case, the Amended Complaint is, thus, treated as an entirely new complaint. As such, respondents had every right to move for the dismissal of the said Amended Complaint. Were it not for the filing of the said Motion, respondents would not have been able to file a petition for *certiorari* before the CA which, in turn, rendered the presently assailed judgment in their favor.

With respect to the second issue, the CA correctly ruled that petitioners' Amended Complaint failed to state a cause of action. The Court quotes with approval the following disquisition of the appellate court, to wit: