

## THIRD DIVISION

[ G.R. No. 170677, October 24, 2012 ]

**VSD REALTY & DEVELOPMENT CORPORATION, PETITIONER, VS.  
UNIWIDE SALES, INC. AND DOLORES BAELO TEJADA,  
RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

This is a petition for review on *certiorari*<sup>[1]</sup> of the Decision of the Court of Appeals dated May 30, 2005 in CA-G.R. CV No. 69824 and its Resolution dated December 6, 2005, denying petitioner's motion for reconsideration.

The Decision of the Court of Appeals reversed and set aside the Decision of the Regional Trial Court (RTC) of Caloocan City, Branch 126, in Civil Case No. C-16933, and dismissed petitioner's Complaint for annulment of title and recovery of possession of property.

The facts are as follows:

On June 8, 1995, petitioner VSD Realty and Development Corporation (VSD) filed a Complaint<sup>[2]</sup> for annulment of title and recovery of possession of property against respondents Uniwide Sales, Inc. (Uniwide) and Dolores Baello<sup>[3]</sup> with the RTC of Caloocan City, Branch 126 (trial court).<sup>[4]</sup> Petitioner sought the nullification of Transfer Certificate of Title (TCT) No. (35788) 12754 in the name of Dolores Baello and the recovery of possession of property that is being occupied by Uniwide by virtue of a contract of lease with Dolores Baello.

Petitioner alleged that it is the registered owner of a parcel of land in Caloocan City, with an area of 2,835.30 square meters, more or less, and covered by TCT No. T-285312<sup>[5]</sup> of the Register of Deeds of Caloocan City. Petitioner purchased the said property from Felisa D. Bonifacio, whose title thereto, TCT No. 265777, was registered by virtue of an Order<sup>[6]</sup> dated October 8, 1992 authorizing the segregation of the same in Land Registration Commission (LRC) Case No. C-3288. Petitioner also alleged that its right to the subject property and the validity and correctness of the technical description and location of the property are duly established in LRC Case No. C-3288.<sup>[7]</sup>

Petitioner alleged that respondent Baello is the holder and registered owner of a parcel of land covered by TCT No. (35788) 12754 in the Register of Deeds for the Province of Rizal. By virtue of the said title, Baello claims ownership and has possession of the property covered by petitioner's title, and she entered into a contract of lease with respondent Uniwide.

Petitioner alleged that its title, TCT No. 285312, is the correct, valid and legal document that covers the subject property, since it is the result of land registration proceedings in accordance with law.

Petitioner alleged that Baello's title, TCT No. 35788, is spurious and can only be the result of falsification and illegal machinations, and has no legal basis to establish any right over the subject property. Moreover, the technical description of Baello's title is so general that it is impossible to determine with certainty the exact location of the property covered by it. Petitioner further alleged that the technical description has no legal basis per the records of the Lands Management Bureau and the Bureau of Lands. It added that Baello's title described the property to be Lot 3-A of subdivision plan Psd 706, but an examination of Psd 706 shows that there is no Lot 3-A in plan Psd 706.<sup>[8]</sup> Petitioner contends that in view of the foregoing reasons, Baello has no legal basis to claim the subject property, and Baello's title, TCT No. 35788, is spurious and illegal and should be annulled. Thus, petitioner sought recovery of possession of the subject property.

Petitioner prayed that judgment be rendered:

- 1) declaring TCT No. 35788 (12754) to be null and void;
- 2) ordering respondent Baello and all persons/entity claiming title under her, including Uniwide, to convey and to return the property to petitioner;
- 3) ordering respondents Baello and Uniwide, jointly and severally, to pay just and reasonable compensation per month in the amount of P1.5 million for the occupancy and use of petitioner's land from the time it acquired ownership of the land on September 12, 1994 until actual vacation by respondents; and
- 4) ordering respondents, jointly and severally, to pay attorney's fees of P250,000.00 plus 20 percent of amounts or value actually recovered.

In its Answer,<sup>[9]</sup> respondent Uniwide alleged that on July 15, 1988, it entered into a Contract of Lease<sup>[10]</sup> with respondent Baello involving a parcel of land with an area of about 2,834 square meters, located in Caloocan City, which property is covered by TCT No. 35788 in the name of Baello. As a consequence of the lease agreement, it constructed a building worth at least P200,000,000.00 on the said property. It prayed that judgment be rendered dismissing the complaint for lack of cause of action against Uniwide; declaring the contract of lease as valid and enforceable; and ordering petitioner to pay Uniwide moral and exemplary damages, among others.

On the other hand, respondent Baello filed a Motion to Dismiss<sup>9</sup> on the grounds that the complaint stated no cause of action, and that the demand for annulment of title and/or conveyance, whether grounded upon the commission of fraud or upon a constructive trust, has prescribed, and is barred by laches.

In an Order<sup>[11]</sup> dated December 5, 1995, the trial court denied Baello's motion to dismiss for lack of merit. Baello's motion for reconsideration was likewise denied for lack of merit in an Order<sup>[12]</sup> dated February 27, 1996.

Subsequently, respondent Baello filed an Answer,<sup>[13]</sup> alleging that the subject

property was bequeathed to her through a will by her adoptive mother, Jacoba Galauran. She alleged that during the lifetime of Jacoba Galauran, the subject property was originally surveyed on January 24-26, 1923<sup>[14]</sup> and, thereafter, on December 29, 1924.<sup>[15]</sup> Baello alleged that after Jacoba Galauran died in 1952, her will was duly approved by the probate court, the Court of First Instance, Pasig, Rizal. Baello stated that she registered the subject property in her name, and TCT No. (35788) 12754 was issued in her favor on September 6, 1954. In 1959, she had the subject property surveyed.<sup>[16]</sup> On July 15, 1988, she entered into a Contract of Lease<sup>[17]</sup> with respondent Uniwide, which erected in full public view the building it presently occupies. Baello stated that she has been religiously paying realty taxes for the subject property.<sup>[18]</sup>

Baello alleged that during her open and public possession of the subject property spanning over 40 years, nobody came forward to contest her title thereto. It was only in September 1994, when Baello was absent from the Philippines that petitioner demanded rentals from Uniwide, asserting ownership over the land.

As an affirmative defense, respondent Baello contended that the Complaint should be dismissed as she enjoys a superior right over the subject property because the registration of her title predates the registration of petitioner's title by at least 40 years.

The deposition of respondent Baello, which was taken on October 1, 1998 at the Philippine Consular Office in San Francisco, California, United States of America, affirmed the same facts stated in her Answer.

On October 2, 2000, the trial court rendered a Decision<sup>[19]</sup> in favor of petitioner. The trial court stated that the evidence for petitioner showed that it is the rightful owner of the subject lot covered by TCT No. 285312 of the Register of Deeds of Caloocan City. The lot was purchased by petitioner from Felisa D. Bonifacio, who became the owner thereof by virtue of her petition for segregation of the subject property from Original Certificate of Title (OCT) No. 994 of the Register of Deeds of Rizal in LRC Case No. C-3288.<sup>[20]</sup> The trial court found no reason to deviate from the ruling of Judge Geronimo Mangay in LRC Case No. C-3288, which was rendered after receiving all the evidence, including that of Engineer Elpidio de Lara, who testified under oath that his office, the Technical Services of the Department of Environment and Natural Resources (DENR), had not previously issued the technical description appearing on TCT No. 265777 (Felisa Bonifacio's title), and he also certified to the records of the technical description of Lot 23-A-4-B-2-A-3-A of subdivision plan Psd 706 on July 9, 1990, which refers to the same technical description appearing on Felisa D. Bonifacio's title. The trial court stated that it cannot question the Order in LRC Case No. C-3288 issued by a co-equal court in this respect, considering that Regional Trial Courts now have the authority to act not only on applications for original registration, but also over all petitions filed after original registration of title, with power to hear and determine all questions arising from such applications or petitions.

Moreover, the trial court stated that aside from the complete records of the land registration proceedings (LRC Case No. C-3288), petitioner presented witnesses to

support its causes of action, thus:

Norberto Vasquez, Deputy Register of Deeds of Caloocan City, testified that TCT No. 28531<sup>[20]</sup> (Exh. "A") in the name of the plaintiff VSD Realty and Development Corporation originated from TCT No. 265777 (Exh. "B") in the name of Felisa D. Bonifacio; that Felisa Bonifacio sold the property to VSD Realty and Development Corporation, and the same was registered under the name of the plaintiff; that Felisa Bonifacio came in possession of TCT No. 265777 by virtue of an Order (Exh. "C") issued by the Regional Trial Court, Branch 125, Kalookan City, dated May 31, 1993; that the Registry of Deeds received the Order of the RTC Branch 125 and by virtue of said Order with finality, their office issued TCT No. 265777 in the name of Felisa D. Bonifacio; that their office only issue[s] titles if there is a court Order. He related the [derivative] documents that were filed before their office such as the Court Order dated October 8, 1992, in L.R.C. Case No. 3288; the Certificate of finality to said Order dated April 6, 1999 and the subdivision plan to Lot No. 23-A-4-B-2-A-3-A.

Evelyn Celzo, a Geodetic Engineer, DENR, NCR, testified that she was the one who conducted the survey of the property of Felisa D. Bonifacio covered by TCT No. 265777; that she prepared a Verification Plan (Exh. "D") duly approved by the DENR, NCR, Director; that before the survey was conducted, she notified the adjoining owners that a survey will be conducted on the property of Felisa Bonifacio; that she was a witness in that case filed by Felisa Bonifacio vs. Syjuco before RTC Br. 125, Kalookan City. She attested to the verification survey she conducted of the subject lot as directed by her office. She confirmed that the technical description approved and recorded in their office is Lot 23-A-4-B-2-A-3-A of Psd 706. The DENR, NCR keeps a record of all technical descriptions approved and authorized by it under the Torrens system. She pointed out that only one (1) technical description is allowed for one particular lot. The subject technical description was submitted as Exhibit "F" for the plaintiff.

On January 27, 1997, witness Evelyn Celzo was subjected for cross-examination.

Witness testified that a request for verification survey was made by Felisa D. Bonifacio addressed to the Chief, Survey Division of the DENR, NCR; that a survey order was given to their office by the Regional Technical Director, Lands Management Service on August 22, 1994; that they conducted the verification survey at the actual site of the property of Felisa D. Bonifacio; that they checked all the boundaries of the property where they conducted the verification survey; that they likewise conducted actual visual inspection on the monuments; that the whole area covered by TCT No. 265777 is occupied by Uniwide Sales, Inc.; that she went to the office of the Registry of Deeds and inquired as to the address of the owner of Uniwide Sales, Inc., but she was told by the people there that they do not know; that when she conducted the survey, she tried to inform the owner of the adjoining buildings, but nobody answered; that only one became the subject of the verification survey

and this is the lot covered by TCT No. 265777 in the name of Felisa Bonifacio.

Soccoro Andrade, in-charge of the records of Civil/LRC cases in Branch 125 of the Regional Trial Court, Caloocan City, appeared bringing with her the records. She identified the pages of L.R.C. Case No. 3288, submitted as Exhibit "G" in this case.

Atty. Kaulayao V. Faylona, Director and Corporate Secretary of VSD Realty and Development Corporation testified on the details that led to the purchase of subject property. He verified the records of L.R.C. Case No. C-3288, as well as the transcripts and exhibits submitted in the case. He checked with the Registry of Deeds and was satisfied that the title was clean. Uniwide Sales, Inc., through its counsel Fortun and Narvasa, stated that it was not the owner of the subject property. It was a mere lessee, but during their talks on possible amicable settlement, Uniwide had to reveal the identity and address of the owner. This matter was clearly stated in the letter of Fortun and Narvasa dated May 18, 1995. As suggested by defendant Uniwide, the instant case was filed on June 8, 1995, to include the alleged lessor of the land, Dolores Baello, care of ACCRA Law Office. He likewise testified on the damages suffered by VSD. Witness testified that plaintiff VSD Realty and Development Corporation filed the instant case against the defendants because plaintiff is the owner of the lot wherein Uniwide Sales is located x x x.<sup>[21]</sup>

Further, the trial court found that the technical description in respondent Baello's title is not the same as the technical description in petitioner's title. A mere reading of the technical description in petitioner's title and that in Baello's title would show that they are not one and the same.

The trial court averred that the technical description of the subject lot in petitioner's title is recorded with the Register of Deeds of Caloocan City.<sup>[22]</sup> It stated that Baello's claim to the same technical description cannot by itself alone be given weight, and the evidence offered by Baello is not enough.

The trial court held that from the evidence adduced, petitioner is the registered owner of TCT No. 275312, formerly TCT No. 265777 when Felisa D. Bonifacio was the registered owner, while respondent Baello is the registered owner of a parcel of land covered by TCT No. (35788) 12754 and respondent Uniwide is a mere lessee of the land. Baello is the holder of a title over a lot entirely different and not in anyway related to petitioner's title and its technical description. Petitioner proved its ownership and the identity of the subject property.

The dispositive portion of the trial court's decision reads:

WHEREFORE, in the light of the foregoing consideration, judgment is hereby rendered ordering the following: