

## THIRD DIVISION

**[ G.R. No. 163610, September 27, 2010 ]**

**HEIRS OF ENRIQUE TORING, REPRESENTED HEREIN BY MORIE TORING, PETITIONERS, VS. HEIRS OF TEODOSIA BOQUILAGA, REPRESENTED HEREIN BY PAULINO CADLAWON, CRISPIN ALBURO, VIVENCIO GOMEZ, EDUARDO CONCUERA AND PONCIANO NAILON, RESPONDENTS.**

### DECISION

**VILLARAMA, JR., J.:**

For review under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the Decision<sup>[1]</sup> dated July 11, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 70432 which affirmed the Decision<sup>[2]</sup> dated January 27, 1998 of the Regional Trial Court (RTC) of Bogu, Cebu, Branch 61 dismissing Civil Case No. BOGO-00105 except as to the land covered by reconstituted Transfer Certificate of Title (TCT) No. RT-3989 (T-16805) in the name of Enrique Toring, and the Resolution dated April 5, 2004 denying the motion for reconsideration.

The case antecedents:

On October 10, 1996, the heirs of Enrique Toring (petitioners) filed before the trial court a petition for "production, delivery, surrender of documents, annulment of document" against the heirs of Teodosia Boquilaga (respondents). The petition was subsequently amended to include as defendants Attys. Joseph Bernaldez, Earvin Estandarte and Marlo Cugas.

Petitioners alleged the following:

3. During the lifetime of the late Teodosia Boquilaga, and more particularly on June 3, 1927, said Teodosia Boquilaga sold to Enrique Toring now deceased, parcels of land for a consideration of Five Hundred and Eleven Pesos (P511.00), and particularly described as follows:

"Lot No. 1835, Cadastral Case No. 7, Cadastral Record No. 442, Decree No. 230740, with Original Certificate of Title No. 13720"

"Lot No. 2248, Cadastral Case No. 7, Cad. Record No. 442 Decree No. 231111, Original Certificate of Title No. 14057"

"Lot No. 2249, Cadastral Case No. 7, Cadastral Record No. 442, Decree No. 23112 (sic) [231112], Certificate of Title No.

14167"

"Lot No. 1834, Cadastral Case No. 7, Cadastral Record No. 442 Decree No. 230739, Original Certificate of [Title] No. 13719"

These voluntary dealings of the above described parcels of land is (sic) evidenced by a deed of absolute sale written in Spanish, hereto attach[ed] as annex "A";

4. This deed of absolute sale was duly registered with the [Register] of Deeds, and the fees for the registration were duly paid. Thereafter, *new Transfer [Certificates] of [Title] were issued by the Office of the [Register] of Deeds in the Province of Cebu, for all the parcels of land, in the name [of] Enrique Toring, and attached as annex "B" and made [an] integral part of this petition;*

5. That from the issuance of [Transfer Certificates] of Title, particularly August 20, 1927, plaintiffs have been in possession and religiously paid the real taxes due on said described lots, and collecting the proceeds of the fruits of the land. However, *during World War II, the canceled Original Certificate in the name of Teodosia [Boquilaga], and the Transfer [Certificates] of [Title] in the name of Enrique Toring in the books of the Register of Deeds were destroyed;*

6. That lately, while plaintiffs exercising their right of ownership over these parcels of land, defendants refused to share the proceeds and fruits of land on the reason that they owned the land. The matter was referred to the Office of the Barangay Captain, and in a conference, defendants presented Original Certificates of Title. Surprised by these Original [Certificates] of [Title], plaintiffs made verification from the Register of Deeds of the Province of Cebu, and from the Regional Trial Court Branch 16, Cebu City, and discovered that *defendants representing the heirs of Teodosia Boquilaga filed a petition for reconstitution of title, and succeeded in having the original certificates of title reconstituted covering the four parcels of land in the name of Teodosia [Boquilaga].* The petition, the decision, the reconstituted titles, and the certification to file action are hereto attached as annexes "C", "D", "E", and "F" and as part and parcel of this petition;

7. *Plaintiffs were never served any notice of the petition for reconstitution of the Original Certificates* because the persons alleged in the petition as the actual possessor, or the adjacent lot owner alleged in the petition have long been dead, thus resulting into the success of the petition, and the failure of plaintiffs to interpose their opposition;

8. Meanwhile, in an earlier date, lot no. 1834 was reconstituted and new Certificate of Title was issued in the name of Enrique Toring attached hereto as annex "G", and as a part of this petition;

9. *For the services rendered by the [law] office in the reconstitution of*

*the original certificate of titles, lot 1835 was transferred in the name of defendants Attorneys Joseph Bernaldez, Ervin B. Estandarte, and Marlo Cugtas under transfer certificate of title no. 97615, attached and made an integral part of this petition as annex "H";*

10. Under P.D. 1529, registration is the operative act that conveys and affects the land, and that there is a need by plaintiffs to confirm the operative act made in the year 1927, and thus intend to register the sale with the Register of Deeds;

11. *It is imperative for plaintiffs to take hold of the reconstituted Original [Certificates] of [Title] and the Transfer Certificates of Title 97615 now in possession with defendants to register and confirm the sale made in the year 1927, which documents are unjustifiably withheld by defendants;*

x x x x<sup>[3]</sup> (Italics supplied.)

Petitioners thus sought the issuance of an order directing the defendants to deliver, produce and surrender the reconstituted Original Certificates of Title (OCTs) (RO-13240, RO-13238 and RO-13239) and TCT No. 97615. Should the defendants refuse to deliver the said titles, it is prayed that the court (a) declare OCT Nos. RO-13240, RO-13238 and RO-13239 and TCT No. 97615 null and void; (b) direct the Register of Deeds to cancel said titles and in lieu thereof issue new TCTs in the name of Enrique Toring; and (c) declare OCT No. 13237 null and void for being cancelled by TCT No. RT-3989.<sup>[4]</sup>

In their Answer with Motion to Hear Affirmative Defenses, defendants denied petitioners' allegations and asserted that it was the heirs of Teodosia Boquilaga who have been in possession of the land since time immemorial, enjoying the fruits thereof and paying the taxes due thereon as evidenced by tax receipts issued for the years 1992 to 1995. They likewise denied "for want of knowledge or information sufficient to form a belief as to the truth x x x relative to the original certificate of title in the name of Teodosia Boquilaga which was cancelled and the transfer certificate of title in the name of Enrique Toring were destroyed in the advent of the second world war." Prior to the reconstitution by defendants, it was verified from the Register of Deeds of the Province of Cebu and the Land Registration Authority (LRA) that no such titles were issued covering the subject lots; petitioners have yet to register their alleged deed of sale but that is now not proper. Defendants averred that Lot Nos. 1834, 2248 and 2249 rightfully belong to the heirs of Teodosia Boquilaga, while the lot covered by TCT No. 97615 (Lot No. 1835) was acquired by Attys. Bernaldez, Estandarte and Cugtas in good faith and in consideration of services rendered, hence acquired by innocent third persons in good faith and for value. As special and affirmative defenses, defendants contended that the RTC has no jurisdiction in this case since the assessed value of the properties involved does not exceed P20,000.00, and that petitioners are guilty of laches for failing to act and take corrective measures with the Register of Deeds for sixty-nine (69) years on the alleged destruction of the documents.<sup>[5]</sup>

The parties agreed to submit the case for decision on the basis of position papers, memoranda/comment and other documentary evidence in support of their

respective claims.

On January 27, 1998, the trial court rendered its Decision dismissing the case on the ground that it cannot interfere with or render null and void the decision made by a co-equal and coordinate branch of the court which ordered the reconstitution of the OCTs in the name of Teodosia Boquilaga. Under the circumstances, petitioners' owner's duplicate certificates of title in the name of Enrique Toring are deemed "overtaken by the reconstituted title[s]." Further, the trial court found petitioners guilty of laches in not reconstituting the original TCTs in the name of Enrique Toring and in not making any opposition to the reconstitution proceedings filed by the heirs of Teodosia Boquilaga. However, it was declared that the dismissal of the case will not affect the reconstituted TCT No. RT-3989 in the name of Enrique Toring.<sup>[6]</sup>

Aggrieved, petitioners appealed to the CA arguing that the trial court erred in concluding that the action is one for the annulment of the order of the court which granted reconstitution, when in truth the petitioners merely sought the delivery of the owner's duplicate copies of the reconstituted OCTs. They also faulted the trial court in failing to consider that the defendants' predecessor-in-interest had long ago sold the lots to Enrique Toring, which document of sale defendants have not denied, and therefore defendant-heirs are no longer owners. Petitioners further assailed the trial court in finding them guilty of laches despite recognizing the existence of the owner's duplicate of TCTs in the name of Enrique Toring; the submission by the petitioners of annexes in their Comment/Reply to defendants' memorandum showing that there were previous cases wherein petitioners have asserted and defended their right over the subject properties and prevailed; and the fact that the OCTs were reconstituted by defendants only in 1995 and the petitioners instituted this case in 1996.<sup>[7]</sup>

By Decision dated July 11, 2003, the CA dismissed the appeal and affirmed the trial court's ruling. It held that apart from the bare assertion that their predecessor-in-interest, Enrique Toring, purchased the subject lands from Teodosia Boquilaga for which TCTs in his name were issued but were lost during the last world war, petitioners have not established any right over the subject lands, and hence the reconstituted OCTs stand as strong evidence of ownership by the heirs of Teodosia Boquilaga. The appellate court likewise upheld the trial court's finding that petitioners were guilty of laches, citing their unexplained failure or neglect to have the alleged lost or destroyed TCTs reconstituted for more than fifty (50) years which weighs heavily against their claim and even bolsters the defendants-appellees' claim that no such titles really exist.<sup>[8]</sup>

A motion for reconsideration was filed by the petitioners but the CA denied the same in its Resolution<sup>[9]</sup> dated April 5, 2004.

Petitioners submit the following arguments in this petition for review on certiorari:

## I.

THE COURT OF APPEALS OVERLOOKED AND DISREGARDED CONCLUSIVE EVIDENCE ON RECORD THAT THE SUBJECT LANDS WERE ALREADY SOLD AS EARLY AS JUNE 3, 1927 BY TEODOSIA BOQUILAGA, RESPONDENTS'

PREDECESSOR, TO ENRIQUE TORING, PETITIONERS' PREDECESSOR, AS EVIDENCED BY THE ANCIENT DEED OF SALE IN SPANISH LANGUAGE DATED JUNE 3, 1927 - WHICH EVIDENCE, IF PROPERLY CONSIDERED, WOULD HAVE CHANGED THE OUTCOME OF THE CASE.

II.

THE COURT OF APPEALS OVERLOOKED AND DISREGARDED CONCLUSIVE EVIDENCE ON RECORD THAT THE PETITIONERS ARE IN ACTUAL POSSESSION OF THE ORIGINAL OWNERS' DUPLICATE TRANSFER CERTIFICATES OF TITLE IN THE NAME OF ENRIQUE TORING WHICH ARE GOOD PROOF OF PETITIONERS' OWNERSHIP OF SUBJECT LANDS - WHICH EVIDENCE, IF PROPERLY CONSIDERED, WOULD HAVE ALTERED THE OUTCOME OF THE CASE.

III.

THE COURT OF APPEALS OVERLOOKED THE FACT THAT THE TITLES THAT PETITIONERS HAD RECONSTITUTED WERE THE CANCELLED ORIGINAL CERTIFICATES OF TITLE IN THE NAME OF TEODOSIA BOQUILAGA WHICH DO NOT PROVE OWNERSHIP OF THE LANDS BECAUSE THEY WERE ALREADY CANCELLED BY ENRIQUE TORING'S TRANSFER CERTIFICATES OF TITLE.

IV.

THE COURT OF APPEALS ERRED IN HOLDING PETITIONERS GUILTY OF LACHES JUST BECAUSE THEY FAILED TO RECONSTITUTE TORING'S ORIGINAL TRANSFER CERTIFICATES OF TITLE ON FILE IN THE RECORDS OF THE REGISTRY OF DEEDS, IT APPEARING THAT THEY AND THEIR PREDECESSOR HAVE BEEN IN ACTUAL POSSESSION OF THE LAND SINCE 1927 AND ARE IN POSSESSION OF THE ORIGINAL OWNER'S DUPLICATE TRANSFER CERTIFICATES OF TITLE IN THE NAME OF THEIR PREDECESSOR, ENRIQUE TORING.

V.

THE COURT OF APPEALS ERRED IN NOT REVERSING THE TRIAL COURT'S RULING THAT THE COMPLAINT/PETITION FILED BY PETITIONERS WITH THE TRIAL COURT WAS TANTAMOUNT TO AN ACTION TO ASSAIL THE DECISION OF A CO-EQUAL COURT, IT APPEARING THAT THE SAID COMPLAINT/PETITION WAS MERELY TO COMPEL DELIVERY OR SURRENDER BY RESPONDENTS OF THE RECONSTITUTED CERTIFICATES OF TITLE.<sup>[10]</sup>

The issues raised are purely questions of fact that this Court cannot review in a petition filed under Rule 45. Ultimately, we are asked to determine the ownership of the subject lots originally registered in the name of Teodosia Boquilaga, respondents' predecessor-in-interest.

The CA declared that petitioners failed to establish any right over the lots other than