

## FIRST DIVISION

[ G.R. No. 170318, January 15, 2009 ]

**JOSEPH REMENTIZO, PETITIONER, VS. HEIRS OF PELAGIA VDA.  
DE MADARIETA, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

This petition for review<sup>[1]</sup> assails the 4 July 2005 Amended Decision<sup>[2]</sup> and 3 October 2005 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. SP No. 65286. The Court of Appeals set aside its 26 May 2004 Decision<sup>[4]</sup> by declaring void Emancipation Patent (EP) No. A-028390-H issued to petitioner Joseph Rementizo (Rementizo).

#### The Facts

The instant controversy stemmed from a Complaint for Annulment and Cancellation of Original Certificate of Title (OCT) No. EP-195 and EP No. A-028390-H filed by the late Pelagia Vda. De Madarieta (Madarieta) against Rementizo before the Department of Agrarian Reform Adjudication Board (DARAB) in Camiguin.

In her complaint, Madarieta claimed that she is the owner of a parcel of land declared in the name of her late husband Angel Madarieta (Angel), Lot No. 153-F with an area of 436 square meters situated in Tabulig, Poblacion, Mambajao, Camiguin. Madarieta alleged that Rementizo was a tenant of Roque Luspo (Luspo) and, as such, Rementizo was issued OCT No. EP-185 and OCT No. 174. Madarieta also alleged that the Department of Agrarian Reform (DAR) mistakenly included Lot No. 153-F as part of Luspo's property covered by Operation Land Transfer. As a result, EP No. A-028390-H was issued to Rementizo. By virtue of such emancipation patent, OCT No. EP-195 was registered in Rementizo's name. Madarieta further claimed that she had been deprived of her property without due process since she had not received any notice or information from the DAR relating to the transfer of ownership over the subject land to Rementizo.

In his answer, Rementizo claimed that he had been in possession of the subject land in the concept of an owner since 1987 and even constructed a house on the subject lot after the registration of the title. Rementizo denied that Lot No. 153-F is owned by Angel. Instead, the subject land was allegedly adjoining Lot No. 153 which is owned by Luspo. Rementizo further claimed that assuming Madarieta's allegations were true, Angel did not object to his possession of the subject land during the latter's lifetime considering that the subject land is just a few meters away from the Madarietas' house. Further, Rementizo asserted that, in instituting the case, Madarieta was guilty of laches and that the action had already prescribed.

On 22 December 1998, the Provincial Adjudicator<sup>[5]</sup> issued an Order declaring OCT No. EP-195 and EP No. A-028390-H null and void, and directing Rementizo or anyone in possession to vacate the subject property. The dispositive portion of this Order reads:

WHEREFORE, the Original Certificate of Title No. 195, EP No. A-028390-H issued in the name of the respondent is hereby ordered cancelled and/or revoked for being null and void ab initio, and the respondent or anybody in possession or occupation of subject land is hereby ordered to turn over subject land to the plaintiff and vacate the premises.

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

Rementizo appealed the Provincial Adjudicator's order to the DARAB-Central Office. On 7 February 2001, the DARAB-Central Office reversed the Provincial Adjudicator's order by ruling in favor of Rementizo, thus:

x x x After careful considerations, we find the appeal impressed with merit.

The records show that the subject land was placed under Operation Land Transfer, pursuant to P.D. No. 27. It must be pointed out that the coverage was made during the lifetime of Angel Madarieta who is the alleged declared owner of the land in question. There is no showing that the late Angel objected to the coverage. Consequently, OCT No. 195 was generated in favor of Respondent-Appellant who took possession thereof and even built his house thereon. All this while there was no objection to said occupation. Considering that the occupation is manifest, that the landholding of said Angel is proximate thereto, there can be no question that the occupancy of Respondent was known to the late Angel Madarieta, under whose alleged rights over said landholding, herein Petitioner-Appellee anchors her claim. Angel Madarieta failed to object to Respondent-Appellant's possession and occupation of the subject premises for a period of eleven (11) years; said inaction of alleged declared owner of the subject land only shows that Respondent's occupancy thereof was legitimate, and that the late Angel had no rights or claims thereon. Under the circumstances, the surviving wife's claim now of rights over said land on alleged non-notice of DAR coverage is untenable.

Moreover, an action to invalidate a Certificate of Title on the ground of fraud prescribes after one (1) year from the entry of the decree of registration. (Bishop vs. Court of Appeals, 208 SCRA 637). In this case, Petitioners (sic) inaction for more than eleven (11) years is inexcusable (Comero vs. Court of Appeals, 247 SCRA 291).

WHEREFORE, premises considered, the appealed decision is SET ASIDE. A new judgment is rendered.

1. Upholding the validity of Original Certificate of Title (CTC) No. 195, E.P. No. A-028390-H issued in favor of Respondent-Appellant Joseph Rementizo;

2. Nullifying the Order dated February 15, 1999, and Ordering the Plaintiff and all persons acting in her behalf to respect and maintain Respondent Rementizo's peaceful occupation of the land in question; and
3. Reinstating Respondent-Appellant over the subject land, if already ejected.

SO ORDERED.<sup>[7]</sup>

Madarieta filed a petition for review with the Court of Appeals under Rule 43 of the Rules of Court assailing the decision of the DARAB. Madarieta raised the following errors in the Court of Appeals:

1. The DARAB erred in holding that she had already learned of Rementizo's occupation and possession of the subject property for the last 11 years prior to the filing of the case, when EP No. A-028390-H was registered and the OCT was issued in 1987; and
2. The DARAB erred in holding that she committed "negligence" for failing to file the instant case within the prescriptive period.

Madarieta argued that she never knew that the subject land was part of her husband's estate. Madarieta averred that it was only on 21 November 1997, through a relocation survey, that she discovered that the land where Rementizo constructed his house was part of her husband's property. This discovery prompted Madarieta to file a complaint with the DARAB on 5 November 1998, or within 11 months and 14 days reckoned from such knowledge.

### **The Court of Appeals' Ruling**

In its Decision of 26 May 2004, the Court of Appeals held that when Madarieta filed an action on 5 November 1998, for the annulment and cancellation of Rementizo's title, more than 10 years had passed after the issuance of Rementizo's title rendering the title incontrovertible.

Madarieta sought reconsideration of the 26 May 2004 Decision, which the Court of Appeals partially granted in its Amended Decision of 4 July 2005. The Court of Appeals set aside its earlier decision of 26 May 2004.

In its Amended Decision, the appellate court applied the exception to the rule that an action for reconveyance of a fraudulently registered real property prescribes in 10 years. Citing *Bustarga v. Navo II*,<sup>[8]</sup> the appellate court held that Lot No. 153-F was erroneously awarded to Rementizo. The entire Lot No. 153 was indeed covered by the Operation Land Transfer. Hence, Lot No. 153 was subdivided into: (1) Lot No. 153-B, declared in the name of Alberto Estanilla; (2) Lot No. 153-C, declared in the name of Eusebio Arce; (3) Lot No. 153-D, declared in the name of Feliciano Tadlip; and (4) Lot Nos. 153-E and F, retained and declared in the name of Angel. Nowhere in the records is it shown that Rementizo was a beneficiary or tenant of Lot No. 153-F.

The Court of Appeals granted the petition insofar as the cancellation of EP No. A-028390-H was concerned. The appellate court opined that Madarieta still has to file the appropriate action in the Regional Trial Court, which has original jurisdiction in

actions after original registration, to have the subject OCT reconveyed by virtue of the issuance of a void emancipation patent.

The Court of Appeals disposed of the instant case, as follows:

WHEREFORE, the instant motion for reconsideration is PARTIALLY GRANTED. The Decision of this Court promulgated on May 26, 2004 is SET ASIDE. In lieu thereof, the herein discussion is adopted and a new judgment is entered, as follows:

WHEREFORE, the petition for review is GRANTED. The decision of the DARAB dated February 7, 2001 is REVERSED and SET ASIDE. Further, Emancipation Patent (EP) No. A-028390-H, covering Lot No. 153-F, issued to the private respondent, is declared NULL and VOID.

SO ORDERED.<sup>[9]</sup>

### **The Issue**

The crucial issue in this case is whether the action for the annulment of the emancipation patent, which ultimately seeks the reconveyance of the title issued to Rementizo, has already prescribed.

### **The Ruling of the Court**

The petition is meritorious.

In the present case, the DAR, which is presumed to have regularly performed its official function, awarded EP No. A-028390-H to Rementizo in 1987. Aside from this emancipation patent, two other emancipation patents and certificates of title (OCT Nos. 183 and 174) were issued to Rementizo covering two different parcels of land. This means that Rementizo was a qualified beneficiary of various parcels of agricultural land placed under the government's Operation Land Transfer.

The Court notes that Madarieta was claiming the subject property as the surviving spouse of Angel. While Madarieta presented evidence pointing out that Lot No. 153-F was historically owned and declared in the name of her deceased husband, Angel, there is nothing in the records showing that Angel during his lifetime opposed Rementizo's occupation and possession of the subject land. Madarieta and respondents started claiming the property after the death of Angel. Considering that the subject property was proximate to the Madarietas' residence, Angel could have questioned the legality of Rementizo's occupation over the land.

There is no dispute that Rementizo possessed the subject land in the concept of an owner since the issuance of EP No. A-028390-H and the registration of OCT No. EP-195 in 1987, when Angel was still alive. Rementizo even constructed a house on the subject property immediately thereafter. No objection was interposed by Angel against Rementizo's possession of the subject land. With Angel's unexplained silence or acquiescence, it may be concluded that Angel recognized the legitimacy of Rementizo's rights over the land. Otherwise, Angel could have challenged Rementizo's occupation of the subject property.