

## THIRD DIVISION

[ G.R. No. 168734, April 24, 2009 ]

**MARCELINO LOPEZ, FELISA LOPEZ, LEONARDO LOPEZ AND  
ZOILO LOPEZ, PETITIONERS, VS. JOSE ESQUIVEL, JR. AND  
CARLITO TALENS, RESPONDENTS.**

[G.R. NO. 170621]

**NOEL RUBBER & DEVELOPMENT CORP. DOING BUSINESS UNDER  
THE NAME OF "NORDEC PHIL." AND DR. POTENCIANO MALVAR,  
PETITIONERS, VS. JOSE ESQUIVEL, JR., CARLITO TALENS,  
MARCELINO LOPEZ, FELISA LOPEZ, LEONARDO LOPEZ, ZOILO  
LOPEZ, ATTY. SERGIO ANGELES, ATTY. GEORGE A. ANG CHENG,  
AND THE REGISTER OF DEEDS OF MARIKINA, RESPONDENTS.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

Before this Court are two consolidated<sup>[1]</sup> Petitions for Review on *Certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure.

The petitioners in **G.R. No. 168734**, namely, Marcelino, Felisa, Leonardo and Zoilo, all surnamed Lopez (Lopez siblings), seek to reverse and set aside the Decision<sup>[2]</sup> dated 14 February 2005 and Resolution<sup>[3]</sup> dated 27 June 2005 of the Court of Appeals in CA-G.R. CV No. 70200. In its assailed Decision, the appellate court affirmed *in toto* the Decision<sup>[4]</sup> dated 11 January 2001 of the Regional Trial Court (RTC) of Antipolo City, Branch 73, in Civil Case No. 96-4193, which (1) ordered the Lopez siblings to vacate and to convey to Jose Esquivel, Jr. (Esquivel) and Carlito Talens (Talens) a parcel of land, measuring 2.6950 hectares, situated in Barrio dela Paz, Antipolo, Rizal<sup>[5]</sup> (subject property); and (2) directed the Register of Deeds of Marikina, Metropolitan Manila,<sup>[6]</sup> to divest the Lopez siblings of their title over the subject property and to issue title over the same property in the names of Esquivel and Talens. In its assailed Resolution, the appellate court denied for lack of merit the Motion for Reconsideration of the Lopez siblings.

On the other hand, Noel Rubber and Development Corporation (Nordec Phil.) and Dr. Potenciano Malvar (Dr. Malvar), the petitioners in **G.R. No. 170621**, pray for the setting aside of the Resolutions dated 6 October 2005<sup>[7]</sup> and 16 November 2005<sup>[8]</sup> of the Court of Appeals in CA-G.R. SP No. 91428. The Court of Appeals, in its questioned Resolution dated 6 October 2005, dismissed for prematurity the Petition for Annulment of Judgment filed by Nordec Phil. and Dr. Malvar under Rule 47 of the 1997 Revised Rules of Civil Procedure, assailing the RTC Decision dated 11 January 2001 in Civil Case No. 96-4193, as they were not impleaded in said case, neither as indispensable nor necessary parties. The appellate court, in its other questioned

Resolution dated 16 November 2005, denied the Motion for Amendment and/or Reconsideration of Nordec Phil. and Dr. Malvar.

The antecedent facts of both Petitions are recounted as follows:

**G.R. No. 168734**

Hermogenes Lopez (Hermogenes) was the father of the Lopez siblings. During Hermogenes' lifetime, he applied with the Bureau of Lands for a homestead patent over a parcel of land, with an area of 19.4888 hectares, located in Barrio dela Paz, Antipolo, Rizal. Hermogenes' application was docketed as Homestead Patent No. 138612. After ascertaining that the land was free from claim of any private person, the Bureau of Lands approved Hermogenes' application. In 1939, Hermogenes submitted his final proof of compliance with the residency and cultivation requirements of the Public Land Act. As a matter of course, the aforesaid parcel of land was surveyed by a government surveyor and the resulting plan H-138612 was approved by the Director of Lands on 7 February 1939. The Director of Lands, thereafter, ordered the issuance of the homestead patent in Hermogenes' name. The patent was subsequently transmitted to the Register of Deeds of Rizal for transcription and issuance of the corresponding certificate of title<sup>[9]</sup> in Hermogenes' name.<sup>[10]</sup>

Unaware that he had already been awarded a homestead patent over the 19.4888-hectare land, Hermogenes sold<sup>[11]</sup> the same to Ambrocio Aguilar (Aguilar) by virtue of a Deed of Absolute Sale<sup>[12]</sup> dated 31 July 1959.

Years later, it was allegedly discovered that the subject property, with an area of 2.6950 hectares, was erroneously included in survey plan H-138612 of Hermogenes' property. The subject property supposedly formed part of the land owned by Lauro Hizon (Hizon), which adjoined that of Hermogenes. Resultantly, on 29 November 1965, Hermogenes executed a Quitclaim<sup>[13]</sup> over his rights and interests to the subject property<sup>[14]</sup> in Hizon's favor. Hizon, in turn, sold the subject property to Esquivel and Talens, as evidenced by a Deed of Absolute Sale of Unregistered Land<sup>[15]</sup> dated 26 August 1968.

Hermogenes died<sup>[16]</sup> on 20 August 1982. The Lopez siblings, as Hermogenes' heirs, filed an action with the RTC of Antipolo, Rizal, Branch 71, for the cancellation of the Deed of Absolute Sale dated 31 July 1959, executed between Hermogenes and Aguilar, and which involved the entire 19.4888-hectare land. It was docketed as **Civil Case No. 463-A**. In a Decision<sup>[17]</sup> dated 5 February 1985, the RTC declared the aforesaid Deed of Absolute Sale null and void *ab initio* as it was made in violation of Section 118 of Commonwealth Act No. 141, otherwise known as the Public Land Act, as amended. The said RTC Decision was affirmed *in toto* by the Court of Appeals in its Decision<sup>[18]</sup> dated 18 August 1987 in **CA-G.R. CV No. 06242**. In a Resolution<sup>[19]</sup> dated 13 April 1988, this Court denied Aguilar's appeal, docketed as **G.R. No. 81092**, for being filed late.

On 4 March 1993, on the basis of the Deed of Absolute Sale of Unregistered Land dated 26 August 1968 executed by Hizon in their favor, Esquivel and Talens filed an Application for Registration of the subject property with the RTC of Antipolo, Rizal,

Branch 73. It was docketed as **LRC Case No. 93-1211**. The Lopez siblings filed an opposition to the application in LRC Case No. 93-1211, asserting, among other grounds, that: (1) they did not know the persons and personal circumstances of Esquivel and Talens who were not the former's adjoining property owners; (2) the subject property, which Esquivel and Talens sought to have registered, was already titled under the Torrens system and covered by Transfer Certificates of Title (TCT) No. 207990 to No. 207997<sup>[20]</sup> in the names of the Lopez siblings; and (3) Tax Declaration No. 04-10304 of Esquivel and Talens covering the subject property was spurious. The Lopez siblings also moved for the dismissal of LRC Case No. 93-1211 invoking the final and executory Decision<sup>[21]</sup> dated 5 February 1985 of the RTC of Antipolo, Rizal, Branch 71, in Civil Case No. 463-A, which affirmed Hermogenes' title to the 19.4888-hectare land, that included the subject property.

The RTC rendered its Decision<sup>[22]</sup> on 4 April 1995 in LRC Case No. No. 93-1211, granting the Application for Registration of the subject property filed by Esquivel and Talens. Accordingly, the Lopez siblings filed a Motion for Reconsideration of the said RTC judgment. Acting on the Motion of the Lopez siblings, the RTC issued an Order<sup>[23]</sup> dated 23 May 1996 in which it corrected several errors in its earlier decision, *i.e.*, a typographical error on the area of the subject property, and a mistake in the conversion of the area of the subject property from square meters to hectares. The RTC also stated in the same Order that it could not direct the amendment of the TCTs in the names of the Lopez siblings, to exclude therefrom the subject property which was adjudged to Esquivel and Talens, as the RTC was sitting only as a land registration court. The RTC, thus, advised Esquivel and Talens to file an action for reconveyance of the subject property and only when Esquivel and Tales succeed in such action can they subsequently cause the registration of the subject property in their names.

Following the advice of the RTC, Esquivel and Talens filed with the RTC of Antipolo, Rizal, Branch 73, on 2 October 1996, a Complaint<sup>[24]</sup> for Reconveyance and Recovery of Possession of the subject property against the Lopez siblings. The case was docketed as **Civil Case No. 96-4193**.

In their Complaint, Esquivel and Talens alleged that when the Lopez siblings had the land they inherited from Hermogenes registered, they included the subject property, which Hermogenes already conveyed to Hizon in the Quitclaim dated 29 November 1965. Hence, the subject property was erroneously included in TCTs No. 207990 to No. 207997, issued by the Register of Deeds of Marikina, Metro Manila, in the names of the Lopez siblings. The subject property is presently occupied and in the physical possession of the Lopez siblings.<sup>[25]</sup>

In their Answer with Compulsory Counterclaim, the Lopez siblings denied all the allegations of Esquivel and Talens. As their special defenses, the Lopez siblings called attention to the non-compliance by Esquivel and Talens with Section 5, Rule 7 of the 1997 Revised Rules of Civil Procedure, on non-forum shopping, considering that there was another case before the RTC of Antipolo, Rizal, Branch 71,<sup>[26]</sup> also involving the subject property and the issues on the genuineness and validity of the Deed of Absolute Sale of Unregistered Land dated 26 August 1968, executed by Hizon in favor of Esquivel and Talens. The Lopez siblings further averred that the cause of action of Esquivel and Talens was already barred by the statute of

limitations and laches since they failed to assert their alleged rights to the subject property for 25 years.<sup>[27]</sup> The Lopez siblings additionally interposed that the Quitclaim involving the subject property, invoked by Esquivel and Talens, was ineffective, because by the time it was executed by Hermogenes in favor of Hizon on 29 November 1965, Hermogenes had already sold his entire 19.4888-hectare land, of which the subject property was part, to Aguilar on 31 July 1959. The Lopez siblings finally argued that the said Quitclaim was a nullity as it contravened Section 17<sup>[28]</sup> of the Public Land Act, as amended.<sup>[29]</sup>

On 11 January 2001, the RTC rendered a Decision in Civil Case 96-4193, granting the prayer of Esquivel and Talens for the reconveyance and recovery of possession of the subject property. The RTC held that the Deed of Absolute Sale dated 31 July 1959 between Hermogenes and Aguilar was already declared null and void *ab initio* by a court of competent jurisdiction. Therefore, the Lopez siblings were estopped from asserting said Deed to defeat the rights of Esquivel and Talens to the subject property. The RTC also ruled that Esquivel and Talens were not guilty of laches because as early as 1986, they had declared the subject property in their names for taxation purposes. Moreover, in 1993, Esquivel and Talens filed before the RTC an application for registration of the subject property, LRC Case No. 93-1222, where they obtained a favorable judgment. The RTC lastly found that the action for reconveyance of Esquivel and Talens was not yet barred by prescription as it was instituted within the 30-year prescriptive period.

The Lopez siblings filed an appeal of the aforementioned RTC Decision to the Court of Appeals, docketed as **CA-G.R. CV No. 70200**.

In their Appellants' Brief, the Lopez siblings assigned the following errors:

1. The trial court presided by Judge Mauricio M. Rivera erred in failing to dismiss this case for reconveyance on the grounds of: (a) prescription of action; and (b) laches;
2. [Hermogenes] was no longer the owner of the property when he executed the [quitclaim] dated [29 November 1965] because of the previous sale to third party on [31 July 1959];
3. There was (sic) no prior records in the Bureau of Lands or in the assessor's office that [Hizon], the predecessor-in-interest of the [Esquivel and Talens] is a landholder or a previous tax declarant;
4. The court *a quo* thru the same judge indiscreetly based primarily the appealed decision on its erroneous findings and conclusions in LRC Case No. 93-1211 contrary to the findings and conclusions of this Honorable Court among others in CA G.R. CV No. 07745, entitled *Ambrocio Aguilar v. Heirs of Fernando Gorospe, et al.* promulgated on 31 August 1989; in CA G.R. CV No. 06242, entitled *Marcelino Lopez, et al. v. Sps. Ambrocio [Aguilar] and Pelagia Viray* promulgated on 18 August 1987; and the findings and conclusions of the Supreme Court in G.R. No. 90380 entitled *Santos v. Court of Appeals* promulgated on 13 September 1990 among others.

5. Having already erred in favor of the [Esquivel and Talens], the same presiding judge of the trial court erringly proceeded to conduct hearing and to decide this case despite the consolidation of Civil Case No. 95-3693 entitled *Angelina Hizon, et al. v. Carlito Talens, et al.*, involving the same subject property and the efficacy and validity of the [quitclaim] solely relied upon by the [Esquivel and Talens].<sup>[30]</sup>

On 14 February 2005, the Court of Appeals rendered its Decision dismissing the appeal of the Lopez siblings and affirming *in toto* the RTC Decision dated 11 January 2001. The appellate court ruled that the Lopez siblings are barred by the doctrine of estoppel *in pais* from challenging the Quitclaim executed by Hermogenes over the subject property in favor of Hizon on 29 November 1965 on the ground that Hermogenes no longer owned the subject property at that time. The Lopez siblings themselves, as Hermogenes' heirs, filed with the RTC Civil Case No. 463-A for the cancellation of the Deed of Absolute Sale involving the 19.4888-hectare land (which included the subject property), executed by Hermogenes in favor of Aguilar on 31 July 1959. The Lopez siblings obtained a favorable judgment in Civil Case No. 463-A as the RTC therein declared void *ab initio* the aforesaid Deed of Absolute Sale. Hence, the Lopez siblings are now estopped from asserting the validity of the same Deed of Absolute Sale so as to void or nullify the Quitclaim executed by Hermogenes in favor of Aguilar, on which Esquivel and Talens based their claim to the subject property. Any deviation by the Lopez siblings from their previous position would definitely cause injury and prejudice to Esquivel and Talens, who acted relying on the knowledge that the previous sale between Hermogenes and Aguilar of the land, which included the subject property, was already adjudged void *ab initio*. The Lopez siblings, moreover, were only subrogated to whatever rights and interests their father Hermogenes still had over the subject property upon the latter's death in 1982. They were, thus, bound by the Quitclaim Hermogenes executed in 1965 involving the subject property.<sup>[31]</sup>

The Motion for Reconsideration of the aforesaid Decision filed by the Lopez siblings was denied by the Court of Appeals in a Resolution dated 27 June 2005.

The Lopez siblings are presently before this Court seeking the resolution of the following issues:

- I. Whether or not the [Court of Appeals] erred in applying the rule of estoppel in disregard of the law of the case doctrine (a) in the Decision promulgated on [13 September 1990] in G.R. No. 90380 entitled *Eduardo Santos v. The Honorable Court of Appeals*; (b) in the Decision **[E]n [B]anc** promulgated on [24 September 2002] in G.R. No. 123780, entitled *In Re: Petition Seeking for Clarification as to the Validity and Forceful Effect of Two (2) Final and Executory but conflicting Decisions of [this Court] Col. Pedro Cabuay, Jr. v. Marcelino Lopez, et al*; and (c) in the Decision promulgated on [5 March 2003] in G.R. No. 127827 entitled "*Eleuterio Lopez, et al. v. The Hon. Court of Appeals, Spouses Marcelino Lopez and Cristina Lopez, et al.*;"
- II. Whether or not the [appellate court] was correct in applying the rule of **estoppel in pais** in disregard of the preemptory and