611 Phil. 433

FIRST DIVISION

[G.R. No. 159131, July 27, 2009]

HEIRS OF TORIBIO WAGA, REPRESENTED BY MERBA A. WAGA, PETITIONERS, VS. ISABELO SACABIN, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review[1] of the Decision[2] dated 9 July 2003 of the Court of Appeals in CA-GR CV No. 71137. The Court of Appeals affirmed the Decision[3] dated 24 April 2001 of the Regional Trial Court of Misamis Oriental, Branch 44 (trial court).

The Facts

Petitioners' predecessor-in-interest, Toribio Waga, filed a Free Patent Application for Lot No. 450 containing an area of 4,960 sq.m. On 1 October 1965, Lot No. 450 was surveyed by a Cadastral Land Surveyor. On 25 September 1968, Free Patent No. 411315 and Original Certificate of Title No. P-8599 (OCT No. P-8599),[4] covering Lot No. 450, were issued in the name of the Heirs of Toribio Waga (petitioners). OCT No. P-8599 was registered in the Office of the Register of Deeds for the Province of Misamis Oriental on 29 August 1974.

On 26 December 1991, Isabelo Sacabin (respondent) filed a protest before the Department of Environment and Natural Resources (DENR), Region X, against the issuance of Free Patent No. 411315 and OCT No. P-8599 to petitioners and their subsequent registration. Respondent alleged that around 500 sq.m. portion of his land, identified as Lot No. 452 which is adjacent to Lot No. 450, had been erroneously included in OCT No. P-8599. The DENR ordered an investigation on the alleged encroachment on respondent's property. On 10 October 1996, the Regional Executive Director of the DENR, Region X, issued a decision[5] recommending that an action be taken by the Director of Lands for the annulment of Free Patent No. 411315 and OCT No. P-8599 issued to petitioners, segregating from Lot No. 450 the 790 sq.m. portion belonging to respondent.

When the Director of Lands failed to act on the recommendation, respondent filed on 9 October 1998 a complaint against petitioners for *Amendment of Original Certificate of Title, Ejectment, and Damages*. The Special Investigator who conducted the ocular inspection of the lots of the parties testified that he found seven fifty-year old coconut trees planted in a straight line and forming a common natural boundary between the lots of the parties. In his report, the Special Investigator found that respondent's lot included the disputed 790 sq.m. portion.

The trial court found that respondent and his predecessors-in-interest have been in possession of Lot No. 452, including the disputed 790 sq.m. portion, in an open, continuous, peaceful, and adverse manner since 1940. Since respondent and his predecessors-in-interest have been in possession of Lot No. 452, including the disputed 790 sq.m. portion, for more than 30 years in peaceful, open, continuous and adverse manner and in the concept of owner, then the subject land has become private property of respondent by operation of law.

On 24 April 2001, the trial court rendered a decision, the dispositive portion of which reads:

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered in favor of plaintiff (Isabelo Sacabin) and against the defendants (Heirs of Toribio Waga, represented by Nellie W. Villamor and Elves Galarosa). Defendants are ordered:
>
> 1) To segregate from OCT No. P-8599 reconvey that portion belonging to plaintiff with an area of 790 sq. meters, more or less;
>
> 2) That defendant Elves Galarosa and all defendants occupying inside or in possession of that portion belonging to plaintiff are ordered to vacate therefrom and turn-over the same to plaintiff;
>
> 3) To pay, jointly and severally, the sum of
>
> a) P50,000.00 - for damages b) P30,000.00 - for attorney's fees c) P10,000.00 - for litigation 4) To pay the cost.
>
> SO ORDERED.[6]

Petitioners appealed the trial court's decision to the Court of Appeals, which affirmed the decision. Hence, this petition.

The Court of Appeals' Ruling

The Court of Appeals held that the action filed by respondent was not intended to defeat the indefeasibility of the title of petitioners but merely to correct the area covered by their title since it encroached on respondent's property. Settled is the rule that a person, whose certificate of title included by mistake or oversight the land owned by another, does not become the owner of such land by virtue of the certificate alone. The Torrens System is intended to guarantee the integrity and conclusiveness of the certificate of registration but it is not intended to perpetrate fraud against the real owner of the registered land. The certificate of title cannot be used to protect a usurper from the true owner.

As regards the rule on the indefeasibility of the Torrens title after one year from the decree of registration, the Court of Appeals held that the one-year prescriptive

period is not applicable in this case since there is no collateral or direct attack made against petitioners' title but merely a petition for amendment or correction of the true area covered by petitioners' title.

The Issue

The primary issue in this case is whether the complaint for amendment of OCT No. P-8599, which seeks the reconveyance of the disputed property, has already prescribed.

The Ruling of the Court

We find the petition without merit.

Respondent's Possession of Land Since 1940 is Uncontroverted

The DENR and the trial court's finding that respondent and his predecessors-in-interest have been in possession of Lot No. 452, including the disputed 790 sq.m. portion, in an open, continuous, peaceful, and adverse manner since 1940 is uncontroverted. To defeat the claim of respondent, petitioners relied primarily on their certificate of title which includes the disputed 790 sq.m. portion.

The Special Investigator from the DENR who conducted the second investigation in 1996 testified that the disputed 790 sq.m. portion is part of respondent's property. The Geodetic Engineer who assisted the investigation and conducted a survey of the adjoining properties of the parties also found that the disputed 790 sq.m. portion rightfully belongs to respondent. Respondent offered as evidence the sketch plan[7] of the adjoining properties prepared by the Geodetic Engineer, which clearly shows that the disputed 790 sq.m. portion is within the property of respondent. Taking into consideration the seven fifty-year old coconut trees planted in a straight line which form a common natural boundary between the lots of the parties, the sketch plan clearly shows that the disputed 790 sq.m. portion is within the side of respondent's property, and is part of Lot No. 452. Another DENR employee who assisted in the ocular inspection of the properties testified that the petitioners and respondent admitted the existence of the common boundary between their lots.[8]

Prescriptive Period Not Applicable

Petitioners contend that respondent's action is barred by prescription. Petitioners maintain that their OCT No. P-8599, which was issued in 1968 and registered in the Register of Deeds in 1974, is already indefeasible. They allege that when respondent filed his protest on 26 December 1991, or 17 years after the registration of OCT No. P-8599, it was already too late to question the validity of petitioners' certificate of title.

Indeed, respondent filed his claim to a portion of Lot No. 450 through a protest before the DENR only on 26 December 1991 because it was only in that year that respondent learned that a portion of his property was inadvertently included in petitioners' certificate of title. Petitioners themselves came to know about the exact boundaries of Lot No. 450 and the inclusion of the disputed portion in their certificate of title only in 1991 when they subdivided said land for partition among