

## FIRST DIVISION

[ G.R. No. 163566, February 19, 2008 ]

**RAYMUNDO and PERLA DE GUZMAN, Petitioners, vs. PRAXIDES J. AGBAGALA, Respondent.**

### D E C I S I O N

**CORONA, J.:**

This is a petition for review on certiorari<sup>[1]</sup> of a decision<sup>[2]</sup> and resolution<sup>[3]</sup> of the Court of Appeals (CA) dated October 14, 2003 and April 20, 2004, respectively, in CA-G.R. CV No. 55238 which affirmed the decision of the Regional Trial Court (RTC), Lingayen, Pangasinan, Branch 37 dated May 30, 1996 in Civil Case No. 16516.

The spouses Elias P. Javier and Maria Sison died on May 8, 1942 and July 1936, respectively, both in Lingayen, Pangasinan. They were survived by their six children, namely: Conrado Javier, respondent Praxides Javier Agbagala, Nicasio Javier, Carmen Javier, Encarnacion Javier Ongnoy<sup>[4]</sup> and Juana Javier. They left 13 parcels of land which their children inherited and divided among themselves in a public document of extrajudicial partition dated June 29, 1948. Five of the parcels of land<sup>[5]</sup> were inherited by Carmen. On February 25, 1984, she died single, without any compulsory heir and survived only by her sisters Encarnacion, respondent Praxides, Juana and brother Nicasio.<sup>[6]</sup>

According to respondent and her daughter, Milagros Agbagala Gutierrez, one afternoon sometime in mid-1987, a certain Rosing Cruz went to their house to borrow P30,000 from Milagros. Rosing offered as collateral a document which turned out to be a deed of donation dated January 25, 1977 purportedly signed by Carmen in favor of her niece Madelene Javier Cruz, daughter of Juana and sister-in-law of Rosing. Milagros told her (Rosing) that she had no money to lend. Thereafter, Milagros, upon the request of respondent, went to the Register of Deeds in Lingayen, Pangasinan to verify the existence of such donation. She found out that it was indeed duly registered. It was the first time respondent came to know of such donation and the transfer of Carmen's properties to their niece Madelene.<sup>[7]</sup>

According to Madelene, she lived in her Aunt Carmen's house<sup>[8]</sup> and had been her companion since she was four years old. She transferred to Manila only when she graduated in 1970. On January 25, 1977, Carmen executed the deed of donation in her favor. She was present when all the signatories thereon, including the notary public, signed the document. From that time on, she received the rentals of the properties covered by the donation. Carmen even informed her tenants that Madelene would inherit the properties upon her death.<sup>[9]</sup>

On November 18, 1987,<sup>[10]</sup> respondent filed civil case no. 16516 against Madelene praying that the deed of donation be nullified, as well as the subsequent transfers to

other parties of the properties covered by the spurious donation.<sup>[11]</sup> An amended complaint was filed on September 15, 1988<sup>[12]</sup> to include the transferees<sup>[13]</sup> of the properties including petitioner spouses Raymundo and Perla de Guzman, who were the transferees of the land located at Tampac, Aguilar, Pangasinan.<sup>[14]</sup>

Respondent claimed that the deed of donation was fake. This was confirmed by the handwriting expert of the National Bureau of Investigation, Rogelio G. Azores,<sup>[15]</sup> who examined the document and compared it with several documents bearing the signature of Carmen. He found that the purported signature of the late Carmen on the deed of donation was forged.<sup>[16]</sup>

Petitioners filed their answer dated November 28, 1989.<sup>[17]</sup> They claimed that they applied for a free patent over the subject area on August 10, 1987 and on November 26, 1987, they were issued free patent no. 165790.<sup>[18]</sup> On December 11, 1987, Original Certificate of Title (OCT) No. P-30187 was registered in their name. During the trial, they also presented a tax declaration and realty tax receipts from 1985 to 1990 issued to them.<sup>[19]</sup>

In a decision dated May 30, 1996, the RTC declared the deed of donation in favor of Madelene null and void *ab initio*, canceled the deeds of sale executed by Madelene in favor of the defendants,<sup>[20]</sup> declared null and void OCT No. P-30187 in the name of petitioners and directed all the defendants to jointly and severally pay respondent P6,000 as attorney's fees and litigation expenses and each of the defendants to pay respondent P1,000 as nominal damages. It further ruled that the properties subject of the annulled documents should revert back to the intestate estate of Carmen.<sup>[21]</sup>

In a decision promulgated on October 14, 2003, the CA affirmed the decision of the RTC. It denied reconsideration in a resolution promulgated on April 20, 2004.

Hence this petition raising the lone issue of whether OCT No. P-30187 was correctly nullified considering that it cannot be the subject of collateral attack under Section 48 of PD 1529.<sup>[22]</sup>

Petitioners argue that at the time of the filing of the amended complaint on September 15, 1988, OCT No. P-30187 had already been issued in their name. Thus this certificate of title can only be nullified in an action directly attacking its validity.

Respondent counters that at the time the amended complaint was filed, OCT No. P-30187 (which was issued on December 11, 1987) was not yet indefeasible since less than one year had lapsed. Furthermore, she asserts that the doctrine of indefeasibility does not apply if the free patent is null and void *ab initio*.

We agree with respondent.

Sections 32 and 48 of PD 1529 state:

Sec. 32. Review of decree of registration; Innocent purchaser for value.  
• The decree of registration shall not be reopened or revised by reason of absence, minority, or other disability of any person adversely affected thereby, nor by any proceeding in any court for reversing judgment,

subject, however, to the right of any person, including the government and the branches thereof, deprived of land or of any estate or interest therein by such adjudication or confirmation of title obtained by actual fraud, to file in the proper [court] a petition for reopening and review of the decree of registration not later than one year from and after the date of the entry of such decree of registration, but in no case shall such petition be entertained by the court where an innocent purchaser for value has acquired the land or an interest therein whose rights may be prejudiced. Whenever the phrase "innocent purchaser for value" or an equivalent phrase occurs in this Decree, it shall be deemed to include an innocent lessee, mortgagee, or other encumbrancer for value.

**Upon the expiration of said period of one year, the decree of registration and the certificate of title issued shall become incontrovertible.** Any person aggrieved by such decree of registration in any case may pursue his remedy by action for damages against the applicant or any other person responsible for the fraud.

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SEC. 48. Certificate not subject to collateral attack. • A **certificate of title shall not be subject to collateral attack.** It cannot be altered, modified, or canceled except in a direct proceeding in accordance with law. (Emphasis supplied)

Indeed, a decree of registration or patent and the certificate of title issued pursuant thereto may be attacked on the ground of falsification or fraud within one year from the date of their issuance. Such an attack must be direct and not by a collateral proceeding.<sup>[23]</sup> The rationale is this:

xxx [The] public should be able to rely on a registered title. The Torrens System was adopted in this country because it was believed to be the most effective measure to guarantee the integrity of land titles and to protect their indefeasibility once the claim of ownership is established and recognized.<sup>[24]</sup>

An action is deemed an attack on a title when the object of the action or proceeding is to nullify the title and thus challenge the judgment pursuant to which the title was decreed. The attack is direct when the object of the action is to annul or set aside such judgment, or enjoin its enforcement. On the other hand, the attack is indirect or collateral when, in an action to obtain a different relief, an attack on the judgment is nevertheless made as an incident thereof.<sup>[25]</sup>

In the present case, the attack on OCT No. P-30187 was merely collateral because the action was principally for the declaration of nullity of the deed of donation and the other deeds of conveyance which followed.

However, the principle of indefeasibility does not apply when the patent and the title based thereon are null and void. An action to declare the nullity of a void title does not prescribe and is susceptible to direct, as well as to collateral, attack.<sup>[26]</sup> OCT No. P-30187 was registered on the basis of a free patent which the RTC ruled was issued by the Director of Lands without authority.<sup>[27]</sup> The petitioners falsely claimed that