

FIRST DIVISION

[G.R. NO. 154988, June 21, 2007]

**FELISA M. JARAVATA, PETITIONER, VS. MA. DIANA KAROLUS
AND GRACE V. KUHAIL, RESPONDENTS.**

DECISION

AZCUNA, J.:

Before the Court is a petition for review on *certiorari* challenging the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 60953 dated January 31, 2002 which reversed and set aside the Decision^[2] of the Regional Trial Court (RTC), Branch 72, Olongapo City dated December 18, 1997 in Civil Case No. 298-0-96; and the CA Resolution^[3] dated August 30, 2002 denying petitioner's motion for reconsideration.

The Facts

The case stemmed from an action for reconveyance and declaration of nullity of titles and damages filed by petitioner on September 10, 1996 before the RTC of Olongapo City alleging that she is the lawful owner and actual occupant of a parcel of land situated in Cawag, Subic, Zambales with an area of 83,931 square meters. The said lot, covered by Psu-248111,^[4] was subsequently consolidated with other parcels of land (Psu-248109 and 248110) and further subdivided into various lots as evidenced by Consolidation and Subdivision Plan No. Ccs-037114-000385.^[5] The property was subdivided into three lots, namely, Lot 1 with an area of 41,571 sq. m., Lot 2 covering 31,765 sq. m., and Lot 3 with an area of 12,182 sq. m. Lot 3 was thereafter titled under petitioner's name in Original Certificate of Title (OCT) No. P-11781^[6] issued on March 3, 1993.

In her complaint, it was narrated that as early as 1950, petitioner and her predecessors-in-interest have been in actual, continuous, open, and public possession of Lots 1, 2, and 3 in the concept of an owner. In addition to the uninterrupted physical possession, petitioner averred that she had planted and cultivated the subject parcels of land and had declared the same for taxation purposes.

Sometime in 1992, petitioner discovered that her relatives, herein respondents, fraudulently and illegally secured titles over Lots 1 and 2. Petitioner recounted that respondent Karolus, through fraud and misrepresentation, was able to obtain approval, in her name, of Free Patent No. (III-3) 008888^[7] on July 11, 1988 and for which OCT No. P-9447 was issued on September 12, 1988 by the Register of Deeds of Zambales involving an area of 41,505 sq. m. It was further alleged that petitioner's Lot 1 overlapped with the property registered in the name of respondent Karolus.

Moreover, respondent Kuhail, also purportedly through fraud and misrepresentation, was granted Free Patent No. (III-3) 008889 on July 12, 1988, for which OCT No. P-9448 was issued by the Register of Deeds of Zambales on September 12, 1988. The property, with an area of 33,476 sq. m., is supposedly identical to or overlaps with Lot 2 of the petitioner.

Petitioner likewise contended that although respondents Karolus and Kuhail were issued Tax Declaration Nos. 008-0477^[8] and 008-0473,^[9] respectively, said respondents have not paid real estate taxes thereon from the time of the declaration of the properties as stated in a Certification^[10] dated May 5, 1993, issued by the Office of the Treasurer of Subic, Zambales.

Furthermore, petitioner asseverated that the free patents issued to respondents should be declared null and void ab initio on the grounds that respondents or any of their alleged predecessors-in-interest have never been in possession of the contested lots; that the titles to both lots were secured through fraud and misrepresentation; and that respondents were never qualified to be grantees of free patents in 1988 on account of their age and citizenship.

Lastly, petitioner insisted that as early as 1980 and pursuant to existing jurisprudence, she became owner, ipso facto and by operation of law, of the disputed parcels of land on account of her open and continuous possession and cultivation for more than 30 years, her payment of taxes thereon, and her exercise of all attributes of ownership over said properties. Petitioner reasoned, therefore, that the disputed lots ceased to be part of the public domain and beyond the authority of the Director of Lands and the Department of Environment and Natural Resources to dispose of or award as free patents to third parties.

In their answer to the complaint, respondents claimed, among others, that (1) they are Filipino citizens and permanent residents of Angeles City; (2) the issuance of free patents in their names was made in accordance with law and without any fraud or misrepresentation; (3) the areas covered by OCT Nos. P-9447 and P-9448 do not overlap with any area covered by petitioner's property; (4) the real estate taxes and other assessments on the questioned lots were paid; (5) respondents had been in possession of the parcels of land until they were partially disposed by the petitioner and her counsel; and (6) the government personnel involved in the processing and issuance of the titles did their duties in the regular performance of their respective functions.

As affirmative and special defenses, respondents argued that petitioner's action for reconveyance had already prescribed since it was admitted in her complaint that she came to know of the existence of the titles in the early part of 1992. Accordingly, the four-year prescriptive period from the discovery of fraud had already prescribed. On the declaration of nullity of the torrens titles, respondents averred that petitioner had no cause of action because the matter may only be raised by the government.

As compulsory counterclaims, respondents alleged that sometime in August 1995, petitioner, through stealth and strategy, forcibly entered the areas covered by the torrens titles of respondents, ousting the latter from their lawful possession and despite demands, refused to vacate the said area.

On November 11, 1996, respondents filed a third-party complaint against Rudegelio D. Tacorda, petitioner's counsel.

On December 3, 1996, petitioner served upon the respondents and their counsel two separate and different sets of written interrogatories. Respondents filed their objection to the written interrogatories. On December 18, 1996, Tacorda likewise served upon respondents and their counsel separate and different sets of written interrogatories. In an Order dated February 19, 1997, the RTC denied the objections interposed by the respondents and allowed petitioner's written interrogatories.

On March 2, 1997, respondents filed a manifestation and compliance dated March 2, 1997 attaching their answers thereto to the written interrogatories.

On April 24, 1997, petitioner and Tacorda filed a joint omnibus motion^[11] primarily to compel the respondents to fully and completely answer their written interrogatories.

In an Order^[12] dated December 8, 1997, the RTC declared respondents in default in accordance with Rule 29, Section 3 (c) of the Revised Rules of Court for their failure to fully answer the written interrogatories in the principal action, and for their refusal to answer the written interrogatories in the third-party complaint.

On December 18, 1997, the RTC rendered judgment in favor of the petitioner. The dispositive portion of the decision reads:

On the basis of the herein facts taken to have been established and proved in evidence and upon mandate of Section 3 (c) and Section 5 of Rule 29 of the Rules of Court, this Court hereby renders judgment by default in favor of plaintiff Felisa Jaravata and third-party defendant Rudegelio Tagorda and against defendants Maria Diana Karolus and Grace Kuhail as follows:

1) Declaring plaintiff Felisa M. Jaravata the lawful and true owner of the parcels of land known as Lot Nos. 1 and 2 of the Consolidation [and] Subdivision Plan CCs-037114-000385 which are the parcels of land covered by OCT No. P-9447, now TCT No. T-49032, and OCT No. P-9448 of the Register of Deeds of Zambales registered in their names, respectively, of defendants Maria Diana Karolus and Grace Kuhail;

2) Declaring as null and void said OCT No. P-9447 issued to Maria Diana Karolus as well as TCT No. T-49032 derived therefrom in the name of Imelda Villareal and other derivative titles thereof; declaring as null and void OCT No. P-9448 issued to Grace Kuhail and any derivative titles thereof; and holding that said defendants Karolus and Kuhail did not acquire any rights whatsoever thereon, and, further, that said defendants merely held said titles for plaintiff under an implied or constructive trust;

3) Ordering defendants Karolus and Kuhail to pay plaintiff the amount of P100,000.00 each as actual damages;

4) Ordering defendants Karolus and Kuhail to pay plaintiff the amount of P100,000.00 each as moral damages; P50,000.00 each by way of

exemplary damages; and P100,000.00 each for and as attorney's fees;

5) Ordering the defendant Register of Deeds of Zambales to cancel OCT No. P-9447 as well as OCT No. T-49032 derived therefrom and OCT No. P-9448 and any subsequent derivative titles thereof of the Registry of Deeds of Zambales and to issue in lieu thereof the corresponding two (2) titles in the name of plaintiff Felisa N. Jaravata covering the same two (2) parcels of land subject of said OCT No. P-9447 and OCT No. P-9448;

6) Dismissing the counterclaims of defendants;

7) Dismissing the third-party complaint;

8) Ordering third-party plaintiffs Maria Diana Karolus and Grace V. Kuhail to pay third-party defendant, jointly and severally the amount of P100,000.00 as actual damages; P300,000.00 as moral damages; P50,000.00 as exemplary damages; P100,000.00 for and as attorney's fees;

9) All pleadings filed by defendants and third-party plaintiffs are stricken off the records and said defendants are hereby prevented from presenting evidence and objecting to the claims of plaintiff and third-party defendant in accordance with Section 3 (b) and (c) of Rule 29 of the Rules of Court; and

10) Costs against defendants and third-party plaintiffs.

SO ORDERED.^[13]

Aggrieved, respondents filed a notice of appeal before the CA. Disposing of the appeal, the CA ruled thereon on January 31, 2002 and reversed the decision of the RTC. The fallo of the decision reads:

WHEREFORE, premises considered, the present appeal is hereby GRANTED and the decision appealed from in Civil Case No. 298-0-96 is hereby REVERSED and SET ASIDE. A new judgment is hereby rendered DISMISSING the complaint, as well as the counterclaim, the third-party complaint and the third-party defendants' counterclaim.

No pronouncement as to costs.

SO ORDERED.^[14]

Forthwith, petitioner filed a motion for reconsideration of the decision which was denied by the CA in a Resolution^[15] dated August 30, 2002.

Hence, this petition.

The Issues

Petitioner assigns these alleged errors: