

THIRD DIVISION

[G.R. NO. 128122, March 18, 2005]

PREMIERE DEVELOPMENT BANK, PETITIONER, VS. HON. COURT OF APPEALS, LIBERATO G. YAMBAO, JESUS B. RODRIGUEZ AND JESUS D. MORALES, RESPONDENTS.

G.R. NO. 128184

LILIAN M. TOUNDJIS, PETITIONER, VS. HON. COURT OF APPEALS, LIBERATO G. YAMBAO, ET AL., AND JOSELITO GARAYGAY, ET AL., RESPONDENTS.

G.R. NO. 128229

JOSELITO P. GARAYGAY, CENTURY REALTY AND DEVELOPMENT CORPORATION, PETITIONERS, VS. HON. COURT OF APPEALS, LIBERATO G. YAMBAO, JESUS B. RODRIGUEZ AND JESUS D. MORALES, RESPONDENTS.

D E C I S I O N

GARCIA, J.:

Before the Court are these three (3) separate petitions for review on *certiorari* under Rule 45 of the Rules of Court to nullify and set aside the **Decision^[1] dated November 29, 1995 and Resolution^[2] dated February 6, 1997** of the Court of Appeals in **CA-G.R. CV 42121**.

The first assailed issuance affirmed an earlier decision^[3] dated January 28, 1993 of the Regional Trial Court at Quezon City, Branch 88 in its **Civil Case No. Q-92-8455**, declaring, *inter alia*, herein private respondents, as plaintiffs therein, **Liberato G. Yambao, Jesus B. Rodriguez and Jesus D. Morales ("Yambao", "Rodriguez" and "Morales"**, respectively), as rightful owners of the land subject of this case. The second assailed issuance, on the other hand, denied reconsideration of the first.

At the core of the controversy is a 2,660-square meter parcel of land, denominated as **Lot 23** of the subdivision plan Fls-2804-D of SWO-17514, registered under **TCT No. 9780** of the Manila Registry, located as it were in Matandang Balara, which used to be a part of the then district of Caloocan, City of Manila. The creation of Quezon City which found **Lot 23** within its borders saw the transfer of the corresponding property records to the new political unit and the generation of new certificates of title to reflect territorial changes. As thus transferred, TCT No. 9780 was assigned title number **TCT No. 9780 (693)**.

The evidence on record disclose the following factual antecedents:

Two (2) different persons with exactly the same name, *i.e.*, **Vicente T. Garaygay**, each claimed exclusive ownership of **Lot 23** by virtue of an owner's duplicate certificate each had possession of during the period material covering said lot. One held **TCT No. 9780**, *supra*, and the other, **TCT No. 9780 (693)**, *supra*. The technical description of the land appearing in one copy corresponds exactly with that in the other. The date "*June 14, 1944*" appears on the face of both copies as a common date of entry. One, however, contained certain features, markings, and/or entries not found in the other and *vice versa*.

On April 17, 1979, one of the two Vicente T. Garaygays, a resident of Cebu City (hereinafter referred to as **Garaygay of Cebu**), executed a deed of sale^[4] over the lot described in and covered by his **TCT No. 9780 (693)** in favor of his nephew, **Joselito P. Garaygay ("Joselito"**, hereinafter). The sale notwithstanding, the owner's duplicate certificate remained for some time in the seller's possession.

In another transaction, the other Vicente T. Garaygay, a resident of Rizal (hereinafter referred to as **Garaygay of Rizal**), sold to **Liberto G. Yambao** and **Jesus B. Rodriguez** the same property described in **TCT 9780**. "*YCM Compound, Angono, Rizal*" is set out in the February 11, 1986 conveying deed^[5] as the seller's residence. Buyers Yambao and Rodriguez would later sell a portion of their undivided interests on the land to **Jesus D. Morales**.^[6]

Then came the June 11, 1988 fire that gutted a portion of the Quezon City hall and destroyed in the process the original copy of **TCT No. 9780 (693)** on file with the Registry of Deeds of Quezon City. Barely a month later, a certain Engr. Hobre filed an application, signed by **Garaygay of Cebu**, for the reconstitution of the burned original on the basis of the latter's owner's duplicate certificate. One Engr. Felino Cortez of the Land Registration Authority (LRA) did the follow-up on the application. After due proceedings, the LRA issued an order of reconstitution,^[7] by virtue of which **Garaygay of Cebu** acquired reconstituted **TCT No. RT-1764 (9780) (693)**.^[8]

Meanwhile, or on May 26, 1989, the deed of sale executed by **Garaygay of Cebu** in favor of his nephew **Joselito** was registered, paving the issuance in the latter's name of **TCT No. 12183**.^[9] Thereafter, thru the efforts of same Engr. Cortez,^[10] Lot 23 was subdivided into three (3) lots, namely: **Lot 23-A, Lot 23-B and Lot 23-C** for which TCT Nos. 14414, 14415 and 14416, respectively,^[11] were issued. Joselito posthaste sold **Lot 23-A** to **Lilian Toundjis** who, pursuant to a Contract to Sell executed on March 23, 1990,^[12] undertook to pay Joselito the P.5 Million balance of the P2.5 Million purchase price once she is placed in possession of a fenced-off property. And, for shares of stock, Joselito assigned on February 26, 1991, the other two (2) lots, *i.e.*, **Lot 23-B** and **Lot 23-C** to **Century Realty and Development Corporation ("Century Realty")** which, after securing **TCT Nos. 34390 and 34391** therefor, mortgaged^[13] the same to **Premiere Development Bank, Inc. ("Premiere Bank")** to secure a P2.5 Million loan.

Clashing claims of ownership first came to a head when, sometime in May 1990, Liberato G. Yambao and his agents forcibly prevented Joselito's hired hands from concrete-fencing the subject property. The police and eventually the National Bureau

of Investigation (NBI) entered into the picture.

In the meantime, **Yambao, Rodriquez and Morales** as *pro indiviso* buyers of Lot No. 23, caused the annotation on December 17, 1990, January 16, 1991 and February 15, 1991 of their respective adverse claims on Joselito's TCT Nos. 14414, 14415 and 14416. They then filed with the Regional Trial Court at Quezon City suit against **Joselito, Century Realty** and **Premiere Bank** for quieting of title and annulment of said defendants' fake titles with prayer for damages.

In their amended complaint,^[14] docketed as **Civil Case No. Q-92-8455** and raffled to Branch 88 of the court, Yambao, Rodriguez and Morales alleged, *inter alia*, the following:

1. That Joselito, taking advantage of the 1988 burning of the Quezon City Hall, and *"using an impostor, who pretended to be Vicente Garaygay, by means of fraud, deceit, and unlawful manipulation succeeded in administratively reconstituting the aforesaid property (sic) in 1990 on the basis of an alleged owner's copy, which on its face is patently fake and spurious and fake title bearing [TCT] No. 9780 (693)"*.
2. That a reconstituted title secured by means of fraud, deceit, or other machinations is void *ab initio* under Section 11 of Republic Act (R.A.) 6732;
3. That after causing the reconstitution of the title, Joselito *"acted fast to consummate his scheme of depriving the plaintiffs of their ownership . . . of the [disputed] land by the following successive acts"*, referring to Joselito's act of securing title in his name, subdividing Lot No. 23 and securing titles to and disposing of the subdivided lots;
4. That they (Yambao, Rodriguez and Morales) filed their separate adverse claims and caused the same to be annotated at the back of Joselito's TCT Nos. 14414, 14415 and 14416; that while the adverse claim of Rodriguez was still valid, Joselito executed on February 26, 1991 a Deed of Assignment in favor of **Century Realty**, which thus made the latter a *"transferee in bad faith"*; that on March 26, 1991, Century Realty executed a mortgage contract in favor of **Premiere Bank**, *"a mortgagee in bad faith"*; and
5. That at the time the mortgage was executed, the houses of plaintiffs' caretaker and a chapel belonging to them were standing on the two lots in question.

Answering, principal defendants **Joselito** and **Century Realty** denied plaintiffs' material allegations and asserted, by way of affirmative defense, the validity of (a) the reconstitution of TCT No. 9780 (693); (b) the assignment of real property in favor of Century Realty; and (c) the mortgage made by Century Realty in favor of Premiere Bank.

In their separate answers, also with crossclaim and counterclaim, **Lilian Toundjis**, who was allowed to intervene to oppose the action thus filed, and **Premiere Bank** virtually adopted Joselito's position and pleaded, in addition, their right as *bona fide* purchaser or mortgagee for value, as the case may be, of the subject property.

Issues having been joined, trial ensued with plaintiffs Yambao, Rodriguez and Morales offering in evidence several documents. Foremost of these was **Exhibit "B"** ^[15] which is the owner's duplicate copy of TCT No. 9780 of the Registry of Manila once in the possession of **Garaygay of Rizal**. On the other hand, the principal defendants presented no less than 38 pieces of marked and sub-marked documentary evidence, among which was **Exhibit. "1"**, ^[16] identical to **Exhibit "D"**, which is the duplicate copy of TCT No. 9780 (693) that pertained to **Garaygay of Cebu** and used in the reconstitution of the burned original thereof.

In his testimony, Yambao stated having noticed, when **Garaygay of Rizal** offered to sell Lot 23, that the corners and the portion of **Exhibit "B"** containing the owner's personal circumstances were torn and related the owner's explanation as to how these oddities came about. Yambao related that owing to the physical appearance of **Exhibit "B"**, the recording of the **Garaygay of Rizal - Yambao/Rodriguez** deed of sale (Exh. "A") was refused since the more crucial document, i.e., the torn owner's copy was itself not registrable unless it is first reconstituted. He also testified that, to assure himself of the genuineness of the seller's owner's duplicate certificate, he and **Garaygay of Rizal** repaired to the Quezon City Registry to compare his (Garaygay of Rizal's) copy with the original copy on file with the registry, and discovered that the only difference was that the owner's duplicate bears the title number "9780", while the original had "9780 (693)" typewritten on a straight line. ^[17] As told by Yambao, **Garaygay of Rizal's** explanation for the figure difference is that "693" was not affixed on his (Garaygay of Rizal's) title because he never, in first place, presented the same to the Quezon City Registry for correction or affixture.

Yambao also testified that **Garaygay of Rizal**, when asked to show proof of his identity, presented a voter's ID with his picture, ^[18] a Commission of Elections (COMELEC) certification attesting to his being a registered voter in Precinct No. 21 in Angono, Rizal ^[19] and a certification of residence issued by the barangay captain of the place. ^[20] Yambao added that before concluding the sale, he, together with the prospective seller, proceeded to the land site where the residents and/or caretakers thereat assured him that his companion, **Garaygay of Rizal**, was actually the landowner.

For their part, defendants presented **Garaygay of Cebu** who alleged, among other things, having acquired Lot 23 from one Macaria Lim vda. Arambulo sometime in 1944, having paid taxes thereon for the period 1949-1990 ^[21] and mortgaging in 1949 the titled property with Meralco Employees Savings & Loan Association, with the mortgage deed and later the discharge of mortgage being annotated on his title. ^[22] Joselito also took the witness stand in defense of his ownership of Lot 23 and the transactions he entered into involving the lot.

Eventually, the trial court rendered judgment finding for the plaintiffs and against

the defendants, declaring Joselito's TCT No. 9780 (693) and all subsequent titles traceable to it and transactions involving its derivatives as null and void. To the trial court, plaintiffs' evidence preponderated over those of the defendants' whose main witness, **Garaygay of Cebu**, gave inconsistent testimony, while Joselito hedged on his answer regarding a cousin connected with LRA. Going against the defendants' cause, the trial court further observed dubious circumstances surrounding the reconstitution of TCT 9780 (693), the more disturbing of which is the admitted participation of LRA personnel in the reconstitution process.

Dated January 28, 1993, the trial court's decision^[23] dispositively reads:

WHEREFORE, in view of the foregoing, the Court renders the following judgment to wit:

1. Plaintiffs Liberato G.Yambao, Jesus B. Rodriguez and Jesus D. Morales are hereby declared the rightful owners and possessors of the land described in TCT No. 9780 marked as Exh. 'B';
2. Defendants' title, TCT No. 9780 (693), marked as Exh. '1' (p. 349, Rollo, identical to Exh. 'D', p. 493 Rollo); the LRA Order of Reconstitution . . .; defendants' reconstituted title No. RT-1764 (9780) (693) marked as Exh. "4" . . .; the cancelled title TCT No. 12183 and its derivative titles, TCT Nos. 14414, 14415, and 14416, all in the name of defendant Joselito P. Garaygay and intervenor Lilian M. Toundjis involving TCT 14414; the Deed of Assignment and Transfer between Joselito P. Garaygay and Century Realty involving TCT Nos. 14415 and 14416; [the derivative] titles of defendant Century Realty . . . namely TCT Nos. 34390 . . . and 34391 . . .; and the Deed of Real Estate Mortgage executed by Century Realty . . . in favor of defendant Premiere Bank, Inc. are all declared null and void and without force and effect;
3. The Register of Deeds of Quezon City to strike out the reconstituted title [but already cancelled] No. 1764 (9780) (693) and TCT No. 12183, . . .; to cancel TCT 14414 . . .; to cancel the Deed of Assignment and Transfer between Joselito P. Garaygay and Century Realty . . . covered by TCT Nos. 14415 and 14416, and necessarily cancel TCT Nos. 34390 and 34391 . . .; to cancel the Deed of Real Estate Mortgage over TCT Nos. 34390 and 34390 . . .; and thereafter, to enter and register the Deeds of Sale, dated February 11, 1986 (Exh. "A") and July 10, 1988 (Exh. "C") and forthwith issue corresponding new title/s in the names of the plaintiffs, free from all encumbrances, except those entered into by them, upon payment of all taxes and fees prescribed by law;
4. Defendant Joselito P. Garaygay is sentenced to pay each of the [three] plaintiffs . . ., the sum of P100,000. 00 as moral damages;
5. Defendants Joselito P. Garaygay, Century Realty . . . and Premiere Bank, Inc. are sentenced to pay jointly and severally each of the two plaintiffs, namely Liberato Yambao and Jesus Morales, the sum