464 Phil. 958

THIRD DIVISION

[G.R. No. 128254, January 16, 2004]

HEIRS OF POMPOSA SALUDARES REPRESENTED BY ISABEL DATOR, PETITIONERS, VS. COURT OF APPEALS, JOSE DATOR AND CARMEN CALIMUTAN, RESPONDENTS.

D E C I S I O N

CORONA, J.:

Assailed in the instant petition for review on certiorari is the July 31, 1996 decision[1] of the Court of Appeals reversing the August 27, 1992 decision[2] of the Regional Trial Court of Lucena City, Branch 56, which in turn dismissed private respondents' petition for reconveyance on the ground of prescription of action.

At the core of the present controversy is a parcel of land, known as Lot 5793, measuring 8,916 square meters, located at Mahabang Parang, Lucban, Quezon. The land formed part of the conjugal properties of spouses Juan Dator and Pomposa Saludares, known as the Tanza estate.

Pomposa died on May 1, 1923, leaving herein petitioners, Enrica, Petra, Restituto, Amado, Delfina, Beata, Vicenta and Isabel, all surnamed Dator, as her compulsory heirs (hereinafter referred to as Heirs).

On February 28, 1940, the Heirs and their father Juan executed a deed of extra-judicial partition of the share of Pomposa in the Tanza estate. The settlement conferred the eastern half of the Tanza estate to Juan and the western half to the Heirs.

Before the aforementioned partition, Juan was in possession of the entire Tanza estate. After the partition, the Heirs took possession of their share and had the same tenanted by a certain Miguel Dahilig, husband of Petra, one of the Heirs, who in turn managed the land in behalf of the other siblings. Juan, the father, remained in possession of his half of the land until his death on April 6, 1940.

On December 13, 1976, Isabel Dator applied for a free patent over the entire Tanza estate, including Lot 5793, in behalf of the Heirs. On May 26, 1977, after all the requirements were complied with, the Register of Deeds of Quezon awarded Free Patent No. 4A-2-8976 and issued Original Certificate of Title (OCT) No. 0-23617 in the names of the Heirs.

Sometime in 1988, the Heirs were informed by their tenant that private respondents cut some 50 coconut trees located within the subject lot. Thus, the Heirs sent a letter,[3] dated July 26, 1988, to private respondents demanding an explanation for their intrusion into their property and unauthorized felling of trees.

On August 25, 1988, private respondents retaliated by filing an action for reconveyance against petitioners, docketed as civil case no. 88-121, in the Regional Trial Court of Lucena City. Private respondents alleged in their complaint that: (a) they were the owners in fee simple and possessors of Lot No. 5793; (b) they bought the land from the successors-in-interest of Petra Dator, one of the heirs; (c) they were in possession of the subject land from 1966 to the present and (d) petitioner Isabel Dator obtained free patent OCT P-23617 over Lot 5793 in favor of the Heirs by means of fraud and misrepresentation. Thus, private respondents prayed for the cancellation of OCT P-23617 and the issuance of a new title in their names.

In their answer, the Heirs denied having sold any portion of the Tanza estate to anyone. They alleged that: (a) they and their predecessors-in-interest had been and were still in actual, continuous, adverse and public possession of the subject land in the concept of an owner since time immemorial and (b) title to Lot 5793 was issued in their favor after faithful compliance with all the requirements necessary for the issuance of a free patent.

After trial, the lower court rendered a decision dismissing the action primarily on the ground of prescription of action:

> More telling is plaintiff Jose Dator's admission that the adjacent lot which is 5794 is his and he was a cadastral claimant, in fact, filed (sic) an application for free patent. By and large, if Jose Dator was personally claiming rights on the property now denominated as Lot 5793, the Court is intrigued and cannot see its way clear why Jose Dator did not file any protest in the application of the heirs of Pomposa Saludares, neither had Jose Dator filed any petition for review within the time frame, instead it took them eleven (11) long years to question the validity.
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> The doctrine of "stale demands" or laches is even applicable in the case at bar. "Laches means the failure or neglect for an unreasonable length of time, to do that which by exercising diligence could or should have been done earlier." (*Marcelino versus Court of Appeals*, G.R. No. 94422, June 26, 1992)
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> The issues with respect to ownership have already been amply discussed which brings us to the issue as to whether or not the action has prescribed and whether the original certificate of title in the name of the heirs of Pomposa Saludares is already indefeasible.
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> The action for reconveyance at bar was filed on August 28, 1988 or more than eleven (11) years from the issuance of the title, a fact plaintiffs cannot deny. They cannot claim ignorance that the defendants-heirs of Pomposa Saludares are applying for a free patent of Lot No. 5793 because notices were sent.
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> In the absence of competent and positive evidence that the title of the defendants has been secured thru fraud which in the case at bar is

wanting and which would necessarily invalidate it, the presumption is it has been issued regularly in the absence of actual fraud.

There being no positive evidence presented which would establish actual fraud in the issuance of Free Patent Title No. P-23617 in the defendants' name, their title deserves recognition.

In like manner, in an action for reconveyance after the lapse of one year from the date of the registration, actual fraud in securing the title must be proved (*J.N. Tuazon Co., Inc. versus Macalindog*, G.R. No. L-15398, December 29, 1962, 6 SCRA 938).

The plaintiffs' claim for reconveyance therefore cannot prosper.

WHEREFORE, judgment is hereby rendered in favor of the defendants and against the plaintiffs ordering the dismissal of the case with costs against plaintiffs and declaring defendants, heirs of Pomposa Saludares, as the rightful owners of the land.

The claim of defendants in the matter of attorney's fees and litigation expenses not having been proven by concrete evidence, the Court opts not to award the same.

SO ORDERED.[4]

On appeal, the appellate court reversed the trial court decision:

It is true that the Torrens title issued upon a free patent may not be cancelled after the lapse of ten years from the date of its registration because the statute of limitations bars such cancellation. But this doctrine has long been qualified thusly:

> If the registered owner, be he the patentee or his successor-in-interest to whom the Free patent was transferred or conveyed, knew that the parcel of land described in the patent and in the Torrens belonged to another who together with his predecessors-in-interest were never in possession thereof, then the statute barring an action to cancel a Torrens title issued upon a free patent does not apply and the true owner may bring an action to have the ownership or title to the land judicially settled and the Court in the exercise of its equity jurisdiction, without ordering the cancellation of the Torrens title issued upon the patent, may direct the defendant, the registered owner, to reconvey the parcel of land to the plaintiff who has been found to be the true owner thereof. (Vital vs. Anore, et al., 90 Phil. 855, Underscoring ours.)

In this case, there is clear evidence to show that appellee Isabel had full knowledge that Lot 5793 had been sold to her brother-in-law Miguel Dahilig and her sister Petra, that Lot 5793 no longer belonged to her and to the heirs she claimed to represent. She was signatory to the deed of sale dated April 16, 1940 in favor of appellant. (Exh. I) With this knowledge, there is reason to conclude that appellant Isabel

misrepresented herself and the rest of the heirs as owners entitled to the free patent.

WHEREFORE, all the above considered, judgment is hereby rendered:

1. Reversing the August 27, 1992 decision of the court below;

2. Ordering the Register of Deeds of Quezon Province to cancel OCT No. P-23617 in the name of the Heirs of Pomposa Saludares and to issue another for the same property in the name of plaintiffs Jose Dator and Carmen Calimutan;

3. Ordering appellees to pay appellants ten thousand (P10,000.00) pesos for attorney's fees, and to pay the costs.

SO ORDERED.[5]

Aggrieved by the appellate court ruling, the Heirs filed the instant petition, assigning the following errors:

> The Court of Appeals erred in tracing the history of the transactions involving the property way back to the year 1923 and render judgment based on its findings, considering that petitioners are the registered owners of the property under a torrens certificate of title which is conclusive, incontrovertible and indefeasible.
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> The Court of Appeals erred when it did not consider that the complaint filed by the private respondents for reconveyance and cancellation of title before the trial court eleven (11) years after a torrens title over the property was issued in the name of the petitioners (had) prescribed.[6]

Notwithstanding the indefeasibility of the Torrens title, the registered owner may still be compelled to reconvey the registered property to its true owner. The rationale for the rule is that reconveyance does not set aside or re-subject to review the findings of fact of the Bureau of Lands. In an action for reconveyance, the decree of registration is respected as incontrovertible. What is sought instead is the transfer of the property or its title which has been wrongfully or erroneously registered in another person's name, to its rightful or legal owner, or to the one with a better right.[7]

Nevertheless, the right to seek reconveyance of registered property is not absolute because it is subject to extinctive prescription. In *Caro vs. Court of Appeals*,[8] the prescriptive period of an action for reconveyance was explained:

> Under the present Civil Code, we find that just as an implied or constructive trust is an offspring of the law (Art. 1456, Civil Code), so is the corresponding obligation to reconvey the property and the title thereto in favor of the true owner. In this context, and vis-à-vis prescription, Article 1144 of the Civil Code is applicable.
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> Article 1144. The following actions must be brought within ten years from the time the right of action accrues: