

SECOND DIVISION

[G.R. No. 128563, March 25, 2004]

**EQUATORIAL REALTY DEVELOPMENT, INC., PETITIONER, VS.
SPS. DESIDERIO & EDARLINA FROGOZO, AND THE HON. COURT
OF APPEALS, RESPONDENTS.**

D E C I S I O N

TINGA, J.:

Spouses Zosimo and Benita Asis were the owners of a parcel of land, and the improvements thereon, located in Manila, and covered by *Transfer Certificate of Title* (TCT) No. 119203.

On January 17, 1983, spouses Desiderio and Edarlina Frogozo, private respondents herein, caused the annotation of an adverse claim, Entry No. 1245,^[1] at the back of said TCT No. 119203.

Three years later, on August 28, 1986, petitioner Equatorial Realty Development, Inc. (ERDI) levied on the property, annotating at the back of the same TCT a notice of levy under Entry No. 964-65.

On February 12, 1988, the spouses Asis and the spouses Frogozo executed a Deed of Absolute Sale, as a result of which TCT No. 178892 was issued in the name of the latter. As TCT No. 178892 carried with it the annotation of the notice of levy in favor of ERDI, the Frogozos asked for the cancellation of said annotation before the Regional Trial Court (RTC) of Manila on March 4, 1988. The RTC granted the cancellation of the annotation in LRC Record No. 4004.

On May 14, 1993, ERDI appealed the RTC Order to the Court of Appeals, raising the question of whether the RTC erred in ordering the cancellation of the annotation of the notice of levy.

After the parties filed their respective briefs, petitioner filed a *Reply* to which respondent followed with a *Rejoinder* and a *Supplemental Rejoinder*. Petitioner moved to expunge the latter two pleadings but the Court of Appeals purportedly did not act on said motions. Instead, on March 12, 1997, the appellate court rendered its *Decision*^[2] denying the appeal on the ground that the issues raised by ERDI, being pure questions of law, were not reviewable by it.

ERDI thus filed with this Court the present *Petition for Review*.

Petitioner ERDI submits that the Court of Appeals erred in considering private respondent spouses Frogozo's rejoinders without resolving ERDI's motions to expunge. This contention has no merit. Although the Court of Appeals did not resolve the motions expressly, it did so tacitly, albeit belatedly, when it rendered its

Decision. By proceeding to decide the case, the appellate court in effect denied petitioner's motions to expunge and considered respondent's rejoinder and supplemental rejoinder as properly and reasonably filed.^[3]

Petitioner likewise claims that the Court of Appeals erred in dismissing its appeal for lack of jurisdiction on the ground that the questions raised were purely legal.

Section 9 of Batas Pambansa Blg. 129, otherwise known as the Judiciary Reorganization Act of 1980, vests in the Court of Appeals exclusive appellate jurisdiction over all final decisions and orders of the Regional Trial Courts, except those falling within the appellate jurisdiction of the Supreme Court in accordance with, among others, the Constitution and Republic Act No. 296 (the Judiciary Act of 1948). Among the cases falling under the appellate jurisdiction of the Supreme Court and, thus, outside the appellate jurisdiction of the Court of Appeals are appeals where only questions of law are involved. In such case, Section 25 of the Interim Rules and Guidelines Implementing B. P. Blg. 129, in conjunction with Section 3 of Republic Act No. 5440, provides that the appeal to the Supreme Court shall be taken by petition for certiorari, which shall be governed by Rule 45 of the Rules of Court.

There is a question of law when the doubt or difference arises as to what the law is pertaining to a certain state of facts.^[4] The facts of this case are not in dispute. Therefore, as correctly pointed out by private respondents, and, as held by the Court of Appeals, the issues raised by petitioner on appeal are pure questions of law, to wit:

- (a) Petitioner's adverse claim, registered on January 17, 1983, is effective only for a period of thirty (30) days from the date of registration or until February 16, 1983. (page 4, appellant's Brief).
- (b) All property of the judgment debtor, real and personal, of every name and nature whatsoever and which may be disposed of for value, may be levied upon on execution. What is controlling is the law/Rules of Court, not the writ. (page 12, *ibid.*).
- (c) The fact that the title over the subject property is no longer in the name of the spouses Asis cannot and should not militate against oppositor's claim/levy because at the time of levy of August 28, 1986, the property was still in the name of Asis. (page 13, *ibid.*).
- (d) The act of registration is the operative act to effect [sic] the land insofar as third persons are concerned. From the standpoint of third parties, it is a positive rule that a property registered under the Torrens system remains, for all legal intents and purposes, the property of the person in whose name it is registered or inscribed, notwithstanding the alleged execution of any Deed of Conveyance or encumbrance, unless the corresponding deed is inscribed or registered (page 13, *ibid.*).^[5]

Consequently, the dismissal by the Court of Appeals of petitioner's appeal was in order, pursuant to Supreme Court Circular No. 2-90, dated March 9, 1990, which mandates the dismissal of appeals involving pure questions of law erroneously brought to the Court of Appeals:

4. *Erroneous Appeals.* — An appeal taken to either the Supreme Court or the Court of Appeals by the wrong or inappropriate mode shall be dismissed.

. . . .

(c) *Raising issues purely of law in the Court of Appeals, or appeal by wrong mode.* — If an appeal under Rule 41 is taken from the Regional Trial Court to the Court of Appeals and therein the appellant raises only questions of law, the appeal shall be dismissed, issues purely of law not being reviewable by said court. . . .

. . . .

(e) *Duty of counsel.* — It is therefore incumbent upon every attorney who would seek review of a judgment or order promulgated against his client to make sure of the nature of the errors he proposes to assign, whether the case be of fact or of law; then upon such basis to ascertain carefully which Court has appellate jurisdiction; and finally, to follow scrupulously the requisites for appeal prescribed by law, ever aware that any error or imprecision in compliance may well be fatal to his client's cause.

In any case, petitioner's appeal before the Court of Appeals has no merit. There, petitioner claimed that the RTC erred in ordering the cancellation of the annotation of the petitioner's levy appearing as Entry No. 964-65, at the back of TCT No. 178892. Petitioner argued that under Section 70 of Presidential Decree No. 1529, otherwise known as the Property Registration Decree, the adverse claim annotated by private respondents Frogozos on January 17, 1983 was effective only for thirty (30) days or up to February 16, 1983, even without any party seeking the cancellation of said annotation.^[6] An adverse claim, petitioner contended, "automatically expires after thirty (30) days from registration by sheer force of law, no judicial declaration to that effect being necessary."^[7] According to petitioner, "[r]esort to the Court is only necessary when the party aggrieved by the adverse claim cannot wait for the lapse of the thirty (30) days from annotation, and wants the adverse claim cancelled before the expiration of the thirty (30) day period."^[8]

Before this Court, petitioner echoed the same arguments.

This Court rejected these same contentions in *Sajonas v. Court of Appeals*,^[9] thus:

Noting the changes made in the terminology of the provisions of the law, private respondent interpreted this to mean that a Notice of Adverse Claim remains effective only for a period of 30 days from its annotation, and automatically loses its force afterwards. Private respondent further

maintains that the notice of adverse claim was annotated on August 27, 1984, hence, it will be effective only up to September 26, 1984, after which it will no longer have any binding force and effect pursuant to Section 70 of P.D. No. 1529....

. . . .

The question may be posed, was the adverse claim inscribed in the Transfer Certificate of Title No. N-190417 still in force when private respondent caused the notice of levy on execution to be registered and annotated in the said title, considering that more than thirty days had already lapsed since it was annotated?....

. . . .

For a definitive answer to this query, we refer to the law itself. Section 110 of Act 496 or the Land Registration Act reads:

"Sec. 110. Whoever claims any part or interest in registered lands adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Act for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, and a reference to the volume and page of the certificate of title of the registered owner, and a description of the land in which the right or interest is claimed.

["]The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and designate a place at which all notices may be served upon him. The statement shall be entitled to registration as an adverse claim, and the court, upon a petition of any party in interest, shall grant a speedy hearing upon the question of the validity of such adverse claim and shall enter such decree therein as justice and equity may require. If the claim is adjudged to be invalid, the registration shall be cancelled. If in any case, if the court after notice and hearing shall find that a claim thus registered was frivolous or vexatious, it may tax the adverse claimant double or treble the costs in its discretion."

The validity of the above mentioned rules on adverse claims had to be reexamined in the light of the changes introduced by P.D. 1529, which provides:

"Sec. 70. Adverse claim—Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of certificates or title of the registered owner, and a description of the land in which the right or interest is claimed.

["]The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be

served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. *The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of the said period, the annotation of adverse claim may be cancelled upon filing of a verified petition therefore by the party in interest* :Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.

["]Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered cancelled. If, in any case, the court, after notice and hearing shall find that the adverse claims thus registered was frivolous, it may fine the claimant in the amount not less than one thousand pesos, nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect." (Emphasis ours[.])

In construing the law aforesaid, care should be taken that every part thereof be given effect and a construction that could render a provision inoperative should be avoided, and inconsistent provisions should be reconciled whenever possible as parts of a harmonious whole. For taken in solitude, a word or phrase might easily convey a meaning quite different from the one actually intended and evident when a word or phrase is considered with those with which it is associated. In ascertaining the period of effectivity of an inscription of adverse claim, we must read the law in its entirety. Sentence three, paragraph two of Section 70 of P.D. 1529 provides:

"The adverse claim shall be effective for a period of thirty days from the date of registration."

At first blush, the provision in question would seem to restrict the effectivity of the adverse claim to thirty days. But the above provision cannot and should not be treated separately, but should be read in relation to the sentence following, which reads:

"After the lapse of said period, the annotation of adverse claim *may be cancelled* upon filing of a verified petition therefore by the party in interest."

If the rationale of the law was for the adverse claim to *ipso facto* lose force and effect after the lapse of thirty days, then it would not have been necessary to include the foregoing caveat to clarify and complete the rule. For then, no adverse claim need be cancelled. If it has been automatically terminated by mere lapse of time, the law would not have required the party in interest to do a useless act.