

SECOND DIVISION

[G.R. No. 157767, September 09, 2004]

**REYNALDO BALOLOY AND ADELINA BALOLOY-HIJE,
PETITIONERS, VS. ALFREDO HULAR, RESPONDENT.**

DECISION

CALLEJO, SR., J.:

Before us is a petition for review on certiorari under Rule 45 of the Revised Rules of Court, as amended, of the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 51081, which affirmed the Decision^[2] of the Regional Trial Court of Sorsogon, Branch 51, in Civil Case No. 93-5871.

The antecedents are as follows:

On May 11, 1993, respondent Alfredo Hular filed a complaint for quieting of title of real property with damages against the children and heirs of Iluminado Baloloy, namely, Anacorita, Antonio, and petitioners Reynaldo and Adelina, all surnamed Baloloy. The respondent alleged, *inter alia*, in his complaint that his father, Astrologo Hular, was the owner of a parcel of residential land located in Sitio Pagñe, Biriran, Juban, Sorsogon, with an area of 287 square meters, and that such lot was part of Lot No. 3347 of the Juban Cadastre. The respondent alleged that Iluminado Baloloy, the petitioners' predecessor-in-interest, was able to secure a Free Patent over the property through fraud on March 1, 1968, on the basis of which the Register of Deeds issued Original Certificate of Title (OCT) No. P-16540 in his name. The respondent later discovered that in the cadastral survey of lands in Juban, the property of his father, which actually consisted of 1,405 square meters was made to form part of Lot No. 3353, the property of Iluminado Baloloy. According to the respondent, even if the residential land was made to form part of Lot No. 3353 registered under the name of Iluminado Baloloy, he had acquired ownership of the property by acquisitive prescription, as he and his predecessors had been in continuous, uninterrupted and open possession of the property in the concept of owners for more than 60 years.

The respondent prayed for alternative reliefs that, after due hearing, judgment be rendered in his favor, thus:

- a) Declaring the plaintiff as the absolute owner of the land in question;
- b) Ordering the defendants to perpetually refrain from disturbing plaintiff in his peaceful possession in the land in question;
- c) Ordering the defendants to remove their houses in the land in question, and to declare OCT No. P-16540, and whatever

paper, form, document or proceeding the defendants may have, as null and void and without any effect whatsoever as far as the land in question is concerned as they cast cloud upon the title of the plaintiff;

- d) In the alternative, defendants be ordered to reconvey the title in favor of the plaintiff as far as the land in question is concerned;
- e) Ordering the defendants to jointly and severally pay the plaintiff the amount of ₱50,000.00 as moral damages; ₱5,000.00 as attorney's fee plus ₱500.00 for every appearance or hearing of his lawyer in court; ₱1,500.00 as consultation fee; ₱5,000.00 as incidental litigation expenses; ₱20,000.00 as exemplary damages; and to pay the costs.

Plaintiff further prays for such other relief [as are] just and equitable in the premises.^[3]

The Evidence of the Respondent

The respondent adduced evidence that the Spouses Lino and Victoriana Estopin were the original owners of a parcel of land located in Barangay Biriran, Juban, Sorsogon, designated as Lot No. 3347 of the Juban Cadastre. A major portion of the property, where a house of strong materials was constructed, was agricultural, while the rest was residential. The respondent also averred that the Spouses Estopin declared the property in their names under Tax Declaration No. 4790. On the north of the agricultural portion of the property was the road leading to Biriran, while north of the residential portion was a creek (canal) and the property of Iluminado.

When Lino Estopin died intestate, his widow, Victoriana Lagata, executed a Deed of Absolute Sale^[4] on November 11, 1961 over the agricultural portion of Lot No. 3347, which had an area of 15,906 square meters, more or less, in favor of Astrologo Hular, married to Lorenza Hular. Shortly thereafter, on November 25, 1961, Lagata executed a Deed of Absolute Sale^[5] over the residential portion of the property with an area of 287 square meters, including the house constructed thereon, in favor of Hular. Hular and his family, including his son, the respondent, then resided in the property. In 1961 or thereabouts, Iluminado asked Hular's permission to construct a house on a portion of Lot No. 3347 near the road, and the latter agreed. In 1977, Lorenza Hular, wife of Astrologo, declared the residential land in the latter's name under Tax Declaration No. 6841.^[6]

Earlier, or on August 14, 1945, Irene Griarte had executed a Deed of Absolute Sale over a coconut land located in Barangay Biriran, Juban, with an area of 6,666 square meters in favor of Martiniano Balbedina, with the following boundaries: North, Alejandro Gruta; South, Lino Estopin; East, River Pagñe; West, Pedro Grepal and Esteban Grepal.^[7] Subsequently, after a cadastral survey was conducted on lands in Juban, the property of Balbedina was designated as Lot No. 3353, with the following boundaries: North: Lot No. 3353 (portion), Alejandro Gruta; South: Lino Estopin; West: Lot No. 3349; East: creek. A trail was then established between Lot

No. 3353 and Lot No. 3347 resulting in the decrease of Lot No. 3353 owned by Balbedina to 4,651 square meters. He declared the property under his name under Tax Declaration No. 191 with the following boundaries: North: Lot No. 3353 (portion) Alejandro Gruta; South: trail; East: creek; West: Lot No. 3349.^[8]

On June 4, 1951, Balbedina executed a Deed of Absolute Sale over Lot No. 3353 with an area of only 4,651 square meters in favor of Iluminado.^[9] The latter declared the property in his name under Tax Declaration No. 5359.^[10] Iluminado filed an application with the Bureau of Lands for a free patent over the entirety of Lot No. 3353 on January 5, 1960.^[11] He indicated in his application that the property was not occupied by any person and was disposable or alienable public land. In support thereof, he executed an affidavit wherein he declared that he purchased about one-half portion of the property in 1951 based on a deed of absolute sale attached to said affidavit; that in 1957, he purchased the other one-half portion, but "for economic reasons," no deed of sale was executed by the parties. He also alleged that the improvements on the land consisted of coconut trees.^[12] The Bureau of Lands processed the application in due course.

In the meantime, Iluminado constructed his house on a portion of Lot No. 3353 near the trail (road) leading to Biriran. He and his family, including his children, forthwith resided in said house.

On March 1, 1968, the Secretary of Agricultural and Natural Resources approved Iluminado's application and issued Free Patent No. 384019 covering Lot No. 3353 with an area of 9,302 square meters, on the basis of which OCT No. P-16540 was thereafter issued by the Register of Deeds on March 1, 1968.^[13]

On August 2, 1975, Alejandro Gruta had executed a deed of absolute sale over a portion of Lot No. 3353 with an area of 4,651 square meters in favor of Estelito Hije, the husband of petitioner Adelina Baloloy, one of Iluminado's children.^[14]

Before he left for employment in Saudi Arabia in 1979, respondent Hular had his house constructed near the trail (road) on Lot No. 3347, which, however, occupied a big portion of Lot No. 3353.^[15]

Iluminado died intestate on November 29, 1985. His widow and their children continued residing in the property, while petitioner Reynaldo Baloloy, one of Iluminado's children, later constructed his house near that of his deceased father. When Astrologo died intestate on December 25, 1989, he was survived by his children, Jose, Romeo, Anacleto, Elena, Leo, Teresita, and the respondent, among others,^[16] who continued to reside in their house.^[17]

Sometime in 1991, the respondent's house helper was cleaning the backyard, but was prevented from doing so by petitioner Adelina Baloloy who claimed that their father Iluminado owned the land where the respondent's house was located. To determine the veracity of the claim, the respondent had Lot No. 3353 surveyed by Geodetic Engineer Rodolfo Cunanan on February 16, 1993, in the presence of Balbedina, Antonio Baloloy and petitioner Reynaldo Baloloy. Cunanan prepared a Special Sketch Plan of Lot No. 3353^[18] showing that the house of Iluminado was constructed on Lot No. 3353^[19] near the road behind the houses owned by

Astrologo and Alfredo.^[20] The engineer discovered that the residential area deeded by Lagata to Hular had an area of 1,405 square meters, instead of 287 square meters only.^[21]

In their Answer to the complaint, the heirs of Iluminado Baloloy averred that Iluminado's house was built in 1962 on a portion of Lot No. 3353, which the latter purchased from Balbedina, and not on a portion of Lot No. 3347 which Hular purchased from Lagata. They alleged that Hular constructed his house on a portion of Lot No. 3353 after securing the permission of their father Iluminado, and that the respondent had no cause of action for the nullification of Free Patent No. 384019 and OCT No. P-16540 because only the State, through the Office of the Solicitor General, may file a direct action to annul the said patent and title; and even if the respondent was the real party in interest to file the action, such actions had long since prescribed. The heirs of Baloloy prayed that judgment be rendered in their favor, thus:

WHEREFORE, it is most respectfully prayed of the Honorable Court to DISMISS this case pursuant to paragraph 15, et seq., hereof, and/or DECIDE it in favor of the defendants by UPHOLDING the sanctity of OCT No. P-16540 and ordering plaintiff to:

1. RESPECT defendants' proprietary rights and interests on the property in question covered by OCT No. P-16540;
2. VACATE it at his sole and exclusive expense, and never to set foot on it ever again;
3. PAY defendants:
 - a) MORAL DAMAGES at P50,000.00 EACH;
 - b) ACTUAL DAMAGES and UNREALIZED PROFITS at P1,000.00/MONTH COMPUTED UP TO THE TIME OF PAYMENT PLUS LEGAL RATE OF INTEREST;
 - c) EXEMPLARY DAMAGES of P50,000.00
 - d) ATTY'S FEES and LITIGATION EXPENSES of P100,000.00; and
 - e) THE COSTS OF THIS SUIT.

DEFENDANTS pray for all other reliefs and remedies consistent with law and equity.^[22]

The Evidence for the Petitioners

Sometime in 1982, Hular asked permission from Iluminado to construct his house on Lot No. 3353 near the road leading to Biriran. Iluminado agreed, in the presence of his daughter, petitioner Adelina Baloloy. As per the plan of Lot No. 3353 certified by a Director of the Bureau of Lands on November 6, 1961, Lot No. 3353 had an area of 9,302 square meters.^[23]

As gleaned from the Sketch Plan of Lot Nos. 3347 and 3353 prepared on February 7, 1991 by Geodetic Engineer Salvador Balilo, the houses of the Baloloy siblings and those of Astrologo and Alfredo were located in Lot No. 3353.^[24] In the said sketch

plan, Lot No. 3353 had an area of 9,302 square meters, while Lot No. 3347 had an area of 15,905 square meters. When apprised of Hular's claim over the property, the petitioners and their co-heirs filed a complaint for unlawful detainer with the Municipal Trial Court of Juban, docketed as Civil Case No. 331. The case was, however, dismissed for lack of jurisdiction.

On December 4, 1995, the trial court rendered judgment in favor of the respondent. The *fallo* of the decision reads:

- a/ Declaring plaintiff the absolute owner of the land in question, consisting of 1,405 square meters, more or less, and entitled to the peaceful possession thereof;
- b/ Ordering the defendants to reconvey the title to the plaintiff as far as the land in question is concerned within fifteen (15) days counted from the finality of the decision, failing in which, the Clerk of Court is hereby ordered to execute the necessary document of reconveyance of the title in favor of the plaintiff after an approved survey plan is made;
- c/ Ordering defendants to remove their houses from the land in question at their own expense within fifteen (15) days after the decision has become final;
- d/ Ordering the defendants to pay jointly and severally plaintiff the amount of P5,000.00 as attorney's fees. P5,000.00 as incidental litigation expenses;
- e/ To pay the costs.

SO ORDERED. ^[25]

The trial court ruled that the property subject of the complaint, with an area of 1,405 square meters, was part of Lot No. 3347 which the Spouses Estopin owned, and which they later sold to Astrologo Hular. The trial court also held that Iluminado committed fraud in securing the free patent and the title for the property in question, and that when Victoriana Lagata executed the deed of absolute sale on the residential portion of Lot No. 3347, she did not know that it formed part of Lot No. 3353. It further held that the action of the plaintiff to nullify the title and patent was imprescriptible.

The petitioners filed on December 8, 1995 a motion to reopen the case to admit Tax Declaration Nos. 6957 and 4790 covering Lot No. 3347, under the names of Astrologo Hular and Victoriana Lagata, respectively, in which it was declared that Lot No. 3347 was coconut land. The trial court ruled that the motion had been mooted by its decision.

On appeal, the Court of Appeals rendered judgment affirming the decision of the trial court, and thereafter denied the motion for reconsideration thereof.

The Present Petition