

FIRST DIVISION

[G.R. No. 142920, February 06, 2002]

DOROTEO SALAZAR AND DOZEN CONSTRUCTION AND DEVELOPMENT CORPORATION, PETITIONERS, VS. COURT OF APPEALS, FORMER SEVENTH DIVISION, HON. BENIGNO G. GAVIOLA, PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF CEBU CITY, BRANCH 9, SOFIA REPONTE, MARCOS LATORZA, ABUNDIO REPONTE, JANUARIO REPONTE, HEIRS OF GUILLERMO NAVARRO, HEIRS OF MIGUEL REPONTE, HEIRS OF MARTA PADAYAO AND FELICIDAD SUARING, RESPONDENTS.

D E C I S I O N

YNARES-SANTIAGO, J.:

Sometime in 1935, Joaquin Reston purchased Lot 6420 of the Talisay-Minglanilla Friar Lands Estate, situated at Tunghaan, Minglanilla, Cebu, and was issued Sale Certificate No. 8495 by the Director of Lands. Joaquin Reston later assigned the sale certificate to his son, Olimpio Reston, who assumed the installment payments thereon. The assignment was approved by the Director of Lands and, on September 20, 1950, Sale Certificate No. V-367 was issued in the name of Olimpio Reston, thereby cancelling Sale Certificate No. 8495.

On October 15, 1975, the Director of Lands issued Patent No. V-11571 to Olimpio Reston. Subsequently, Transfer Certificate of Title No. T-37363 was issued in the name of Olimpio Reston.

Sometime in 1978, Olimpio Reston sold Lot 6420 to Erlinda Reston and Doroteo Salazar. TCT No. 38745 was issued in lieu of TCT No. T-37363.

On June 2, 1981, private respondents Sofia Reponte, Marcos Latorza, Abundio Reponte and Juanario Reponte instituted an action praying that Patent No. 11571 issued in the name of Olimpio Reston and TCT No. 38745 in the name of Erlinda Reston and Doroteo Salazar be declared null and void. The complaint was docketed as Civil Case No. 20589 of the then Court of First Instance of Cebu, Branch IX.^[1] They averred that they were heirs of Silverio Padayao, who purchased Lot 6420 from the Director of Lands in 1918, for which Sale Certificate No. 3979 was issued; that they have been in possession of the lot since 1913; that on September 6, 1980, Erlinda Reston and Doroteo Salazar forcibly entered the lot and claimed ownership thereof; and that the patent and certificate of title on which Reston and Salazar based their claims were obtained through fraud.

The complaint was subsequently amended by Sofia Reponte and Marcos Latorza by dropping Abundio Reponte and Juanario Reponte as plaintiffs but impleading them as defendants, for being necessary parties.^[2]

Erlinda Reston filed her answer, alleging that she acquired the lot by donation from Olimpio Reston; that Olimpio Reston's ownership of the lot had been upheld in separate rulings of the Bureau of Lands, the Department of Agriculture and Natural Resources, and the Office of the President; that plaintiffs were merely squatters thereon; and that the action was barred by prescription. Doroteo Salazar also filed his answer, wherein he countered that he purchased portions of the lot from Erlinda Reston in good faith and for value; and that he had already sold the said portions, namely Lot No. 6420-A and Lot No. 6420-D, to Dozen Construction and Development Corporation, for which TCT Nos. 42088 and 42083 were issued, respectively.

On August 1, 1983, Guillermo Navarro, Miguel Reponte, Marta Padayao and Felicidad Suaring filed a complaint-in-intervention, claiming to be predecessors-in-interest of Silverio Padayao.

During the trial of the case, Erlinda Reston went to the United States for medical treatment. Nothing was heard of her since. On the other hand, Doroteo Salazar failed to attend a scheduled hearing since he had to fly to Manila to attend to the illness and subsequent death of his brother. The trial court declared both of them to have waived their right to present evidence.

On March 28, 1991, the Regional Trial Court of Cebu City, Branch 9, rendered judgment in Civil Case No. R-20589 as follows:

WHEREFORE, premises considered and by preponderance of evidence, the Court hereby renders decision in favor of herein plaintiffs and intervenors and against defendants Erlinda Reston, Felicisimo Geonzon and Doroteo Salazar, ordering said defendants to reconvey the titles of the property described in the Amended Complaint to herein plaintiffs and intervenors. But as to defendants Abundio Reponte and Januario Reponte, the Court hereby orders the DISMISSAL of the Amended Complaint and Complaint in Intervention against them in view of the absence of any evidence that may implicate them to the case at bar.

Furthermore, defendants Erlinda Reston, Felicisimo Geonzon and Doroteo Salazar are hereby ordered to pay, jointly and severally, the following sums:

- 1) P4,000.00 as attorney's fees to plaintiffs;
- 2) P5,000.00 as nominal damages to plaintiffs;
- 3) P4,000.00 as attorney's fees to intervenors, plus costs.

SO ORDERED. ^[3]

Petitioner Doroteo Salazar appealed to the Court of Appeals, where the same was docketed as CA-G.R. CV No. 33875. On October 20, 1995, the Court of Appeals rendered a decision, the dispositive portion of which reads:

WHEREFORE, premises considered, for failure of plaintiffs and intervenors to join as defendants Dozen Construction and Development Corporation,

an indispensable party, to whom defendant-appellant Doroteo Salazar had sold and conveyed the portions of Lot 6420 sold to him by defendant Erlinda Reston and which corporation holds title to said portions evidenced by TCT No. T-42088 and TCT No. 42083, the decision appealed from is REVERSED and SET ASIDE as against defendant-appellant and the case REMANDED to the court of origin for further proceedings. The decision appealed from is MAINTAINED and declared FINAL and EXECUTORY insofar as it orders the reconveyance of that portion of Lot No. 6420 still owned by and in the name of defendant Erlinda Reston and insofar as it orders defendants Erlinda Reston and Felicisimo Geonzon, jointly and severally, to pay plaintiffs the amount of P4,000.00 as attorney's fees and P5,000.00 as nominal damages and intervenors the amount of P4,000.00 as attorney's fees.

SO ORDERED.^[4]

Accordingly, on July 23, 1996, plaintiffs filed an amended complaint impleading petitioner Dozen Construction and Development Corporation as an additional defendant.^[5] This was followed by an amended complaint-in-intervention, filed by intervenors on August 14, 1996, likewise impleading petitioner corporation.^[6]

On November 27, 1998, the trial court issued an order, the decretal part of which states:

WHEREFORE, premises considered and by preponderance of evidence, the Court hereby renders judgment against defendant Doroteo Salazar and defendant Dozen Construction and Development Corporation, declaring: (a) as null and void ab initio the Sales Certificate Nos. 8495 (in the name of Joaquin Reston, for himself and others) and V-367 (in the name of Olimpio Reston), the Patent or Deed of Conveyance No. V-11571 (in the name of Olimpio Reston), TCT Nos. T-37383 (in the name of Olimpio Reston) and T-38743 (in the names of defendant Erlinda Reston-Geonzon and defendant Doroteo Salazar; (b) as valid and subsisting the Sales Certificate No. 3979 in the name of Silverio Padayao; (c) as null and void the sale of such portions of the land in question by defendant Erlinda Reston-Geonzon to defendant Doroteo Salazar; (d) declaring as null and void the sale of such portions of the land in question by defendant Doroteo Salazar to defendant Dozen Construction and Development Corporation; and ordering said defendants Doroteo Salazar and Dozen Construction and Development Corporation to:

- 1) Re-convey and to deliver to the plaintiffs and the intervenors the portions of subject land covered by TCT Nos. 42088 and 42083, if same are still owned and in the possession of said defendant corporation. If, however, said realties have already been disposed of to innocent buyers and for value, the said defendant corporation and/or members of its board of directors, jointly and severally, are hereby ordered to pay the value of said land or such portions sold to innocent buyers, which value shall be based on the date

that this Decision shall have become final and executory; and

- 2) Pay, jointly and severally, the amount of P50,000.00 to plaintiffs and another sum of P50,000.00 to intervenors as exemplary damages.

In addition, defendant Doroteo Salazar is hereby ordered to pay plaintiffs P30,000.00 as moral damages, P10,000.00 as litigation expenses, and P15,000.00 as attorney's fees; and to pay as well the intervenors the same amounts for moral damages, litigation expenses and attorney's fees.

Costs against defendant Salazar and defendant corporation.^[7]

While petitioners' counsel received notice of the above order on December 16, 1998, he failed to inform petitioners thereof. It was only sometime in the first week of April 1999 when petitioners learned of the adverse order against them.

On May 6, 1999, upon motion of plaintiffs and intervenors below, the trial court ordered the issuance of a writ of execution.^[8]

Immediately thereafter, on May 27, 1999, petitioners, through new counsel, filed a petition for relief from the orders of the trial court dated November 27, 1998 and May 6, 1999.^[9] They alleged therein that the order of November 27, 1998 was issued based solely on the evidence presented by plaintiffs and intervenors; that contrary to the statement of the trial court, petitioners (defendants therein) did not agree to a submission of the case for resolution without adducing evidence on their behalf; and that they have a meritorious defense, namely the indefeasibility of their certificates of title over the disputed lots.

The trial court denied the petition for relief in an order dated May 31, 1999,^[10] for having been filed out of time. Petitioner thus filed a petition for certiorari before the Court of Appeals, docketed as CA-G.R. SP No. 54421.^[11] On August 24, 1999, the Court of Appeals dismissed the petition on technical grounds, viz:

The petition for certiorari is hereby DISMISSED in view of the following infirmities:

- 1) There are no specific material dates showing that the petition was filed within the required period (Sec. 3, Rule 46, 1997 Rules of Civil Procedure, as amended by the Resolution of the Supreme Court En Banc dated July 21, 1998 in Bar Matter No. 803 which took effect on September 1, 1993);
- 2) No authorized representative of petitioner Dozen Construction and Development Corporation has signed the verification/certification on non-forum shopping (Id.);

- 3) The assailed RTC Order of November 27, 1998 (Annex D as marked and not Annex C as alleged in the petition) was not a certified true copy (Id.);
- 4) The petition was not accompanied by such material portions of the record as referred to therein; and other documents relevant or pertinent thereto (Id.);
- 5) The copy of the Petition for Relief from the orders dated November 27, 1998 and May 6, 1999, more particularly pages 4, 5, 6, 7 and 9, is not readable.

SO ORDERED.^[12]

Petitioners filed a Motion for Reconsideration^[13] which was denied by the Court of Appeals on February 4, 2000.^[14]

Hence, this petition based on the following grounds:

THE HONORABLE COURT OF APPEALS, FORMER SEVENTEENTH DIVISION, COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DENIED, IN THE RESOLUTIONS DATED 24 AUGUST 1999 AND 4 FEBRUARY 2000, THE PETITION FOR CERTIORARI AND PROHIBITION FILED BY HEREIN PETITIONERS ON MERE TECHNICALITIES, SINCE THE DENIAL OF SAID GROUND WOULD NOT SERVE THE DEMANDS OF SUBSTANTIAL JUSTICE.

THE PUBLIC RESPONDENT JUDGE BENIGNO G. GAVIOLA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE, IN AN ORDER DATED 31 MAY 1999, DENIED PETITIONERS' PETITION FOR RELIEF, WHEN IN FACT, THE SAME WAS FILED IN TIME AND WITHIN THE SIX (6) MONTH PERIOD UNDER THE RULES OF COURT.

THE PUBLIC RESPONDENT JUDGE BENIGNO G. GAVIOLA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE, IN AN ORDER DATED 27 NOVEMBER 1998, DIRECTED THE RECONVEYANCE OF TCT NOS. 42088 AND 42083.

THE PUBLIC RESPONDENT JUDGE BENIGNO G. GAVIOLA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN HE HELD PETITIONERS LIABLE TO PRIVATE RESPONDENTS FOR MORAL AND EXEMPLARY DAMAGES AS WELL AS ATTORNEY'S FEES AND LITIGATION EXPENSES.^[15]

On June 14, 2000, the petition for certiorari was dismissed on the ground that the correct remedy is a petition for review under Rule 45 of the 1997 Rules of Civil