

## THIRD DIVISION

[ G.R. No. 146845, July 02, 2002 ]

**SPOUSES MICHAELANGELO AND GRACE MESINA, PETITIONERS,  
VS. HUMBERTO D. MEER, RESPONDENT.**

### DECISION

**PUNO, J.:**

Before us is a petition for review on certiorari<sup>[1]</sup> under Rule 45 of the Rules of Court, assailing two Resolutions of the Court of Appeals in CA-GR SP No. 52942 dated October 10, 2000 and January 26, 2001, respectively. The first Resolution<sup>[2]</sup> denied petitioners' Petition for Relief from Judgment while the second Resolution<sup>[3]</sup> denied reconsideration thereof. The antecedent facts are as follows:

Respondent Humberto Meer is a registered owner of a parcel of land located at Lot 15, Block 5, Pandacan, Manila evidenced by TCT No. 158886. Sometime in June 1993, he applied for a loan to construct a house thereon. However, he discovered that his certificate of title has been cancelled and a new one, TCT No. 166074, was issued in the name of spouses Sergio and Lerma Bunquin. The latter acquired said property by virtue of a deed of sale dated June 3, 1985 purportedly executed by respondent in their favor.<sup>[4]</sup>

On January 12, 1994, respondent sought the cancellation of TCT No. 166074 with the Metropolitan Trial Court of Manila, Branch 10. On the same day, a notice of *lis pendens* was annotated at the back of TCT No. 166074.<sup>[5]</sup>

On June 15, 1994, while the case was pending, TCT No. 166074 was cancelled and replaced by TCT No. 216518 issued in the name of the petitioners, spouses Michaelangelo and Grace Mesina. It appears that the subject property has been conveyed to the petitioners on September 28, 1993, even prior to the annotation of *lis pendens*. The Absolute Deed of Sale evidencing the conveyance was notarized on the same day, including the payment of taxes appurtenant thereto. The transfer of the title from Lerma Bunquin to petitioners was effected only on June 15, 1994 because of some requirements imposed by the National Housing Authority.<sup>[6]</sup>

Due to the foregoing developments, Meer impleaded petitioners as additional party defendants.<sup>[7]</sup>

Defendant-spouses Bunquin never appeared during the hearings, leading the court to declare them in default. Petitioners, however, participated actively in defense of their position.<sup>[8]</sup>

In its Decision dated February 16, 1998, the trial court ruled that the alleged sale between Meer and Banquin was fraudulent. However, petitioners were adjudged

buyers in good faith and thus were entitled to the possession of the subject property. Pertinent portion of the decision reads:

“It bears notice that defendant-spouses Mesina not only relied on what appeared in Lerma Bunquin’s title but beyond the latter’s title and even made verification with the NHA and sought legal advice prior to the subject property’s purchase. Their actuations incline the court to hold and consider that defendant-spouses Mesina acted in good faith when they acquired subject property.

As a basic rule, every person dealing with registered land may safely rely on the correctness of the certificate of title and issued therefore and the law will no longer oblige to go beyond the certificate to determine the condition of the property (Director of Lands vs. Abache, 73 Phil. 606). Also, persons dealing with the property covered by the Torrens certificate of title are not required to go beyond what appears on the face of the title (Pino vs. CA, 198 SCRA 434).

Measured by the above criteria, defendant-spouses Mesina were indeed purchasers in good faith and purchasers for value of subject property, and consequently, they have the right to the possession thereof which is presently titled in their names. xxx

WHEREFORE, judgment is hereby rendered dismissing the complaint against defendant-spouses Michael and Grace Mesina and the Register of Deeds of Manila. The counter-claim of defendant spouses Mesina against the plaintiff is hereby denied for lack of merit.

Defendant spouses Sergio and Lerma Bunquin are ordered:

1. To pay plaintiff the value of the subject property based on the prevailing price on the date of the decision;
2. To pay the plaintiff exemplary damages in the amount of P20, 0000.00;
3. To pay attorney’s fees in the amount of P30, 000.00.

SO ORDERED.”<sup>[9]</sup>

Respondent Meer filed a Motion for Reconsideration against the said Decision but the trial court denied the same. Respondent thereafter filed an Appeal with the Regional Trial Court.

Reversing the ruling of the MeTC, the Regional Trial Court<sup>[10]</sup> ruled that petitioners were not purchasers in good faith, reasoning that it is the registration of the Deed of Sale, and not the date of its consummation that will confer title to the property. Since the Deed of Sale was registered subsequent to the annotation of the *lis pendens*, petitioners were bound by the outcome of the case, *viz*:

“Having thus correctly ruled that the Deed of Sale between plaintiff Humberto Meer and Sps. Bunquin was a forgery and that the signature of Humberto Meer was forged and having recognized that a priorly

registered *lis pendens* is superior to a belatedly registered Deed of Sale because the efficacy of the belatedly registered Deed of Sale depends upon the outcome of the case for which the *lis pendens* was annotated and having come to the conclusion that the case filed by Humberto Meer against the Bunquin is legally correct and justified, this court therefore has no other alternative but to rule in favor of the appellant and order the cancellation not only of the title issued in favor of the Bunquin but also of the title issued in favor of the Mesinas. The Court cannot consider the latter as buyers in good faith.

WHEREFORE and considering the foregoing, the appealed decision is therefore reversed and a new one is issued in favor of the plaintiff and against the defendant annulling the Deed of Sale executed by Humberto Meer in favor of defendants Sergio and Lerma Bunquin and ordering the Register of Deeds of Manila to cancel TCT No. 166704 issued in the name of the defendants Bunquin and TCT No. 216518 in the name of defendant Mesinas and restore TCT No. 158886 in the name of plaintiff Humberto Meer; ordering the defendant jointly and severally to pay plaintiff the sum of P 50,000.00 as attorney's fees, plus the costs of suit. The counterclaim of defendant Mesina is dismissed for lack of merit.

SO ORDERED."<sup>[11]</sup>

Petitioners appealed to the Court of Appeals, which affirmed the ruling of the Regional Trial Court in a Resolution dated May 10, 2000.<sup>[12]</sup>

On July 17, 2000 and after reglementary period for appeal has lapsed, petitioners filed a Petition for Relief from Judgment and prayed that the Court of Appeals set aside its Resolution dated May 10, 2000 for the following reasons: (a) extrinsic fraud was committed which prevented petitioners from presenting his case to the court and/or was used to procure the judgment without fair submission of the controversy; (b) mistake and excusable negligence has prevented the petitioner from taking an appeal within the prescribed period; and (c) petitioner has good and substantial defense in his action.<sup>[13]</sup>

On the first ground, petitioners argued that there has been collusion between the respondent and the Bunquins during the trial of the case at the Metropolitan Trial Court. Had the Bunquins testified in court as to the validity of the Deed of Sale as well as the authenticity of the respondent's signature, petitioners argued that the result would have been in their favor. Anent the second ground, petitioners averred that their failure to file the requisite appeal on time was largely due to the delay of counsel of record to produce the requested documents of the case. Finally, petitioners claim that they have good and substantial defense.<sup>[14]</sup>

As aforesaid, the Court of Appeals denied the petition reasoning that:

"As aptly pointed out by the respondent, the first ground raised by the petitioner spouses should have been filed before the court of origin, the Metropolitan Court of Manila, pursuant to Section 1, Rule 38 of the 1997 Revised Rules of Civil Procedure as amended. As to the second ground, the petitioner spouses who were the prevailing party before the Metropolitan Trial Court of Manila, did not mention the alleged extrinsic

fraud when the case was on appeal before the Regional Trial Court. Petitioners cannot now challenge the decision of this Court for the fraud allegedly perpetrated in the court of origin.

Besides, it is extremely doubtful that the remedy of a petition for relief under Rule 38 may be availed of from a judgment of the Court of Appeals in the exercise of its appellate jurisdiction.

WHEREFORE, premises considered, the petitioners' Petition for Relief from Judgment is DENIED for lack of merit.

SO ORDERED."<sup>[15]</sup>

Petitioners' Motion for Reconsideration was denied, hence, this Petition for Review raising as issue the availability of Petition for Relief under Rule 38, as a remedy against the judgment of the Court of Appeals promulgated in the exercise of its appellate jurisdiction. If the remedy is thus available, petitioners pray that this Court rule whether or not the grounds relied by them are sufficient to give due course to the petition.<sup>[16]</sup>

After careful examination of the case, we resolve to deny the petition.

Relief from judgment is an equitable remedy and is allowed only under exceptional circumstances and only if fraud, accident, mistake, or excusable negligence is present. Where the defendant has other available or adequate remedy such as a motion for new trial or appeal from the adverse decision, he cannot avail himself of this remedy.<sup>[17]</sup>

Under the 1997 Revised Rules of Civil Procedure, the petition for relief must be filed within sixty (60) days after the petitioner learns of the judgment, final order or other proceeding to be set aside and must be accompanied with affidavits showing the fraud, accident, mistake, or excusable negligence relied upon, and the facts constituting the petitioner's good and substantial cause of action or defense, as the case may be.<sup>[18]</sup> Most importantly, it should be filed with the same court which rendered the decision, *viz*:

**"Section 1. Petition for relief from judgment, order, or other proceedings.-** When a judgment or final order is entered, or any other proceeding is thereafter taken against a party in any court through fraud, accident, mistake, or excusable negligence, he may file a petition in such court and in the same case praying that the judgment, order or proceeding be set aside."<sup>[19]</sup>

As revised, Rule 38 radically departs from the previous rule as it now allows the Metropolitan or Municipal Trial Court which decided the case or issued the order to hear the petition for relief. Under the old rule, petition for relief from the judgment or final order of municipal trial courts should be filed with the regional trial court, *viz*:

**"Section 1. Petition to Court of First Instance for Relief from Judgment of inferior court.-** When a judgment is rendered by an inferior court on a case, and a party thereto by fraud, accident, mistake,