

FIRST DIVISION

[G.R. No. 136965, March 28, 2001]

**UNIVERSITY OF THE PHILIPPINES, PETITIONER, VS.
SEGUNDINA ROSARIO, RESPONDENT.**

D E C I S I O N

PARDO, J.:

The Case

This is an appeal^[1] from the decision of the Court of Appeals^[2] setting aside the order of the Regional Trial Court, Branch 217, Quezon City which denied respondent Segundina Rosario's (hereafter, "Segundina") motion to dismiss^[3] and cancelled the notice of *lis pendens* annotated on Transfer Certificate of Title No. 121042.

The Facts

There being no controversy as to the facts and the petition raising pure questions of law, we adopt the findings of fact of the Court of Appeals, as follows:^[4]

On September 7, 1971, Datu Ditingke Ramos filed with the Court of First Instance, Quezon City, an application for registration of title covering a parcel of land situated in Quezon City, with an area of 100,000 square meters and covered by Plan (LRC) SWO-15055, as amended.^[5]

On August 31, 1972, petitioner University of the Philippines (hereafter, "U. P.") filed with the trial court a "motion for intervention" in the case, claiming that the land covered by the application (by Datu Ditingke Ramos) is within its property described in Transfer Certificate of Title No. 9462.

On March 15, 1973, U.P. filed with the trial court an opposition and motion to dismiss Datu Ditingke Ramos' application for registration.

On June 6, 1973, the trial court issued an order which reads as follows:

"Acting on the motion to dismiss filed by the University of the Philippines and considering the certification, sketch plan (Exhibits "O" and "P"). the testimony of the Acting Chief, Geodetic Engineer as well as the written manifestation of the Land Registration Commission to the effect that the land subject matter of this application and covered by plan SWO-15055 does not encroach on the property of the University of the Philippines and that it is not inside any decreed property, the motion to dismiss the application is hereby DENIED for lack of merit.

"SO ORDERED."^[6]

On June 8, 1973, the trial court First Instance decided the application as follows:

"IN VIEW OF THE FOREGOING, the application is hereby granted, declaring the applicant Rosario Alcovendras Vda. de Ramos (surviving spouse of the original applicant who was substituted as party applicant in the order of April 24, 1973) the absolute owner of the property applied for and covered by Plan (LRC) SWO-15055, as amended, confirming her title thereto. Upon in the order of April 24, 1973) the absolute owner of the property applied for and covered by Plan (LRC) SWO 15055, as amended, confirming her title thereto. Upon this decision becoming final, let the required decree of registration be issued and after payment of corresponding fees, let the certificate of title be issued in favor of Rosario Alcovendas Vda. de Ramos, widow, Filipino and a resident of Quezon City.

"SO ORDERED."^[7]

On March 19, 1974, the trial court^[8] issued an order stating:

"The decision rendered by this Court in the above-entitled case under the date of June 8, 1973 having become final, the Commissioner of the Land Registration Commission is hereby directed to comply with Section 21 of Act 2347."^[9]

On May 8, 1974, the Commissioner of Land Registration issued Decree No. N-150604 in favor of Rosario Alcovendas Vda. de Ramos, pursuant to which the Register of Deeds of Quezon City issued OCT No. 17 in her name.

On November 21, 1976, the Register of Deeds of Quezon City cancelled OCT No. 17 and issued Transfer Certificate of Title No. 223619 also in the name of Rosario Alcovendas Vda. de Ramos due to errors in the technical description.^[10]

On February 23, 1988, Rosario Alcovendas Vda. de Ramos executed a "deed of absolute sale" in favor of Segundina Rosario (hereafter Segundina) covering the parcel of land embraced in Transfer Certificate of Title No. 223619.

On June 11, 1988, fire razed the Quezon City Hall Building which housed the Office of the Register of Deeds of Quezon City. Transfer Certificate of Title No. 223619 was one of the titles destroyed by the fire.

Subsequently, Segundina Rosario requested the Register of Deeds to reconstitute Transfer Certificate of Title No. 223619 resulting in the issuance of Transfer Certificate of Title No. RT-78195 (223619).

On March 11, 1993, U.P. filed with the Regional Trial Court, Branch 21, Quezon City^[11] a petition for the cancellation of Transfer Certificate of Title No. (N-126671) 367316 naming Segundina, Bugnay Construction and Development Corporation and the Register of Deeds of Quezon City, among others, as respondents.

On November 10, 1994, Segundina caused the registration with the Register of Deeds of the "deed of absolute sale." Consequently, the Register of Deeds issued Transfer Certificate of Title No. 121042 in Segundina's name, resulting in the cancellation of Transfer Certificate of Title No. RT-78195(223619).

On November 19, 1996, after the parties had presented their respective evidence, U.P. filed an amended petition alleging that it is "the true, absolute and registered owner of a parcel of land covered by Transfer Certificate of Title No. 9462" of the Register of Deeds of Quezon City and that the "unlawful acts of ownership being exercised by (Segundina) and (Bugnay Construction and Development Corporation) as well as the existence of their spurious certificates of title, create a cloud of doubt on the title of (U.P.)."

In its third cause of action, U.P. prayed that Transfer Certificate of Title No. 121042 or the reconstituted titles or derivatives thereof be declared null and void *ab initio* for being spurious and fraudulently issued.

On May 15, 1997, Segundina filed with the trial court an "omnibus motion" for the dismissal of U. P.'s third cause of action in the amended petition as well as the cancellation of the notice of *lis pendens* annotated on TCT No. 121042.

On November 10, 1997, the trial court denied Segundina's omnibus motion.

On December 30, 1997, Segundina filed with the trial court a motion for reconsideration questioning the denial of her motion to dismiss and praying for the cancellation of the notice of *lis pendens*.^[12]

On April 16, 1998, the trial court^[13] denied Segundina's motion for reconsideration and motion to cancel the notice of *lis pendens*.^[14]

On November 10, 1997, the trial court^[15] again denied Segundina's omnibus motion to dismiss and cancel notice of *lis pendens*.^[16]

On May 26, 1998, Segundina filed with the Court of Appeals^[17] a petition for certiorari^[18] assailing the orders of the trial court denying her motion to dismiss.

On September 18, 1998, the Court of Appeals promulgated its decision in favor of Segundina. The Court of Appeals reasoned that the third cause of action is barred by *res judicata* and that the trial court committed grave abuse of discretion in denying Segundina's "motion to dismiss."^[19] We quote its dispositive portion:

"WHEREFORE, the instant petition for certiorari is hereby GRANTED. Consequently, the Orders dated November 10, 1997, and April 16, 1998, are declared NULL and VOID and SET ASIDE insofar as they deny petitioner's Omnibus Motion to Dismiss and Cancel Notice of Lis Pendens. The Third Cause of Action in respondent University of the Philippines' Amended Petition is ordered DISMISSED and the Notice of *Lis Pendens* annotated on TCT No. 121042, CANCELLED. The writ of preliminary injunction, insofar as it relates to the parcel of land covered by TCT No. 121042, is LIFTED.

"SO ORDERED."^[20]