

## SECOND DIVISION

[ G.R. No. 136825, May 21, 2001 ]

**THE CITY GOVERNMENT OF DAVAO, REPRESENTED BY BENJAMIN C. DE GUZMAN, THE INCUMBENT CITY MAYOR OF DAVAO CITY, PETITIONER, VS. JULIANA MONTEVERDE-CONSUNJI AND TOMAS A. MONTEVERDE, JR., RESPONDENTS.**

### DECISION

**MENDOZA, J.:**

This is a petition for review on certiorari of the decision of the Court of Appeals, Seventeenth Division, reversing the decision<sup>[1]</sup> of the Regional Trial Court, Branch 11, Davao City in Civil Case No. 22, 711-94 which upheld the ownership by the City of Davao of over more than seven hectares of prime real estate, commonly known as the "PTA Grounds," in the heart of the city.

On March 13, 1923, the then Court of First Instance of Davao issued Decree No. 150336 in Land Registration Case No. 170 by virtue of an application for land registration. Pursuant to the said decree, Original Certificate of Title No. 116<sup>[2]</sup> was issued on April 7, 1924 in the name of Tomas, Candelaria, Vicenta, and Milagros, all surnamed Monteverde, covering three parcels of land, namely, Parcel 2, Lot No. 124, Plan II-14207, with an area of 207,779 square meters; Parcel 3, Lot No. 182, Plan II-14207, with an area of 1,869 square meters; and Parcel 4, Lot No. 190, Plan II-14207, the property subject of this controversy, with an area of 72,220 square meters. On the face of the certificate of title appears the following annotation in Spanish:

. . . quedando a salvo los derechos adquiridos de los opositores, señores, Domingo Santos, D.O. Dacanay y el Municipio de Davao, en tanto en cuanto se refiere a la ratificacion de los trespasos hechos.<sup>[3]</sup>

which, translated in English, reads:

. . . except for the rights acquired by the oppositors, Messrs. Domingo Santos, D.O. Dacanay and the Municipality of Davao, in so far as it refers to the ratification of the conveyance made.<sup>[4]</sup>

Later, the following annotation in Spanish was written by hand on OCT No. 116 of the Monteverdes:

Cancelado el presente certificado en virtud de una orden del Juzgado de Primera Instancia de Davao, habiendo expedido en su lugar los Certificados de Título de Transferencias Nos. 480 y 481 del tomo segundo del libro de transferencias, quedando dicha orden Archivada baho el No. 480 en el legaho correspondiente.<sup>[5]</sup>

The corresponding English translation of the annotation reads:

The present Certificate of Title is cancelled by virtue of an order of the Court of First Instance of Davao and in its stead Transfer Certificate of Title Nos. 480 and 481 were issued on [the] Second Volume of the Book of Registry of Transfer Certificates of Title and said order is found in the corresponding records of Transfer Certificate of Title No. 480.<sup>[6]</sup>

On July 26, 1949, the Register of Deeds of Davao City issued Transfer Certificate of Title No. 1851 (T-480)<sup>[7]</sup> over the controverted property in the name of the Municipal Government of Davao. On the face of TCT No. 1851 (T-480) appears the following annotation stating the reason for the cancellation of TCT No. 480, to wit:

This certificate is a transfer from Transfer Certificate of Title No. 480, which is cancelled by virtue hereof as far as [the] above-described land is concerned, by reason of the transfer of the records thereof to the Office of the Register of Deeds for the City of Davao, pursuant to the provisions of Section 23(c) of Commonwealth Act No. 51.

In view thereof, the City of Davao has occupied and utilized the subject property in the concept of an owner. Said property is now the site of the Kapitan Tomas D. Monteverde, Sr. Sports Complex and a public elementary school.

On June 22, 1993, Juliana Monteverde-Consunji wrote a letter<sup>[8]</sup> to Rodrigo R. Duterte, then mayor of Davao City, inquiring about the validity of the city's title to the subject lot because the research caused to be conducted by her family failed to show any document whatsoever to support the transfer of the property by her father, Tomas Monteverde, Sr. in favor of the City of Davao.

Mayor Duterte allegedly ignored the letter, for which reason Juliana and her brother, Tomas Monteverde, Jr., filed a complaint for a declaration of nullity of title, damages, and attorney's fees against the City of Davao. It was alleged that OCT No. 116 was illegally cancelled and TCT No. 1851 (T-480) was spurious on the ground that there was no deed or any other document to support the cancellation of OCT No. 116 and the plaintiffs, the respondents herein, as heirs of Tomas Monteverde, Sr., who allegedly died intestate, were entitled to their shares in the property.

In its answer,<sup>[9]</sup> the City of Davao alleged that its ownership of the subject property was already existing at the time of the issuance of OCT No. 116 in the name of the Monteverdes, for which reason it was cancelled and TCT No. 480 was issued in lieu thereof. It further alleged that TCT No. 480 was cancelled because the records were

transferred from the Register of Deeds of Zamboanga to the Register of Deeds of Davao City by virtue of §23(c) of Commonwealth Act No. 51 which created the City of Davao. In addition, it claimed that, considering the issuance of the certificate of title in its name, coupled with its open and notorious possession of the property, respondents' claim was barred by prescription and laches.

After the presentation of evidence by both parties, the trial court rendered its decision on January 25, 1996, giving judgment in favor of the City of Davao and ordering the dismissal of the complaint.<sup>[10]</sup>

Respondents appealed to the Court of Appeals which, on June 9, 1998, rendered judgment reversing the decision of the lower court. The dispositive portion of the decision of the Court of Appeals reads:

WHEREFORE, premises considered, the appealed Decision is REVERSED AND SET ASIDE. A new Judgment is hereby rendered in favor of the appellants, as follows:

- 1). Declaring as null and void TCT-480 and the derivative title issued thereunder, more specifically TCT-1851;
- 2). Declaring herein appellants as the lawful owners and quieting their title and ownership over the property in question covered and embraced by OCT No. 116;
- 3). Ordering the appellee and all those claiming any right under it to vacate the same and deliver possession thereof to the appellants; and
- 4). Ordering the appellee to pay the sum of P200,000.00 as and for attorney's fees.

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

Hence, this petition of the City of Davao alleging  $\frac{3}{4}$

- I. THAT THE DECISION OF THE HONORABLE COURT OF APPEALS IS CONTRARY TO LAW AND EVIDENCE;
- II. THAT THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT OCT NO. 116 STANDS VALID;
- III. THAT THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT THE ISSUANCE OF TCT [NO.] 480 WAS WITHOUT LEGAL BASIS; AND
- IV. WHETHER OR NOT THE CAUSE OR CAUSES OF ACTION OF THE RESPONDENTS, IF ANY, WERE BARRED BY PRESCRIPTION AND LACHES.<sup>[12]</sup>