

## FIRST DIVISION

**[ G.R. No. 135038, November 16, 2001 ]**

**ROLANDO Y. TAN, PETITIONER, VS. THE COURT OF APPEALS,  
THE HEIRS OF JOSE L. ATEGA, FRANCISCO B. AALA, HAYDEN B.  
LUZON AND LEONCIO PADERES, RESPONDENTS.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

Pedro Torrevillas and Lorenzo Atega were the co-owners of a parcel of land known as Lot No. 436-A, situated in Poblacion, Butuan City, containing an area of 9,321 square meters. A petition for reconstitution of title to the said lot was filed by Torrevillas, docketed as Cadastral Case No. 10 of the Court of First Instance of Agusan. During the pendency of the proceedings therein, Torrevillas and Atega executed an agreement whereby Atega shall own the northern portion of the lot consisting of 5,938 square meters, denominated as Lot 436-A-1; while Torrevillas shall own the southern portion consisting of 3,383 square meters, denominated as Lot 436-A-2.<sup>[1]</sup>

Meanwhile, on April 8, 1940, Lorenzo Atega sold to Faustino Fortun a portion of Lot No. 436-A containing an area of 322 square meters.<sup>[2]</sup> On November 2, 1946, Atega sold to Fortun another portion of the lot consisting of 56 square meters.<sup>[3]</sup> Finally, on August 9, 1951, Bernardo Atega, with the consent of Atega, sold to Eduardo Amper a 450-square meter portion of the lot.<sup>[4]</sup> Faustino Fortun and Eduardo Amper sold the land, containing a total area of 828 square meters, to Ismael Ellosa, by virtue of deeds of sale executed on July 2, 1951<sup>[5]</sup> and November 6, 1951,<sup>[6]</sup> respectively.

Subsequently, Torrevillas and Atega entered into another agreement to the effect that the reconstituted title shall be issued in the name of Pedro Torrevillas only, but that the memorandum of encumbrances thereof shall contain the claims of Atega and other vendees who have acquired portions of the lot from him, including Ismael Ellosa.<sup>[7]</sup> On March 30, 1955, Original Certificate of Title No. RO-99 was issued in the name of Torrevillas.<sup>[8]</sup> The title contained the claim of Lorenzo Atega, described as "the portion towards the North from the line connecting corners 12 and 25 of Lot 436-A".<sup>[9]</sup>

Pedro Torrevillas executed on March 4, 1957 a Deed of Quitclaim,<sup>[10]</sup> wherein he recognized the rights of Ismael Ellosa over the 828-square meter portion of land in Lot No. 436-A-1. The Deed of Quitclaim was annotated on OCT No. RO-99 as Entry No. 2700 dated April 15, 1959. The said OCT was later cancelled by TCT No. RT-1451,<sup>[11]</sup> then by TCT No. RT-5511<sup>[12]</sup> and TCT No. RT-5758.<sup>[13]</sup> The claims of Lorenzo Atega and Ismael Ellosa were annotated on all of these titles.

On November 24, 1975, petitioner Rolando Tan acquired from the Estate of Ismael Elloso the latter's 828-square meter portion of land in Lot No. 436-A-1.<sup>[14]</sup> Sometime in July 1978, petitioner discovered that respondent Leoncio Paderes had constructed a building on the said land. Thus, he made demands on Paderes to vacate the said land, but the latter refused. On November 13, 1978, petitioner instituted a complaint for *accion publiciana* against Leoncio Paderes, docketed as Civil Case No. 2116.

It appears that on March 3, 1975, after the death of Lorenzo Atega, his son, Jose Atega, sold a 40-square meter portion of Lot 436-A-1 to Barbara Quiñones.<sup>[15]</sup> On February 11, 1977, Quiñones sold the same to Antipolo Paderes, wife of Leoncio Paderes.<sup>[16]</sup> On August 7, 1990, Jose Atega executed in favor of Leoncio Paderes a Deed of Confirmation of Deed of Sale, affecting 29 square meters of the property.<sup>[17]</sup> While the case was pending, or on November 5, 1990, TCT No. RT-22040,<sup>[18]</sup> covering 69 square meters of Lot No. 436-A-2, was issued in the name of Leoncio Paderes.

During his lifetime, Lorenzo Atega sold portions of his lot to different persons, among them Capistrano Leyson, who acquired a 305-square meter portion of Lot 436-A on March 3, 1979, and for which TCT No. RT-12332 was issued in his name.<sup>[19]</sup> Leyson, in turn, sold the land to respondent Francisco Aala.<sup>[20]</sup> Accordingly, TCT No. RT-12332 was cancelled by TCT No. 12368 in the name of Aala.

On the other hand, respondent Hayden Luzon acquired 430 square meters of the land from his father, who purchased the same from Lorenzo Atega on installment in the year 1957 or 1958. After the payment of the purchase price in full in 1987, TCT No. RT-18705<sup>[21]</sup> covering 175 square meters and TCT No. RT-19113<sup>[22]</sup> covering 255 square meters were issued in the name of respondent Luzon.

Petitioner filed a complaint for quieting of title, reconveyance, annulment of certificates of title, damages and attorney's fees, docketed as Civil Case No. 381, against respondents Francisco B. Aala, Jose Atega, and Hayden Luzon. This case was consolidated with Civil Case No. 2116 and heard jointly by the Regional Trial Court of Butuan City, Branch I.

Meanwhile, TCT Nos. RT-11940,<sup>[23]</sup> RT-17570,<sup>[24]</sup> and RT-19114,<sup>[25]</sup> were issued in the name of Lorenzo Atega. However, the claim of Ismael Elloso was not annotated on any of these titles. Curiously, too, the land registered therein was described as Lot No. 436-A-2, instead of Lot No. 436-A-1 as earlier agreed upon between Atega and Torrevillas. In order to protect his claim to the lands, petitioner Tan registered an adverse claim on the title as Entry No. 32638.

On April 27, 1995, the trial court rendered a decision in favor of petitioner, the dispositive portion of which reads:<sup>[26]</sup>

WHEREFORE, judgment is hereby rendered as follows:

In Civil Case No. 381:

1. Declaring plaintiff Rolando Y. Tan the absolute owner of the eight hundred twenty eight (828) square meter portion of land subject of this case;
2. Ordering defendant Francisco Aala to cause the relocation or resurvey of the area covered by his title taking into consideration the technical description of all the adjoining lots to identify the 100 square meters belonging to the plaintiff, after which defendant Aala is ordered to reconvey said 100 square meters of land to the plaintiff. Defendant Aala is also ordered to demolish whatever structure there is on the land at his own expense;
3. Ordering the Register of Deeds of Butuan City to cancel all the certificates of title subject of this case and ordering defendant Luzon to vacate and reconvey the lots (430 square meters) to the plaintiff. Luzon is further ordered to demolish whatever structure he has on the land at his own expense;
4. Ordering defendant Jose Atega or his heirs, successors-in-interest, pursuant to Sec. 53 of P.D. 1529, to surrender and deliver the owner's duplicate certificate of title No. RT-11940 to the Register of Deeds of Butuan City, and ordering the Register of Deeds to annotate Entry No. 2700 in the memorandum of encumbrances. The Register of Deeds is also ordered to segregate the portion of Ismael Elloso, the predecessor-in-interest of the plaintiff. After compliance, the Register of Deeds is ordered to issue a new transfer certificate of title over the said 828 square-meter lot in the name of plaintiff Rolando Tan; and
5. Ordering all the defendants to pay attorney's fees in the amount of P45,000.00 apportioning the said amount among themselves; and to pay litigation expenses in the amount of P149.00.

In Civil Case No. 2116:

1. Declaring plaintiff Rolando Y. Tan the absolute owner of the eight hundred twenty eight (828) square meter portion of land subject of this case;
2. Ordering defendant Leoncio Paderes to reconvey the sixty-nine (69) square meters of the lot acquired by him from Jose Atega in favor of plaintiff Rolando Y. Tan;
3. Ordering the Register of Deeds of Butuan City to cancel TCT No. RT-22040 issued to Leoncio Paderes, and ordering defendant Paderes to pay attorney's fees in the amount of P5,000.00 for compelling plaintiff to litigate to protect his rights and interests;
4. Ordering defendant Paderes to demolish whatever structure he has built on the 69 square-meter land at his own expense; and

5. Ordering defendant to pay litigation expenses in the amount of P67.00.

IT IS SO ORDERED.<sup>[27]</sup>

Respondents appealed the decision to the Court of Appeals, docketed as CA-G.R. CV No. 50400. In the assailed decision dated July 31, 1998, the Court of Appeals reversed the decision of the trial court, and dismissed Civil Cases Nos. 2116 and 381.<sup>[28]</sup>

Hence, this petition for review, anchored on the following assignment of errors:

First

THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN IT DETERMINED, QUITE ERRONEOUSLY DESPITE REPEATED URGINGS BY PETITIONER IN FOUR SEPARATE APPELLEE'S BRIEFS IN CA-G.R. CV NO. 50400 THAT THE APPELLANTS' BRIEFS RAISED ONLY AND PURELY QUESTIONS OF LAW WHICH THUS DIVESTED IT OF JURISDICTION TO ENTERTAIN OR DECIDE SAID QUESTIONS.

Second

WITH DUE RESPECT, THE HONORABLE COURT OF APPEALS GRAVELY ABUSED ITS DISCRETION WHEN ON ITS OWN AND BY ITSELF IT ERRONEOUSLY DETERMINED, WITHOUT ANY ARGUMENTS FROM RESPONDENTS, THAT PETITIONER TAN WAS NOT THE OWNER OF 828 SQUARE METERS OF LAND AND CONTRARY TO THE DECISION OF THE LOWER COURT.<sup>[29]</sup>

We find merit in the petition.

It is true that factual issues are not within the province of this Court, as it is not a trier of facts and is not required to examine or contrast the oral and documentary evidence *de novo*. Nevertheless, this Court has the authority to review and, in proper cases, reverse the factual findings of lower courts in the following instances: (a) when the findings of fact of the trial court are in conflict with those of the appellate court; (b) when the judgment of the appellate court is based on a misapprehension of facts; and, (c) when the appellate court manifestly overlooked certain relevant facts which, if properly considered, would justify a different conclusion.<sup>[30]</sup>

The instant case falls squarely within the foregoing exceptions.

This case involves a double sale of land in favor of Ismael Elloso, petitioner's predecessor-in-interest, on the one hand, and in favor of private respondent Hayden Luzon, Capistrano Leyson and Barbara Quiñones, on the other hand. Hence, the issue to be resolved is --- who has a better right to the land?

The pertinent provision, Article 1544 of the Civil Code, states:

If the same thing should have been sold to different vendees, the ownership shall be transferred to the person who may have first taken possession thereof in good faith, if it should be movable property.

Should it be immovable property, the ownership shall belong to the person acquiring it who in good faith first recorded it in the Registry of Property.

Should there be no inscription, the ownership shall pertain to the person who in good faith was first in the possession; and, in the absence thereof, to the person who presents the oldest title, provided there is good faith.

Applying the above-quoted provision of law, the Court of Appeals held that respondents have a better right to the lot in question since they first registered the transfer of title to them with the Register of Deeds. On the other hand, it found that petitioner failed to register his acquisition of the land.

The foregoing rule, however, is not a hard-and-fast one. Specifically, it does not apply where the first registrants did not act in good faith, such as where they had notice of the prior sale of the land to another. In *Uraca v. Court of Appeals*,<sup>[31]</sup> we held:

Under the foregoing, the prior registration of the disputed property by the second buyer does not by itself confer ownership or a better right over the property. Article 1544 requires that such registration must be coupled with good faith. Jurisprudence teaches us that "(t)he governing principle is *primus tempore, potior jure* (first in time, stronger in right). **Knowledge gained by the first buyer of the second sale cannot defeat the first buyer's rights except where the second buyer registers in good faith the second sale ahead of the first,** as provided by the Civil Code. Such knowledge of the first buyer does not bar her from availing of her rights under the law, among them, to register *first* her purchase as against the second buyer. But *in converso*, **knowledge gained by the second buyer of the first sale defeats his rights even if he is first to register the second sale, since such knowledge taints his prior registration with bad faith.** This is the price exacted by Article 1544 of the Civil Code **for the second buyer being able to displace the first buyer; that before the second buyer can obtain priority over the first, he must show that he acted in good faith throughout (i.e. in ignorance of the first sale and of the first buyer's rights) - from the time of acquisition until the title is transferred to him by registration** or failing registration, by delivery of possession. (Cruz vs. Cabana, 129 SCRA 656, 663, June 22, 1984, Emphasis supplied).

In the case at bar, there is evidence showing not only that respondents Hayden Luzon and Leoncio Paderes were not ignorant of the sale of the lot by Ismael Elloso to petitioner, but also that the latter was ahead in registering his acquisition of the lot with the Register of Deeds.

It should be recalled that Hayden Luzon bought his property from Lorenzo Atega on