

## FIRST DIVISION

[ G.R. No. 127941, January 28, 1999 ]

**BIBLIA TOLEDO-BANAGA AND JOVITA TAN, PETITIONERS, VS.  
COURT OF APPEALS AND CANDELARIO DAMALERIO  
RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

The Court of Appeals (CA), in a decision penned by then Justice Ricardo J. Francisco, [1] categorically declared private respondent as the absolute owner of the land subject of this case. That decision was affirmed by this Court, became final and executory and was remanded to the lower court for execution. But the Register of Deeds frustrated private respondent's judicially determined right as it refused to issue Certificates of Title in his name on the ground that the matter should be referred "*en consulta*" to the Register of Deeds before petitioner's title can be cancelled and a new one issued in the name of the winning party – herein private respondent. So, for the third time, this simple redemption case which commenced in the 1980's is again before this Court.

Here is a summary of the facts, over which there is no dispute:

In an action for redemption filed by petitioner Banaga, the trial court declared that she had lost her right to redeem her property earlier foreclosed and which was subsequently sold at public auction to private respondent.[2] Certificates of Title covering the said property were issued to private respondent over which petitioner Banaga annotated on March 3, 1983 a notice of *lis pendens*. [3] On appeal by petitioner Banaga, the CA reversed the decision of the trial court and allowed the former to redeem the property within a certain period.[4] Private respondent's petition to this Court was dismissed [5] and the decision became final.

On June 11, 1992, petitioner Banaga tried to redeem the property by depositing with the trial court the amount of redemption which was financed by her co-petitioner Tan. Private respondent opposed the redemption arguing that it was made beyond the time given to her by the court in the earlier case. However, the lower court issued an order on August 7, 1992 upholding the redemption and ordered the Register of Deeds to cancel private respondent's Certificates of Title and issue new titles in the name of petitioner Banaga.[6] When his motion for reconsideration was denied by the trial court in an order dated January 4, 1993, private respondent filed a petition for *certiorari* with the CA which was docketed as CA-G.R. No. 29869. On January 11, 1993, private respondent caused the annotation of said petition as another notice of *lis pendens* on the Certificates of Title. Three days later, the CA issued a temporary restraining order to enjoin the execution of the August 7, 1992 and January 4, 1993 orders.

Meanwhile, on January 7, 1993, petitioner Banaga sold the subject property to petitioner Tan with the deed of absolute sale mentioning private respondent's certificate of title which was not yet cancelled. Notwithstanding the notice of *lis pendens*, petitioner Tan subdivided the property in question under a subdivision plan, which she made not in her name but in the name of private respondent. There being no preliminary injunction issued and with the expiration of the TRO, petitioner Tan asked the Register of Deeds to issue new titles in her name. On March 24, 1993, such titles were issued in petitioner Tan's name but it still carried the annotations of the two notices of *lis pendens*. Upon learning of the new title of petitioner Tan, private respondent impleaded the former in his petition in CA-G.R. No. 29869.

On October 28, 1993, the CA set aside the August 7, 1992 and January 4, 1993 orders of the trial court and declared private respondent absolute owner of the subject property. The CA disposed of the petition as follows:

"WHEREFORE, in view of the foregoing considerations, the instant petition is hereby GRANTED. The orders issued by public respondent judge dated August 7, 1992 and January 4, 1993 are hereby ordered SET ASIDE and a new one is hereby entered declaring petitioner as the absolute owner of the parcels of land subject of redemption for failure of private respondent to exercise the right of redemption within the thirty (30) day period previously granted her by this court."<sup>[7]</sup>

That decision became final and executory after petitioner Banaga's petition for review was dismissed by this Court for lack of merit.<sup>[8]</sup> Upon motion of private respondent, the trial court issued a writ of execution on December 27, 1994 ordering the Register of Deeds to reinstate the Certificates of Title in the name of the movant - herein private respondent. In its order which petitioners did not contest, the court *a quo* said that:

"Although there is no specific pronouncement in the decision of the Court of Appeals that reverts the titles to the land subjects of redemption to the defendant, the fact that it declared the petitioner (Damalerio) as the absolute owner of the lands entitles him to writ of execution issuing from this court directing the Register of Deeds to reinstate his titles to his name. As it is implied from the decision declaring him the absolute owner of the lands that the titles to the land be reverted to him (See *Uy v. Capulong*, 221 SCRA 87).

"Let therefore a writ of execution issue in this case to enforce the decision of the Court of Appeals. In this connection, the Register of Deeds of the Registry of Deeds for General Santos City is hereby ordered to reinstate the titles of Candelario B. Damalerio - Transfer Certificates of Title No. T- 19570 and T-19571, both of the Registry of Deeds from General Santos City."<sup>[9]</sup>

But the Register of Deeds refused to comply with the writ of execution alleging that the Certificates of Title issued to petitioner Tan must first be surrendered. Accordingly, private respondent moved to cite the Register of Deeds in contempt of court which was denied, as the trial court ruled on January 11, 1995 that the

former's remedy is by *consulta* to the Commissioner of Land Registration.<sup>[10]</sup> In another order (dated March 29, 1996), the trial court likewise denied private respondent's motion for the issuance of a writ of possession ruling that the latter's remedy is a separate action to declare petitioner Tan's Certificates of Title void. Aggrieved, private respondent again elevated the case to the CA via a petition for *certiorari* and *mandamus*<sup>[11]</sup> assailing the above-mentioned two orders of the court *a quo* naming as respondents the trial court judge, the Register of Deeds and the petitioners. On November 7, 1996, the CA rendered a decision granting the petition and, among others, set aside the assailed orders of the trial court. The dispositive portion of the CA decision reads:

"WHEREFORE, in view of all the foregoing considerations, the petition is GRANTED. Judgment is hereby rendered:

- 1) setting aside the orders of the respondent judge dated January 11, 1995 and March 29, 1996;
- 2) declaring the title issued to Biblia Toledo-Banaga, Jovita Tan and to those other subsequent transferee or transferees, if any, as null and void;
- 3) ordering the Register of Deeds of General Santos City to issue new certificates of title to Candelario Damalerio over the parcels of land in question;
- 4) ordering the respondent court to issue writ of execution for the enforcement of this decision and of the decision in CA-G.R. SP No. 29868 (sic), as well as a writ of possession for the delivery to petitioner Damalerio of the Physical possession of the parcels of land subject matter of this case.

"SO ORDERED."<sup>[12]</sup>

Upon denial by the CA of their motion for reconsideration, petitioners filed the instant petition for *certiorari* and *mandamus*. The Court, however, is puzzled why petitioners, in their petition, would seek to set aside the two orders (January 4, 1995 and March 29, 1996) of "respondent judge" who was not named in their petition.<sup>[13]</sup> Assuming this to be a mere lapsus since they also confusingly refer to Banaga and Tan as "private respondent" and to Damalerio as "petitioner",<sup>[14]</sup> the petition is still utterly without merit. It is petitioners' stand (1) that petitioner Tan is a buyer in good faith and (2) that the remedy of private respondent to secure the titles in his name is by *consulta* to the Land Registration Commissioner and not through contempt.

The Court is not convinced of the arguments proffered by petitioners.

By arguing that petitioner Tan was a buyer in good faith, petitioners in effect raise once more the issue of ownership of the subject property. But such issue had already been clearly and categorically ruled upon by the CA and affirmed by this Court, wherein private respondent was adjudged the rightful and absolute owner thereof. The decision in that case bars a further repeated consideration of the very same issue that has already been settled with finality. To once again re-open that

issue through a different avenue would defeat the existence of our courts as final arbiters of legal controversies. Having attained finality, the decision is beyond review or modification even by this Court.<sup>[15]</sup>

Under the principle of *res judicata*, the Court and the parties, are bound by such final decision, otherwise, there will be no end to litigation. It is to the interest of the public that there should be an end to litigation by the parties over a subject fully and fairly adjudicated, and an individual should not be vexed twice for the same cause.<sup>[16]</sup> All the elements of *res judicata* are present in this case, which are:

- (a) the former judgment must be final;
- (b) the court which rendered judgment had jurisdiction over the parties and the subject matter;
- (c) it must be a judgment on the merits;
- (d) and there must be between the first and second actions identity of parties, subject matter, and cause of action.<sup>[17]</sup>

The judgment in the redemption suit had long become final and executory; there is no question that the court had jurisdiction over the parties and the subject matter; it involves an adjudication on the merits of the case as the court discussed and passed upon petitioner Banaga's right of redemption which she did not timely exercise and as a consequence, lost her claim of ownership of the lot. Both petitioners and private respondent are parties to the earlier cases, disputing the same parcel of land with both opposing parties claiming ownership thereof. Certainly, *res judicata* had set in. Besides, once a judgment had become final and executory, it can no longer be disturbed no matter how erroneous it may be. In any case, no such error was attributed to in this case.

Contrary to petitioners' argument, private respondent's remedy is not a direct or independent civil action for cancellation of petitioner Tan's titles. The facts, circumstances, evidence and arguments invoked in this derailed final and executory decision are the very same matters that will be established assuming such independent suit is legally warranted. It does not matter whether the former case was a redemption suit and the new one will be for cancellation of title because the test of identity of causes of action is not in its form but whether the same evidence would support and establish the former and present causes of action.<sup>[18]</sup>

Petitioners other contention that the execution of the final and executory decision - which is to issue titles in the name of private respondent - cannot be compelled by *mandamus* because of the "formality" that the registered owner first surrenders her duplicate Certificates of Title for cancellation per Section 80 of Presidential Decree 1529<sup>[19]</sup> cited by the Register of Deeds,<sup>[20]</sup> bears no merit. In effect, they argue that the winning party must wait execution until the losing party has complied with the formality of surrender of the duplicate title. Such preposterous contention borders on the absurd and has no place in our legal system. Precisely, the Supreme Court had already affirmed the CA's judgment that Certificates of Title be issued in private respondent's name. To file another action just to compel the registered owner, herein petitioner Tan, to surrender her titles constitute violation of, if not disrespect to, the orders of the highest tribunal. Otherwise, if execution cannot be

had just because the losing party will not surrender her titles, the entire proceeding in the courts, not to say the efforts, expenses and time of the parties, would be rendered nugatory. It is revolting to conscience to allow petitioners to further avert the satisfaction of their obligation because of sheer literal adherence to technicality,<sup>[21]</sup> or formality of surrender of the duplicate titles. The surrender of the duplicate is implied from the executory decision since petitioners themselves were parties thereto. Besides, as part of the execution process, it is a ministerial function of the Register of Deeds to comply with the decision of the court to issue a title and register a property in the name of a certain person, especially when the decision had attained finality, as in this case.

In addition, the enforcement of a final and executory judgment is likewise a ministerial function of the courts<sup>[22]</sup> and does not call for the exercise of discretion. Being a ministerial duty, a writ of *mandamus* lies to compel its performance.<sup>[23]</sup> Moreover, it is axiomatic that where a decision on the merits is rendered and the same has become final and executory, as in this case, the action on procedural matters or issues becomes moot and academic.<sup>[24]</sup> Thus, the so-called *consulta* to the Commissioner of Land Registration, which is not applicable herein, was only a naive and belated effort resorted to by petitioners in order to delay execution. If petitioners desire to stop the enforcement of a final and executory decision, they should have secured the issuance of a writ of preliminary injunction,<sup>[25]</sup> but which they did not avail knowing that there exists no legal or even equitable justifications to support it.

At any rate, at the time petitioner Banaga sold the property to petitioner Tan, the latter was well aware of the interest of private respondent over the lot. Petitioner Tan furnished the amount used by petitioner Banaga for the attempted redemption. One who redeems in vain a property of another acquires notice that there could be a controversy. It is for the same reason that petitioner Tan was included as party to the case filed in court. Worse, at the time of the sale, petitioner Tan was buying a property not registered in the seller's name. This is clear from the deed of absolute sale which even mentioned that the Certificate of Title is still in the name of private respondent. It is settled that a party dealing with a registered land need not go beyond the Certificate of Title to determine the true owner thereof so as to guard or protect her interest. She has only to look and rely on the entries in the Certificate of Title. By looking at the title, however, petitioner Tan cannot feign ignorance that the property is registered in private respondent's name and not in the name of the person selling to her. Such fact alone should have at least prompted, if not impelled her to investigate deeper into the title of her seller - petitioner Banaga, more so when such effort would not have entailed additional hardship, and would have been quite easy, as the titles still carried the two notices of *lis pendens*.

By virtue of such notices, petitioner Tan is bound by the outcome of the litigation subject of the *lis pendens*. As a transferee *pendente lite*, she stands exactly in the shoes of the transferor and must respect any judgment or decree which may be rendered for or against the transferor. Her interest is subject to the incidents or results of the pending suit, and her Certificate of Title will, in that respect, afford her no special protection.<sup>[26]</sup>

To repeat, at the time of the sale, the person from whom petitioner Tan bought the property is neither the registered owner nor was the former authorized by the latter