

## THIRD DIVISION

[ G.R. No. 111027, February 03, 1999 ]

**BERNARDINO RAMOS AND ROSALIA OLI, PETITIONERS, VS.  
COURT OF APPEALS, RODOLFO BAUTISTA AND FELISA LOPEZ,  
RESPONDENTS.**

### D E C I S I O N

**ROMERO, J.:**

May the heir of the original registrant of parcels of land under the Torrens System, be deprived of ownership by alleged claimants thereof through acquisitive prescription?

Impugned in this petition for review on certiorari is the Decision<sup>[1]</sup> of the Court of Appeals which affirmed *in toto* that of the Regional Trial Court of Aparri, Cagayan, Branch VIII,<sup>[2]</sup> disposing of Civil Case No. VIII-7, an action for reconveyance with damages, as follows:

"**WHEREFORE**, in view of all the foregoing, judgment is hereby rendered as follows:

1. Ordering the dismissal of the instant case;
2. The defendants are hereby declared absolute owners of the land described in paragraph 2 of the complaint, Lot No. 572 and Lot No. 579 Gattaran Cadastre, Gattaran, Cagayan;
3. The affidavit of Self-Adjudication (Exhibit `6') and Transfer Certificate of Titles Nos. T-31699 and T-31698 (Exhibit `7' & `8') are hereby declared valid; and
4. Ordering the heirs of the late Bernardino Ramos and other persons acting in their behalf, to refrain from molesting or disturbing the possession and ownership of the defendants of the land described in paragraph 2 of the complaint, designated as Lot 572 and Lot 579 Gattaran Cadastre, Gattaran, Cagayan, covered by Original Certificate of Titles Nos. 17811 and 17812 which was (sic) cancelled by Transfer Certificate of Titles Nos. T-31699 and T-31698.

No pronouncement as to costs and damages.

SO ORDERED."

as well as the resolution of July I, 1993, denying reconsideration thereof.

The records disclose the following antecedent facts:

On March 14, 1939, Pedro Tolentino, claiming absolute ownership over Lot Nos. 572 and 579 of the Gattaran *cadastre* in Lapogan, Gattaran, Cagayan, separately sold said lots to petitioners, the spouses Bernardino Ramos and Rosalia Oli, in consideration of the amount of eighty pesos (P80.00) for each sale. The aforesaid conveyances were allegedly evidenced by two documents both entitled "*Escritura de Compra Venta*"<sup>[3]</sup> and acknowledged before a notary public.

Subsequently, however, petitioners instituted on January 8, 1976 an action for reconveyance with damages<sup>[4]</sup> alleging that while they were `in open, public, adverse, peaceful and continuous possession" of the subject lots "in good faith and with just title, for not less than fifty (50) years, personally and through their predecessors-in-interest," they were surprised to discover in November 1975, that decrees of registration<sup>[5]</sup> covering Lot Nos. 572 and 579 were already issued on January 7, 1940. They complained further the subsequent issuance by the Register of Deeds of Cagayan on March 11, 1941, Original Certificates of Title Nos. 17811 and 17812 covering Lot Nos. 572 and 579, respectively, in favor of Lucia Bautista since the latter allegedly neither laid claim of ownership nor took possession of them, either personally or through another. Petitioners claimed instead that they were the ones who acquired prior ownership and possession over the lots to the exclusion of the whole world. Thus, they concluded that the original certificates of title as well as Transfer Certificates of Title Nos. T-31698 and T-31699 obtained by private respondent Rodolfo Bautista who adjudicated unto himself said lots on September 20, 1975, as sole heir of Lucia Bautista<sup>[6]</sup> were null and void. On the theory that they already acquired the subject lots by acquisitive prescription, petitioners demanded their return but private respondents refused to do so, hence, compelling them to file a complaint for reconveyance with damages.

On the other hand, herein private respondents, the spouses Rodolfo Bautista and Felisa Lopez, likewise claimed absolute ownership of the lots covered by TCT Nos. T-31698 and T-31699. They alleged that while the records of the Bureau of Lands showed that during the cadastral survey in Gattaran in 1932, Pedro Tolentino was a claimant over lands in the *cadastre*, the same was only with respect to Lot No. 1399 which was eventually titled under his name as OCT No. 16110. It just happened that Lot No. 1399 was adjacent to Lot No. 572, a portion of which was occupied by petitioners upon the tolerance of the original registrant Lucia Bautista.

By way of affirmative defense, private respondents maintained that the action for reconveyance filed by petitioners was tantamount to a reopening of the cadastral proceedings or a collateral attack on the decrees of registration which cannot be done without violating the rule on conclusiveness of the decree of registration. Moreover, they argued that since the lots were already under the operation of the Torrens System, acquisitive prescription would no longer be possible.

After due proceedings, the trial court dismissed petitioners' complaint underscoring the fact that during the cadastral proceedings in 1940, Bernardino Ramos did not file an answer for the two lots although he was allegedly the claimant and possessor thereof under the deeds of sale executed by Pedro Tolentino in his favor on March 14, 1939. Since it was only Lucia Bautista who filed an answer and who appeared to be the lawful claimant in the proceedings, she was therefore issued original certificates of title for the subject lots. The trial court presumed that everyone was

notified about the proceedings inasmuch as cadastral proceedings are *in rem*. More notably, within one year from the issuance of the decree of registration on January 9, 1940, Bernardino Ramos likewise failed to avail of a petition to reopen the proceedings on the ground of fraud as he subsequently alleged in his belated action for reconveyance. Consequently, when the action for reconveyance was finally filed, more than thirty-six (36) years had already elapsed and laches had set in. The trial court ruled in this wise:

"The settled rule on the indefeasibility and incontrovertibility of the title after the expiration of one year from the entry of the final decree of registration, now bars the plaintiffs from availing this action for reconveyance; the property in question not having been satisfactorily shown that same was wrongfully titled to in the name of Lucia Bautista. Accordingly, her titles thereto, Exhibit `4' and Exhibit `5', are therefore valid. By operation of law Transfer Certificate of Title Nos. 31699 and 31698 in the name of Rodolfo Bautista (Exhibit `7' & `8') are also valid. The defendant Rodolfo Bautista is a possessor with a Torrens title who is not aware of any flaw of his title which invalidates it, is considered possessor in good faith and his possession does not lose this character except in the case and from the moment by final judgment of the Court (sic). *Diaz vs. Rodriguez*, L-20300-01 and *Republic vs. Court of Appeals*, L-20355-56, April 30, 1965, 13 SCRA 704.

In the same vein, it is a settled rule that a party seeking the reconveyance to him of his land that he claims had been wrongfully registered in the name of another person, must recognize the validity of the certificate of title of the latter. It is also a settled rule that a reconveyance may only take place if the land that is claimed to be wrongfully registered is still registered in the name of the person who procured the wrongful registration. No action for reconveyance can take place as against a third party who acquired title over the registered property in good faith and for value. Defendant Rodolfo Bautista fittingly steps into the shoes of an innocent third person." [Underscoring supplied].

Dissatisfied with the trial court's disposition of the case, petitioners seasonably appealed the same to the Court of Appeals. The appellate court, however, found the conclusions reached by the trial court in accord with law and the evidence presented, hence, it affirmed the same *in toto* on October 23, 1992. Having been denied reconsideration, petitioners interposed the instant petition for review on certiorari alleging the following as grounds therefor:

1. RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION IN AFFIRMING *IN TOTO* THE DECISION OF THE TRIAL COURT WHICH FOUND BY MERE PRESUMPTION THAT PRIVATE RESPONDENTS ARE IN POSSESSION OF THE LAND IN SUIT WHEN THE FACTS ADDUCED DURING THE TRIAL CLEARLY PROVED THAT PETITIONERS HAVE BEEN IN POSSESSION THEREOF FOR MORE THAN 30 YEARS.
2. RESPONDENT COURT OF APPEALS ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION IN FINDING THAT THE INSTANT ACTION FOR RECONVEYANCE INSTITUTED BY PETITIONERS HAD ALREADY

PRESCRIBED.

3. RESPONDENT COURT OF APPEALS ERRED IN CONFORMING WITH THE TRIAL COURT'S DECISION THAT RECONVEYANCE WILL NO LONGER PROSPER IF THE LANDS IN SUIT HAD ALREADY BEEN TRANSFERRED TO A THIRD PERSON IN GOOD FAITH AND FOR VALUE WHEN THE FACTS SHOW THAT PRIVATE RESPONDENTS HAD ADMITTED THEY ALLEGEDLY INHERITED THE LANDS IN SUIT AND THEREFORE THEY ARE NOT THIRD PARTIES.

We sustain the appellate court's decision.

Inasmuch as petitioners anchor their claim of ownership over the parcels of land on the alleged deeds of sale executed by Pedro Tolentino in their favor, we believe that the issue of the authenticity and binding effect of those documents should be addressed at the outset.

The two documents denominated as *Escritura de Compra Venta* which were executed in 1939 would have well qualified as ancient documents<sup>[7]</sup> since they were already in existence for more than thirty years in 1976 when the case for reconveyance was initially filed. The original documents, however, were not presented in evidence as these had been apparently lost in the fire that gutted the office of petitioners' counsel. Under the circumstances, it should have been the duty of petitioners therefore to prove the existence of the documents in accordance with Rule 130 of the Revised Rules of Court which states:

"SEC. 5. *When original document is unavailable.* - When the original document has been lost or destroyed, or can not be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated."

It appears that the loss of the two documents of sale was shown by testimonial evidence of petitioners' counsel, Atty. MacPaul B. Soriano, whose law office was burned. Upon realizing that the documents involved here had been irretrievably lost because of the fire, Atty. Soriano suggested to petitioners that they should see their other lawyer, Atty. Laggui, who could provide them with certified true copies thereof. <sup>[8]</sup> Thus, the copies of the documents that petitioners presented in court each contained the following certification:

#### "C E R T I F I C A T I O N

I, ANTONIO N. LAGGUI, Notary Public for and in the Province of Cagayan, hereby certify that the foregoing is a true, correct and literal copy of the original copy of Doc. No. 1, Page No. 44, Book No. 1, Series of 1939 of the Notarial Register Luis Rosacia, shown to me by, and in possession of Bernardino Ramos."

This certification, however, does not imply that the documents certified to were authentic writings although it proves the existence of the documents purportedly evidencing the sale. Rule 132 provides the manner by which the due execution and