

## THIRD DIVISION

[ G.R. No. 117029, March 19, 1997 ]

**PELTAN DEVELOPMENT, INC., PATROCINIO E. MARGOLLES,  
EDGARDO C. ESPINOSA, VIRGINIA E. VILLONGCO, LUCIA E.  
LAPERAL, NORMA C.[1]**

**ESPINOSA, TERESITA E. CASAL AND ALICE E.SOTTO,  
PETITIONERS, VS. COURT OF APPEALS, ALEJANDRO Q. REY AND  
JUAN B.ARAUJO, RESPONDENTS.**

### D E C I S I O N

**PANGANIBAN, J.:**

In resolving a motion to dismiss for failure to state a cause of action, should the Court of Appeals invoke a Supreme Court decision promulgated after such motion was filed by defendants and ruled upon by the trial court? Is such invocation violative of the rule that motions to dismiss based on lack of cause of action should be ruled upon only on the basis of the allegations of the complaint? Who are the real parties-in-interest in an action to cancel a Torrens certificate of title?

Petitioners challenge the Decision<sup>[2]</sup> of public respondent<sup>[3]</sup> in CA-G.R. CV No. 28244 promulgated on June 29, 1994, which ruled as follows:<sup>[4]</sup>

“WHEREFORE, the appealed order dated August 22, 1989 is REVERSED and SET ASIDE. The trial court is ordered to try the case on plaintiffs’ (herein private respondents) complaint/amended complaint against all defendants (herein petitioners).

Let the original record of the case be returned to the court of origin.”

In a Resolution<sup>[5]</sup> promulgated on September 2, 1994, Respondent Court denied petitioners’ motion for reconsideration.

The order reversed by public respondent had been issued by the Regional Trial Court of Pasay City, Branch 112, in Civil Case No. LP-8852-P. The order in part ruled:<sup>[6]</sup>

“Considering the arguments and counter-arguments urged by the parties in this case, particularly on the nature and effect of the action filed by plaintiffs, the Court is inclined to grant the Motion to Dismiss filed by defendant Peltan Development Corporation on the basis of the Supreme Court ruling in Gabila vs. Barriga, 41 SCRA 131. The ultimate result of the cancellation prayed for by the plaintiffs, if granted by this Court, would be to revert the property in question to the public domain.

Therefore, the ultimate beneficiary of such cancellation would be the Government. Since the Government can only be represented by the Office of the Solicitor General, which has repeatedly refused to institute or join an action for cancellation of defendant's titles, then, the real party in interest cannot be said to have instituted the present action. It is the Government, not the plaintiffs which is the real party in interest. Plaintiffs not being the real party in interest, they have no cause of action against the defendants.

WHEREFORE, the Motion to Dismiss is hereby granted and this case is hereby dismissed, without prejudice to plaintiffs' pursuing administrative relief in the proper government agencies concerned."

### **The Facts**

The facts, as found by public respondent, are undisputed by the parties, to wit:<sup>[7]</sup>

"On February 20, 1981 plaintiffs (herein private respondents) filed against eleven (11) defendants (herein petitioners) a complaint captioned for 'Cancellation of Titles and Damages'. On December 15, 1981, the complaint was amended by including or impleading as the twelfth defendant the City Townhouse Development Corporation. Omitting the jurisdictional facts, the allegations in the amended complaint are quoted hereunder:

#### **II**

Plaintiffs are applicants for a free patent over a parcel of land comprising an area of 197,527 square meters, more or less, situated in Barrio Tindig na Manga, Las Piñas, Metro Manila.

#### **III**

Prior to the filing of their petition for free patent, plaintiffs had for many years been occupying and cultivating the aforesaid piece of land until their crops, houses and other improvements they introduced thereon were illegally bulldozed and destroyed by persons led by defendant Edgardo Espinosa x x x Thereafter, the same persons forcibly and physically drove out plaintiffs therefrom.

#### **IV**

Plaintiffs filed their petition for issuance of free patent covering the aforesaid property with the Bureau of Lands in May 1976, as a result of which they were issued by the Lands Bureau Survey Authority No. 54 (IV-1) on December 16, 1976.

#### **V**

Accordingly, and on the strength of the aforesaid authority to survey, plaintiffs had the property surveyed by Geodetic Engineer Regino L. Sobrerinas, Jr. on December

20-21, 1976.

## **VI**

During the years that plaintiffs were occupying, cultivating, planting and staying on the aforestated parcel of land, neither x x x one of the defendants was in possession thereof.

## **VII**

The processing and eventual approval of plaintiffs' free patent application or petition over the subject piece of land have, however, been obstructed and/or held in abeyance, despite the absence of any opposition thereto, because of the alleged existence of several supposed certificates of title thereon, x x x of the defendants, namely:

Peltan Development, Inc. — Transfer Certificate of Title No. S-17992

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## **VIII**

The aforestated transfer certificates of title of the abovenamed defendants, plaintiffs discovered, and therefore they hereby allege, were all derived from an alleged Original Certificate of Title No. 4216 supposedly issued by the Register of Deeds of Rizal and registered in the name of the Spouses Lorenzo Gana and Maria Juliana Carlos in 1929 allegedly pursuant to Decree No. 351823 issued by the Court of First Instance of Rizal in Land Registration Case (LRC) No. 672.

IX

Plaintiffs, however, subsequently discovered, after a thorough research, that the alleged Original Certificate of Title No. 4216 of the Spouses Lorenzo Gana and Juliana Carlos — whence all the transfer certificates of title of the x x x abovenamed defendants originated and/or were derived from — was FICTITIOUS and/or SPURIOUS x x x

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Being, thus, derived and/or having originated from a FICTITIOUS and/or SPURIOUS original certificate of title (OCT No. 4216), as herein above shown, ALL the aforestated transfer certificates of title of the x x x abovenamed defendants are, logically and imperatively, FAKE, SPURIOUS and/or NULL AND VOID as well. Hence, they all must and should be CANCELED.

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## **XIV**

Before they decided to institute this action, plaintiffs informed, indeed they warned, the defendants that their so-called titles over the parcels of land or portions thereof covered by plaintiffs' free patent application and/or petition are either fake, spurious or void for reasons aforesated. But the defendants simply ignored plaintiffs' admonitions.

## **XV**

Accordingly, plaintiffs were compelled to retain the services of the undersigned counsel to file this complaint not only because they have been materially and substantially prejudiced by the existence of defendants' spurious titles, but also because as citizens and taxpayers of this country they have a legitimate interest in the disposition of alienable lands of the State, as well as the right to question any illegitimate, unlawful or spurious award, disposition or registration thereof to protect not just their interest but also the public.

## **XVI**

Because of the defendant's illegal titling of the parcel of land or portions thereof covered by plaintiffs' free patent application, and particularly by the unlawful disturbance of plaintiff's possession thereof and destruction of plaintiffs' plants and dwellings thereon, which was caused and/or directed by the defendants Edgardo Espinosa and Pat C. Margolles, said defendants should be ordered to pay plaintiffs actual or compensatory damages in such amount as may be proven during the trial of this case.' (Original Records, Vol. I, pp. 202-214)

On the basis of the foregoing allegations, the prayer in the amended complaint states:

'WHEREFORE, it is most respectfully prayed that after hearing, judgment (should) be rendered:

1. Canceling the transfer certificates of titles of the defendants as specified in par. VII hereof and/or declaring them null and void for having originated or being derived from a fictitious, spurious or void original certificates of title.

2. Ordering defendants Edgardo Espinosa and Pat C. Margolles to pay plaintiffs actual or compensatory damages as may be proven during the trial of this case. And

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3. Ordering the defendants to pay plaintiffs appropriate amount of exemplary damages and reasonable amount of attorney's fees, as well as to pay the costs.

Plaintiffs further respectfully pray for such other reliefs just and equitable in the premises.' (Original Records, Vol. I, p. 215)

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On April 3, 1985, defendant Peltan Development Corporation (Peltan, for brevity) filed a 'Motion For Preliminary Hearing on Affirmative Defenses' mainly on the ground that the complaint states no cause of action against defendant Peltan. It is alleged in the motion that plaintiffs are not the real parties in interest in the action as they do not assert any present and subsisting title of ownership over the property in question. Invoking the case of Gabila vs. Barriga, L-28917, promulgated on September 30, 1971, the defendant Peltan contends that the action being one for cancellation of the certificates of title the Government, through the Solicitor General — not a private individual like plaintiff Gabila — was the real party in interest.

On April 27, 1989 plaintiffs filed their opposition to defendant Peltan's aforesaid motion in which plaintiffs reasserted their cause of action as set forth in their complaint, and pointed to the trial court the pertinent averments in their action showing their rights and interests or claims that had been violated which thus placed them in the status of a real party in interest. Subsequently, defendant Peltan filed its reply to plaintiffs' opposition, with plaintiffs submitting their rejoinder thereto. Then finally defendant Peltan filed its comment on the rejoinder.

On August 22, 1989, the trial court dismissed the complaint. Holding that the plaintiffs were not the real parties-in-interest, the RTC ruled that they had no cause of action against the defendants. The order was reversed by public respondent. Hence, this petition for review.

In a motion filed before this Court on March 8, 1996, petitioners prayed for the cancellation of the notice of lis pendens annotated on their titles "under Entry No. 210060/T-12473-A." The notice was caused by Private Respondent Alejandro Rey because of the pendency of Civil Case No. LP-8852-P, the dismissal of which is the issue at bench.<sup>[8]</sup>

#### Ruling of the Court of Appeals

As observed earlier, the Court of Appeals reversed and set aside the order of the Regional Trial Court, holding that the two elements of a cause of action were present in the complaint, to wit: 1) the plaintiff's primary right and 2) the delict or wrongful act of the defendant violative of that right. The CA held that private respondents had a right over the property as shown by the allegation that they had been occupying the landholding in question and that they had applied for a free patent thereon; and that petitioners committed a delict against private respondents by forcibly driving them out of the property, and delaying the processing and approval of their application for free patent because of the existence of petitioners' transfer certificates of title derived from OCT No. 4126.<sup>[9]</sup> The CA further held that the RTC "should have treated the case as an accion publiciana to determine who as between the parties plaintiffs and defendants have a better right of possession."<sup>[10]</sup>

Stressing that only the facts alleged in the complaint should have been considered in resolving the motion to dismiss, Respondent CA held that the trial court had erred in accepting the allegations of herein petitioners that private respondents' requests for the Solicitor General to file an action to annul OCT No. 4216 had been repeatedly