

TWELFTH DIVISION

[CA-G.R. CV. No. 95532, January 30, 2014]

**SPOUSES MARYLINE R. GAMBOA AND BERSAMIN C. GAMBOA,
PETITIONERS-APPELLANTS, V. ELENITA Y. NERI AND THE
REGISTER OF DEEDS FOR THE PROVINCE OF PAMPANGA,
RESPONDENTS-APPELLEES.**

D E C I S I O N

ELBINIAS, J.:

Subject of this Appeal^[1] under Rule 41 of the Rules of Court is the Resolution^[2] dated June 9, 2010 of the Regional Trial Court of San Fernando City, Pampanga, Branch 42 ("lower court" for brevity) in CAD Case No. 2067 for "Cancellation of Adverse Claim and Damages."^[3]

The salient facts are those as stated in the lower court's assailed Resolution^[4] dated June 9, 2010, as follows:

"The Petitioners Spouses MARYLINE R. GAMBOA and BERSAMIN C. GAMBOA (*petitioners-appellants here*), xxx, filed the Petition for Cancellation of Adverse Claim and Damages which the Court received on August 12, 2009.

Named Respondents were:

ELENITA Y. NERI, single, Filipino, of legal age and a resident of 1513 Jesus St., Brgy. Pulungbulo, Angeles City; and

REGISTER OF DEEDS FOR THE PROVINCE OF PAMPANGA as the nominal party.

It was alleged that Transfer Certificate of Title Nos. 460051-R and 467706-R were transferred and registered in favor of the Plaintiff through a Deed of Absolute Sale dated April 3, 2003.

However, Respondent ELENITA Y. NERI (*respondent-appellee here*) caused the annotation therein of an Adverse Claim, to wit:

'a. That said properties were never sold, transferred and conveyed in favor of the petitioners;

'b. *That the signatures appearing on the Deed of Absolute Sale purporting to be the respondent's signatures were forged and/or falsified;*

'c. *That respondent does not know the petitioners, neither did she transact with them with respect to the subject properties; and*

'd. That respondent did not appear and acknowledge the Deed of Absolute Sale before Notary Public Reyes D. Manalo.'

X X X

It was alleged further by Petitioner that the annotation was frivolous, among others xxx.

Finding the Petition to be sufficient in form and substance, this Court, in an Order dated August 14, 2009, set the same for hearing on, September 21, 2009 at 10:00 in the morning at the Session Hall of this Court. xxx"

[5] (*Emphasis supplied; Italics made in the original*)

On June 9, 2010, the lower court issued its assailed Resolution^[6] denying petitioners-appellants Spouses Maryline Gamboa and Bersamin Gamboa's ("petitioners-appellants" for brevity) Petition for Cancellation of Adverse Claim. The dispositive portion of the Resolution stated:

"PREMISES GIVEN, the Court orders the following:

I. The following as prayed for by Petitioner SPOUSES MARYLINE R. GAMBOA and BERSAMIN C. GAMBOA are ordered **DENIED**:

'1. Directing the respondent Registry of Deeds for the Province of Pampanga to cancel the Notice of Adverse Claim filed by respondent Elenita Y. Neri, annotated/entered at the dorsal portion of Transfer Certificate of Title Nos. 535888-R and 535889-R, respectively;

'2. Ordering the respondents to pay, jointly and severally, the amount of P30,000.00 as and by way of acceptance fee of the undersigned counsel, plus P2,500.00 as appearance fee per hearing of this case; and,

'3. If the adverse claim is found invalid, frivolous or vexatious, ordering the respondent Neri to pay a fine as the court may determine;

'4. Costs of suit[.]'

X X X

II. Cadastral Case No. 2067 is ordered **DISMISSED**.

SO ORDERED."^[7] (*Emphasis and Italics made in the original*)

As a result, petitioners-appellants filed the instant Appeal,^[8] praying that:

"WHEREFORE, premises considered, it is most respectfully prayed of unto this Honorable Court of Appeals that the findings of the lower court in dismissing the Petition for Cancellation of the Notice of Adverse Claim filed by herein petitioners-appellants be REVERSED and/or SET ASIDE, and that new judgment be issued by granting the cancellation of the notice of adverse claim.

Petitioners-appellants further pray for such other reliefs and remedies deemed just and equitable under the premises."^[9]

Petitioners-appellants raised the following assignment of errors:

"I. WHETHER OR NOT THE LOWER COURT IS (sic) ERRED IN DENYING THE PETITION FOR THE CANCELLATION OF THE NOTICE OF ADVERSE CLAIM ANNOTATED AT THE DORSAL PORTION OF TCT NOS. 535888-R AND 535889-R ISSUED BY THE REGISTER OF DEEDS FOR THE PROVINCE OF PAMPANGA IN FAVOR OF THE HEREIN PETITIONERS-APPELLANTS;

II. WHETHER OR NOT THE PETITIONERS-APPELLANTS FAILED TO COMPLY WITH SECTION 51 OF PD 1529;

III. WHETHER OR NOT THE HEREIN PETITIONERS-APPELLANTS HAVE VALID CAUSE OF ACTION IN FILING THIS PETITION FOR THE CANCELLATION OF THE NOTICE OF ADVERSE CLAIM ANNOTATED BY RESPONDENT-APPELLEE ELENITA Y. NERI."^[10]

Despite the failure of respondent-appellee to file her Appellee's Brief, it is nevertheless Our "primary duty to render or dispense justice"^[11] in this case in accordance with the facts and law.

As correctly argued by petitioners-appellants in their *assigned error I*, the lower court erred in not cancelling respondent-appellee's Adverse Claim on petitioners-appellants' titles.

In denying petitioners-appellants' Petition for Cancellation of Adverse Claim on their titles, the lower court concluded that:

"The Court observed, that, the alleged conveyance, ie the Deed of Absolute Sale between the herein Petitioners and Respondent ELENITA Y. NERI, was not registered in the Register of Deeds as prescribed by Section 51 of PD 1529. Instead, the alleged Seller, ELENITA Y. NERI caused the annotation of the Adverse Claim recorded and annotated at the back of TCT No. 535888-R and TCT No. 535889-R.

xxx

While the presence of the Respondent ELENITA Y. NERI was not required, clearly, the resolution of the Petitioner's Motion could not be granted without Respondent ELENITA Y. NERI's participation, and moreso, with her manifest adverse stand. xxx

Likewise, ELENITA Y. NERI was not presented to identify the alleged DEED OF ABSOLUTE SALE which was marked as Exhibit G and G-1.

For this reason, the cancellation of the adverse claim is not allowed by the Court."^[12]

Defeating lower court's findings however, is that as the records revealed, the Deed of Absolute Sale^[13] dated April 3, 2003 executed between respondent-appellee as the seller, and petitioners-appellants as the buyers, was registered in the Register of Deeds of Pampanga.^[14] Such registration justified the cancellation of respondent-appellee's Transfer Certificate of Title (TCT) Nos. 467706-R^[15] and 460051-R^[16] covering the properties sold by respondent-appellee to petitioners-appellants ("subject properties" for brevity), and the subsequent issuance of TCT

Nos. 535888-R and 535889-R ("new titles" for brevity) in favor of petitioners-appellants.

In fact, respondent-appellee's TCT Nos. 467706-R^[17] and 460051-R^[18] reflected the sale of the subject properties by respondent-appellee to petitioners-appellants, which sale therefore justified the cancellation of respondent-appellee's titles and the issuance of new titles in favor of petitioners-appellants. The TCT's having shown such sale was revealed by the following entries made by the Register of Deeds of Pampanga:

"Transfer Certificate of Title No. 467706-R

XXX

Entry No. 992-Vol.81-T:4:00 p.m.- SALE in favor of MARYLINE R. GAMBOA, married to Bersamin C. Gamboa, Affecting the lot herein described and that in T-460051-R for the sum of P200,000.00 as per Doc. No.125; Page No. 26; Bk. No. XIV Series of 2003 of N.P. R. Manalom[.] Wherefore this title is canceled issuing in lieu thereof T-535889-R, Bk. No. 2676.

Date of Doc. April 3, 2003

Date of Incs. Apr[il] 14, 2003[.]"^[19] (*Emphasis supplied*)

"Transfer Certificate of Title No. 460051-R

XXX

[Entry No.] 992-[V]ol.81-T:4:00 p.m.- SALE in favor of MARYLINE R. GAMBOA, married to Bersamin C. Gamboa, The lot herein described is included in the annotation of sale inscribed at the back of T-467706-R for the sum of P200,000.00. Wherefore this title is canceled issuing in lieu thereof T-535888-R.

Date of Doc. Apr[il] 3, 2003

Date of Incs. Apr[il] 14, 2003[.]"^[20] (*Emphasis supplied*)

Thus, petitioners-appellants' registration of the Deed of Absolute Sale^[21] meant that petitioners-appellants had complied, as petitioners-appellants' correctly argued in their *assigned error II*, with the requirement under Section 51 of Presidential Decree 1529 (P.D. 1529), which provides:

"Section 51. Conveyance and other dealings by registered owner. An owner of registered land may convey, mortgage, lease, charge or otherwise deal with the same in accordance with existing laws. He may use such forms of deeds, mortgages, leases or other voluntary instruments as are sufficient in law. But no deed, mortgage, lease, or other voluntary instrument, except a will purporting to convey or affect registered land shall take effect as a conveyance or bind the land, but shall operate only as a contract between the parties and as evidence of authority to the Register of Deeds to make registration.

The act of registration shall be the operative act to convey or affect the land insofar as third persons are concerned, and in all