

## **SPECIAL ELEVENTH DIVISION**

**[ CA-G.R. CV No. 97564, December 11, 2014 ]**

**PABLO B. CABRERA, REPRESENTING THE SURVIVING HEIRS OF THE LATE CIRIACO CABRERA. OWNER OF A PARCEL OF LAND SITUATED AT DAANG HARI, LAS PIÑAS CITY, COVERED BY OCT NO. 6433 OF REGISTER OF DEEDS PROVINCE OF RIZAL PETITIONER-APPELLANT, VS. PABLO B. BUNDA, RICARDO DE LEON, BAYANI BERNARDO, INVESTMENT DEVELOPMENT CORPORATION, & REGISTER OF DEEDS OF LAS PIÑAS CITY, RESPONDENTS-APPELLEES.**

### **DECISION**

**PAREDES, J.:**

#### **THE CASE**

THIS IS ON THE APPEAL filed by petitioner-appellant Pablo B. Cabrera (Cabrera), from the Decision<sup>[1]</sup> dated May 31, 2011 of the Regional Trial Court (RTC), Branch 255, Las Piñas City in Civil Case No. 08-0130; and the Order<sup>[2]</sup> dated August 3, 2011 which denied Cabrera's motion for reconsideration.

#### **THE ANTECEDENTS**

On September 2, 2008, Cabrera, representing the surviving heirs of Ciriaco Cabrera (Ciriaco), filed an Amended Petition for Quieting of Title and Cancellation of Any Subsequent Titles over a parcel of land situated at Daang Hari, Las Piñas City, with an area of 235,294 square meters, more or less, covered by Original Certificate of Title (OCT) No. 6433 (subject lot). Cabrera named as respondents: Pablo B. Bunda (Bunda), Ricardo De Leon (De Leon), Bayani Bernardo (Bernardo), and Investment Development Corporation (IDC), collectively respondents-appellees, as well as the Register of Deeds of Las Piñas City as nominal party.

Cabrera alleged that he is a surviving heir of Ciriaco, the owner/claimant/possessor of the subject lot, covered by PSU 23129<sup>[3]</sup>. The subject lot was surveyed<sup>[4]</sup> for Ciriaco on August 20-23, 1920 by Victorino Floro, a qualified surveyor, and approved by the Director of the Bureau of Lands, Manila, Department of Agriculture and Natural Resources. The application for registration of Ciriaco over the subject lot was published<sup>[5]</sup> in the Official Gazette on February 23, 1921. The subject lot has been declared<sup>[6]</sup> for taxation purposes in the name of Ciriaco. On April 17, 1962, Ciriaco died<sup>[7]</sup> intestate without leaving any debts. There are no encumbrances upon the said property, taxes thereon have all been paid, and the land is not inside any government military or naval reservation. Thereafter, the subject lot was

extrajudicially settled among the heirs of the Ciriaco through an Extrajudicial Partition<sup>[8]</sup> with Waiver of Rights in favor of Cabrera.

However, it appeared that an Application<sup>[9]</sup> for Registration of Title over the subject lot was also filed by Bunda on March 9, 1966 per Land Registration Commission (LRC) Case No. N-P-52, LRC Record No. N-29981. A Decision<sup>[10]</sup> was issued on July 24, 1967 by Hon. Antonio Rodriguez, Municipal Judge of Las Piñas City, Province of Rizal. Upon finality<sup>[11]</sup> of the Decision, OCT No. 6433<sup>[12]</sup> was issued by Land Registration Commissioner Antonio Noblejas on December 8, 1967, in the names of several persons, including Bunda, De Leon, Bernardo and several heirs of Ciriaco. Based on the LRA Microfilm Division<sup>[13]</sup>, OCT NO. 6433 was cancelled upon the issuance of Transfer Certificate of Title (TCT) No. 214881 T-1347. The original copies of OCT No. 6433 and subsequent TCT No. 214881 T-1347 cannot be located<sup>[14]</sup>. The heirs of Ciriaco have not<sup>[15]</sup> sold the subject lot nor any part thereof. Bunda can no longer be located and he has pending warrants of arrest in Criminal Cases Nos. 31000<sup>[16]</sup>, 31001<sup>[17]</sup> and 31002<sup>[18]</sup> for estafa, usurpation of authority and estafa thru falsification of public document, respectively, with Branch 161, RTC, Pasig City. Cabrera claimed that the application for registration of title filed by Bunda was erroneous because there was a previous applicant/claimant/possessor in the person of Ciriaco and there is no legal basis for the issuance of title in his name. Cabrera prayed that after due hearing, the petition be granted as follows, that: 1) OCT No. 6433 be issued anew in the name of petitioner and/or other surviving heirs mentioned at the back of said title; and 2) the names of defendants Pablo Bunda, Ricardo De Leon and Bayani Bernardo as well as the names of their respective spouses, and Investment Development Corporation be stricken out of the reissued OCT No. 6433.

Summonses were thereafter issued. In a Manifestation<sup>[19]</sup> filed on October 8, 2008, the Registry of Deeds for Las Piñas City asked the RTC that being a nominal party, it be excused from filing an Answer with the undertaking that it will abide by whatever order the court may issue relative to the case. In the Sheriff's Return<sup>[20]</sup> of Amended Petition dated December 19, 2008, the summonses were returned, unserved. Thus, a Motion<sup>[21]</sup> with Leave of Court for the Issuance of Summons by Publication was filed by Cabrera. The RTC deferred<sup>[22]</sup> resolution on the motion pending service of the summons<sup>[23]</sup> by registered mail.

On March 13, 2009 Bernardo filed a Motion<sup>[24]</sup> to Dismiss the complaint on the ground of res judicata as well as application of Section 32 of Presidential Decree No. 1529. The RTC, in its Order<sup>[25]</sup> dated May 8, 2009, denied the Motion to Dismiss. The Motion<sup>[26]</sup> to reconsider the order denying the motion to dismiss of Bernardo was also denied<sup>[27]</sup>.

Thereafter, the RTC resolved<sup>[28]</sup> to grant the motion for issuance of summons by publication previously filed by Cabrera. After publication<sup>[29]</sup> of the summonses and still no responsive pleadings being filed, Cabrera moved<sup>[30]</sup> to declare defendants in default. Meanwhile, Bernardo filed his Answer<sup>[31]</sup> on October 20, 2009.

In an Order<sup>[32]</sup> dated November 13, 2009, the RTC declared all defendants, except Bernardo, in default and allowed Cabrera to present evidence *ex-parte*. Cabrera moved<sup>[33]</sup> that the Answer filed by Bernardo be stricken off the record for late filing, and declare him in default as well. After Comment<sup>[34]</sup> from Bernardo, the RTC granted<sup>[35]</sup> the motion and declared<sup>[36]</sup> Bernardo as in default. On February 26, 2010, during the presentation of evidence *ex-parte* before the Branch Clerk of Court, Cabrera<sup>[37]</sup> and his Attorney-in-Fact, Alberto Cayapas<sup>[38]</sup>, testified. On even date, the oral formal offer<sup>[39]</sup> of evidence was made. All the exhibits were admitted by the RTC in an Order<sup>[40]</sup> dated February 27, 2010.

On May 31, 2011, the RTC issued the assailed Decision<sup>[41]</sup>, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, the instant petition is dismissed for lack of merit.

SO ORDERED<sup>[42]</sup>.

Cabrera moved<sup>[43]</sup> for reconsideration on June 23, 2011. However, in the Order<sup>[44]</sup> dated July 5, 2011, the RTC allowed the defendants to comment on the motion for reconsideration. Cabrera opposed<sup>[45]</sup> the July 5, 2011 Order, arguing that defendants should no longer be allowed to participate since they were declared in default. Cabrera also opposed<sup>[46]</sup> the Compliance<sup>[47]</sup> submitted by Bernardo. Thereafter, in an Order<sup>[48]</sup> dated August 3, 2011, the RTC resolved to: 1) deny Cabrera's motion for reconsideration, and 2) recalled and set aside the July 5, 2011 Order.

Hence, this appeal<sup>[49]</sup> ascribing the following errors to the RTC:

1. It erred in holding that the title OCT 6433, the property in litigation does not exist;
2. It erred in holding that petitioners-appellants failed to prove the existence of OCT 6433 because they presented only a certified copy of said title;
3. It erred in not applying pertinent Rules on evidence on admissibility of secondary evidence;
4. It erred in failing to appreciate the overwhelming and/or preponderance of evidence in favor of petitioners-appellants;
5. It erred in allowing all the defendants to comment on the Urgent Motion for Reconsideration despite the clear facts known to the court a quo that all the defendants were already declared in default; therefore, they have no more standing in court<sup>[50]</sup>.

## **THE ISSUE**

At the heart of the appeal is the issue of whether or not the RTC erred in dismissing the petition filed by Cabrera.

## **THE COURT'S RULING**

### ***The appeal is without merit.***

Cabrera argues that the existence of OCT No. 6433 had been sufficiently shown<sup>[51]</sup> and the RTC erred<sup>[52]</sup> in its application of the rules on evidence when it ruled that Cabrera failed to prove that the original of OCT No. 6433 existed. While we agree with Cabrera that OCT No. 6433 exists, his petition must still fail.

Well settled is the rule that a certificate of title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein<sup>[53]</sup>. In order to establish a system of registration by which recorded title becomes absolute, indefeasible, and imprescriptible, the legislature passed Act No. 496<sup>[54]</sup>, which took effect on February 1, 1903. Act No. 496 placed all registered lands in the Philippines under the Torrens system. The Torrens system requires the government to issue a certificate of title stating that the person named in the title is the owner of the property described therein, subject to liens and encumbrances annotated on the title or reserved by law. The certificate of title is indefeasible and imprescriptible and all claims to the parcel of land are quieted upon issuance of the certificate. Presidential Decree No. 1529 (PD No. 1529), known as the Property Registration Decree, enacted on June 11, 1978, amended and updated Act No. 496.

Section 48 of PD No. 1529 provides:

Section 48. *Certificate not subject to collateral attack.* – A certificate of title shall not be subject to collateral attack. It cannot be altered, **modified**, or cancelled except in a direct proceeding in accordance with law.

A Torrens title cannot be attacked collaterally, and the issue on its validity can be raised only in an action expressly instituted for that purpose<sup>[55]</sup>.

In the instant case, Cabrera filed an action to quiet title and cancellation of subsequent transfer certificate of title. Quieting of title is a common law remedy for the removal of any cloud, doubt, or uncertainty affecting title to real property. In an action for quieting of title, the plaintiffs must show not only that there is a cloud or contrary interest over the subject real property, but that they have a valid title to it. The court is tasked to determine the respective rights of the complainant and the other claimants, not only to place things in their proper places, and to make the claimant, who has no rights to said immovable, respect and not disturb the one so

entitled, but also for the benefit of both, so that whoever has the right will see every cloud of doubt over the property dissipated, and he can thereafter fearlessly introduce the improvements he may desire, as well as use, and even abuse the property as he deems fit<sup>[56]</sup>.

However, while the complaint of Cabrera is denominated as quieting of title, his cause of action rests on the fact that there was no legal basis for the issuance of the title (OCT No. 6433) in the name of appellees<sup>[57]</sup>; therefore, while the action is one for quieting of title, it was a direct attack on OCT No. 6433. An action or proceeding is deemed an attack on a title when its objective is to nullify the title, thereby challenging the judgment pursuant to which the title was decreed. The attack is direct when the objective is to annul or set aside such judgment, or enjoin its enforcement<sup>[58]</sup>. Since Cabrera seeks to remove the names of respondents-appellees from OCT No. 6433, he is, in effect, challenging the validity of the proceedings which led to the issuance of OCT No. 6433. The allegations raised by Cabrera pertaining to OCT No. 6433 would require a review of the registration decree made in respondents-appellees' favor<sup>[59]</sup>.

While the title is conclusive evidence with respect to the ownership of the land described therein, and other matters which can be litigated and decided in land registration proceedings, the Supreme Court has ruled that the indefeasibility of title does not attach to titles secured by fraud and misrepresentation<sup>[60]</sup>. Courts may reopen proceedings already closed by final decision or decree when an application for review<sup>[61]</sup> is filed by the party aggrieved within one year from the issuance of the decree of registration. However, the basis of the aggrieved party must be anchored solely on actual fraud. This was elaborated further in the case of ***Eland Philippines, Inc. vs. Garcia***<sup>[62]</sup>, thus:

The right of a person deprived of land or of any estate or interest therein by adjudication or confirmation of title obtained by actual fraud is recognized by law as a valid and legal basis for reopening and revising a decree of registration. One of the remedies available to him is a petition for review. To avail of a petition for review, the following requisites must be satisfied:

- (a) The petitioner must have an estate or interest in the land;
- (b) He must show actual fraud in the procurement of the decree of registration;
- (c) The petition must be filed within one year from the issuance of the decree by the Land Registration Authority; and
- (d) The property has not yet passed to an innocent purchaser for value.

A mere claim of ownership is not sufficient to avoid a certificate of title obtained under the Torrens system. An important feature of a certificate