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**FIRST DIVISION**

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

**BIBLIA TOLEDO-BANAGA and JOVITA TAN,** *petitioners, vs.* **COURT OF APPEALS and CANDELARIO DAMALERIO,** *respondents.*

**SYNOPSIS**

The Court of Appeals in a decision categorically declared private respondent as the absolute owner of the land subject of this case. That decision was affirmed by the Supreme Court, became final and executory and was remanded to the lower court for execution. 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 by the trial courts ruling that the former's remedy is by consulta to the Commissioner of Land Registration. On petition for certiorari and mandamus before the Court of Appeals, the latter rendered a decision granting the petition and setting aside the orders of the Trial Court. Hence, petitioners found their way in bringing this simple redemption case the third time to the Supreme Court. It is petitioners' contentions that petitioner Tan was a buyer in good faith and that the remedy of private respondent to secure the titles in his name is by consulta to the Commissioner of Land Registration and not through contempt.

The Supreme Court ruled that in arguing that petitioner Tan was a buyer in good faith, petitioners in effect raised once more the issue of ownership of the subject property which had already been clearly and categorically ruled upon by the CA and affirmed by the Supreme 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.

The Supreme Court further added 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

Supreme Court E-Library



issues becomes moot and academic. 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.

## SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; *RES JUDICATA*; ELEMENTS; PRESENT IN CASE AT BAR.** — 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. 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.

2. **ID.; ID.; ID.; IDENTITY OF CAUSE OF ACTION; TEST IS NOT IN ITS FORM BUT WHETHER SAME EVIDENCE WOULD SUPPORT AND ESTABLISH THE FORMER AND THE PRESENT CAUSES OF ACTION.** — 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.

Supreme Court E-Library



3. ID.; ID.; EXECUTION OF JUDGMENT; ENFORCEMENT OF FINAL AND EXECUTORY JUDGMENT IS A MINISTERIAL FUNCTION OF COURTS. — The enforcement of a final and executory judgment is likewise a ministerial function of the courts and does not call for the exercise of discretion. Being a ministerial duty, a writ of *mandamus* lies to compel its performance. Moreover, it is axiomatic that where a decision on the merit 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. 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, but which they did not avail knowing that there exists no legal or even equitable justifications to support it.

4. CIVIL LAW; LAND TITLES AND DEEDS; CERTIFICATE OF TITLE; PARTY DEALING WITH A REGISTERED LAND NEED NOT GO BEYOND THE CERTIFICATE OF TITLE TO DETERMINE THE TRUE OWNERSHIP THEREOF. — 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 clear from the deed of absolute sale which even mentioned that the Certificates 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 feigned 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*.

Supreme Court E-Library



**5. ID.; ID.; NOTICE OF *LIS PENDENS*; A TRANSFEREE *PENDENTE LITE* STANDS EXACTLY IN THE SHOES OF THE TRANSFEROR; CASE AT BAR.** — 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 Certificates of Title will, in that respect, afford her no special protection. 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 to sell the same. She knew she was not dealing with the registered owner or a representative of the latter. One who buys property with full knowledge of the flaws and defects in the title of his vendor is enough proof of his bad faith and cannot claim that he acquired title in good faith as against the owner or of an interest therein. When she nonetheless proceeded to buy the lot, petitioner Tan gambled on the result of litigation. She is bound by the outcome of her indifference with no one to blame except herself if she looses her claim as against one who has a superior right or interest over the property. These are the undeniable and uncontroverted facts found by the CA, which petitioners even quote and cite in their petition. Being a buyer in bad faith, petitioner Tan cannot acquire a better rights than her predecessor in interest, for she merely stepped into the shoes of the latter. Such finding of bad faith is final and may not be re-opened for the law cannot allow the parties to trifle with the courts.

**6. CIVIL LAW; PROPERTY; POSSESSION; A NECESSARY INCIDENT OF OWNERSHIP; CASE AT BAR.** — With respect to the issue of possession, such right is a necessary incident of ownership. The adjudication of ownership to private respondent includes the delivery of possession since the defeated parties in this case has not shown by what right to retain possession of the land independently of their claim of ownership which was rejected. Otherwise, it would be unjust if petitioners who has no valid right over the property will retain the same. Thus, the CA correctly disagreed with the trial court's order denying private respondent's motion for writ of possession.

Supreme Court E-Library



APPEARANCES OF COUNSEL

*Balcos & Perez* for petitioners.

*Ruben E. Agpalo* and *Thomas T. Jacobo* for private respondent.

DECISION

**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

[1] Now a retired member of this Court.

[2] Regional Trial Court (RTC), General Santos City, Civil Case No. 2556.

[3] Entry No. 3436.

[4] The dispositive portion of the CA decision in CA-G.R. NO. 13541 promulgated on July 31, 1991 reads:

Supreme Court E-Library



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.

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"WHEREFORE, the judgment appealed from is hereby REVERSED, and another one is entered allowing the plaintiff-appellant to redeem the parcels of land covered by Transfer Certificate of Title Nos. T-12488 and V-752 of the Register of Deeds of General Santos City by paying defendant–appellee the sum of ONE MILLION FIFTY THOUSAND NINE HUNDRED NINETY-SIX AND 13/100 (₱1,050,996.13) plus 1% interest per month therein from April 23,1982 to the time of redemption, plus any assessment for taxation which defendant-appellee may have paid thereon and the interest on such amount at that same rate, within thirty (30) days from finality of this judgment."

[5] Docketed as G.R. No. 103204.

[6] The dispositive portion of the order provides:

"Accordingly, the Register of Deeds for General Santos City is hereby ordered to CANCEL Transfer Certificate of Title Nos. T-12488, now TCT No. T. 19570, as well as V-752, now TCT No. 19571, both presently in the name of Candelario Damalerio and in lieu thereof, to ISSUE new Transfer Certificates of Title, respectively, in the name of BIBLIA F. TOLEDO, Christian, Filipino, of legal age, single, and a resident of General Santos City."

Supreme Court E-Library



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:

"WHERFORE, 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."[7]

That decision became final and executory after petitioner Banaga's petition for review was dismissed by this Court for lack of merit.[8] 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:

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[7] Annex "C" of Petition - CA Decision in CA G.R. No. 29869 promulgated October 28, 1993 penned by Justice Ricardo J. Francisco with Justices Ramon Mabutas and Eubolo Verzola, concurring, p. 6; *Rollo*, p. 76.

[8] Docketed in this Court as G.R. No. 113534.

Supreme Court E-Library



"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."[9]

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.[10] 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*[11] 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,

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[9] CA Decision in CA-GR No. 40348, pp. 8-9; *Rollo*, pp. 47-48.

[10] RTC Order of January 11, 1995, *Rollo*, p. 9.

[11] The petition docketed as CA-GR No. 40348 was entitled "*Candelario Damalerio*, petitioner *vs. Hon. Jose L. Orlino*, Judge, RTC-General Santos City, Branch 23, Asteria E. Cruzabra, Register of Deeds of General Santos City, Biblia Toledo-Banaga and Jovita Tan, respondents."

Supreme Court E-Library



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 January11, 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."[12]

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.[13] Assuming this to be a mere *lapsus* since they also confusingly refer to Banaga and Tan as "private respondent" and to Damalerio as "petitioner,"[14] the petition is still utterly without merit. It is petitioners' stand (1) that petitioner Tan is a buyer in god 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.

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[12] CA Decision in CA-GR No. 40348 promulgated November 7, 1996 penned by Justice Ibay-Somera, with Justices Imperial and Lipana-Reyes, *concurring*, pp. 27-28; *Rollo*, pp. 66-67.

[13] Petition, p. 5.

[14] Petition, p. 7.

Supreme Court E-Library



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.[15]

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.[16] 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.[17]

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[15] *Garbo v. CA*, 226 SCRA 250.

[16] *Carlet v. CA*, 275 SCRA 97.

[17] *Villanueva v. CA*, 285 SCRA 180 citing *Benin v. Tuason*, 57 SCRA 531; *A.G. Development Corporation v. CA*, 281 SCRA 155; *Municipality of San Juan v. CA*, 279 SCRA 711; *Traders Royal Bank v. IAC*, 273 SCRA 521; *Nacuray v. NLRC*, 270 SCRA 9.

Supreme Court E-Library



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.[18]

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[19] cited by the Register of Deeds,[20] 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

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[18] *Concepcion v. Agana*, 268 SCRA 307.

[19] The Property Registration Decree.

[20] Petition, p. 24.

Supreme Court E-Library



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,[21] 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[22] and does not call for the exercise of discretion. Being a ministerial duty, a writ of *mandamus* lies to compel its performance.[23] 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.[24] 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,[25] but which

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[21] *Camacho v. CA*, G. R. No. 118339, March 19, 1998.

[22] *Rubio v. MTCC*, Branch 4, Cagayan de Oro City, 252 SCRA 172.

[23] *Go v. CA*, 252 SCRA 564.

[24] *Flores v. CA*, 259 SCRA 618.

[25] *Mayuga v. CA*, 261 SCRA 309.

Supreme Court E-Library



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 clear from the deed of absolute sale which even mentioned that the Certificates 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 Certificates of Title will, in that respect, afford her no special protection.[26]

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[26] *Yu v. CA*, 251 SCRA 509 citing *Tuason v. Reyes*, 48 Phil. 844; *Demontaño v. CA*, 81 SCRA 287; *Rivera v. Moran*, 48 Phil. 386; and *Director of Lands v. Martin*, 84 Phil. 140. See also *Fetalino v. Sanz*, 44 Phil. 691.

Supreme Court E-Library



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 to sell the same. She knew she was not dealing with the registered owner or a representative of the latter. One who buys property with full knowledge of the flaws and defects in the title of his vendor is enough proof of his bad faith[27] and cannot claim that he acquired title in good faith as against the owner or of an interest therein.[28] When she nonetheless proceeded to buy the lot, petitioner Tan gambled on the result of litigation.[29] She is bound by the outcome of her indifference with no one to blame except herself if she looses her claim as against one who has a superior right or interest over the property. These are the undeniable and uncontroverted facts found by the CA, which petitioners even quote and cite in their petition. As aptly concluded by the CA that petitioner Tan is indeed a buyer in bad faith on which the Court agrees:

"Notwithstanding her constructive and actual knowledge that Damalerio was claiming the land, that the land was in his name, and it was involved in pending litigation, Jovita Tan bought it from Banaga on January 7, 1993. The deed of sale recites that the parcels of land sold were covered by Transfer Certificates of Title No. __ (formerly [T-12488] T-530) and TCT No. __ (formerly [T-12488] T-530) (*sic*) "and TCT No. __ (formerly P-1294)". (Annex "F", Petition). Apart from the fact that Banaga was without any TCT, as above stated, TCT No. T-12488 was petitioner's title (Annex "C", Petition). Herein private respondent Tan was buying a land not registered in her seller's (Banaga's) name, but in that of petitioner Damalerio who had been claiming it as his own. She admitted this fact when she had the land subdivided on February 2, 1993 not in her name but in the name of Candelario Damalerio (Annex "Q", Reply). Evidently, she was a purchaser in bad faith because she had full knowledge of the flaws and defects of title of her seller, Banaga. x x x.

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[27] *Batioan v. Gaffud*, 27 SCRA 706.

[28] *Bornales v. CA*, 166 SCRA 519.

[29] *Tanchoco v. Hon. Aquino*, 154 SCRA 1; *J.P. Pellicer v. Philippine Realty*, 87 Phil. 302; *Jose v. Blue* , 42 SCRA 351.

Supreme Court E-Library



"The notice of *lis pendens* registered on March 3, 1993 involving the land in question and private respondent Tan's actual knowledge of the then pending Civil Case No. 2556, where the question as to whether the redemption of the land which she financed was raised, rendered her a purchaser in bad faith and made the decision therein binding upon her."[30]

Being a buyer in bad faith, petitioner Tan cannot acquire a better rights than her predecessor-in-interest,[31] for she merely stepped into the shoes of the latter. Such finding of bad faith is final and may not be re-opened for the law cannot allow the parties to trifle with the courts.[32]

With respect to the issue of possession, such right is a necessary incident of ownership.[33] The adjudication of ownership to private respondent includes the delivery of possession since the defeated parties in this case has not shown by what right to retain possession of the land independently of their claim of ownership which was rejected.[34] Otherwise, it would be unjust if petitioners who has no valid right over the property will retain the same.[35] Thus, the CA correctly disagreed with the trial court's order denying private respondent's motion for writ of possession for the following reasons cited in its decision:

1. The order violates the doctrine laid down *in Javier vs. Court of Appeals*, 224 SCRA 704, which ruled that the issuance of title in favor of a purchaser in bad faith does not exempt the latter from complying with the decision adverse to his predecessor-in-interest, nor preclude him from being reached by writ of execution;

2. Private respondent Tan was a party respondent in CA-G.R. SP No. 29869, she having been impleaded in a supplemental petition, which this Court gave due course and required the respondents to

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[30] CA Decision in CA – G.R. No. 40348, p. 15; *Rollo*, p. 54.

[31] *Constantino v. Espiritu*, 45 557.

[32] *Sangalang v. Caparas*, 151 SCRA 53.

[33] *Olego v. Rebueno*, 67 SCRA 446.

[34] *Perez and Alcantara v. Evite and Manigas*, 111 Phil. 564.

[35] *Javier v. CA*, 224 SCRA 704.

Supreme Court E-Library



file their answer. The fact that she did not file any pleading, nor intervene therein did not excuse her from being bound by the decision, otherwise all that a party respondent was to fold his arm to prevent him from being bound by a decision in a case. Her securing titles over the land during the pendency of said case did not protect her from the effects of said decision. The validity of title of a purchaser of registered land depends on whether he had knowledge, actual or constructive, of defects in the title of his vendor. If he has such knowledge, he is a purchaser in bad faith and acquires the land subject to such defects (x x x indicates that citations of authorities omitted) The title secured by a purchaser in bad faith is a nullity and gave the latter no right whatsoever, as against the owner (x x x).

3. Private respondent Tan's titles and those of her predecessor, Banaga, arose from the void orders of August 7, 1992 and January 4, 1993. Since a void order could not give rise to valid rights, said titles were also necessarily null and void (x x x).

4. Private respondents and respondent Judge executed the questioned orders of August 7, 1993 and January 4, 1993, pending review of said orders in CA-G.R. SP No. 29869. The nullification of said orders by this out imposed upon the private respondents the obligation to return the property to Damalerio and upon respondent Judge, upon motion for execution, to order the cancellation of private respondents' titles and the issuance of new titles to him.

5. This Court in its decision in CA-G.R. SP No. 29869 declared petitioner Damalerio absolute owner of the property in question. Private respondents were parties litigants in said case, who did not claim possession of the land separately from their claim of ownership thereof. Such being the case, the delivery of possession is considered included in this Court's decision declaring Damalerio absolute owner of the property (x x x), which can be enforced by writ of possession (x x x). In denying petitioner's motion for writ of possession, the trial court violated said doctrines, and

6. Lastly, the effect of respondent Judge's order of March 29, 1996 is to re-open the decision in CA-G.R. SP No. 29689 for re-litigation and alteration in a separate action. For while this Court already declared that Banaga's redemption of the land financed by private respondent Tan was invalid, and as a consequence declared Damalerio absolute owner of the property, which was binding against private respondent Tan, as she was a respondent therein and a purchaser *pendente lite* and in bad faith, the order of the respondent

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Court holding that another civil action be filed to annul private respondent Tan's titles would be to re-litigate such issues and modify or alter this Court's final decision.

The respondent Court has no authority to do so."[36]

**WHEREFORE**, premises considered, the petition is hereby *DENIED* and the assailed decision of the Court of Appeals is *AFFIRMED in toto* with costs against petitioners. No further proceeding will be entertained in this case.

**SO ORDERED.**

*Davide, Jr., C.J., (Chairman), Melo, Kapunan,* and *Pardo, JJ.*, concur.

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**FIRST DIVISION**

[G.R. No. 128941. January 28, 1999]

**CAPITOL COLLEGE OF ILIGAN, INC.,** *petitioner, vs.* **THE HONORABLE COURT OF APPEALS and SPOUSES GERARDO AND FELINA ARANAS,** *respondents.*

**SYNOPSIS**

In 1975, petitioner herein was ordered by the Court of First Instance (now Regional Trial Court) to deliver to private respondents their share of the profits and/or dividends by virtue of their investment in the corporation and to pay moral damages and attorney's fees. The award of moral damages, however, was eliminated by the Court of Appeals (CA) and was upheld by the Supreme Court, The case was remanded for execution. The order of execution likewise went through several appeals

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[36] CA Decision in CA – G. R. No 40348, pp. 23-26; *Rollo*, pp. 62-65.