Supreme Court E-Library

To start with, the petitioners' reliance on *Maniago* is obviously misplaced. There, the civil case was filed while the criminal case against the employee was still pending. Here, the criminal case against the employee driver was prematurely terminated due to his death. Precisely, Civil Case No. 99-10845 was filed by the respondent spouses because no remedy can be obtained by them against the petitioners with the dismissal of the criminal case against their driver during the pendency thereof.

The circumstance that no reservation to institute a separate civil action for damages was made when the criminal case was filed is of no moment for the simple reason that the criminal case was dismissed without any pronouncement having been made therein. In reality, therefor, it is as if there was no criminal case to speak of in the first place. And for the petitioners to insist for the conviction of their driver as a condition *sine qua non* to hold them liable for damages is to ask for the impossible.

IN VIEW WHEREOF, the instant petition is *DENIED* for lack of merit.

Costs against the petitioners.

SO ORDERED.

Puno (Chairperson), Sandoval-Gutierrez, Corona, and *Azcuna, JJ.,* concur.

FIRST DIVISION

[G.R. No. 162593. September 26, 2006]

REMEGIA Y. FELICIANO, Substituted by the Heirs of Remegia Y. Feliciano, as represented by NILO Y. FELICIANO, *petitioners, vs.* **SPOUSES AURELIO and LUZ ZALDIVAR,** *respondents.*

Supreme Court E-Library

SYLLABUS

1. **CIVIL LAW; LAND REGISTRATION; CERTIFICATE OF TITLE; RECONSTITUTED CERTIFICATE IS VOID WHERE THE OWNER'S DUPLICATE CERTIFICATE OF TITLE HAS NOT BEEN LOST BUT IS IN FACT IN THE POSSESSION OF ANOTHER PERSON; REASON.**— It should be recalled that respondent Aurelio Zaldivar filed with the then CFI of Misamis Oriental a petition for issuance of a new owner's duplicate copy of TCT No. T-8502, alleging that the owner's duplicate copy was lost. In the Order dated March 20, 1974, the said CFI granted the petition and consequently, a new owner's duplicate copy of TCT No. T-8502 was issued. However, as the trial court correctly held, the CFI which granted respondent Aurelio's petition for the issuance of a new owner's duplicate copy of TCT No. T-8502 did not acquire jurisdiction to issue such order. It has been consistently ruled that "when the owner's duplicate certificate of title has not been lost, but is in fact in the possession of another person, then the reconstituted certificate is void, because the court that rendered the decision had no jurisdiction. Reconstitution can validly be made only in case of loss of the original certificate." In such a case, the decision authorizing the issuance of a new owner's duplicate certificate of title may be attacked any time.

2. **ID.; ID.; ID.; PRINCIPLE OF INDEFEASIBILITY OF A TORRENS TITLE DOES NOT APPLY WHERE FRAUD ATTENDED THE ISSUANCE OF THE TITLE.**— The new owner's duplicate TCT No. T-8502 issued by the CFI upon the petition filed by respondent Aurelio is thus void. As Remegia averred during her testimony, the owner's duplicate copy of TCT No. T-8502 was never lost and was in her possession from the time it was issued to her: xxx Consequently, the court *a quo* correctly nullified TCT No. T-17993 in Aurelio's name, emanating as it did from the new owner's duplicate TCT No. T-8502, which Aurelio procured through fraud. Respondent Aurelio cannot raise the defense of indefeasibility of title because "the principle of indefeasibility of a Torrens title does not apply where fraud attended the issuance of the title. The Torrens title does not furnish a shield for fraud." As such, a title issued based on void documents may be annulled.

Supreme Court E-Library

3. ID.; ID.; ID.; RELIANCE ON AFFIDAVIT OF CONFIRMATION OF SALE TO PROVE VALID ACQUISITION OF THE PROPERTY, NOT PROPER; AFFIDAVIT, BY ITSELF, IS NOT A MODE OF ACQUIRING OWNERSHIP.— The appellate court's reliance on the joint affidavit of confirmation of sale purportedly executed by Remegia and her uncle, Narciso Labuntog, is not proper. In the first place, respondent Aurelio cannot rely on the joint affidavit of confirmation of sale to prove that they had validly acquired the subject lot because, by itself, an affidavit is not a mode of acquiring ownership.

4. ID.; ID.; ID.; LANDS COVERED BY A TITLE CANNOT BE ACQUIRED BY PRESCRIPTION OR ADVERSE POSSESSION.— Respondents' claim that they had been occupying the subject lot since 1947 openly, publicly, adversely and continuously or for over 41 years is unavailing. In a long line of cases, the Court has consistently ruled that lands covered by a title cannot be acquired by prescription or adverse possession. A claim of acquisitive prescription is baseless when the land involved is a registered land following Article 1126 of the Civil Code in relation to Section 46 of Act No. 496 or the Land Registration Act (now Section 47 of P.D. No 1529): Appellants' claim of acquisitive prescription is likewise baseless. Under Article 1126 of the Civil Code, prescription of ownership of lands registered under the Land Registration Act shall be governed by special laws. Correlatively, Act No. 496 provides that no title to registered land in derogation of that of the registered owner shall be acquired by adverse possession. Consequently, proof of possession by the defendants is both immaterial and inconsequential.

5. ID.; ID.; ID.; CLAIM OF INDEFEASIBILITY OF TITLE ISSUED UNDER TORRENS SYSTEM PROPER IF PREVIOUS VALID TITLE TO THE SAME PROPERTY DID NOT EXIST.— Neither can the respondents spouses Zaldivar rely on the principle of indefeasibility of TCT No. 17793 which was issued on September 10, 1974 in favor of respondent Aurelio. As it is, the subject lot is covered by two different titles: TCT No. T-8502 in Remegia's name covering an area of 444 sq. m. including therein the subject lot, and TCT No. 17793 in the name of respondent Aurelio covering the subject lot. Aurelio's title over the subject lot has not become indefeasible, by virtue of the fact that TCT No. T-8502 in the name of Remegia has remained valid. The

Supreme Court E-Library

following disquisition is apropos: The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to the same parcel of land did not exist. The respondent had a valid title xxx. It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested of their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system. Remegia's TCT No. T-8502, thus, prevails over respondent Aurelio's TCT No. 17793, especially considering that, as earlier opined, the latter was correctly nullified by the RTC as it emanated from the new owner's duplicate TCT No. T-8502, which in turn, respondent Aurelio was able to procure through fraudulent means.

6. ID.; ID.; ID.; IF THE CLAIMANT'S POSSESSION OF THE LAND IS MERELY TOLERATED BY ITS LAWFUL OWNER, THE LATTER'S RIGHT TO RECOVER POSSESSION IS NEVER BARRED BY LACHES.— Contrary to the appellate court's holding, laches has not set in against Remegia. She merely *tolerated* the occupation by the respondents of the subject lot: xxx Case law teaches that if the claimant's possession of the land is merely tolerated by its lawful owner, the latter's right to recover possession is never barred by laches: As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioner's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.

7. ID.; OWNERSHIP; BUILDERS IN GOOD FAITH; PRINCIPLE APPLIED TO CASE AT BAR.— Nonetheless, the Court is

Supreme Court E-Library

not unmindful of the fact that respondents had built their house on the subject lot and, despite knowledge thereof, Remegia did not lift a finger to prevent it. Article 453 of the Civil Code is applicable to their case: ART. 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith. It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part. Under the circumstances, respondents and Remegia are in mutual bad faith and, as such, would entitle the former to the application of Article 448 of the Civil Code governing builders in good faith: xxx Following the above provision, the owner of the land on which anything has been built, sown or planted in good faith shall have the right to appropriate as his own the building, planting or sowing, after payment to the builder, planter or sower of the necessary and useful expenses, and in the proper case, expenses for pure luxury or mere pleasure. The owner of the land may also oblige the builder, planter or sower to purchase and pay the price of the land. If the owner chooses to sell his land, the builder, planter or sower must purchase the land, otherwise the owner may remove the improvements thereon. The builder, planter, or sower, however, is not obliged to purchase the land if its value is considerably more than the building, planting or sowing. In such case, the builder, planter or sower must pay rent to the owner of the land. If the parties cannot come to terms over the conditions of the lease, the court must fix the terms thereof. The right to choose between appropriating the improvement or selling the land on which the improvement of the builder, planter or sower stands, is given to the owner of the land, Remegia, in this case, who is now substituted by petitioners as her heirs. Consequently, the petitioners are obliged to exercise either of the following options: (1) to appropriate the improvements, including the house, built by the respondents on the subject lot by paying the indemnity required by law, or (2) sell the subject lot to the respondents. Petitioners cannot refuse to exercise either option and compel respondents to remove their house from the land. In case petitioners choose to exercise the second option, respondents are not obliged to purchase the subject lot if its value is considerably more than the improvements

Supreme Court E-Library

thereon and in which case, respondents must pay rent to petitioners. If they are unable to agree on the terms of the lease, the court shall fix the terms thereof.

8. **ID.; OBLIGATIONS AND CONTRACTS; CONTRACTS; WHERE THE PARTY SEEKING TO ENFORCE THE CONTRACT FAILS TO SHOW THAT THE OTHER PARTY, WHO IS UNABLE TO READ, FULLY UNDERSTOOD THE CONTENTS OF THE DOCUMENTS, THE PRESUMPTION OF MISTAKES, IF NOT FRAUD, STANDS UNREBUTTED AND CONTROLLING; CASE AT BAR.**— The principle that a party is presumed to know the import of a document to which he affixes his signature is modified by the foregoing article. Where a party is unable to read or when the contract is in a language not understood by the party and mistake or fraud is alleged, the obligation to show that the terms of the contract had been fully explained to said party who is unable to read or understand the language of the contract devolves on the party seeking to enforce the contract to show that the other party fully understood the contents of the document. If he fails to discharge this burden, the presumption of mistake, if not, fraud, stands unrebutted and controlling. Applying the foregoing principles, the presumption is that Remegia, considering her limited educational attainment, did not understand the full import of the joint affidavit of confirmation of sale and, consequently, fraud or mistake attended its execution. The burden is on respondents, the spouses Zaldivar, to rebut this presumption. They tried to discharge this onus by presenting Atty. Francisco Velez (later RTC Judge) who notarized the said document. Atty. Velez testified that he "read and interpreted" the document to the affiants and he asked them whether the contents were correct before requiring them to affix their signatures thereon. The bare statement of Atty. Velez that he "read and interpreted" the document to the affiants and that he asked them as to the correctness of its contents does not necessarily establish that Remegia actually comprehended or understood the import of the joint affidavit of confirmation of sale. Nowhere is it stated in the affidavit itself that its contents were fully explained to Remegia in the language that she understood before she signed the same. Thus, to the mind of the Court, the presumption of fraud or mistake attending the execution of the joint affidavit of confirmation of sale was not sufficiently overcome.

Supreme Court E-Library

APPEARANCES OF COUNSEL

Noel B. Vedad for petitioners.
Arturo R. Legaspi for respondents.

D E C I S I O N

CALLEJO, SR., *J.*:

Before the Court is the petition for review on *certiorari* filed by the Heirs of Remegia Y. Feliciano (as represented by Nilo Y. Feliciano) seeking the reversal of the Decision[1] dated July 31, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 66511 which ordered the dismissal of the complaint filed by Remegia Y. Feliciano[2] for declaration of nullity of title and reconveyance of property. The assailed decision of the appellate court reversed and set aside that of the Regional Trial Court (RTC) of Cagayan de Oro City, Branch 25 in Civil Case No. 92-423.

The factual and procedural antecedents of the present case are as follows:

Remegia Y. Feliciano filed against the spouses Aurelio and Luz Zaldivar a complaint for declaration of nullity of Transfer Certificate of Title (TCT) No. T-17993 and reconveyance of the property covered therein consisting of 243 square meters of lot situated in Cagayan de Oro City. The said title is registered in the name of Aurelio Zaldivar.

In her complaint, Remegia alleged that she was the registered owner of a parcel of land situated in the District of Lapasan in Cagayan de Oro City with an area of 444 square meters, covered by TCT No. T-8502. Sometime in 1974, Aurelio,

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[1] Penned by Associate Justice Elvi John S. Asuncion, with Associate Justices Ruben T. Reyes (now Presiding Justice of the appellate court) and Lucas P. Bersamin, concurring; *rollo*, pp. 85-93.

[2] Remegia passed away on July 10, 2000, while the case was pending in the appellate court. She was duly substituted by her heirs.

Supreme Court E-Library

allegedly through fraud, was able to obtain TCT No. T-17993 covering the 243-sq-m portion of Remegia's lot as described in her TCT No. T-8502.

According to Remegia, the 243-sq-m portion (subject lot) was originally leased from her by Pio Dalman, Aurelio's father-in-law, for ₱5.00 a month, later increased to ₱100.00 a month in 1960. She further alleged that she was going to mortgage the subject lot to Ignacio Gil for ₱100.00, which, however, did not push through because Gil took back the money without returning the receipt she had signed as evidence of the supposed mortgage contract. Thereafter, in 1974, Aurelio filed with the then Court of First Instance of Misamis Oriental a petition for partial cancellation of TCT No. T-8502. It was allegedly made to appear therein that Aurelio and his spouse Luz acquired the subject lot from Dalman who, in turn, purchased it from Gil. The petition was granted and TCT No. T-17993 was issued in Aurelio's name.

Remegia denied that she sold the subject lot either to Gil or Dalman. She likewise impugned as falsified the joint affidavit of confirmation of sale that she and her uncle, Narciso Labuntog, purportedly executed before a notary public, where Remegia appears to have confirmed the sale of the subject property to Gil. She alleged that she never parted with the certificate of title and that it was never lost. As proof that the sale of the subject lot never transpired, Remegia pointed out that the transaction was not annotated on TCT No. T-8502.

In their answer, the spouses Zaldivar denied the material allegations in the complaint and raised the affirmative defense that Aurelio is the absolute owner and possessor of the subject lot as evidenced by TCT No. 17993 and Tax Declaration No. 26864 covering the same. Aurelio claimed that he acquired the subject lot by purchase from Dalman who, in turn, bought the same from Gil on April 4, 1951. Gil allegedly purchased the subject lot from Remegia and this sale was allegedly conformed and ratified by the latter and her uncle, Narciso Labuntog, before a notary public on December 3, 1965.

Supreme Court E-Library

After Aurelio obtained a loan from the Government Service Insurance System (GSIS), the spouses Zaldivar constructed their house on the subject lot. They alleged that they and their predecessors-in-interest had been occupying the said property since 1947 openly, publicly, adversely and continuously or for over 41 years already. Aurelio filed a petition for the issuance of a new owner's duplicate copy of TCT No. T-8502 because when he asked Remegia about it, the latter claimed that it had been lost.

After due trial, the RTC rendered judgment in favor of Remegia. It declared that TCT No. 17993 in the name of Aurelio was null and void for having been obtained through misrepresentation, fraud or evident bad faith by claiming in his affidavit that Remegia's title (TCT No. T-8502) had been lost, when in fact it still existed.

The court *a quo* explained that "the court that orders a title reconstituted when the original is still existing has not acquired jurisdiction over the case. A judgment otherwise final may be annulled not only on extrinsic fraud but also for lack of jurisdiction."[3] Aurelio's use of a false affidavit of loss, according to the court *a quo*, was similar to the use during trial of a forged document or perjured testimony that prevented the adverse party, Remegia, from presenting her case fully and fairly.

The RTC likewise noted that no public instrument was presented in evidence conveyancing or transferring title to the subject lot from Remegia to Dalman, the alleged predecessor-in-interest of the spouses Zaldivar. The only evidence presented by the said spouses was a joint affidavit of confirmation of sale purportedly signed by Remegia and her uncle, the execution of which was denied by the latter's children. The certificate of title of the spouses Zaldivar over the subject property was characterized as irregular because it was issued in a calculated move to deprive Remegia of dominical rights over her own property. Further, the spouses Zaldivar could not set up the defense of indefeasibility of Torrens title since this defense

[3] *Rollo*, p. 53.

Supreme Court E-Library

does not extend to a transferor who takes the certificate of title with notice of a flaw therein. Registration, thus, did not vest title in favor of the spouses; neither could they rely on their adverse or continuous possession over the subject lot for over 41 years, as this could not prevail over the title of the registered owner pursuant to Sections 50[4] and 51[5] of Act No. 496, otherwise known as The Land Registration Act.

The dispositive portion of the decision of the court *a quo* reads:

IN THE LIGHT OF THE FOREGOING, and by preponderance of evidence, judgment is hereby rendered canceling TCT T-17993 and reconveyance of 243 square meters the title and possession of the same, by vacating and turning over possession of the 243 square meters of the subject property to the plaintiff [referring to Remegia] which is part of the land absolutely owned by the plaintiff covered

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[4] The provision reads:

SEC. 50. An owner of registered land may convey, mortgage, lease, charge, or otherwise deal with the same as fully as if it had not been registered. He may use forms of deeds, mortgages, leases, or other voluntary instruments like those now in use and sufficient in law for the purpose intended. 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 clerk or register of deeds to make registration. The act of registration shall be the operative act to convey and affect the land, and in all cases under this Act the registration shall be made in the office of the register of deeds for the province or provinces or city where the land lies. (Now Section 51 of Presidential Decree No. 1529.)

[5] The provision reads:

SEC. 51. Every conveyance, mortgage, lease, lien, attachment, order, decree, instrument, or entry affecting registered land which would under existing laws, if recorded, filed, or entered in the office of the register of deeds, affect the real estate to which it relates shall, if registered, filed, or entered in the office of the register of deeds in the province or city where the real estate to which such instrument relates lies, be notice to all persons from the time of such registering, filing or entering. (Now Sec. 51 of P.D. 1529.)

Supreme Court E-Library

by [TCT] T-8502 and to solidarily pay the plaintiff Fifty Thousand Pesos (₱50,000.00) as moral damages; Ten Thousand Pesos (₱10,000.00) as exemplary damages; Fifty Thousand Pesos (₱50,000.00) as attorney's fees and Ten Thousand Pesos (₱10,000.00) expenses for litigation to the plaintiff.

SO ORDERED.[6]

On appeal, the CA reversed the decision of the RTC and ruled in favor of the spouses Zaldivar. In holding that Remegia sold to Gil a 243 sq m portion of the lot covered by TCT No. T-8502, the appellate court gave credence to Exhibit "5", the deed of sale presented by the spouses Zaldivar to prove the transaction. The CA likewise found that Gil thereafter sold the subject property to Dalman who took actual possession thereof. By way of a document denominated as joint affidavit of confirmation of sale executed before notary public Francisco Velez on December 3, 1965, Remegia and her uncle, Narciso Labuntog, confirmed the sale by Remegia of the subject lot to Gil and its subsequent conveyance to Dalman. Per Exhibit "6", the CA likewise found that Dalman had declared the subject lot for taxation purposes in his name. In 1965, Dalman sold the same to the spouses Zaldivar who, in turn, had it registered in their names for taxation purposes beginning 1974. Also in the same year, Aurelio filed with the then CFI of Misamis Oriental a petition for the issuance of a new owner's duplicate copy of TCT No. T-8502, alleging that the owner's duplicate copy was lost; the CFI granted the petition on March 20, 1974. Shortly, Aurelio filed with the same CFI another petition, this time for the partial cancellation of TCT No. T-8502 and for the issuance of a new certificate of title in Aurelio's name covering the subject lot. The CFI issued an order granting the petition and, on the basis thereof, the Register of Deeds of Cagayan de Oro City issued TCT No. T-17993 covering the subject lot in Aurelio's name.

Based on the foregoing factual findings, the appellate court upheld the spouses Zaldivar's ownership of the subject lot.

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[6] *Rollo*, p. 54.

Supreme Court E-Library

The CA stated that Remegia's claim that she did not sell the same to Gil was belied by Exhibit "5", a deed which showed that she transferred ownership thereof in favor of Gil. The fact that the said transaction was not annotated on Remegia's title was not given significance by the CA since the lack of annotation would merely affect the rights of persons who are not parties to the said contract. The CA also held that the joint affidavit of confirmation of sale executed by Remegia and Narciso Labuntog before a notary public was a valid instrument, and carried the evidentiary weight conferred upon it with respect to its due execution.[7] Moreover, the CA found that the notary public (Atty. Francisco Velez) who notarized the said document testified not only to its due execution and authenticity but also to the truthfulness of its contents. The contradiction between the testimonies of the children of Narciso Labuntog and the notary public (Atty. Velez), according to the CA, casts doubt on the credibility of the former as it was ostensible that their version of the story was concocted.[8]

The CA further accorded in favor of the judge who issued the order for the issuance of the new owner's duplicate copy of TCT No. T-8502 the presumption of regularity in the performance of his official duty. It noted that the same was issued by the CFI after due notice and hearing.

Moreover, prescription and laches or estoppel had already set in against Remegia. The appellate court pointed out that TCT No. T-17993 in the name of Aurelio was issued on September 10, 1974, while Remegia's complaint for annulment and reconveyance of property was filed more than 17 years thereafter or on August 10, 1992. Consequently, Remegia's action was barred by prescription because an action for reconveyance must be filed within 10 years from the issuance of the title since such issuance operates as a constructive notice.[9]

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[7] Citing *Garrido v. Court of Appeals*, G.R. No. 101262, September 14, 1994, 236 SCRA 450.

[8] Citing *Lustan v. Court of Appeals*, 334 Phil. 609 (1997).

[9] Citing *Declaro v. Court of Appeals*, 399 Phil. 616 (2000).

Supreme Court E-Library

The CA also noted that the spouses Zaldivar constructed their house on the subject lot some time in 1974-1975, including a 12-foot firewall made of hollow blocks, and Remegia took no action to prevent the said construction.

The dispositive portion of the assailed CA decision reads:

> WHEREFORE, foregoing premises considered, the December 3, 1999 Decision of the Regional Trial Court of Misamis Oriental, Cagayan de Oro City, in Civil Case No. 92-423, is REVERSED and SET ASIDE and a new one is entered DISMISSING the said civil case.
>
> SO ORDERED.[10]

When their motion for reconsideration was denied by the CA in the assailed Resolution dated February 4, 2004, the heirs of Remegia (the petitioners) sought recourse to the Court. In their petition for review, they allege that the appellate court gravely erred —

A.

IN NOT DISMISSING THE APPEAL OF THE RESPONDENTS (DEFENDANTS-APELLANTS) *MOTU PROPIO* OR EXPUNGING THE BRIEF FOR DEFENDANTS-APPELLANTS FROM RECORD FOR FAILURE TO FILE THE REQUIRED BRIEF FOR THE DEFENDANTS-APPELLANTS ON TIME BUT BEYOND THE LAST AND FINAL EXTENDED PERIOD WITHIN WHICH TO FILE THE SAID BRIEF IN VIOLATION TO SECTION 7 AND SECTION 12, RULE 44 OF THE REVISED RULES OF COURT AND IN CONTRADICTION TO THE RULING ENUNCIATED IN *CATALINA ROXAS, ET AL. VS. COURT OF APPEALS*, G.R. NO. 76549, DECEMBER 10, 1987.

B.

IN DENYING THE MOTION FOR RECONSIDERATION WHICH WAS FILED WITHIN THE FIFTEEN-DAY REGLEMENTARY PERIOD IN VIOLATION TO THE RULES OF COURT.

C.

IN RULING THAT THE COURT WHO ORDERED THE ISSUANCE OF NEW CERTIFICATE OF TITLE DESPITE EXISTENCE OF

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[10] *Rollo*, p. 93.

Supreme Court E-Library

OWNER'S DUPLICATE COPY THAT WAS NEVER LOST HAS JURISDICTION OVER THE CASE.

D.

IN CONCLUDING THAT PETITIONER'S (PLAINTIFF-APPELLEE) CLAIM OF OWNERSHIP OVER THE SUBJECT LOT WAS BARRED BY ESTOPPEL OR LACHES.

E.

IN CONCLUDING THAT THE RESPONDENTS (DEFENDANTS-APPELLANTS) ARE THE ABSOLUTE OWNERS OF THE SUBJECT LOT BASED ON TCT NO. 17993 ISSUED TO THEM.

F.

IN OBVIATING ESSENTIAL AND RELEVANT FACTS, HAD IT BEEN PROPERLY APPRECIATED, WOULD MAINTAIN ABSOLUTE OWNERSHIP OF PETITIONER (PLAINTIFF-APPELLEE) OVER THE SUBJECT LOT AS EVIDENCED BY EXISTING TCT NO. T-8502.[11]

The Court finds the petition meritorious.

It should be recalled that respondent Aurelio Zaldivar filed with the then CFI of Misamis Oriental a petition for issuance of a new owner's duplicate copy of TCT No.T-8502, alleging that the owner's duplicate copy was lost. In the Order dated March 20, 1974, the said CFI granted the petition and consequently, a new owner's duplicate copy of TCT No. T-8502 was issued.

However, as the trial court correctly held, the CFI which granted respondent Aurelio's petition for the issuance of a new owner's duplicate copy of TCT No. T-8502 did not acquire jurisdiction to issue such order. It has been consistently ruled that "when the owner's duplicate certificate of title has not been lost, but is in fact in the possession of another person, then the reconstituted certificate is void, because the court that rendered the decision had no jurisdiction. Reconstitution can validly be made only in case of loss of the original

[11] *Id.* at 11-12.

Supreme Court E-Library

certificate."[12] In such a case, the decision authorizing the issuance of a new owner's duplicate certificate of title may be attacked any time.[13]

The new owner's duplicate TCT No. T-8502 issued by the CFI upon the petition filed by respondent Aurelio is thus void. As Remegia averred during her testimony, the owner's duplicate copy of TCT No. T-8502 was never lost and was in her possession from the time it was issued to her:

Q A while ago, you said that you were issued a title in 1968, can you tell the Honorable Court who was in possession of the title?
A I am the one in possession and I am the one keeping the title.

Q Even up to the present?
A Yes, Sir.

Q Was there any instance that this title was borrowed from you?
A No, Sir.

Q Was there any instance that this title was lost from your possession?
A No, Sir.

Q Was there any instance that this title was surrendered to the Register of Deeds of the City of Cagayan de Oro?
A No, Sir. There never was an instance ... There never was an instance that this title was surrendered to the Register of Deeds.

Q As there any instance that you petitioned to the Honorable Court for the issuance of a new owner's duplicate copy of this title in lieu of the lost copy of said title?
A No, Sir. There was never an instance because this title was never lost.[14]

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[12] *Eastworld Motor Industries Corp. v. Skunac Corp.*, G.R. No. 163994, December 16, 2005, 478 SCRA 420.

[13] *New Durawood Co., Inc. v. Court of Appeals*, 324 Phil. 109 (1996), citing *Serra Serra v. Court of Appeals*, G.R. No. 34080, March 22, 1991, 195 SCRA 482.

[14] TSN, September 1, 1993, pp. 13-14.

Supreme Court E-Library

Consequently, the court *a quo* correctly nullified TCT No. T-17993 in Aurelio's name, emanating as it did from the new owner's duplicate TCT No. T-8502, which Aurelio procured through fraud. Respondent Aurelio cannot raise the defense of indefeasibility of title because "the principle of indefeasibility of a Torrens title does not apply where fraud attended the issuance of the title. The Torrens title does not furnish a shield for fraud."[15] As such, a title issued based on void documents may be annulled.[16]

The appellate court's reliance on the joint affidavit of confirmation of sale purportedly executed by Remegia and her uncle, Narciso Labuntog, is not proper. In the first place, respondent Aurelio cannot rely on the joint affidavit of confirmation of sale to prove that they had validly acquired the subject lot because, by itself, an affidavit is not a mode of acquiring ownership.[17] Moreover, the affidavit is written entirely in English in this wise:

JOINT AFFIDAVIT OF CONFIRMATION OF SALE[18]

We, NARCISO LABUNTOG and REMEGIA YAPE DE FELICIANO, both of legal age, Filipino citizens and residents of Lapasan, Cagayan de Oro City, Philippines, after being duly sworn according to law, depose and say:

1. That the late FRANCISCO LABUNTOG is our common ancestor, the undersigned NARCISO LABUNTOG being one of his sons and the undersigned REMEGIA YAPE DE FELICIANO being the daughter of the late Emiliana Labuntog, sister of Narciso Labuntog;

2. That after his death, the late Francisco Labuntog left behind a parcel of land known as Lot No. 2166 C-2 of the Cagayan Cadastre

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[15] *Sacdalan v. Court of Appeals*, G.R. 128967, May 20, 2004, 428 SCRA 586.

[16] *Bongalon v. Court of Appeals*, G.R. No. 142441, November 10, 2004, 441 SCRA 553.

[17] *Cequeña v. Bolante*, 386 Phil. 419 (2000).

[18] Records, p. 118.

Supreme Court E-Library

situated at Lapasan, City of Cagayan de Oro, Philippines which is being administered by the undersigned Narciso Labuntog under Tax Decl. No. 27633;

3. That the entire Cadastral Lot No. 2166 C-2 has been subdivided and apportioned among the heirs of the late Francisco Labuntog, both of the undersigned affiants having participated and shared in the said property, Remegia Yape de Feliciano having inherited the share of her mother Emiliana Labuntog, sister of Narciso Labuntog;

4. That on April 4, 1951, Remegia Yape de Feliciano sold a portion of her share to one Ignacio Gil and which portion is more particularly described and bounded as follows:

"On the North for 13 ½ meters by Agustin Cabaraban;
On the South for 13 ½ meters by Antonio Babanga;
On the East for 18 meters by Clotilde Yape; and
On the West for 18meters by Agustin Cabaraban";

5. That sometime in the year 1960, the said Ignacio Gil conveyed the same portion to Pio Dalman, who is of legal age, Filipino citizen and likewise a resident of Lapasan, Cagayan de Oro City and that since 1960 up to the present, the said Pio Dalman has been in continuous, open, adverse and exclusive possession of the property acquired by him in concept of owner;

6. That we hereby affirm, ratify and confirm the acquisition of the above described portion acquired by Pio Dalman inasmuch as the same is being used by him as his residence and family home and we hereby request the Office of the City Assessor to segregate this portion from our Tax Decl. No. 27633 and that a new tax declaration be issued in the name of PIO DALMAN embracing the area acquired and occupied by him.

IN WITNESS WHEREOF, we have hereunto affixed our signatures on this 3rd day of December, 1965 at Cagayan de Oro City, Philippines.

(SGD.) Narciso Labuntog	(SGD.)Remegia Yape de Feliciano
NARCISO LABUNTOG	REMEGIA YAPE DE FELICIANO
Affiant	Affiant

SUBSCRIBED & SWORN to before me this 3rd day of December, 1965 at Cagayan de Oro City, Philippines, affiants exhibited their Residence Certificates as follows: NARCISO LABUNTOG, A-1330509

Supreme Court E-Library

dated Oct. 5, 1965 and REMEGIA YAPE DE FELICIANO, A-1811104 dated Dec. 3, 1965 both issued at Cagayan de Oro City.

(SGD.) ILLEGIBLE
FRANCISCO X. VELEZ
Notary Public

However, based on Remegia's testimony, she could not read and understand English:

COURT:

Can you read English?

A No, I cannot read and understand English.

ATTY. LEGASPI:

Q What is your highest educational attainment?
A Grade 3.

Q But you can read and understand Visayan?
A Yes, I can read Visayan, but I cannot understand well idiomatic visayan terms (*laglom nga visayan*).[19]

On this point, Article 1332 of the Civil Code is relevant:

ART.1332. When one of the parties is unable to read, or if the contract is in a language not understood by him, and mistake or fraud is alleged, the person enforcing the contract must show that the terms thereof have been fully explained to the former.

The principle that a party is presumed to know the import of a document to which he affixes his signature is modified by the foregoing article. Where a party is unable to read or when the contract is in a language not understood by the party and mistake or fraud is alleged, the obligation to show that the terms of the contract had been fully explained to said party who is unable to read or understand the language of the contract devolves on the party seeking to enforce the contract to show that the other party fully understood the contents of the document. If

[19] TSN, November 24, 1993, p. 10.

Supreme Court E-Library

he fails to discharge this burden, the presumption of mistake, if not, fraud, stands unrebutted and controlling.[20]

Applying the foregoing principles, the presumption is that Remegia, considering her limited educational attainment, did not understand the full import of the joint affidavit of confirmation of sale and, consequently, fraud or mistake attended its execution. The burden is on respondents, the spouses Zaldivar, to rebut this presumption. They tried to discharge this onus by presenting Atty. Francisco Velez (later RTC Judge) who notarized the said document. Atty. Velez testified that he "read and interpreted" the document to the affiants and he asked them whether the contents were correct before requiring them to affix their signatures thereon.[21] The bare statement of Atty. Velez that he "read and interpreted" the document to the affiants and that he asked them as to the correctness of its contents does not necessarily establish that Remegia actually comprehended or understood the import of the joint affidavit of confirmation of sale. Nowhere is it stated in the affidavit itself that its contents were fully explained to Remegia in the language that she understood before she signed the same. Thus, to the mind of the Court, the presumption of fraud or mistake attending the execution of the joint affidavit of confirmation of sale was not sufficiently overcome.

Moreover, the purported joint affidavit of confirmation of sale failed to state certain important information. For example, it did not mention the consideration or price for the alleged sale by Remegia of the subject lot to Ignacio Gil. Also, while it stated that the subject lot was conveyed by Ignacio Gil to Pio Dalman, it did not say whether the conveyance was by sale, donation or any other mode of transfer. Finally, it did not also state how the ownership of the subject lot was transferred from Pio Dalman to respondent Aurelio or respondents.

Respondents' claim that they had been occupying the subject lot since 1947 openly, publicly, adversely and continuously or

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[20] *Mayor v. Belen*, G.R. No. 151035, June 3, 2004, 430 SCRA 561.

[21] TSN, November 17, 1995, p. 6.

Supreme Court E-Library

for over 41 years is unavailing. In a long line of cases,[22] the Court has consistently ruled that lands covered by a title cannot be acquired by prescription or adverse possession. A claim of acquisitive prescription is baseless when the land involved is a registered land following Article 1126[23] of the Civil Code in relation to Section 46 of Act No. 496 or the Land Registration Act (now Section 47[24] of P.D. No 1529):

> Appellants' claim of acquisitive prescription is likewise baseless. Under Article 1126 of the Civil Code, prescription of ownership of lands registered under the Land Registration Act shall be governed by special laws. Correlatively, Act No. 496 provides that no title to registered land in derogation of that of the registered owner shall be acquired by adverse possession. Consequently, proof of possession by the defendants is both immaterial and inconsequential.[25]

Neither can the respondents spouses Zaldivar rely on the principle of indefeasibility of TCT No. 17793 which was issued on September 10, 1974 in favor of respondent Aurelio. As it

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[22] See, for example, *Ragudo v. Fabella Estate Tenants Association, Inc.*, G.R. No. 146823, August 9, 2005, 466 SCRA 136; *J.M. Tuason & Co., Inc. v. Court of Appeals*, No. L-23480, September 11, 1979, 93 SCRA 146; *Tuason v. Bolaños*, 95 Phil. 106 (1954).

[23] The provision reads:

> ART. 1126. Against a title recorded in the Registry of Property, ordinary prescription of ownership or real rights shall not take place to the prejudice of a third person, except in virtue of another title also recorded; and the time shall begin to run from the recording of the latter.
>
> **As to land registered under the Land Registration Act, the provisions of that special law shall govern.**

[24] The provision reads:

> SEC. 47. *Registered land not subject to prescription.* — No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

[25] *Natalia Realty Corporation v. Vallez, et al.*, G.R. Nos. 78290-94, May 23, 1989, 173 SCRA 534.

Supreme Court E-Library

is, the subject lot is covered by two different titles: TCT No. T-8502 in Remegia's name covering an area of 444 sq m including therein the subject lot, and TCT No. 17793 in the name of respondent Aurelio covering the subject lot. Aurelio's title over the subject lot has not become indefeasible, by virtue of the fact that TCT No. T-8502 in the name of Remegia has remained valid. The following disquisition is apropos:

> The claim of indefeasibility of the petitioner's title under the Torrens land title system would be correct if previous valid title to the same parcel of land did not exist. The respondent had a valid title x x x It never parted with it; it never handed or delivered to anyone its owner's duplicate of the transfer certificate of title; it could not be charged with negligence in the keeping of its duplicate certificate of title or with any act which could have brought about the issuance of another certificate upon which a purchaser in good faith and for value could rely. If the petitioner's contention as to indefeasibility of his title should be upheld, then registered owners without the least fault on their part could be divested of their title and deprived of their property. Such disastrous results which would shake and destroy the stability of land titles had not been foreseen by those who had endowed with indefeasibility land titles issued under the Torrens system.[26]

Remegia's TCT No. T-8502, thus, prevails over respondent Aurelio's TCT No. 17793, especially considering that, as earlier opined, the latter was correctly nullified by the RTC as it emanated from the new owner's duplicate TCT No. T-8502, which in turn, respondent Aurelio was able to procure through fraudulent means.

Contrary to the appellate court's holding, laches has not set in against Remegia. She merely *tolerated* the occupation by the respondents of the subject lot:

> Q You also stated in the direct that the defendants in this case, Mr. and Mrs. Zaldivar, were issued a title over a portion of this land which you described a while ago?
> A We knew about that only recently.

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[26] *Sanchez v. Quinio*, G.R. No. 133545, July 15, 2005, 463 SCRA 471, citing *C.N. Hodges v. Dy Buncio & Co., Inc.*, 116 Phil. 595 (1962).

Supreme Court E-Library

Q When was that when you knew that the defendants were issued title over a portion of the land you described a while ago?
A In June, 1992.

Q In what way did you discover that a portion of the land was titled in the name of the defendants?
A I discovered that my property was titled by Mr. and Mrs. Zaldivar when I went to the Register of Deeds for the purpose of partitioning my property among my children.

Q And you were surprised why it is titled in their names?
A Yes.

Q Is it not a fact that the defendants have constructed their house on a portion of the land you described a while ago?
A Yes. I knew that the Zaldivars built a house on the property I described a while ago, but I did not bother because I know that I can get that property because I own that property.

Q And the defendants constructed that house in 1974-75, am I correct?
A Yes.

Q And as a matter of fact, you have also a house very near to the house that was constructed by the defendants in this case?
A Yes.

Q Can you tell us what is the distance between your house and the house constructed by the defendants in 1974?
A They are very near because they constructed their house in my lot.

Q How many meters, more or less?
A It is very near, very close.

Q When they constructed their house, meaning the defendants, did you not stop the defendants from the construction?
A I did not bother in stopping the Zaldivars in constructing the house because I am certain that I can get the land because I own the land.

Q Aside from not protesting to the construction, did you not bring this matter to the attention of the *barangay* captain or to the police authorities?

Supreme Court E-Library

A No, because I did not bring this matter to the *barangay* captain nor to the police authorities. It is only now that we discovered that it is already titled.

Q When you said now, it is in 1992?
A Yes.

Q Is it not a fact that after the house was finished the defendants and their family resided in that house which they constructed?
A Yes, after the house was finished, they resided in that house.

Q As a matter of fact, from that time on up to the present, the defendants are still residing in that house which they constructed in 1974 or 1975, am I correct?
A Yes.

Q As a matter of fact also the defendants fenced the lot in which their house was constructed with hollow blocks, am I correct?
A Yes, the house of the Zaldivars was fenced by them with hollow blocks and I did not stop them to avoid trouble.

Q As a matter of fact, the boundary between your house and the house of Zaldivar, there was constructed a firewall made of hollow blocks about twelve feet in height, am I correct?
A Yes.

Q Such that you cannot see their house and also the Zaldivars cannot see your house because of that high firewall, am I correct?
A We can still see each other because the firewall serves as the wall of their house.

Q When did the Zaldivars construct that hollow blocks fence? After the house was finished?
A I cannot remember.

Q But it could be long time ago?

ATTY. VEDAD:

Q That would be repetitious. She answered she could not remember.

Supreme Court E-Library

ATTY. LEGASPI:

Q It could be many years ago?
A I cannot remember when they constructed the fence.

Q Did you [file] any protest or complaint when the Zaldivars constructed the hollow blocks fence?
A No.

Q Neither did you bring any action in court or with the *barangay* captain or the police authorities when the Zaldivars constructed that hollow blocks fence?
A No, I did not complain the fencing by the Zaldivars. Only now that we know that we bring this matter to the *barangay* captain.

Q And in the [office of the] *barangay* captain, you were able to meet the defendants, am I correct?
A No. When we went to the *barangay* captain, the Zaldivars did not appear there; therefore, we hired a lawyer and filed this case.[27]

Case law teaches that if the claimant's possession of the land is merely tolerated by its lawful owner, the latter's right to recover possession is never barred by laches:

As registered owners of the lots in question, the private respondents have a right to eject any person illegally occupying their property. This right is imprescriptible. Even if it be supposed that they were aware of the petitioner's occupation of the property, and regardless of the length of that possession, the lawful owners have a right to demand the return of their property at any time as long as the possession was unauthorized or merely tolerated, if at all. This right is never barred by laches.[28]

Nonetheless, the Court is not unmindful of the fact that respondents had built their house on the subject lot and, despite knowledge thereof, Remegia did not lift a finger to prevent it. Article 453 of the Civil Code is applicable to their case:

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[27] TSN, November 4, 1993, pp. 14-17.

[28] *Ragudo v. Fabella Estate Tenants Association*, *supra* citing *Bishop v. Court of Appeals*, G.R. No. 86787, May 8, 1992, 208 SCRA 636.

Supreme Court E-Library

ART. 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

It is understood that there is bad faith on the part of the landowner whenever the act was done with his knowledge and without opposition on his part.

Under the circumstances, respondents and Remegia are in mutual bad faith and, as such, would entitle the former to the application of Article 448 of the Civil Code governing builders in good faith:

ART. 448. The owner of the land on which anything has been built, sown or planted in good faith, shall have the right to appropriate as his own the works, sowing or planting, after payment of the indemnity provided for in Articles 546[29] and 548,[30] or to oblige the one who built or planted to pay the price of the land, and the one who sowed, the proper rent. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or trees. In such a case, he shall pay reasonable rent, if the owner of the land does not choose to appropriate the building or trees after the proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.

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[29] The provision reads:

ART. 546. Necessary expenses shall be refunded to every possessor; but only the possessor in good faith may retain the thing until he has been reimbursed therefor.

Useful expenses shall be refunded only to the possessor in good faith with the same right of retention, the person who has defeated him in the possession having the option of refunding the amount of the expenses or of paying the increase in value which the thing may have acquired by reason thereof.

[30] The provision reads:

ART. 453. If there was bad faith, not only on the part of the person who built, planted or sowed on the land of another, but also on the part of the owner of such land, the rights of one and the other shall be the same as though both had acted in good faith.

Supreme Court E-Library

Following the above provision, the owner of the land on which anything has been built, sown or planted in good faith shall have the right to appropriate as his own the building, planting or sowing, after payment to the builder, planter or sower of the necessary and useful expenses, and in the proper case, expenses for pure luxury or mere pleasure.[31]

The owner of the land may also oblige the builder, planter or sower to purchase and pay the price of the land. If the owner chooses to sell his land, the builder, planter or sower must purchase the land, otherwise the owner may remove the improvements thereon. The builder, planter, or sower, however, is not obliged to purchase the land if its value is considerably more than the building, planting or sowing. In such case, the builder, planter or sower must pay rent to the owner of the land. If the parties cannot come to terms over the conditions of the lease, the court must fix the terms thereof.[32]

The right to choose between appropriating the improvement or selling the land on which the improvement of the builder, planter or sower stands, is given to the owner of the land,[33] Remegia, in this case, who is now substituted by petitioners as her heirs.

Consequently, the petitioners are obliged to exercise either of the following options: (1) to appropriate the improvements, including the house, built by the respondents on the subject lot by paying the indemnity required by law, or (2) sell the subject lot to the respondents. Petitioners cannot refuse to exercise either option and compel respondents to remove their house from the land.[34] In case petitioners choose to exercise the second option, respondents are not obliged to purchase the subject

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[31] *Carrascoso, Jr. v. Court of Appeals*, G.R. No. 123672, December 14, 2005, 477 SCRA 666.

[32] *Id.* at 704.

[33] *Id.*

[34] *Technogas Philippines Manufacturing Corp. v. Court of Appeals*, G.R. No. 108894, February 10, 1994, 268 SCRA 5.

Supreme Court E-Library

lot if its value is considerably more than the improvements thereon and in which case, respondents must pay rent to petitioners. If they are unable to agree on the terms of the lease, the court shall fix the terms thereof.

In light of the foregoing disquisition, the Court finds it unnecessary to resolve the procedural issues raised by petitioners.

WHEREFORE, the petition is *GRANTED*. The Decision dated July 31, 2003 and Resolution dated February 4, 2004 of the Court of Appeals in CA-G.R. CV No. 66511 are *REVERSED* and *SET ASIDE*. The Decision dated December 3, 1999 of the Regional Trial Court of Cagayan de Oro City, Branch 25 in Civil Case No. 92-423 is *REINSTATED* with the *MODIFICATION* that petitioners are likewise ordered to exercise the option under Article 448 of the Civil Code.

SO ORDERED.

Panganiban, C.J. (Chairperson), Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.,* concur.

FIRST DIVISION

[G.R. No. 164156. Septemeber 26, 2006]

ABS-CBN BROADCASTING CORPORATION, *petitioner, vs.* **MARLYN NAZARENO, MERLOU GERZON, JENNIFER DEIPARINE, and JOSEPHINE LERASAN,** *respondents.*

SYLLABUS

1. LABOR AND SOCIAL LEGISLATION; LABOR RELATIONS; APPEAL; TECHNICAL RULES ARE NOT BINDING IN LABOR CASES AND ARE NOT TO BE APPLIED STRICTLY IF THE RESULT WOULD BE DETRIMENTAL TO THE WORKING MAN. — We agree with petitioner's contention that the