Supreme Court E-Library



**SO ORDERED.**

*Sandoval-Gutierrez* and *Corona, JJ.*, concur.

*Carpio Morales, J.,* on official leave.

---

**SECOND DIVISION**

[G.R. No. 157767. September 9, 2004]

**REYNALDO BALOLOY and ADELINA BALOLOY-HIJE,** *petitioners, vs.* **ALFREDO HULAR,** *respondent.*

**SYNOPSIS**

Respondent Hular filed a complaint for quieting of title of real property with damages against the Baloloys. Allegedly, Iluminado Baloloy, petitioners' predecessor-in-interest, was able to secure a Free Patent over the property through fraud, on the basis of which, the Register of Deeds issued an Original Certificate of Title to Iluminado Baloloy. Respondent later discovered in the cadastral survey of lands that the acquired property of his father was made to form part of Lot No. 3353, the property of Iluminado Baloloy. According to respondent, he had acquired ownership of the property by acquisitive prescription; he and his predecessors had been in continuous, uninterrupted and open possession of the property in the concept of owners for more than 60 years.

The Court noted that respondent alone filed the complaint. He should have included his siblings as co-owners to the property as required by the Rules. Nonetheless, the Court ruled that respondent failed to prove the material allegations of his complaint against petitioners. He was thus not entitled to the reliefs prayed for and the Torrens Title of Iluminado Baloloy prevails.

Supreme Court E-Library



**SYLLABUS**

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEAL; ISSUE NOT RAISED EARLIER BUT DECISIVE OF THE OUTCOME OF THE CASE, INCLUDED.—** The first issue of indispensable parties, while not raised by the parties in the trial court and in the Court of Appeals, is so interwoven with the other issues raised therein and is even decisive of the outcome of this case; hence, such issue must be delved into and resolved by this Court.

2. **CIVIL LAW; PROPERTY; CO-OWNERSHIP; ON ACTIONS BROUGHT TO COURT.—** Article 1078 of the Civil Code provides that where there are two or more heirs, the whole estate of the decedent is, before partition, owned in common by such heirs, subject to the payment of the debts of the deceased. Until a division is made, the respective share of each cannot be determined and every co-owner exercises, together with his co-participants, joint ownership over the *pro indiviso* property, in addition to the use and enjoyment of the same. Under Article 487 of the New Civil Code, any of the co-owners may bring an action in ejectment. This article covers all kinds of actions for the recovery of possession, including an *accion publiciana* and a reinvidicatory action. A co-owner may bring such an action without the necessity of joining all the other co-owners as co-plaintiffs because the suit is deemed to be instituted for the benefit of all. Any judgment of the court in favor of the co-owner will benefit the others but if such judgment is adverse, the same cannot prejudice the rights of the unimpleaded co-owners. If the action is for the benefit of the plaintiff alone who claims to be the sole owner and entitled to the possession thereof, the action will not prosper unless he impleads the other co-owners who are indispensable parties.

3. **REMEDIAL LAW; CIVIL PROCEDURE; PARTIES; COMPULSORY JOINDER OF INDISPENSABLE PARTIES; CASE AT BAR.—** Under Section 7, Rule 3 of the Rules of Court, the respondent was mandated to implead his siblings, being co-owners of the property, as parties. The respondent failed to comply with the rule. It must, likewise, be stressed that the Republic of the Philippines is also an indispensable party as defendant because the respondent sought

Supreme Court E-Library



the nullification of OCT No. P-16540 which was issued based on Free Patent No. 384019. Unless the State is impleaded as party-defendant, any decision of the Court would not be binding on it. It has been held that the absence of an indispensable party in a case renders ineffective all the proceedings subsequent to the filing of the complaint including the judgment. The absence of the respondent's siblings, as parties, rendered all proceedings subsequent to the filing thereof, including the judgment of the court, ineffective for want of authority to act, not only as to the absent parties but even as to those present.

4. **ID.; EVIDENCE; BURDEN OF PROOF.—** The burden of proof is on the plaintiff to establish his case by the requisite *quantum* of evidence. If he claims a right granted as created by law or under a contract of sale, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not on the weakness or absence of the evidence of that of his opponent. He who claims a better right to real estate property must prove not only his ownership of the same but also the identity thereof.

5. **CIVIL LAW; LAND TITLES; TORRENS CERTIFICATES; SIGNIFICANCE THEREOF.—** In *Huy v. Huy*, we held that where a property subject of controversy is duly registered under the Torrens system, the presumptive conclusiveness of such title should be given weight and in the absence of strong and compelling evidence to the contrary, the holder thereof should be considered as the owner of the property until his title is nullified or modified in an appropriate ordinary action. A Torrens Certificate is evidence of an indefeasible title to property in favor of the person in whose name appears therein. Such holder is entitled to the possession of the property until his title is nullified.

6. **REMEDIAL LAW; EVIDENCE; CREDIBILITY OF WITNESSES; TORRENS TITLE PREVAILS AS AGAINST VERBAL CLAIM.—** The respondent failed to adduce in evidence his allege deed of sale or even an authentic copy thereof. The respondent did not offer any justification for his failure to adduce the same in evidence. As against the respondent's verbal claim that his father acquired the property from Lagata, the Torrens title of Iluminado Baloloy must prevail.

Supreme Court E-Library



**7. ID.; ID.; WEIGHT AND SUFFICIENCY; CIRCUMSTANTIAL EVIDENCE; TAX DECLARATIONS AND RECEIPTS CAN BE EVIDENCE OF OWNERSHIP.—** The respondent even failed to adduce in evidence any tax declarations over the disputed property under the name of Irene Griarte and/or Lino Estopin, or realty tax payment receipts in their names from 1941 to November 1961. The documents are circumstantial evidence to prove that Irene Griarte claimed ownership over the disputed property and that Lino Estopin acquired the same from her. After all, such tax declarations and tax receipts can be strong evidence of ownership of land when accompanied by possession for a period sufficient for acquisitive prescription.

**8. ID.; ID.; ID.; AFFIDAVIT INADMISSIBLE WHERE AFFIANT THEREOF DID NOT TESTIFY.—** The Balbedina's Affidavit dated May 8, 1993 offered by the respondent to prove the contents thereof is inadmissible in evidence against the petitioners. Balbedina did not testify; as such, the petitioners were deprived of their right to cross-examine him. The said affidavit is thus hearsay and barren of probative weight.

**APPEARANCES OF COUNSEL**

*Napoleon Uy Galit & Associates Law Offices* for petitioners.
*Henry D. Diesta* for respondent.

**D E C I S I O N**

**CALLEJO, SR., *J.*:**

Before us is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court, as amended, of the Decision[1] of the Court of Appeals in CA-G.R. CV No. 51081, which affirmed the Decision[2] of the Regional Trial Court of Sorsogon, Branch 51, in Civil Case No. 93-5871.

---

[1] Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Andres B. Reyes, Jr. and Mario L. Guariña III, concurring.

[2] Penned by Judge Simon D. Encinas.

Supreme Court E-Library



The antecedents are as follows:

On May 11, 1993, respondent Alfredo Hular filed a complaint for quieting of title of real property with damages against the children and heirs of Iluminado Baloloy, namely, Anacorita, Antonio, and petitioners Reynaldo and Adelina, all surnamed Baloloy. The respondent alleged, *inter alia*, in his complaint that his father, Astrologo Hular, was the owner of a parcel of residential land located in Sitio Pagñe, Biriran, Juban, Sorsogon, with an area of 287 square meters, and that such lot was part of Lot No. 3347 of the Juban Cadastre. The respondent alleged that Iluminado Baloloy, the petitioners' predecessor-in-interest, was able to secure a Free Patent over the property through fraud on March 1, 1968, on the basis of which the Register of Deeds issued Original Certificate of Title (OCT) No. P-16540 in his name. The respondent later discovered that in the cadastral survey of lands in Juban, the property of his father, which actually consisted of 1,405 square meters was made to form part of Lot No. 3353, the property of Iluminado Baloloy. According to the respondent, even if the residential land was made to form part of Lot No. 3353 registered under the name of Iluminado Baloloy, he had acquired ownership of the property by acquisitive prescription, as he and his predecessors had been in continuous, uninterrupted and open possession of the property in the concept of owners for more than 60 years.

The respondent prayed for alternative reliefs that, after due hearing, judgment be rendered in his favor, thus:

a) Declaring the plaintiff as the absolute owner of the land in question;

b) Ordering the defendants to perpetually refrain from disturbing plaintiff in his peaceful possession in the land in question;

c) Ordering the defendants to remove their houses in the land in question, and to declare OCT No. P-16540, and whatever paper, form, document or proceeding the defendants may have, as null and void and without any effect whatsoever as far as the land in question is concerned as they cast cloud upon the title of the plaintiff;

Supreme Court E-Library



d) *In the alternative, defendants be ordered to reconvey the title in favor of the plaintiff as far as the land in question is concerned*;

e) Ordering the defendants to jointly and severally pay the plaintiff the amount of ₱50,000.00 as moral damages; ₱5,000.00 as attorney's fee plus ₱500.00 for every appearance or hearing of his lawyer in court; ₱1,500.00 as consultation fee; ₱5,000.00 as incidental litigation expenses; ₱20,000.00 as exemplary damages; and to pay the costs.

Plaintiff further prays for such other relief [as are] just and equitable in the premises.[3]

*The Evidence of the Respondent*

The respondent adduced evidence that the Spouses Lino and Victoriana Estopin were the original owners of a parcel of land located in Barangay Biriran, Juban, Sorsogon, designated as Lot No. 3347 of the Juban Cadastre. A major portion of the property, where a house of strong materials was constructed, was agricultural, while the rest was residential. The respondent also averred that the Spouses Estopin declared the property in their names under Tax Declaration No. 4790. On the north of the agricultural portion of the property was the road leading to Biriran, while north of the residential portion was a creek (canal) and the property of Iluminado.

When Lino Estopin died intestate, his widow, Victoriana Lagata, executed a Deed of Absolute Sale[4] on November 11, 1961 over the agricultural portion of Lot No. 3347, which had an area of 15,906 square meters, more or less, in favor of Astrologo Hular, married to Lorenza Hular. Shortly thereafter, on November 25, 1961, Lagata executed a Deed of Absolute Sale[5] over the residential portion of the property with an area of 287 square meters, including the house constructed thereon, in favor of Hular. Hular and his family, including his son, the respondent, then resided in the property. In 1961 or thereabouts,

---

[3] Records, p. 63.

[4] *Id*. at 86.

[5] *Id*. at 84.

Supreme Court E-Library



Iluminado asked Hular's permission to construct a house on a portion of Lot No. 3347 near the road, and the latter agreed. In 1977, Lorenza Hular, wife of Astrologo, declared the residential land in the latter's name under Tax Declaration No. 6841.[6]

Earlier, or on August 14, 1945, Irene Griarte had executed a Deed of Absolute Sale over a coconut land located in Barangay Biriran, Juban, with an area of 6,666 square meters in favor of Martiniano Balbedina, with the following boundaries: North, Alejandro Gruta; South, Lino Estopin; East, River Pagñe; West, Pedro Grepal and Esteban Grepal.[7] Subsequently, after a cadastral survey was conducted on lands in Juban, the property of Balbedina was designated as Lot No. 3353, with the following boundaries: North: Lot No. 3353 (portion), Alejandro Gruta; South: Lino Estopin; West: Lot No. 3349; East: creek. A trail was then established between Lot No. 3353 and Lot No. 3347 resulting in the decrease of Lot No. 3353 owned by Balbedina to 4,651 square meters. He declared the property under his name under Tax Declaration No. 191 with the following boundaries: North: Lot No. 3353 (portion) Alejandro Gruta; South: trail; East: creek; West: Lot No. 3349.[8]

On June 4, 1951, Balbedina executed a Deed of Absolute Sale over Lot No. 3353 with an area of only 4,651 square meters in favor of Iluminado.[9] The latter declared the property in his name under Tax Declaration No. 5359.[10] Iluminado filed an application with the Bureau of Lands for a free patent over the entirety of Lot No. 3353 on January 5, 1960.[11] He indicated in his application that the property was not occupied by any person and was disposable or alienable public land. In support thereof,

---

[6] Exhibit "I", Records, p. 78.

[7] Exhibit "E".

[8] Exhibit "13-A".

[9] Exhibit "D".

[10] Exhibit "9", Records, p. 141.

[11] Exhibits "H" and "J".

Supreme Court E-Library



he executed an affidavit wherein he declared that he purchased about one-half portion of the property in 1951 based on a deed of absolute sale attached to said affidavit; that in 1957, he purchased the other one-half portion, but "for economic reasons," no deed of sale was executed by the parties. He also alleged that the improvements on the land consisted of coconut trees.[12] The Bureau of Lands processed the application in due course.

In the meantime, Iluminado constructed his house on a portion of Lot No. 3353 near the trail (road) leading to Biriran. He and his family, including his children, forthwith resided in said house.

On March 1, 1968, the Secretary of Agricultural and Natural Resources approved Iluminado's application and issued Free Patent No. 384019 covering Lot No. 3353 with an area of 9,302 square meters, on the basis of which OCT No. P-16540 was thereafter issued by the Register of Deeds on March 1, 1968.[13]

On August 2, 1975, Alejandro Gruta had executed a deed of absolute sale over a portion of Lot No. 3353 with an area of 4,651 square meters in favor of Estelito Hije, the husband of petitioner Adelina Baloloy, one of Iluminado's children.[14]

Before he left for employment in Saudi Arabia in 1979, respondent Hular had his house constructed near the trail (road) on Lot No. 3347, which, however, occupied a big portion of Lot No. 3353.[15]

Iluminado died intestate on November 29, 1985. His widow and their children continued residing in the property, while petitioner Reynaldo Baloloy, one of Iluminado's children, later constructed his house near that of his deceased father. When Astrologo died intestate on December 25, 1989, he was survived by his children, Jose, Romeo, Anacleto, Elena, Leo, Teresita,

---

[12] Exhibit "F", Records, p. 78.

[13] Exhibit "H", *Id*. at 77.

[14] Exhibit "G".

[15] TSN, 19 May 1995, pp. 34-35.

Supreme Court E-Library



and the respondent, among others,[16] who continued to reside in their house.[17]

Sometime in 1991, the respondent's house helper was cleaning the backyard, but was prevented from doing so by petitioner Adelina Baloloy who claimed that their father Iluminado owned the land where the respondent's house was located. To determine the veracity of the claim, the respondent had Lot No. 3353 surveyed by Geodetic Engineer Rodolfo Cunanan on February 16, 1993, in the presence of Balbedina, Antonio Baloloy and petitioner Reynaldo Baloloy. Cunanan prepared a Special Sketch Plan of Lot No. 3353[18] showing that the house of Iluminado was constructed on Lot No. 3353[19] near the road behind the houses owned by Astrologo and Alfredo.[20] The engineer discovered that the residential area deeded by Lagata to Hular had an area of 1,405 square meters, instead of 287 square meters only.[21]

In their Answer to the complaint, the heirs of Iluminado Baloloy averred that Iluminado's house was built in 1962 on a portion of Lot No. 3353, which the latter purchased from Balbedina, and not on a portion of Lot No. 3347 which Hular purchased from Lagata. They alleged that Hular constructed his house on a portion of Lot No. 3353 after securing the permission of their father Iluminado, and that the respondent had no cause of action for the nullification of Free Patent No. 384019 and OCT No. P-16540 because only the State, through the Office of the Solicitor General, may file a direct action to annul the said patent and title; and even if the respondent was the real party in interest to file the action, such actions had

---

16 TSN, 26 August 1993, p. 31.

17 TSN, 21 October 1994, p. 4.

18 Exhibit "A".

19 Exhibit "A-1".

20 Exhibit "A-3".

21 Exhibit "A".

Supreme Court E-Library



long since prescribed. The heirs of Baloloy prayed that judgment be rendered in their favor, thus:

WHEREFORE, it is most respectfully prayed of the Honorable Court to DISMISS this case pursuant to paragraph 15, *et seq*., hereof, and/or DECIDE it in favor of the defendants by UPHOLDING the sanctity of OCT No. P-16540 and ordering plaintiff to:

1. RESPECT defendants' proprietary rights and interests on the property in question covered by OCT No. P-16540;
2. VACATE it at his sole and exclusive expense, and never to set foot on it ever again;
3. PAY defendants:
    a) MORAL DAMAGES at ₱50,000.00 EACH;
    b) ACTUAL DAMAGES and UNREALIZED PROFITS at ₱1,000.00/MONTH COMPUTED UP TO THE TIME OF PAYMENT PLUS LEGAL RATE OF INTEREST;
    c) EXEMPLARY DAMAGES of ₱50,000.00
    d) ATTY.'S FEES and LITIGATION EXPENSES of ₱100,000.00; and
    e) THE COSTS OF THIS SUIT.

DEFENDANTS pray for all other reliefs and remedies consistent with law and equity.[22]

*The Evidence for the Petitioners*

Sometime in 1982, Hular asked permission from Iluminado to construct his house on Lot No. 3353 near the road leading to Biriran. Iluminado agreed, in the presence of his daughter, petitioner Adelina Baloloy. As per the plan of Lot No. 3353 certified by a Director of the Bureau of Lands on November 6, 1961, Lot No. 3353 had an area of 9,302 square meters.[23]

As gleaned from the Sketch Plan of Lot Nos. 3347 and 3353 prepared on February 7, 1991 by Geodetic Engineer Salvador

---

[22] Records, pp. 14-15.

[23] Exhibit "3".

Supreme Court E-Library



Balilo, the houses of the Baloloy siblings and those of Astrologo and Alfredo were located in Lot No. 3353.[24] In the said sketch plan, Lot No. 3353 had an area of 9,302 square meters, while Lot No. 3347 had an area of 15,905 square meters. When apprised of Hular's claim over the property, the petitioners and their co-heirs filed a complaint for unlawful detainer with the Municipal Trial Court of Juban, docketed as Civil Case No. 331. The case was, however, dismissed for lack of jurisdiction.

On December 4, 1995, the trial court rendered judgment in favor of the respondent. The *fallo* of the decision reads:

> *a*. Declaring plaintiff the absolute owner of the land in question, consisting of 1,405 square meters, more or less, and entitled to the peaceful possession thereof;
>
> *b*. Ordering the defendants to reconvey the title to the plaintiff as far as the land in question is concerned within fifteen (15) days counted from the finality of the decision, failing in which, the Clerk of Court is hereby ordered to execute the necessary document of reconveyance of the title in favor of the plaintiff after an approved survey plan is made;
>
> *c*. Ordering defendants to remove their houses from the land in question at their own expense within fifteen (15) days after the decision has become final;
>
> *d*. Ordering the defendants to pay jointly and severally plaintiff the amount of ₱5,000.00 as attorney's fees. ₱5,000.00 as incidental litigation expenses;
>
> *e*. To pay the costs.
>
> SO ORDERED.[25]

The trial court ruled that the property subject of the complaint, with an area of 1,405 square meters, was part of Lot No. 3347 which the Spouses Estopin owned, and which they later sold to Astrologo Hular. The trial court also held that Iluminado committed fraud in securing the free patent and the title for

---

[24] Exhibit "21".

[25] Records, pp. 183-185.

Supreme Court E-Library



the property in question, and that when Victoriana Lagata executed the deed of absolute sale on the residential portion of Lot No. 3347, she did not know that it formed part of Lot No. 3353. It further held that the action of the plaintiff to nullify the title and patent was imprescriptible.

The petitioners filed on December 8, 1995 a motion to reopen the case to admit Tax Declaration Nos. 6957 and 4790 covering Lot No. 3347, under the names of Astrologo Hular and Victoriana Lagata, respectively, in which it was declared that Lot No. 3347 was coconut land. The trial court ruled that the motion had been mooted by its decision.

On appeal, the Court of Appeals rendered judgment affirming the decision of the trial court, and thereafter denied the motion for reconsideration thereof.

*The Present Petition*

The petitioners, who are still residing on the subject property, filed their petition for review on *certiorari* for the reversal of the decision and resolution of the Court of Appeals.

The issues for resolution are:

(1) whether all the indispensable parties had been impleaded by the respondent in the trial court;

(2) whether the said respondent had a cause of action against the petitioners for the nullification of Free Patent No. 384019 and OCT No. P-16540; for reconveyance and for possession of the subject property; and for damages; and

(3) whether the respondent had acquired ownership over the property through acquisitive prescription.

The first issue, while not raised by the parties in the trial court and in the Court of Appeals, is so interwoven with the other issues raised therein and is even decisive of the outcome of this case; hence, such issue must be delved into and resolved by this Court.[26]

---

[26] *Villegas v. Court of Appeals*, 351 SCRA 69 (2001).

Supreme Court E-Library



We note that the action of the respondent in the trial court is for: (a) *reinvidicatoria*, to declare the respondent the absolute owner of the subject property and its reconveyance to him as a consequence of the nullification of Free Patent No. 384019 and OCT No. P-16540; (b) *publiciana*, to order the petitioners and the other heirs of Iluminado Baloloy to vacate the property and deliver possession thereof to him; and (c) damages and attorney's fees.

It is the contention of the respondent that the subject property was sold by Lagata to his father, Astrologo Hular, in 1961. He adduced evidence that when his parents died intestate, they were survived by their children, the respondent and his siblings Elena, Jose, Romeo, Anacleto, Leo, and Teresita. Article 1078 of the Civil Code provides that where there are two or more heirs, the whole estate of the decedent is, before partition, owned in common by such heirs, subject to the payment of the debts of the deceased. Until a division is made, the respective share of each cannot be determined and every co-owner exercises, together with his co-participants, joint ownership over the *pro indiviso* property, in addition to the use and enjoyment of the same.

Under Article 487 of the New Civil Code, any of the co-owners may bring an action in ejectment. This article covers all kinds of actions for the recovery of possession, including an *accion publiciana* and a reinvidicatory action. A co-owner may bring such an action without the necessity of joining all the other co-owners as co-plaintiffs because the suit is deemed to be instituted for the benefit of all.[27] Any judgment of the court in favor of the co-owner will benefit the others but if such judgment is adverse, the same cannot prejudice the rights of the unimpleaded co-owners. If the action is for the benefit of the plaintiff alone who claims to be the sole owner and entitled to the possession thereof, the action will not prosper unless he impleads the other co-owners who are indispensable parties.

---

[27] TOLENTINO, *CIVIL CODE OF THE PHILIPPINES*, VOLUME II, 1989 ED., p. 157.

Supreme Court E-Library



In this case, the respondent alone filed the complaint, claiming sole ownership over the subject property and praying that he be declared the sole owner thereof. There is no proof that the other co-owners had waived their rights over the subject property or conveyed the same to the respondent or such co-owners were aware of the case in the trial court. The trial court rendered judgment declaring the respondent as the sole owner of the property and entitled to its possession, to the prejudice of the latter's siblings. Patently then, the decision of the trial court is erroneous.

Under Section 7, Rule 3 of the Rules of Court, the respondent was mandated to implead his siblings, being co-owners of the property, as parties. The respondent failed to comply with the rule. It must, likewise, be stressed that the Republic of the Philippines is also an indispensable party as defendant because the respondent sought the nullification of OCT No. P-16540 which was issued based on Free Patent No. 384019. Unless the State is impleaded as party-defendant, any decision of the Court would not be binding on it. It has been held that the absence of an indispensable party in a case renders ineffective all the proceedings subsequent to the filing of the complaint including the judgment.[28] The absence of the respondent's siblings, as parties, rendered all proceedings subsequent to the filing thereof, including the judgment of the court, ineffective for want of authority to act, not only as to the absent parties but even as to those present.[29]

Even if we glossed over the procedural lapses of the respondent, we rule that he failed to prove the material allegations of his complaint against the petitioners; and that he is not entitled to the reliefs prayed for.

The burden of proof is on the plaintiff to establish his case by the requisite *quantum* of evidence. If he claims a right granted as created by law or under a contract of sale, he must prove his

---

[28] *Salvador v. Court of Appeals*, 243 SCRA 239 (1995).

[29] *Belo and Trust Company v. Alejo*, 364 SCRA 812 (2001).

Supreme Court E-Library



claim by competent evidence. He must rely on the strength of his own evidence and not on the weakness or absence of the evidence of that of his opponent.[30] He who claims a better right to real estate property must prove not only his ownership of the same but also the identity thereof.[31] In *Huy v. Huy*,[32] we held that where a property subject of controversy is duly registered under the Torrens system, the presumptive conclusiveness of such title should be given weight and in the absence of strong and compelling evidence to the contrary, the holder thereof should be considered as the owner of the property until his title is nullified or modified in an appropriate ordinary action. A Torrens Certificate is evidence of an indefeasible title to property in favor of the person in whose name appears therein.[33] Such holder is entitled to the possession of the property until his title is nullified.

The petitioners aver that Lot No. 3347 owned by the Spouses Estopin was coconut, and not residential land. The petitioners contend that, under the deed of absolute sale, Victoriana Lagata executed on November 25, 1961 in favor of Astrologo Hular, she sold the residential portion of Lot No. 3347; however, the latter constructed his house on a portion of Lot No. 3353 which Iluminado had purchased from Balbedina, now covered by OCT No. P-16540. The petitioners assert that along with their mother Anacorita and their brother Antonio Baloloy, they constructed their houses on a part of Lot No. 3353, titled in the name of their father Iluminado; hence, they could not be dispossessed of the said property. The petitioners posit that, whether the house of Hular was constructed on a portion of Lot No. 3353 of the property of Balbedina or Gruta is irrelevant because both properties are now covered by OCT No. P-16540 under the name of Iluminado, their predecessor-in-interest.

---

[30] *Heirs of Fabella v. Court of Appeals*, 362 SCRA 31 (2001).

[31] *Ray v. Court of Appeals*, 314 SCRA 36 (1999).

[32] 365 SCRA 490 (2001).

[33] *Republic v. Court of Appeals*, 301 SCRA 366 (1999).

Supreme Court E-Library



The Court of Appeals ruled that Victoriana Lagata owned the subject property, which turned out to be 1,405 square meters, and sold the same to Hular. In contrast, the RTC declared in its decision that while under the deed of absolute sale executed by Irene Griarte in favor of Balbedina, Lot No. 3353 had an area of 6,666 square meters, Griarte actually owned only 4,651 square meters; a portion of the lot was actually owned by Lino Estopin. Hence, Balbedina sold only 4,651 square meters to Iluminado[34] because he was aware that he owned only 4,651 square meters of the land. It also held that, unknown to Lagata, a portion of Lot No. 3347 was declared as part of Lot No. 3353 when the lands in Juban were surveyed. The trial court concluded that Lagata erroneously declared, under the deed of absolute sale executed on November 25, 1961 in favor of Hular, that the property was part of Lot No. 3347.

The trial and appellate courts erred in their decisions.

The evidence on record shows that Irene Griarte owned a parcel of land with an area of 6,666 square meters, more or less.[35] When she sold the property to Martiniano Balbedina on August 14, 1945, it was bounded on the south by the property of Lino Estopin. There was no trail yet between the property of Griarte on the south and of Lino Estopin on the north. In the meantime, however, a road (trail) leading to Biriran was established between the property of Balbedina on the south and that of Lino Estopin on the north. Thereafter, a cadastral survey of the lands in Juban was conducted by the Bureau of Lands. The property of Balbedina was designated as a portion of Lot No. 3353, while that of Estopin was designated as Lot No. 3347. The other portion of Lot No. 3353, with an area of 4,561 square meters, belonged to Alejandro Gruta. Because of the construction of the road, the property of Balbedina, which was a part of Lot No. 3353, was reduced to 4,651 square meters. Balbedina declared, under Tax Declaration No. 391, that Lot No. 3353 had an area of 4,651 square meters and was coconut

---

[34] Exhibit "D".

[35] Exhibit "E".

Supreme Court E-Library



land[36] and that his property was bounded on the south by a trail (road). Lino Estopin declared Lot No. 3347 under his name for taxation purposes, in which he stated that his property was bounded on the north by the trail going to Biriran.[37] Clearly, then, Lot No. 3353 and Lot No. 3347 had a common boundary — the trail (road) going to Biriran.

Balbedina sold his property, which was a portion of Lot No. 3353, with an area of 4,651 square meters to Iluminado Baloloy on June 4, 1951.[38] Under the deed of absolute sale, the property was bounded on the south by the trail (road) owned by Lino Estopin.[39] The English translation of the deed of sale attached as page 85 to the RTC Records, which both the trial court and the appellate court relied upon, is incorrect.

The original deed of absolute sale, which is in Spanish, states that the boundary of the property on the south is "*con camino*, Lino Estopin," while the English version of the deed, indicates that the property is bounded "on the south by Lino Estopin." Being an earlier document, the deed in Spanish signed by the parties therefore should prevail. Conformably to such deed, Iluminado Baloloy declared in Tax Declaration No. 5359 under his name that the property is bounded on the south by a trail,[40] and not by Lot No. 3347 owned by Lino Estopin.

The respondent failed to adduce any documentary evidence to prove how the Spouses Estopin acquired the disputed property. The respondent's reliance on the testimonies of Melissa Estopin, the daughter of the Spouses Estopin, and on Porfirio Guamos as well as the May 8, 1993 Affidavit of Martiniano Balbedina, and the deed of sale executed by Victoriana Lagata on November 27, 1961 in favor of Astrologo Hular to corroborate his claim over the lot in question, is misplaced.

---

[36] Exhibit "13-D".

[37] Exhibit "B".

[38] Exhibit "D".

[39] *Ibid*.

[40] Exhibit "9".

Supreme Court E-Library



First. Per the testimony of Porfirio Guamos, the witness of the respondent, Lino Estopin purchased the disputed property in 1941 from Irene Griarte and insisted that there was a deed of sale evidencing the sale:

Atty. Dealca:

Q The area of the land in question is 1,405 sq. m., you claim that way back in 1944 the owner of the land was Lino Estopin; '41 to '44?
A 1941.

Q And you said that Lino Estopin was able to acquire the land by purchase?
A That was very long time when Lino Estopin sold the property.

Q My question is whether you know because you testified earlier that Lino Estopin was able to acquire the land by purchase; do you confirm that?
A Yes, Sir.

Q From whom?
A From Irene Griarte.

Q Were you present when that sale was consummated?
A I was not there.

Q So you do not know how much was it bought by Lino Estopin from Irene Griarte?
A No, Sir.

Q You do not know whether a document to that effect was actually drafted and executed?
A There was.

Q Have you seen the document?
A I did not see but there was a document.

Q You maintain there was a document but you did not see a document, is that it?
A In my belief there was a document.

Q In your belief, how did you organize that belief when you did not see a document?
A I insist there was a document.

Supreme Court E-Library



Q That is why, why are you insisting when you did not see a document?
A Well, during the sale that document was used.

Q How was it used when you did not see that document?
A When the deed of sale was executed I did not see the document, but I insist there was a document.

Q That's why, how were you able to say before the court that there was a document when you contend that you did not see any?
A There was basis in the sale . . . the sale was based on a document. You cannot sell a property without document? (*sic*)

Q Is that your belief?
A Yes, Sir.

Q But you did not see any document?

Atty. Diesta:

Already answered.

Witness:

A I did not see.

Atty. Dealca:

Q You said that that document was used when the property was sold by Lino Estopin to Alfredo Hular. . .

A In 1961. Yes.[41]

However, the respondent failed to adduce in evidence the said deed or even an authentic copy thereof. The respondent did not offer any justification for his failure to adduce the same in evidence. As against the respondent's verbal claim that his father acquired the property from Lagata, the Torrens title of Iluminado Baloloy must prevail.[42]

---

[41] TSN, 26 August 1993, pp. 22-24.

[42] *Urquiaga v. Court of Appeals*, 301 SCRA 738 (1999).

Supreme Court E-Library



Second. The respondent even failed to adduce in evidence any tax declarations over the disputed property under the name of Irene Griarte and/or Lino Estopin, or realty tax payment receipts in their names from 1941 to November 1961. The documents are circumstantial evidence to prove that Irene Griarte claimed ownership over the disputed property and that Lino Estopin acquired the same from her. After all, such tax declarations and tax receipts can be strong evidence of ownership of land when accompanied by possession for a period sufficient for acquisitive prescription.[43]

Third. The respondent even failed to adduce in evidence Tax Declaration No. 4790 covering the two parcels of land under the name of Lino Estopin to prove his claim that Lot No. 3347 consisted of agricultural and residential lands. We note that the petitioners appended a certified true copy of Tax Declaration No. 4790 under the name of Victoriana Lagata over Lot No. 3347 to their Motion to Reopen the Case. In the said declaration, Lot No. 3347 was described as coconut land; this is contrary to the respondent's claim that the said lot was then residential, and that the boundary of the property on the north was the road to Biriran which, in turn, is consistent with the petitioners' claim.[44] Unfortunately, the trial court denied the said motion on the ground that it was mooted by its decision.

Fourth. During the cadastral survey of lands in Juban, the lot of Gruta and that of Balbedina, inclusive of the subject property, were designated as Lot No. 3353 with a total area of 9,302 square meters under their names, while that of Lino Estopin was designated as Lot No. 3347 with an area of 15,906 square meters. Iluminado Baloloy applied for a free patent over Lot No. 3353, including the disputed property, under his name. The respondent failed to adduce any evidence that the Spouses Estopin and/or Astrologo Hular opposed Balbedina and/or Iluminado's claim of ownership of Lot No. 3353 during the

---

[43] *Serna v. Court of Appeals*, 308 SCRA 527 (1999).

[44] Records, p. 201.

Supreme Court E-Library



survey and after the filing of the application. A *propos* is our ruling in *Urquiaga v. Court of Appeals*:[45]

As succinctly observed by respondent Court of Appeals in assessing the totality of the evidence —

We do not agree with defendants that they are also the occupants and possessors of the subject lot just because it "is adjacent to their titled property." Precisely, the boundaries of defendants' titled property were determined, delineated and surveyed during the cadastral survey of Dipolog and thereafter indicated in their certificate of title in order that the extent of their property will be known and fixed. Since the subject lot was already found to be outside their titled property, defendants have no basis in claiming it or other adjacent lots for that matter. Otherwise, the very purpose of the cadastral survey as a process of determining the exact boundaries of adjoining properties will be defeated.

Defendants' own title, O.C.T. No. 0-357 (in the names of Jose Aguirre and Cristina Gonzales), in fact belies their claim of occupation and possession over the adjacent subject lot. Examining said title, we note that: (1) the cadastral survey of Dipolog was conducted from January, 1923 to November 1925; (2) defendants' titled property was one of those lots surveyed and this was designated as Lot No. 2623; (3) during the survey, it was already determined and known that Lot No. 2623 is bounded on the northeast, southeast, southwest and west by Lot No. 4443 (as we have seen in our narration of facts, the subject lot is a subdivision lot of Lot No. 6552 which was originally identified as Lot No. 4443-B-1, Dipolog Cadastre 85 Ext.: hence, the subject lot is a portion of Lot No. 4443); and (4) O.C.T. No. 0-357 was issued on October 11, 1965 on the strength of the judgment rendered on July 31 (*sic*), 1941 by the then Court of First Instance of Zamboanga del Norte in Cadastral Case No. 6, LRC Cadastral Record No. 756.

From the foregoing facts, we find that as early as January, 1923 when the cadastral survey was started, the boundaries of Lot Nos. 2623 and 4443 were already determined and delineated. Since the subject lot was surveyed to be part of Lot No. 4443, it means that during that time defendants' predecessors-in-interest never claimed ownership or possession over the subject lot. Otherwise, they would have complained so that the subject lot could be excluded from Lot

---

[45] 301 SCRA 738 (1999).

Supreme Court E-Library



No. 4443 and included in Lot No. 2623, they being adjacent lots. It is obvious then that defendants' predecessors only claimed Lot No. 2623 and they pursued their claim in Cadastral Case No. 6, LRC Cadastral Record No. 756 until O.C.T. No. 0-357 was issued to them. The contention of defendants that they and their predecessors-in-interest occupied and possessed the subject lot since time immemorial therefore is not true.[46]

Fifth. Under the deed of absolute sale dated November 25, 1961, Lagata sold to Astrologo Hular *Lot No. 3347*, and not Lot No. 3353. In *Veterans Federation of the Philippines v. Court of Appeals*,[47] we ruled that:

> Petitioner VFP maintains that the deed of sale was valid and enforceable and that it was perfected at the very moment that the parties agreed upon the thing which was the object of the sale and upon the price. The parties herein had agreed on the parcel of land that petitioner would purchase from respondent PNR, and the same was described therein; thus, petitioner VFP cannot conveniently set aside the technical description in this agreement and insist that it is the legal owner of the property erroneously described in the certificate of title. Petitioner can only claim right of ownership over the parcel of land that was the object of the deed of sale and nothing else.[48]

Sixth. Under the said deed of sale dated November 11, 1961, Victoriana Lagata sold Lot No. 3347 which had an area of 15,906 square meters and covered by Tax Declaration No. 4790. The deed does not state that what was sold was only a portion of Lot No. 3347, excluding therefrom the disputed property. This is understandable, since the subject property is a portion of Lot No. 3353 owned by Alejandro Gruta and Iluminado Baloloy, and not of Lino Estopin and/or Victoriana Lagata. Lagata could not have sold a portion of Lot No. 3353 which she does not own. As the Latin adage goes: "*NEMO DAT QUOD NON HABET*."

---

[46] *Id*. at 742-743.

[47] 345 SCRA 348 (2000).

[48] *Id*. at 357.

Supreme Court E-Library



Seventh. The Balbedina's Affidavit dated May 8, 1993 offered by the respondent to prove the contents thereof is inadmissible in evidence against the petitioners. Balbedina did not testify; as such, the petitioners were deprived of their right to cross-examine him. The said affidavit is thus hearsay and barren of probative weight. The affidavit varies the contents of the deed of absolute sale which he (Balbedina) executed in favor of Iluminado more than forty years earlier. In the said affidavit, it was made to appear that Balbedina sold to Iluminado on June 4, 1951 only a portion of Lot 3353 with an area of 3,333 square meters, when under the said deed of absolute sale, the property that was sold consisted of 4,651 square meters. The affidavit is proscribed by Section 9, Rule 130 of the Rules of Court, which provides:

> Section 9. *Evidence of written agreements*. — When the terms of an agreement have been reduced to writing, it is considered as containing all the terms agreed upon and there can be, between the parties and their successors in interest, no evidence of such terms other than the contents of the written agreement.
>
> x x x x x x x x x

It bears stressing that the deed of absolute sale executed by Balbedina in favor of Baloloy was notarized by the Justice of the Peace who was an *Ex-Oficio* Notary Public; hence, entitled to full probative weight.

Eighth. The Special Sketch Plan of Lot No. 3353 prepared by Geodetic Engineer Rodolfo P. Cunanan[49] cannot prevail over OCT No. P-16540. In fact, the plan even buttressed the case for the petitioners because it shows that the subject property is a portion of Lot No. 3353, and not of Lot No. 3347, covered by OCT No. P-16540 under the name of Iluminado Baloloy, the deceased father of the petitioners.

Ninth. The conclusion of the RTC that Lagata in fact sold a portion of Lot No. 3347 under the deed of absolute sale dated

---

[49] Exhibit "A".

Supreme Court E-Library



November 25, 1961, unaware that the property was a part of Lot No. 3353, is based on mere speculations and surmises.

Iluminado Baloloy included in his application for a free patent the property of Alejandro Gruta, and was able to secure a free patent over said property in addition to his own. As such, Gruta, not the respondent, is the proper party to assail such free patent, as well as OCT No. P-16540 which was issued based thereon.

**IN LIGHT OF ALL THE FOREGOING**, the petition is *GRANTED*. The decisions of the Regional Trial Court and the Court of Appeals are *REVERSED* and *SET ASIDE*. The complaint of the respondent is *DISMISSED*. No costs.

**SO ORDERED.**

*Puno (Chairman), Tinga,* and *Chico-Nazario, JJ.*, concur.

*Austria-Martinez, J.,* on official leave.

---

**FIRST DIVISION**

[G.R. No. 159723. September 9, 2004]

**ANTONIO S. LIM, JR., represented by his attorney-in-fact, PAZ S. LIM,** *petitioner, vs.* **VICTOR K. SAN and ELINDO LO,** *respondents.*

**SYNOPSIS**

Petitioner, represented by his mother, Paz S. Lim, as attorney-in-fact, filed a complaint seeking to annul a Deed of Absolute Sale involving a parcel of land purportedly executed by Paz S. Lim in favor of Victor K. San. Allegedly, the consent given to the transaction was vitiated by intimidation and that no consideration was paid for the subject property.