



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

HEIRS OF DATU DALANDAG KULI, represented by DATU CULOT DALANDAG,

Petitioners,

- versus -

DANIEL R. PIA, FILOMENA FOLLOSCO, and JOSE FOLLOSCO, SR.,

Respondents.

G.R. No. 199777

Present:

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, *JJ*.

Promulgated:

JUN 17 2015

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DECISION

SERENO, *CJ*:

The present case stems from a Petition for Review¹ filed by the heirs of Datu Dalandag Kuli (petitioners), praying for the reversal of the Decision² of the Court of Appeals (CA), Cagayan de Oro City dated 28 January 2011 and subsequent Resolution³ dated 6 December 2011. The CA affirmed the Judgment⁴ rendered by the Regional Trial Court (RTC), Branch 18, Midsayap Cotobato, on 16 January 2004, dismissing the case for the quieting of title filed by petitioners. The RTC found that petitioners failed to overcome the presumption of regularity in the issuance of Transfer Certificate of Title (TCT) No. 1608 in the name of Daniel R. Pia (respondent Pia).

The parcel of land subject of this case (Lot 2327) was awarded to Datu Kuli through cadastral proceedings.⁵ Thereafter, the Register of Deeds of Cotobato City registered the property in his name on 12 November 1935 as evidenced by Original Certificate of Title (OCT)

¹ *Rollo*, pp. 3-14.

² *Id.* at 16-28; CA-G.R. CV No. 00033-MIN, penned by Associate Justice Leoncia R. Dimagiba, and concurred in by Associate Justices Edgardo A. Camello and Nina G. Antonio-Valenzuela.

³ *Id.* at 46-47; CA-G.R. CV No. 00033-MIN, penned by Associate Justice Edgardo A. Camello, and concurred in by Associate Justices Pamela Ann Abella Maxino and Zenaida T. Galapate-Laguilles.

⁴ CA *rollo*, pp. 81-94; Civil Case No. 99-014, penned by acting Presiding Judge Francisco G. Rabang, Jr.

⁵ *Id.* at 86.

No. 1654. When Datu Kuli died on 8 July 1985, the possession of Lot 2327 was passed on to his heirs, the present petitioners, who continue to hold possession thereof.

When petitioners sought to have Datu Kuli's title reconstituted, they were informed by the Register of Deeds that a different title had already been issued in the name of Jose Follosco, Sr. (respondent Jose).⁶

It appears from the records that on 21 December 1940, TCT 1608 covering Lot 2327 was issued in respondent Pia's name. Although the Register of Deeds could no longer produce a copy of the alleged Deed of Sale,⁷ it issued a Certification that a Deed of Sale executed by Datu Kuli in respondent Pia's favor had been presented to it.⁸ On the strength of this deed, Datu Kuli's OCT 1654 was cancelled, and TCT 1608 issued.

On 14 July 1948, the Register of Deeds administratively reconstituted TCT 1608 using a duplicate of respondent Pia's title as the source.⁹ On even date, after another Deed of Conveyance was supposedly executed by respondent Pia in favor of Filomena Follosco (respondent Filomena),¹⁰ the former's reconstituted title was cancelled and a new title (TCT T-374) issued in the name of respondent Filomena. Again, on 22 September 1954, the latter title was cancelled and TCT T-2911 issued in the name of respondent Jose.¹¹

Claiming that they had always been in possession of the property and that Datu Kuli never sold the property to any of the respondents, petitioners filed a Complaint for Quieting of Title with the RTC, praying for the restoration of OCT No. 1654 and the annulment of all the subsequently issued titles covering Lot 2327 under the names of respondents.¹²

Upon the filing of the Complaint, efforts were made to serve summons on respondents. Because none of these could be served on any of them, on 12 May 1999 petitioners moved for the service of summons by publication. In an Order dated 24 May 1999, the RTC granted petitioners' motion. The branch clerk of court then issued summons by publication on 30 June 1999.¹³

On 12 July 2000, the RTC issued its Order granting petitioners' motion to declare respondents in default. This Order was likewise published.¹⁴

⁶ Id.

⁷ Id.

⁸ Id. at 86-87.

⁹ Id. at 91.

¹⁰ Id. at 87.

¹¹ Id. at 93.

¹² Id. at 81.

¹³ Id.

¹⁴ Id.

After evaluating the evidence presented by petitioners, the RTC, in its Judgment dated 16 January 2004, ruled in respondents' favor. According to the trial court, even though Atty. Maria Theresa B. Pescadera (Atty. Pescadera), an officer of the Register of Deeds of Cotabato City, was not able to produce the Deed of Conveyance stating that Datu Kuli had sold Lot 2327 to respondent Pia,¹⁵ it was convinced that "there was indeed a conveyance from Datu Dalandag Kuli to Daniel R. Pia over Lot No. 2327."¹⁶

The dispositive portion of the RTC Judgment reads:

WHEREFORE, in the light of all the foregoing considerations, the court finds and so holds that the plaintiffs were not able to prove their affirmative allegations and the existence of a valid cause of action. The court, therefore, renders Judgment in favor of the defendants and against the plaintiffs:

(1) Holding as valid the issuance of Transfer Certificate of Title No. RT-168 (1608) in the name of Daniel R. Pia.

(2) Holding as valid the subsequent transfer and issuance of TCT No. T-374 and TCT No. T-2911 in the names of Filomena Follosco and Jose Follosco, Sr. respectively.

(3) Dismissing this case for lack of a valid cause of action.

IT IS SO DECIDED.¹⁷

Petitioners appealed the foregoing to the CA, which dismissed their Petition on 28 January 2011.

Hence, the present Petition for Review on *Certiorari*.¹⁸

In a Resolution¹⁹ dated 21 March 2012, the Court ordered respondents to Comment on the Petition, but copies of the Resolution were returned unserved.²⁰ It made several attempts to resend the copies, but all were returned to this Court with the following notations: "RTS-insufficient address" and "RTS-party deceased."²¹ The Court hereby resolves to consider the Resolution as served.

Petitioners ask that this Court declare that the CA committed error in upholding the validity of TCT 1608.

The Petition is denied. The Court affirms the appreciation of the evidence by the CA as well as by the RTC.

¹⁵ Id. at 89-90.

¹⁶ Id. at 88.

¹⁷ Id. at 93-94.

¹⁸ *Rollo*, p. 3-36.

¹⁹ Id. at 14.

²⁰ Id. at 48.

²¹ Id. at 75

In the Complaint for Quieting of Title filed with the RTC, petitioners prayed for the restoration of OCT No. 1654 and the annulment of all the subsequently issued titles covering Lot 2327 under the names of respondents.²²

The following requisites must concur, so that an action for quieting of title may prosper: (1) the plaintiff or complainant has a legal or an equitable title to or interest in the real property, subject of the action; and (2) the deed, claim, encumbrance, or proceeding claimed to be casting a cloud on the title must be shown to be in fact invalid or inoperative despite its *prima facie* appearance of validity or legal efficacy.²³

Assuming *arguendo* that the continued possession of the property by petitioners establishes their legal or equitable interest thereon and thus fulfills the first requisite, the RTC still correctly declared that they failed to establish that they had a valid cause of action,²⁴ because they did not succeed in proving that respondent Pia had failed to present a copy of the Deed of Sale with the Register of Deeds or that even if they did, it is invalid.

Petitioners insist that the failure of the Register of Deeds to produce a copy of the Deed of Conveyance used as basis to cancel Datu Kuli's OCT proves that the property was never sold to respondent Pia.

The argument of petitioners holds no water. While the law requires the Register of Deeds to obtain a copy of the Deed of Conveyance before cancelling the seller's title, its subsequent failure to produce the copy, after a new title had already been issued is not a sufficient evidence to hold that the claimed sale never actually happened.

We agree with the RTC and rule that even though copies of the Deed of Sale and the OCT of Datu Kuli can no longer be produced now, the evidence presented sufficiently shows that the deed conveying the property to respondent Pia was presented to the Register of Deeds on 21 December 1940, and that this deed was the basis for the cancellation of Datu Kuli's original title.

The failure on the part of the Register of Deeds to present a copy of the Deed of Sale when required by the trial court was duly explained by them. It appears that the records containing the Deed of Sale are no longer readable, because they are "very much mutilated."²⁵ Nevertheless, the Register of Deeds was able to certify that the following entry or notation was found in the first volume of its Primary Entry Book:²⁶

²² CA rollo, p. 81.

²³ *Phil-Ville Development and Housing Corp. v. Bonifacio*, G.R. No. 167391, 8 June 2011, 651 SCRA 66, 92; *Eland Philippines, Inc. v. Garcia*, G.R. No. 173289, 17 February 2010, 613 SCRA 66, 92.

²⁴ Rollo, p. 22.

²⁵ CA rollo, p. 90.

²⁶ Id. at 88.

Entry No. 7512

Date of Registration: Dec. 21, 1940 at 7:58am
Nature of Document: Deed of Sale
Date of Document: (Dilapidated Portion)
Executed by: Datu Dalandag Kuli
In favor of: Daniel R. Pia
Amount: ₱390.00

Although the Deed of Sale itself can no longer be located, we agree with the RTC's conclusion that the above notation proves that "there was at one time in the past such document recorded in the Register of Deeds but that with the passage of time, the same became tattered, unreadable, badly dilapidated, and mutilated and could not be found or recognized to boot."²⁷

All in all, it becomes clear that TCT 1608 was issued on 21 December 1940, because respondent Pia was able to present the requisite Deed of Sale as proven by the certification issued by the Register of Deeds.

Section 57 of the Property Registration Decree provides the procedure for the registration of conveyances, *viz*:

SECTION 57. *Procedure in Registration of Conveyances.* — An owner desiring to convey his registered land in fee simple shall execute and register a deed of conveyance in a form sufficient in law. The Register of Deeds shall thereafter make out in the registration book a new certificate of title to the grantee and shall prepare and deliver to him an owner's duplicate certificate. The Register of Deeds shall note upon the original and duplicate certificate the date of transfer, the volume and page of the registration book in which the new certificate is registered and a reference by number to the last preceding certificate. The original and the owner's duplicate of the grantor's certificate shall be stamped "cancelled". The deed of conveyance shall be filed and indorsed with the number and the place of registration of the certificate of title of the land conveyed.

The evidence and the records prove that the proper procedure for the issuance of TCT 1608 was followed. The title was validly issued.

Deserving scant consideration is petitioners' claim that the failure of the Register of Deeds to produce a copy of the Deed of Conveyance proves that Datu Kuli never sold Lot 2327 to anyone. Other than their self-serving claim that the sale never happened, petitioners failed to present any other evidence to prove that Lot 2327 had never been purchased by respondent Pia. It requires more than petitioners' bare allegation to defeat TCT 1608, which on its face enjoys the legal presumption of regularity of issuance.²⁸

With respect to the allegation of petitioner that the administrative reconstitution of TCT 1608 is invalid, we agree with the CA and rule that the Register of Deeds administratively reconstituted TCT 1608 in

²⁷ Id. at 90.

²⁸ *Alvarico v. Sola*, 432 Phil. 792 (2002).

accordance with Republic Act No. 26,²⁹ which is the law that provides the procedure for the reconstitution of lost titles. Section 3 thereof reads:

SECTION 3. Transfer certificates of title shall be reconstituted from such of the sources hereunder enumerated as may be available, in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's, mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) The deed of transfer or other document, on file in the registry of deeds, containing the description of the property, or an authenticated copy thereof, showing that its original had been registered, and pursuant to which the lost or destroyed transfer certificate of title was issued;
- (e) A document, on file in the registry of deeds, by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original had been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title.

The owner's duplicate of the certificate of title is the primary source from which transfer certificates of title may be reconstituted. Because of the presence of the owner's duplicate copy of TCT 1608 in the Register of Deeds, it was no longer necessary for the registrar to compel respondent Pia to produce his copy before reconstituting his title.³⁰ Having been issued in accordance with the procedure laid down in Republic Act No. 26, the Court upholds the validity of the administratively reconstituted TCT 1608.

Since petitioners failed to prove the invalidity of TCT 1608, it follows that they cannot now cast doubt on the validity of the titles derived therefrom.

WHEREFORE, the instant Petition is **DENIED**. The Court of Appeals Decision dated 28 January 2011 and subsequent Resolution dated 6 December 2011 in CA-G.R. CV No. 00033-MIN, affirming the Judgment of the Regional Trial Court in Civil Case No. 99-014 dated 16 January 2004, are **AFFIRMED**.

²⁹ An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed (25 September 1946)

³⁰ *Rollo*, p. 26-27.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice

WE CONCUR:

Teresito Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

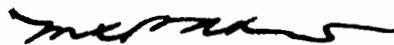
Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice