



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PAUL P. GABRIEL, JR.,
IRENEO C. CALWAG,
THOMAS L. TINGGA-AN,
and the Heirs of
JULIET B. PULKERA,
Petitioners,

- versus -

G.R. No. 204626

Present:

VELASCO, JR., J., *Chairperson*,
PERALTA,
VILLARAMA, JR.,*
MENDOZA, and
LEONEN, JJ.

Promulgated:

CARMELING CRISOLOGO,
Respondent.

June 9, 2014

[Signature]

X -----X

DECISION

MENDOZA, J.:

Assailed in this petition for review on *certiorari* under Rule 45 is the June 14, 2012 Decision¹ of the Court of Appeals (CA) and its November 14, 2012 Resolution² which reversed the April 18, 2011 Decision³ of the Regional Trial Court, Branch 6, Baguio City (RTC), and reinstated the September 15, 2009 Decision⁴ of the Municipal Trial Court in Cities, Branch 1, Baguio City (MTCC), in Civil Case No. 13209, a complaint for recovery of possession.

* Designated Acting Member in view of the vacancy in the Third Division, per Special Order No. 1691 dated May 22, 2014.

¹ *Rollo*, pp. 34-45. (Penned by Associate Justice Mariflor P. Punzalan Castillo and concurred in by Associate Justice Franchito N. Diamante and Associate Justice Edwin D. Sorongon).

² *Id.* at 46-47.

³ *Id.* at 264-270.

⁴ *Id.* at 224-236.

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The Facts

Records show that Carmeling Crisologo (*Crisologo*), represented by her attorney-in-fact, Pedro Isican (*Isican*), filed her complaint⁵ for Recovery of Possession and/or Ownership with Damages against Juliet B. Pulkera, Paul P. Gabriel, Ireneo C. Calwag, and Thomas L. Tingga-an (*petitioners*) before the MTCC.

Crisologo alleged, among others, that she was the registered owner of two parcels of land with a total area of approximately 2,000 square meters, described in, and covered by, two (2) certificates of title – Transfer Certificate of Title (*TCT*) Nos. T-13935 and T-13936; that the properties were covered by an Assessment of Real Property; that the payments of realty taxes on the said properties were updated; that sometime in 2006, she discovered that petitioners unlawfully entered, occupied her properties by stealth, by force and without her prior consent and knowledge, and constructed their houses thereon; that upon discovery of their illegal occupation, her daughter, Atty. Carmelita Crisologo, and Isican personally went to the properties and verbally demanded that petitioners vacate the premises and remove their structures thereon; that the petitioners begged and promised to buy the said properties for ₱3,500.00 per square meter; that she gave petitioners time to produce the said amount, but they reneged on their promise to buy them; that petitioners refused to vacate the subject properties despite several demands; that the petitioners knew full well that the subject premises they were occupying were titled properties but they insisted on unlawfully holding the same; and that she was unlawfully dispossessed and displaced from the subject properties due to petitioners' illegal occupation.

On the other hand, petitioners countered that the titles of Crisologo were products of Civil Registration Case No. 1, Record 211, which were declared void by the Supreme Court in *Republic v. Marcos*,⁶ and reiterated in *Republic v. Marcos*,⁷ that the said case was later enacted into law, Presidential Decree (*P.D.*) No. 1271, entitled “*An Act Nullifying Decrees of Registration and Certificates of Title within the Baguio Townsite Reservation Case No.1, GLRO Record No. 211, pursuant to Act No. 931, as amended, but Considering as Valid Certain Titles of Lands that are Alienable and Disposable Under Certain Conditions and For Other Purposes*” which took effect on December 22, 1977; that Crisologo failed to comply with the conditions provided in Section 1 of P.D. No. 1271 for the validation of said titles, hence, the titles were void; that petitioners had been in open, actual, exclusive, notorious, uninterrupted, and continuous

⁵ Id. at 48-53.

⁶ G.R. No. L-29675, September 30, 1969, 29 SCRA 517.

⁷ 152 Phil. 204 (1973).

possession of the subject land, in good faith; and that Crisologo was never in prior possession and had no valid title over the subject land.⁸

MTCC Ruling

On September 15, 2009, the MTCC rendered a decision in favor of Crisologo, the dispositive portion of which reads:

WHEREFORE, the Court renders JUDGMENT in favor of the plaintiff directing the defendants, their heirs, assigns, representatives and/or any person acting for and in their behalves to:

- a) Immediately vacate the subject properties, and to demolish/dismantle all their houses and other structures on the properties; should defendants refuse to comply, the plaintiff may demolish/dismantle them at the expense of the defendants;
- b) Pay reasonable rentals of the use and occupation of the subject properties at Php4,000.00 per month from January 2006 for each of the defendants;
- c) Pay Php20, 000.00 as attorney's fees, and
- d) Costs of litigation.

SO ORDERED.

The MTCC ruled that Crisologo was the registered owner of the subject parcels of land, who, as such, had declared these properties for taxation purposes since 1969 and regularly paid the realty taxes thereon. It stated that with Crisologo being the owner, petitioners were illegally occupying the land.

The MTCC added that petitioners could not question Crisologo's titles over the subject parcels of land in an ordinary civil action for recovery of possession because such defense was a collateral attack which was prohibited under P.D. No. 1529, otherwise known as the Property Registration Decree. Thus, it could not inquire into the intrinsic validity of Crisologo's titles.

Ruling of the RTC

On April 18, 2011, the RTC *reversed* and *set aside* the decision of the MTCC. It was of the view that petitioners' assertion of the TCTs' invalidity

⁸ *Rollo*, pp. 54-59.

was not a collateral attack. It cited the rulings in *Republic v. Marcos*,⁹ and *Republic v. Marcos*,¹⁰ which perpetually prohibited the reopening of Civil Reservation Case No. 1, LRC Rec. No. 211, and, therefore, the registration of parcels of lands. For said reason, the titles of Crisologo were products of illegal proceedings nullified by this Court. She also failed to comply with the conditions set forth in P.D. No. 1271. Accordingly, the titles were void and the same could not be a legal basis for Crisologo to justify the eviction of petitioners from the subject premises. Having been nullified, these certificates of title ceased to be the best proof of ownership.

Ruling of the CA

On June 14, 2012, the CA rendered the assailed decision, *setting aside* the RTC decision and reinstating that of the MTCC.

The CA held that Crisologo was entitled to the possession of the subject parcels of land. It explained that her possession was established when she acquired the same by sale sometime in 1967 and when the certificates of title covering the properties were subsequently issued. It added that her payment of realty taxes due on the said properties since 1969 further strengthened her claim of possession. Moreover, her appointment of Isican as administrator of the subject properties and her offer to sell the lots to the petitioners showed that she had control over the same. Accordingly, the CA concluded that Crisologo's right to remain in possession of the subject lots should be preferred over the petitioners' possession regardless of the actual condition of her titles. Hence, the petitioners, who used force in occupying her properties, should respect, restore and not disturb her lawful possession of the subject parcels of land.

Unsatisfied with the CA decision, the petitioners instituted this petition anchored on the following

ASSIGNMENT OF ERRORS

(1)

THE HONORABLE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR IN LAW WHEN IT RULED THAT RESPONDENT HAS ACTUAL OR WAS IN PRIOR POSSESSION OF THE LANDS INVOLVED CONTRARY TO THE EVIDENCE, THE FACTS AND THE CIRCUMSTANCES OF THIS CASE.

⁹ Supra note 6.

¹⁰ Supra note 7.

(2)

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN FINDING THAT THE PURPORTED EXECUTION AND REGISTRATION OF THE PUBLIC INSTRUMENTS RELATIVE TO THE SALE IN 1967 OF THE SUBJECT LANDS AND THE SUBSEQUENT ISSUANCE OF THE TITLES IN HER NAME ESTABLISH POSSESSION.

(3)

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN FINDING THAT THE TAX DECLARATIONS AND RECEIPTS IN THE NAME OF THE RESPONDENT ESTABLISH HER POSSESSION OVER THE SUBJECT LOTS.

(4)

THE HONORABLE COURT OF APPEALS COMMITTED A SERIOUS ERROR IN FINDING THAT THE SUPPOSED APPOINTMENT OF PEDRO ISICAN AS ADMINISTRATOR ESTABLISHES HER POSSESSION OVER THE LANDS IN DISPUTE.

(5)

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT IS THE PRESENT POSSESSOR OF THE SUBJECT LANDS REGARDLESS OF THE ACTUAL CONDITION OF HER TITLES, IGNORING THE PRINCIPLE OF STARE DECISIS AND ADHERENCE TO LAW.

(6)

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT PETITIONERS DISTURBED THE POSSESSION OF HEREIN RESPONDENT BY FORCE.

(7)

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT RESPONDENT'S SUPPOSED POSSESSION OVER THE SUBJECT LOTS SHOULD BE PREFERRED DESPITE THE NATURE OR CONDITION OF THE PROPERTY AS PART OF THE PUBLIC DOMAIN.¹¹

Petitioners' position

Petitioners aver that Crisologo failed to show documentary or testimonial evidence that she acquired the subject properties by sale or by any other mode of acquisition from its previous owner. Her only bases in claiming them were the titles issued in her name, without a deed of sale.

¹¹ *Rollo*, pp. 19-20.

Petitioners further argue that assuming that there was really a sale that took place, its execution and registration cannot establish her right of possession, whether actual or constructive. First, the validity of the subject titles was stricken down by *Republic vs. Marcos* cases and P.D. No. 1271. Hence, the TCTs could not be sources of legal rights. Second, Crisologo never took actual possession of the subject properties after the alleged sale in 1967. She appointed an administrator over the said property only in 2006.

Moreover, petitioners claim that her tax declarations and receipts evidencing payment of taxes cannot prove her possession or ownership over the subject properties without proof of actual possession.

Finally, petitioners submit that there are facts and circumstances that militate against her claim of possession. They point out that the titles over the subject properties have no encumbrances or annotations whatsoever; that for more than forty (40) years, the subject lots have not been subjected to any deed, agreement, contract, mortgage or any other property dealings; that the said titles are not validated up to the present as certified by the Register of Deeds of Baguio City; that she presented no witnesses to prove her intention to possess the subject lots; that the documents she presented are not reliable because they were issued only in 2008; that no improvements were introduced by her; and that she is guilty of laches due to her inaction to validate her titles.

Respondent's position

Crisologo opposes the petition mainly on technical grounds. First, she argues that the supposed representatives of the petitioners who filed this petition and signed the certification on non-forum shopping have no authority to do so. Hence, they have no standing to prosecute because they are not the real parties in interest. Second, she claims that the petitioners failed to furnish the CA a copy of their motion for extension of time to file this petition for review.

The Court's Ruling

The only question that needs to be resolved in this petition is – who between petitioners and respondent Crisologo have a better right of possession over the subject parcels of land. Both contending parties claim that they have a superior possessory right over the disputed lands.

After a careful review of the records, the Court holds that Crisologo has a better right of possession over the subject parcels of land.

Accion Publiciana: its nature and purpose

Also known as *accion plenaria de posesion*, *accion publiciana* is an ordinary civil proceeding to determine the better right of possession of realty independently of title. It refers to an ejectment suit filed after the expiration of one year from the accrual of the cause of action or from the unlawful withholding of possession of the realty.

The objective of the plaintiffs in *accion publiciana* is to recover **possession only**, not ownership. When parties, however, raise the issue of ownership, the court may pass upon the issue to determine who between the parties has the right to possess the property. This adjudication, nonetheless, is not a final and binding determination of the issue of ownership; it is only for the purpose of resolving the issue of possession, where the issue of ownership is inseparably linked to the issue of possession. The adjudication of the issue of ownership, being provisional, is not a bar to an action between the same parties involving title to the property. The adjudication, in short, is not conclusive on the issue of ownership.¹²

In her complaint, Crisologo prayed that she be declared in prior actual possession of the properties in dispute and that petitioners vacate the same and demolish their houses therein. She alleged, among others, that she was the registered owner of the subject parcels of land and that petitioners unlawfully entered her properties by stealth, force and without her prior consent and knowledge. Clearly, she primarily wanted to recover possession of the subject parcels of land from petitioners. Hence, the case is an *accion publiciana*.

Nonetheless, the petitioners have raised the issue of ownership in their pleadings. They mainly argue that Crisologo's titles on the subject properties are void and that they have been in open, actual, exclusive, notorious, uninterrupted and continuous possession over the subject properties in good faith.

¹² *Asuncion Urieta Vda. De Aguilar v. Spouses Alfaro*, G.R. No. 164402, July 5, 2010, 623 SCRA 130, 140-141.

The nullity of the decrees of registration and certificates of titles in Section 1 of P.D. No. 1271 is not absolute

Although Section 1 of P.D. No. 1271¹³ invalidated decrees of registration and certificates of title within the Baguio Townsite Reservation Case No. 1, GLRO Record No. 211, the nullity, however, is not that sweeping. The said provision expressly states that “*all certificates of titles issued on or **before July 31, 1973** shall be considered **valid** and the lands covered by them shall be deemed to have been conveyed in fee simple to the registered owners*” upon 1) showing proof that the land covered by the subject title is not within any government, public or quasi-public reservation, forest, military or otherwise, as certified by appropriating government agencies; and 2) compliance by the title holder with the payment to the Republic of the Philippines of the correct assessed value of the land within the required period.

In the case at bench, the records show that the subject parcels of land were registered on **August 24, 1967**. The titles are, thus, considered valid although subject to the conditions set. But whether or not Crisologo complied with the said conditions would not matter because, this would be a collateral attack on her registered titles, as would be discussed later.

At any rate, petitioners, as private individuals, are not the proper parties to question the status of the respondent’s registered titles. Section 6 of P.D. No. 1271¹⁴ expressly states that the “***Solicitor General*** shall institute

¹³ **Section 1.** All orders and decisions issued by the Court of First Instance of Baguio and Benguet in connection with the proceedings for the reopening of Civil Reservation Case No. 1, GLRO Record No. 211, covering lands within the Baguio Townsite Reservation, and decreeing such lands in favor of private individuals or entities, are hereby declared null and void and without force and effect; PROVIDED, HOWEVER, that all certificates of titles issued on or before July 31, 1973 shall be considered valid and the lands covered by them shall be deemed to have been conveyed in fee simple to the registered owners upon a showing of, and compliance with, the following conditions:

(a) The lands covered by the titles are not within any government, public or quasi-public reservation, forest, military or otherwise, as certified by appropriating government agencies;

(b) Payment by the present title holder to the Republic of the Philippines of an amount equivalent to fifteen per centum (15%) of the assessed value of the land whose title is voided as of revision period 1973 (P.D. 76), the amount payable as follows: Within ninety (90) days of the effectivity of this Decree, the holders of the titles affected shall manifest their desire to avail of the benefits of this provision and shall pay ten per centum (10%) of the above amount and the balance in two equal installments, the first installment to be paid within the first year of the effectivity of this Decree and the second installment within a year thereafter.

¹⁴ Section 6. The Secretary of Justice, as Chairman, the Solicitor General and the Director of Lands, as members, are hereby constituted as a committee which shall promulgate rules and regulations necessary and appropriate to implement this Decree. They or their representatives shall assure compliance with this Decree and may call upon any government agency or office for assistance in the performance of this task.

The **Solicitor General** shall institute such actions or suits as may be necessary to recover possession of lands covered by all void titles not validated under this Decree.

such actions or suits as may be necessary to recover possession of lands covered by all void titles not validated under this Decree.”

*The respondent’s certificates of title
give her the better right to possess
the subject parcels of land*

It is settled that a Torrens title is evidence of indefeasible title to property in favor of the person in whose name the title appears. It is conclusive evidence with respect to the ownership of the land described therein. It is also settled that the titleholder is entitled to all the attributes of ownership of the property, *including possession*. Thus, in *Arambulo v. Gungab*,¹⁵ this Court declared that the “age-old rule is that the person who has a Torrens title over a land is entitled to possession thereof.”¹⁶

The records show that TCT No. T-13935¹⁷ and TCT No. T-13936¹⁸ bear the name of Carmeling P. Crisologo, as the registered owner. Petitioners do not dispute the fact that she has a Torrens title over the subject parcels of land.

*The respondent’s Torrens certificates of title
are immune from a collateral attack.*

As a holder of a Torrens certificate of title, the law protects Crisologo from a collateral attack on the same. Section 48 of P.D. No. 1529, otherwise known as the Property Registration Decree, provides that a certificate of title cannot be the subject of a collateral attack. Thus:

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

This rule has been applied in innumerable cases, one of which was *Francisco Madrid v. Spouses Mapoy*,¹⁹ where it was written:

Registration of land under the Torrens system, aside from perfecting the title and rendering it indefeasible after the lapse of the period allowed by law, also renders the title immune from collateral attack. A collateral attack transpires when, in another action to obtain a different relief and as an incident of the present action, an attack is made against the judgment granting the title. This manner of attack is to be distinguished from a direct attack against a judgment granting the title, through an action whose main objective is to annul, set aside, or enjoin the enforcement of such

¹⁵ 508 Phil. 612, 621 (2005).

¹⁶ *Asuncion Urieta Vda. De Aguilar v. Spouses Alfaro*, supra note 12 at 141.

¹⁷ *Rollo*, p. 205.

¹⁸ *Id.* at 207.

¹⁹ G.R. No. 150887, August 14, 2009, 596 SCRA 14, 26-27.

judgment if not yet implemented, or to seek recovery if the property titled under the judgment had been disposed of. To permit a collateral attack on respondents-plaintiffs' title is to water down the integrity and guaranteed legal indefeasibility of a Torrens title.

The petitioners-defendants' attack on the validity of respondents-plaintiffs' title, by claiming that fraud attended its acquisition, is a collateral attack on the title. **It is an attack incidental to their quest to defend their possession of the properties in an "accion publiciana," not in a direct action whose main objective is to impugn the validity of the judgment granting the title.** This is the attack that possession of a Torrens Title specifically guards against; hence, we cannot entertain, much less accord credit to, the petitioners-defendants' claim of fraud to impugn the validity of the respondents-plaintiffs' title to their property.

*As the lawful possessor, the respondent
has the right to eject the petitioners*

The Court agrees with the CA that the only question that needs to be resolved in this suit to recover possession is who between the parties is entitled to the physical or material possession of the subject parcels of land. Therefore, the foremost relevant issue that needs to be determined here is simply possession, not ownership.

The testimonial and documentary evidence on record prove that Crisologo has a preferred claim of possession over that of petitioners. It cannot be denied that she bought the subject properties from the previous owner in 1967, which was why the transfer certificates of title were subsequently issued in her name. Records further show that she has been paying the realty taxes on the said properties since 1969. She likewise appointed Isican as administrator of the disputed lands. More importantly, there is no question that she offered to sell to petitioners the portions of the subject properties occupied by them. Hence, she deserves to be respected and restored to her lawful possession as provided in Article 539 of the New Civil Code.²⁰


WHEREFORE, the petition is DENIED.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

²⁰ Art. 539. Every possessor has a right to be respected in his possession; and should he be disturbed therein he shall be protected in or restored to said possession by the means established by the laws and the Rules of the Court.

WE CONCUR:


PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

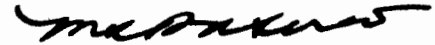

PRESBITERO J. VELASCO, JR.

Associate Justice
Chairperson, Third Division



C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice