



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPOUSES ERNESTO IBIAS, SR.
and GONIGONDA IBIAS,
Petitioners,

G.R. No. 205004

- versus -

Present:

CARPIO, *J.*, Chairperson,
BRION,*
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

BENITA PEREZ MACABEO,
Respondent.

Promulgated: 7 AUG 2016

X

X

DECISION

CARPIO, *J.*:

The Case

G.R. No. 205004 is a petition for review¹ assailing the Decision² promulgated on 30 May 2012 as well as the Resolution³ promulgated on 11 December 2012 by the Court of Appeals (CA) in CA-G.R. CV No. 88552. The CA affirmed the Decision⁴ dated 7 March 2006 of Branch 33 of the Regional Trial Court of Manila (RTC) in Civil Case No. 01-102236.

* On leave.

¹ Under Rule 45 of the 1997 Rules of Civil Procedure.

² *Rollo*, pp. 37-50. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Franchito N. Diamante and Ramon A. Cruz concurring.

³ *Id.* at 52-53. Penned by Associate Justice Mariflor P. Punzalan Castillo, with Associate Justices Franchito N. Diamante and Ramon A. Cruz concurring.

⁴ *CA rollo*, pp. 19-22. Penned by Presiding Judge Reynaldo G. Ros.

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The RTC ruled in favor of respondent Benita Perez Macabeo (Benita) and against petitioners Spouses Ernesto Ibias, Sr. (Ernesto) and Gonigonda Ibias (collectively, Spouses Ibias) and ordered the Register of Deeds of Manila to cancel Transfer Certificate of Title (TCT) No. 245124 under the name of the Spouses Ibias and reinstate TCT No. 24605.

The Facts

The CA recited the facts as follows:

[Benita] filed a complaint for annulment of title against [Spouses Ibias] on 12 November 2001. She averred, among others, that she is one of the heirs of Albina Natividad Y. Perez and Marcelo Ibias, both deceased and registered owners of the parcel of land covered by [TCT] No. 24605 of the Register of Deeds of Manila. On 13 August 1999, [Ernesto] executed an Affidavit of Loss alleging that the Owner's Duplicate of TCT No. 24605 was missing among his files. In support of his petition for reconstitution, he testified that said owner's duplicate [of] title was lost while in his parents' possession. Such petition was granted and the title was reconstituted, now TCT No. 245124 under the names of [Spouses Ibias]. For this reason, [Benita] filed a perjury case against defendant-appellant Ernesto docketed as Criminal Case No. 348152 pending before the Metropolitan Trial Court (MeTC) of Manila.

[Benita] averred that defendant-appellant Ernesto made it appear that the title was lost or misplaced while in the possession of the registered owners when in truth and in fact, he knew fully well that said title was in the possession of [Benita]. Proof of such knowledge was shown by his letter dated 23 July 1999 where he asked [Benita] for TCT No. 24605, which was in the latter's possession. At the time defendant-appellant Ernesto executed the Affidavit of Loss and filed his petition for reconstitution, he knew that the title was intact and in the possession of [Benita]. The issuance of the reconstituted title in favor of [the Spouses Ibias] thus deprived [Benita] and her other siblings of their right over the subject property.

Defendant-appellant Ernesto countered that he is the registered owner of the land described in TCT No. 245124. He claimed that he and his late brother Rodolfo are the only heirs of Marcelo and Albina Ibias. The subject property was acquired and titled sometime in 1950. He and his late parents have been living in the same house during the lifetime of the latter. After the death of his parents, he diligently exerted efforts to locate TCT No. 24605 but [these] attempts proved futile. He inquired from his half-sister, plaintiff-appellee Benita Macabeo, about the whereabouts of said title. [Benita] claimed that she was in possession of the title but asked defendant-appellant Ernesto for the amount of ₱11,000.00 in exchange for the title and as her share in the property. Defendant-appellant Ernesto paid said amount, but when he asked for the turnover of the title, [Benita] failed to deliver the title nor show the document. Defendant-appellant Ernesto was thus convinced that [Benita] had neither possession nor knowledge of the whereabouts of the title.

Believing in good faith that the title was indeed lost, he executed the Affidavit of Loss dated 13 August 1999. Thereafter, he instituted a petition for issuance of new owner's duplicate certificate of title. [Benita] did not oppose or object to the petition. Eventually, the new TCT No. 245124 was issued in favor of [Spouses Ibias] by the Register of Deeds.⁵

The RTC's Ruling

The RTC ruled in favor of Benita.

The RTC stated that Ernesto's assertions did not coincide with its findings. When Ernesto filed a petition for reconstitution on 19 August 1999, Ernesto claimed that the owner's duplicate of TCT No. 24605 was lost. However, Ernesto knew that the title was in Benita's possession. Ernesto himself wrote a letter dated 23 July 1999 to Benita to ask for the title. Prior to this, Ernesto borrowed the title from Benita in 1996 for the connection of his water system to NAWASA.

Ernesto also falsely declared in the Deed of Extrajudicial Settlement of Estate with Waiver of Rights that he and his brother Rodolfo Ibias are the only surviving heirs of Albina Natividad. Ernesto and Rodolfo actually have four older half-sisters with their mother Albina: Avelina, Abuendia, Seferiana, and Benita. To the RTC, it is clear that Ernesto was able to procure the new title in his name through fraudulent means.

The dispositive portion of the RTC's decision reads:

WHEREFORE, judgment is hereby rendered in favor of [Benita] and against the [Spouses Ibias]. The Register of Deeds of Manila is ordered to cause the cancellation of Transfer Certificate of Title No. 245124 under [the] name of [Spouses Ibias] and REINSTATE TCT No. 24605. The [Spouses Ibias are] ordered to pay the costs of the suit. The counter-claim is DISMISSED for lack of merit.

SO ORDERED.⁶

The Spouses Ibias filed a notice of appeal⁷ on 19 July 2006. The RTC released an Order⁸ elevating the complete records of the case on 26 July 2006.

⁵ *Rollo*, pp. 38-40.

⁶ *CA rollo*, p. 22.

⁷ *Id.* at 23-24.

⁸ *Id.* at 25.

The CA's Ruling

The CA dismissed the Spouses Ibias' appeal and affirmed the decision of the RTC.

The CA affirmed the RTC's findings of fact. Ernesto knew that TCT No. 24605 was with Benita for safekeeping. Ernesto's 23 July 1999 letter to Benita categorically stated that he asked for TCT No. 24605 and acknowledged that the TCT was in her possession. Ernesto wrote:

Sa kadahilanang nabanggit sa itaas ako at ang aking kapatid na si RODOLFO IBIAS ay tuwiran hinihingi sa iyo **ang titulo ng lupa na may No. 24605 na nasa iyong pag-iingat.** x x x⁹

In her letter to Ernesto dated 16 August 1999, Benita explained that the money for the purchase of the land came from the GSIS death benefit of her sister Abuendia Natividad Perez (Abuendia). It was Abuendia's wish to put the title of the property in their mother's name. The name of Ernesto's father, Marcelo, was in TCT No. 24605 only because he was married to Albina. Marcelo had no capacity to buy the property. The ₱11,000 was for the purpose of including the names of their siblings Rodolfo Ibias and Avelina Perez. The title was in Benita's possession only because Albina entrusted it to her. Benita wrote:

Para sa kaalam [sic] mo, totoong matagal nang nasa pag-iingat ko ang kopya ng titulo ng ating lupa. Hindi ko iyon tinatanggi. Ito'y nasa akin hindi dahil sa gusto ko itong kamkamin (katulad ng gusto mo ngayong palabasin) kundi dahil sa ito'y inihabilin sa akin ng ating namatay na inang si ALBINA NATIVIDAD y PEREZ at ito'y alam mo, aminin mo man o hindi.¹⁰

The Spouses Ibias did not dispute these letters. The correspondence shows that Ernesto knew that Benita had the owner's duplicate of TCT No. 24605 in her possession prior to the filing of the present case. The CA identified the strained relations between the parties as the reason why Ernesto could not compel Benita to turn over the owner's duplicate of TCT No. 24605 to him. The CA concluded that because the Spouses Ibias could not force Benita to give them the title, Ernesto executed an Affidavit of Loss so as to pull one over on Benita. The tenor of the correspondence belies the Spouses Ibias' claim of good faith when the Affidavit of Loss was executed.

Ernesto falsely stated in the Deed of Extrajudicial Settlement of Estate with Waiver of Rights that he and his brother Rodolfo are the only surviving heirs of Albina and Marcelo. However, in his 23 July 1999 letter, as well as in his pleadings, Ernesto asserted that he and Benita have the same mother.

⁹ *Rollo*, p. 44. Emphasis in the original.

¹⁰ *Id.* at 45.

Ernesto also impliedly recognized Benita's right over the property when he claimed to have given her ₱11,000 as her supposed share in the property.

Both Benita's and Ernesto's witnesses testified that Marcelo had no resources to purchase the land. Flordeliza Natividad, Benita's witness, testified that Abuendia was the breadwinner of the family and purchased the land on installment. When Abuendia passed away, her family used her death benefits to make full payment for the land. Pedro Mercado, Ernesto's witness, testified that Marcelo had not been working since 1949. Ernesto did not present any evidence to show that Marcelo had the resources to buy the land.

The CA summarized its findings as follows:

In view of the above documentary and testimonial evidence, the court *a quo* was correct in canceling TCT No. 245124 and reinstating TCT No. 24605. There is preponderance of evidence to prove that [the Spouses Ibias] knew for a fact that TCT No. 24605 was not lost, but in the possession of [Benita]. There is also clear and convincing evidence that [the Spouses Ibias] committed fraud or fraudulent acts in order to obtain the reconstituted title. By omitting material facts and perpetrating untruths in the affidavit of loss, petition for reconstitution, and deed of extrajudicial settlement, [the Spouses Ibias] were issued TCT No. 245124 to the damage and prejudice of [Benita] and the other legal heirs of Albina Natividad.¹¹

The Spouses Ibias filed their Motion for Reconsideration¹² on 19 June 2012, while Benita filed her Comment¹³ on 14 August 2012.

The CA denied the Spouses Ibias' motion in a Resolution¹⁴ dated 11 December 2012. The CA stated that the Spouses Ibias merely rehashed the same issues which were already passed upon by the CA in their decision, and there was no cogent reason or novel issue to warrant a modification or reversal of the decision.

The Spouses Ibias filed the present petition for review on 1 February 2013. Benita filed her comment on 2 May 2013. On 17 July 2013, this Court required the Spouses Ibias to file a reply to the comment within 10 days from notice. This period expired on 27 September 2013.¹⁵ On 11 June 2014, this Court issued another Resolution denying the Spouses Ibias' petition for failure to comply with our lawful order without any valid cause. On 26 August 2014, the Spouses Ibias filed a motion for reconsideration of our 11 June 2014 Resolution. We granted the Spouses Ibias' motion in a Resolution dated 1 October 2014. The Spouses Ibias filed a manifestation

¹¹ Id. at 49.

¹² CA *rollo*, pp. 104-111.

¹³ Id. at 113-117.

¹⁴ *Rollo*, pp. 52-53.

¹⁵ Id. at 67.

stating that they reiterate the contents and allegations in their petition and adopt the same as their reply.

The Issue

The Spouses Ibias presented this sole assignment of error:

With all due respect, the Honorable Court of Appeals committed a reversible error when it affirmed the order of the court *a quo* cancelling the Transfer Certificate of Title No. 24512[4] issued in the name of Spouses Ernesto Ibias Sr. and Gonigonda Ibias as well as the reinstatement of TCT No. 24605, as the assailed decision contravenes the established facts of the case; the evidence presented by the parties; and existing law and jurisprudence on the matter.¹⁶

In her Comment,¹⁷ Benita contends that the CA did not commit any reversible error in cancelling TCT No. 245124 and reinstating TCT No. 24605.

The Court's Ruling

The petition has no merit. The RTC and CA were correct in cancelling TCT No. 245124 and reinstating TCT No. 24605.

*Alonso v. Cebu Country Club, Inc.*¹⁸ described reconstitution, thus:

The reconstitution of a title is simply the re-issuance of a lost duplicate certificate of title in its original form and condition. It does not determine or resolve the ownership of the land covered by the lost or destroyed title. A reconstituted title, like the original certificate of title, by itself does not vest ownership of the land or estate covered thereby.

Ernesto claimed loss of TCT No. 24605, and instituted reconstitution proceedings. Presidential Decree No. 1529 (PD 1529) provides for the procedure in case of loss of an owner's duplicate certificate of title:

Section 109. *Notice and replacement of lost duplicate certificate.* – In case of loss or theft of an owner's duplicate certificate of title, due notice under oath shall be sent by the owner or by someone in his behalf to the Register of Deeds of the province or city where the land lies as soon as the loss or theft is discovered. If a duplicate certificate is lost or destroyed, or cannot be produced by a person applying for the entry of a new certificate to him or for the registration of any instrument, a sworn statement of the fact of such loss or destruction may be filed by the

¹⁶ Id. at 16.

¹⁷ Id. at 56-60.

¹⁸ 426 Phil. 61, 83-84 (2002), citing *Strait Times, Inc. v. CA*, 356 Phil. 217 (1998).

registered owner or other person in interest and registered.

Upon the petition of the registered owner or other person in interest, the court may, after notice and due hearing, direct the issuance of a new duplicate certificate, which shall contain a memorandum of the fact that it is issued in place of the lost duplicate certificate, but shall in all respects be entitled to like faith and credit as the original duplicate, and shall thereafter be regarded as such for all purposes of this decree.

Section 109 applies only if the owner's duplicate certificate is indeed lost or destroyed. If a certificate of title has not been lost, but is in fact in the possession of another person, then the reconstituted title is void and the court that rendered the decision had no jurisdiction.¹⁹ Consequently, the decision may be attacked any time.²⁰ Section 7 of Republic Act (RA) No. 6732, which amended Section 19 of RA No. 26,²¹ provides:

SEC. 19. If the certificate of title considered lost or destroyed, and subsequently found or recovered, is not in the name of the same person in whose favor the reconstituted certificate of title has been issued, the Register of Deeds or the party concerned should bring the matter to the attention of the proper Regional Trial Court, which, after due notice and hearing, shall order the cancellation of the reconstituted certificate of title and render, with respect to the memoranda of new liens and encumbrances, if any, made in the reconstituted certificate of title, after its reconstitution, such judgment as justice and equity may require: *Provided, however,* That if the reconstituted certificate of title has been cancelled by virtue of any deed or instrument, whether voluntary or involuntary, or by an order of the court, and a new certificate of title has been issued, the procedure prescribed above, with respect to the memorandum of new liens and encumbrances made on the reconstituted certificate of title, after its reconstitution, shall be followed with respect to the new certificate of title, and to such new liens and encumbrances, if any, as may have been on the latter, after the issuance thereof.

Section 11 of RA No. 6732 further provides that “[a] reconstituted title obtained by means of fraud, deceit or other machination is void *ab initio* as against the party obtaining the same and all persons having knowledge thereof.”

In the present case, the allegedly lost owner's duplicate copy of TCT No. 24605 was in the possession of Benita. The lost TCT was offered in evidence during the trial.²² The Spouses Ibias did not contest the genuineness and authenticity of said TCT. The Spouses Ibias only

¹⁹ *Strait Times, Inc. v. CA*, 356 Phil. 217, 227-228 (1998), citing *Serra Serra v. Court of Appeals*, 272-A Phil. 467 (1991). See also *Demetriou v. Court of Appeals*, G.R. No. 115595, 14 November 1994, 238 SCRA 158; *New Durawood Co., Inc. v. CA*, 324 Phil. 109 (1996).

²⁰ *Demetriou v. Court of Appeals*, G.R. No. 115595, 14 November 1994, 238 SCRA 158, 162.

²¹ An Act Providing a Special Procedure for the Reconstitution of Torrens Certificates of Title Lost or Destroyed. Approved on 25 September 1946. RA No. 6732, approved on 17 July 1989, amended RA No. 26.

²² Records, p. 122.

questioned the submission of a photocopy of the TCT, but the trial court, after hearing the arguments of both parties, admitted the photocopy as part of the evidence presented by Benita. There is no reason to justify the issuance of a reconstituted title in the name of Spouses Ibias; hence, there is no error in the cancellation of the same reconstituted title.

Ernesto claimed that he believed that the original owner's duplicate copy of TCT No. 24605 was lost after he asked Benita for it then she failed to show it to him. Ernesto chose to omit facts and to avail of Section 109 as remedy instead of Section 107. Section 107 of PD 1529 reads:

Section 107. *Surrender of withhold duplicate certificates.* – Where it is necessary to issue a new certificate of title pursuant to any involuntary instrument which divests the title of the registered owner against his consent or where a voluntary instrument cannot be registered by reason of the refusal or failure of the holder to surrender the owner's duplicate certificate of title, the party in interest may file a petition in court to compel surrender of the same to the Register of Deeds. The court, after hearing, may order the registered owner or any person withholding the duplicate certificate to surrender the same, and direct the entry of a new certificate or memorandum upon such surrender. If the person withholding the duplicate certificate is not amenable to the process of the court, or if not any reason the outstanding owner's duplicate certificate cannot be delivered, the court may order the annulment of the same as well as the issuance of a new certificate of title in lieu thereof. Such new certificate and all duplicates thereof shall contain a memorandum of the annulment of the outstanding duplicate.

For the reasons stated above, we affirm the rulings of the trial and appellate courts which cancelled TCT No. 245124 and reinstated TCT No. 24605.

WHEREFORE, we **DENY** the petition. The Decision promulgated on 30 May 2012 and the Resolution promulgated on 11 December 2012 by the Court of Appeals in CA-G.R. CV No. 88552 are **AFFIRMED**.

SO ORDERED.



ANTONIO T. CARPIO
Associate Justice

WE CONCUR:

(on leave)
ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.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.


ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

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