Pio: cyd
16 April 2013, 2:10pm

Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NEMESIO FIRAZA, SR.,
Petitioner,

- versus -

SPOUSES CLAUDIO and EUFRECENA UGAY,
Respondents.

G.R. No. 165838

Present:

SERENO, *C.J.*,
Chairperson,
VELASCO, JR.,*
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:

APR 03 2013

x----------x

RESOLUTION

REYES, *J.*:

Assailed in this petition[1] for review on *certiorari* under Rule 45 of the Rules of Court is the Decision[2] dated January 30, 2004 of the Court of Appeals (CA) in C.A. G.R. SP No. 73495, affirming the Orders dated August 20, 2001[3] and July 2, 2002[4] of the Regional Trial Court (RTC) of Bayugan, Agusan del Sur, Branch 7, which disallowed petitioner Nemesio Firaza, Sr. (petitioner) from propounding questions attacking the validity of Spouses Claudio and Eufrecena Ugay's (respondents) land title during the trial in Civil Case No. 442.

---

* Additional member per Raffle dated April 1, 2013.

1 *Rollo*, pp. 25-49.

2 Penned by Associate Justice Eloy R. Bello, Jr., with Associate Justices Amelita F. Tolentino and Arturo D. Brion (now a member of this Court), concurring; id. at. 60-65.

3 Id. at 58.

4 Id. at 59.

Likewise assailed is the CA Resolution[5] dated September 24, 2004 denying reconsideration.

The Antecedents

Civil Case No. 442 was commenced by a complaint for *Quieting of Title* filed by the respondents who alleged that they are the registered owners of Lot No. 2887-A as evidenced by Original Certificate of Title (OCT) No. P-16080. The complaint prayed for the annulment of Tax Declaration No. C-22-0857 dated February 18, 1993 issued in the name of the petitioner on the ground that it creates a cloud upon the respondents' title.[6]

In his answer,[7] the petitioner set up the affirmative defense that the respondents obtained their title through fraud and misrepresentation perpetrated during the processing of their Free Patent Application before the Office of the Community Environment and Natural Resources Officer of Bayugan, Agusan del Sur. The respondents purportedly connived with Land Management Officer Lourdes Tadem (Tadem) who favorably recommended their application despite the petitioner's prior claim and continuous possession of the subject lot.

On the basis of the said affirmative defense, the petitioner also filed a counterclaim praying for the: (1) nullification of OCT No. P-16080; (2) reconveyance to him of the ownership of the subject lot; and (3) payment of moral and exemplary damages, and attorney's fees.[8]

The RTC thereafter set the affirmative defense for preliminary hearing as if a motion to dismiss had been filed pursuant to Section 6, Rule 16 of the Rules of Court.[9] The RTC likewise ordered the parties to submit their respective memorandum to which the respondents duly complied. Instead of similarly complying, however, the petitioner filed a Motion to Dispense with the Filing of [the Petitioner's] Memorandum reasoning that his affirmative defense cannot be proven adequately through a written pleading.[10]

On October 2, 1998, the RTC issued an Order[11] denying the petitioner's affirmative defense on the ground that the same can be better

---

5 Id. at 66.
6 Id. at 60.
7 Id. at 50-56.
8 Id.
9 Sec. 6. *Pleading grounds as affirmative defenses*.—If no motion to dismiss has been filed, any of the grounds for dismissal provided for in this Rule may be pleaded as an affirmative defense in the answer and, in the discretion of the court, a preliminary hearing may be had thereon as if a motion to dismiss had been filed.
10 *Rollo*, p. 61.
11 Id. at 57.

ventilated along with the allegations of the complaint and answer in a full-blown trial.

Thus, trial on the merits ensued during which Land Management Officer Tadem was presented as a hostile witness for the respondents. While on direct examination, the petitioner's counsel propounded questions pertaining to the circumstances attending the issuance by Tadem of a recommendation for the respondents' Free Patent Application. Counsel for the respondents objected to the questioning on the ground that the same constitutes a collateral attack to the respondents' land title. In response, the petitioner argued that the questions are necessary for him to establish his defenses of fraud and misrepresentation and to substantiate his counterclaim for reconveyance. To fully thresh out the issue, the RTC required the parties to file, as they did so file, their respective position papers on whether the petitioner's counterclaim constitutes a direct or a collateral attack to the validity of the respondents' title.[12]

On August 20, 2001, the RTC issued an Order[13] disallowing any issue pertaining to the petitioner's counterclaim which in turn was adjudged as a direct attack to the validity of the respondents' title, hence, prohibited, *viz*:

> After an in-depth reading of the facts extant from the records, the Court is of the opinion and so holds that the Counterclaim is a direct attack on the validity of the title.
>
> Proverbial it is that actions to nullity [sic] Free Patents should be at the behest of the Director of Lands (Kayaban vs. Republic[,] 52 SCRA 357).
>
> Along this plain, since the counterclaim is a direct attack on the validity of the title and the proper agencies, like the Land Management Bureau of the DENR were not included, any issue presented to prove the illegality of the title, shall not be allowed.
>
> SO ORDERED.[14]

When his motion for reconsideration was denied by the RTC in an Order[15] dated July 2, 2002, the petitioner sought recourse with the CA *via* a special civil action for *certiorari.*

In its herein assailed Decision[16] dated January 30, 2004, the CA affirmed the RTC's judgment albeit premised on the different finding that the petitioner's counterclaim was a collateral attack to the validity of the

---

12 Id. at 61-62.
13 Id. at 58.
14 Id.
15 Id. at 59.
16 Id. at 60-65.

respondent's title. The CA stated: "[the] petitioner's attempt to introduce evidence on the alleged fraud committed by [the respondents] in securing their title to [the] subject land constitutes a collateral attack on the title which is not allowed by law."[17]

The petitioner moved for reconsideration but his motion was denied in the CA Resolution[18] dated September 24, 2004 hence, the present appeal moored on this legal question:

Whether the petitioner's counterclaim constitutes a collateral attack of the respondents' land title and thus bars the former from introducing evidence thereon in the latter's civil action for quieting of title?

The Court's Ruling

The appeal is impressed with merit.

Section 48 of Presidential Decree No. 1529[19] or the Property Registration Decree proscribes a collateral attack to a certificate of title and allows only a direct attack thereof, *viz*:

> 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 cancelled except in a direct proceedings in accordance with law.

In *Arangote v. Maglunob*,[20] the Court, after distinguishing between direct and collateral attack, classified a counterclaim under former, *viz:*

> The attack is considered direct when the object of an action is to annul or set aside such proceeding, or enjoin its enforcement. Conversely, an attack is indirect or collateral when, in an action to obtain a different relief, an attack on the proceeding is nevertheless made as an incident thereof. **Such action to attack a certificate of title may be an original action or a counterclaim, in which a certificate of title is assailed as void**.[21] (Citation omitted and emphasis supplied)

In the recent case of *Sampaco v. Lantud*,[22] the Court applied the foregoing distinction and held that a counterclaim, specifically one for annulment of title and reconveyance based on fraud, is a direct attack on the

---

17 Id. at 64.
18 Id. at 66.
19 AN ACT AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES.
20 G.R. No. 178906, February 18, 2009, 579 SCRA 620.
21 Id. at 640.
22 G.R. No. 163551, July 18, 2011, 654 SCRA 36.

Torrens title upon which the complaint for quieting of title is premised.[23] Earlier in, *Development Bank of the Philippines v. CA*,[24] the Court ruled similarly and explained thus:

> Nor is there any obstacle to the determination of the validity of TCT No. 10101. It is true that the indefeasibility of torrens title cannot be collaterally attacked. In the instant case, the original complaint is for recovery of possession filed by petitioner against private respondent, not an original action filed by the latter to question the validity of TCT No. 10101 on which petitioner bases its right. To rule on the issue of validity in a case for recovery of possession is tantamount to a collateral attack. However, it should not [b]e overlooked that private respondent filed a counterclaim against petitioner, claiming ownership over the land and seeking damages. Hence, we could rule on the question of the validity of TCT No. 10101 for the counterclaim can be considered a direct attack on the same. x x x.[25]

The above pronouncements were based on the well-settled principle that a counterclaim is essentially a complaint filed by the defendant against the plaintiff and stands on the same footing as an independent action.[26]

From the foregoing, it is immediately apparent that the courts a *quo* erred in their conclusions. The CA erroneously classified the herein counterclaim as a collateral attack. On the other hand, the RTC correctly adjudged the same as a direct attack to the respondents' land title but mistakenly declared it as a prohibited action.

As clearly pronounced in the above-cited jurisprudence, the petitioner's counterclaim is a permissible direct attack to the validity of respondents' torrens title. As such counterclaim, it involves a cause of action separate from that alleged in the complaint; it has for its purpose the vindication of a right in as much as the complaint similarly seeks the redress of one.[27] As the plaintiff in his own counterclaim, the petitioner is equally entitled to the opportunity granted the plaintiff in the original complaint, to establish his cause of action and to prove the right he asserts.

The courts *a quo* deprived the petitioner of such opportunity when they barred him from propounding questions relating to the validity of the respondents' title; they unjustifiably precluded him from presenting evidence of fraud and misrepresentation upon which his counterclaim is grounded. The courts *a quo,* the RTC especially, should have instead dealt with such issues and allowed the presentation of the facts and evidence necessary for a complete determination of the controversy.

---

23 Id. at 54.
24 387 Phil. 283 (2000).
25 Id. at 300.
26 Supra note 21, note 23, and note 25.
27 *See Pinga v. Heirs of German Santiago*, 526 Phil 868, 892-893 (2006).

WHEREFORE, premises considered, the petition is **GRANTED**. The Decision dated January 30, 2004 of the Court of Appeals in C.A. G.R. SP No. 73495 and the Orders dated August 20, 2001 and July 2, 2002 of the Regional Trial Court of Bayugan, Agusan del Sur, Branch 7, in Civil Case No. 442 are hereby **REVERSED** and **SET ASIDE**. The trial court is **ORDERED** to proceed with the trial of Civil Case No. 442 and to allow petitioner Nemesio Firaza, Sr. to propound questions pertaining to the validity of Original Certificate of Title No. P-16080 and present such other evidence, testimonial or documentary, substantiating his counterclaim.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

PRESBITERO J. VELASCO, JR.
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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