



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

PADILLA MERCADO, ZULUETA  
MERCADO, BONIFACIA  
MERCADO, DAMIAN MERCADO  
and EMMANUEL MERCADO  
BASCUG,

Petitioners,

- versus -

G.R. No. 173987

Present:

VELASCO, J., Chairperson,  
PERALTA,  
ABAD,  
MENDOZA, and  
LEONEN, JJ.

SPOUSES AGUEDO ESPINA and  
LOURDES ESPINA,

Respondents.

Promulgated:

February 25, 2013

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*[Signature]*  
X

DECISION

PERALTA, J.:

Assailed before the Court via a petition for review on *certiorari* under Rule 45 of the Rules of Court are the Decision<sup>1</sup> and Resolution,<sup>2</sup> dated April 27, 2005 and July 12, 2006, respectively, of the Court of Appeals (CA) in CA-G.R. SP No. 84537.

Subject of the instant controversy is a 338 square meter parcel of land located at the Poblacion of the then Municipality of Maasin (now a city), in the Province of Southern Leyte.

On May 8, 2000, herein petitioners filed with the Regional Trial Court (RTC) of Maasin, Southern Leyte, a Complaint for Recovery of Property and

<sup>1</sup> Penned by Associate Justice Enrico A. Lanzanas, with Associate Justices Arsenio J. Magpale and Sesinando E. Villon, concurring; Annex "A" to Petition, *rollo*, pp. 13-27.

<sup>2</sup> Penned by Associate Justice Arsenio J. Magpale, with Associate Justices Vicente L. Yap and Romeo F. Barza, concurring; Annex "B" to Petition, *rollo*, pp. 28-29.

Declaration of Nullity of Deed of Sale, Certificate of Title and Damages. The case was docketed as Civil Case No. R-3147.

Petitioners alleged in their Complaint that they are the heirs of the late spouses Santiago and Sofronia Mercado, who were the owners of the subject parcel of land; after the death of Santiago and Sofronia, petitioners inherited the disputed lot, possessing the same as owners; sometime in 1996, herein respondents claimed ownership over the subject parcel of land, alleging that they bought the same from one Josefa Mercado Espina (Josefa) who, in turn, previously bought the same in 1939 from a certain Genivera Mercado Kavanaugh; that Genivera supposedly purchased the same property from one Escolastico Mercado in 1937 who, in turn, allegedly bought it from Santiago Mercado. Petitioners further alleged that in 1962, Josefa, through fraudulent machinations, was able to obtain a title (Original Certificate of Title No. 35) over the subject property in her name. Asserting that the above-mentioned contracts of sale never happened, petitioners prayed for the declaration of nullity of the deeds of sale between Santiago and Escolastico, Escolastico and Genivera, and between Genivera and Josefa. They prayed that the Transfer Certificate of Title (TCT) in the name of herein respondents be nullified and that petitioners be declared as the owners of the disputed lot. They asked that the court award them actual, moral and exemplary damages, and attorney's fees.

On June 29, 2000, respondents filed a Motion to Dismiss on grounds that the RTC has no jurisdiction over the case due to the failure of the complainant to state the assessed value of the property, that petitioners' cause of action is barred by prescription, laches and indefeasibility of title, and that the complaint does not state sufficient cause of action against respondents who are buyers in good faith.<sup>3</sup>

The RTC denied respondents' Motion to Dismiss. Respondents then filed a motion for reconsideration, but the same was denied by the RTC.

Respondents then filed a special civil action for *certiorari* with the CA assailing the above orders of the RTC.

In its Resolution<sup>4</sup> dated March 13, 2001, the CA denied due course and dismissed respondents' petition for *certiorari*. Respondents filed a motion for reconsideration, but the same was denied by the CA in its Resolution dated October 21, 2003.

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<sup>3</sup> CA *rollo*, pp. 56-64.

<sup>4</sup> *Rollo*, pp. 40-41.

Meanwhile, on August 17, 2000, petitioners, by leave of court, filed an Amended Complaint to include the assessed value of the subject property.<sup>5</sup>

On November 21, 2003, respondents filed a Motion to Dismiss Amended Complaint on grounds of prescription, laches, indefeasibility of title and lack of cause of action.<sup>6</sup>

On February 18, 2004, the RTC issued an Order<sup>7</sup> denying respondents' Motion to Dismiss Amended Complaint. Respondents filed a motion for reconsideration, but the RTC denied it in its Order dated April 19, 2004.<sup>8</sup>

Respondents filed a special civil action for *certiorari* with the CA praying that the February 18, 2004 and April 19, 2004 Orders of the RTC be set aside and petitioners' complaint dismissed.

On April 27, 2005, the CA promulgated its assailed Decision, the dispositive portion of which reads as follows:

WHEREFORE, the petition is granted. The assailed orders of the Regional Trial Court dated February 18, 2004 and April 19, 2004 must be as they are hereby, SET ASIDE. The COMPLAINT in Civil Case No. R-3147 is DISMISSED. The Regional Trial Court of Maasin City, Branch 25 is hereby **enjoined** from proceeding with the case. No pronouncement as to costs.

SO ORDERED.<sup>9</sup>

The CA ruled that respondents' title has become indefeasible and incontrovertible by lapse of time and that petitioners' action is already barred by prescription. The CA also held that since petitioners did not allege that respondents were not buyers in good faith, the latter are presumed to be purchasers in good faith and for value.

Petitioners filed a motion for reconsideration, but the CA denied it in its Resolution<sup>10</sup> dated July 12, 2006.

Hence, the instant petition for review on *certiorari* raising the following issues:

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<sup>5</sup> *Id.* at 30-39.

<sup>6</sup> *Id.* at 42-51.

<sup>7</sup> *Id.* at 52-53.

<sup>8</sup> CA *rollo*, pp. 29-30.

<sup>9</sup> *Rollo*, p. 26. (Emphasis in the original)

<sup>10</sup> *Id.* at 28-29.

- 1) Procedurally, whether or not the Court of Appeals erred in giving due course to respondents' second motion to dismiss filed on November 21, 2003 on the amended complaint filed on August 16, 2000;
- 2) Substantively, whether or not the Court of Appeals erred in ordering the Regional Trial Court to dismiss the case and enjoining it from proceeding with the case on the ground of indefeasibility of title, prescription and/or laches.<sup>11</sup>

On the first issue, petitioners contend that respondents' Motion to Dismiss Amended Complaint was filed beyond the period allowed by the Rules of Court. Petitioners also aver that the above Motion to Dismiss Amended Complaint is a circumvention of the Rules of Court, because the matters raised therein are mere reiterations of their first motion to dismiss, which was dismissed by the RTC and, on petition for *certiorari*, was denied due course by the CA.

Anent the second issue, petitioners argue that respondents' ground of indefeasibility of title in their Motion to Dismiss Amended Complaint is not an authorized ground under Rule 16 of the Rules of Court. Petitioners also assert that the other grounds, *i.e.*, good faith, lack of cause of action and prescription, raised by respondents in their motion are not supported by evidence.

The petition lacks merit.

As to the first issue, there is no dispute that the issue of timeliness of respondents' Motion to Dismiss petitioners' Amended Complaint was not raised by petitioners before the RTC. Neither was this issue raised in their Comment to respondents' petition for *certiorari* filed with the CA. It was only in their Motion for Reconsideration of the CA Decision that this matter was raised. It is well established that issues raised for the first time on appeal and not raised in the proceedings in the lower court are barred by estoppel.<sup>12</sup> Points of law, theories, issues, and arguments not brought to the attention of the trial court ought not to be considered by a reviewing court, as these cannot be raised for the first time on appeal.<sup>13</sup> Basic considerations of due process impel the adoption of this rule.<sup>14</sup>

Moreover, respondent's filing of their Motion to Dismiss Amended Complaint may not be considered as a circumvention of the rules of

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<sup>11</sup> *Id.* at 5-6.

<sup>12</sup> *Lorzano v. Tabayag, Jr.*, G.R. No. 189647, February 6, 2012, 665 SCRA 38, 49-50.

<sup>13</sup> *Ayala Land, Inc. v. Castillo*, G.R. No. 178110, June 15, 2011, 652 SCRA 143, 158; *Sime Darby Pilipinas, Inc. v. Goodyear Philippines, Inc.*, G.R. Nos. 182148 and 183210, June 8, 2011, 651 SCRA 551, 567-568.

<sup>14</sup> *Id.*

procedure. Under Section 8, Rule 10 of the Rules of Court, an amended complaint supersedes an original one. As a consequence, the original complaint is deemed withdrawn and no longer considered part of the record.<sup>15</sup> In the present case, the Amended Complaint is, thus, treated as an entirely new complaint. As such, respondents had every right to move for the dismissal of the said Amended Complaint. Were it not for the filing of the said Motion, respondents would not have been able to file a petition for *certiorari* before the CA which, in turn, rendered the presently assailed judgment in their favor.

With respect to the second issue, the CA correctly ruled that petitioners' Amended Complaint failed to state a cause of action. The Court quotes with approval the following disquisition of the appellate court, to wit:

X X X X

With particular reference to the petitioners [herein respondents], We observed that there is no allegation at all in respondents' [herein petitioners'] complaint that they [respondents] are buyers or transferees in bad faith or with notice of the alleged defect in the title of their vendor/s with the result that the allegations of said pleading are not sufficient to constitute a cause of action.

While private respondents [petitioners] accused Escolastico Mercado of fraudulent conduct, due to the alleged dubious character of the document of sale which passed the ownership of Santiago's property to him and that the signature of Santiago was not authentic, **there is no allegation whatsoever as to the fraudulent nature of the succeeding transfers or of the succeeding transferee's knowledge about the irregularity and defect of the first sale. Most importantly, the complaint contains no averment that herein petitioners [respondents] had any knowledge, much less any participation, voluntarily or otherwise, in the alleged irregularity or anomaly of the original sale transaction between Santiago and Escolastico Mercado or in the acquisition/issuance of the OCT No. 35. Neither was there any allegation in the complaint attributing petitioners [respondents] with negligence. Petitioners [Respondents] cannot also be presumed to be negligent.** On the contrary, the revised rules of court provides a disputable presumption in Petitioners' [respondents'] favor to the effect "that a person takes ordinary care of his concerns["] and that ["private transactions have been fair and regular.["] The allegations of the complaint would even lend a conclusion that there is nothing questionable as to the way petitioners[respondents] obtained their title over the property. This is where We denounce the court *a quo's* act of entertaining evidence *aliunde* and supplying the missing facts which should have been alleged to constitute a cause of action.

**We have carefully perused the complaint and We find that it is devoid of the following allegations: 1) that Josefa is the mother of petitioners [respondents]; 2) that Genivera Mercado Kavanaugh is an American citizen, and 3) that, petitioners [respondents] are not buyers in good**

<sup>15</sup>

*Figuracion v. Libi*, G.R. No. 155688, November 28, 2007, 539 SCRA 50, 63.

faith. Hence, the court *a quo* clearly committed grave abuse of discretion, when, in denying the motion to dismiss, he made some findings “that petitioners [respondents] are not buyers in good faith because all along they know or they ought to know that the land does not belong to their mother Josefa Espina, and that their mother could not have legally acquired the same from her sister Genivera Kavanaugh, an American citizen who cannot acquire land except by way of hereditary succession.” It has been held time and again that “to determine the sufficiency of the cause of action, the respondent court can only consider facts alleged in the complaint – which are deemed hypothetically admitted by defendants – and no other allegations should be considered.”

Where the complaint for recovery of ownership and possession of a parcel of land (such as the one at bar) alleges that some of the defendants bought said land from their co-defendants who had a defective title thereto – but does not allege that the purchasers were purchasers in bad faith or with notice of the defect in the title of their vendors, it is held that the lower court correctly dismissed the complaint against the purchasers for failure to state a cause of action against them.

x x x x<sup>16</sup> (Emphasis supplied)

Failure to state a cause of action refers to the insufficiency of the pleading, and is a ground for dismissal under Rule 16 of the Rules of Court.<sup>17</sup>

A complaint states a cause of action if it avers the existence of the three essential elements of a cause of action, namely:

- (a) The legal right of the plaintiff;
- (b) The correlative obligation of the defendant; and
- (c) The act or omission of the defendant in violation of said legal right.<sup>18</sup>

If the allegations in the complaint do not aver the concurrence of these elements, the complaint becomes vulnerable to a motion to dismiss on the ground of failure to state a cause of action.<sup>19</sup> A perusal of the Amended Complaint in the present case would show that there is, indeed, no allegation of any act or omission on the part of respondents which supposedly violated the legal rights of petitioners. Thus, the CA is correct in dismissing the complaint on the ground of failure to state a cause of action.

Apropos to the foregoing, it bears to note at this stage that the Court likewise agrees with the ruling of the CA that respondents are presumed

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<sup>16</sup> Rollo, pp. 20-22.

<sup>17</sup> *Dabuco v. Court of Appeals*, G.R. No. 133775, January 20, 2000, 322 SCRA 853, 857; 379 Phil. 939, 944-945 (2000).

<sup>18</sup> *Macaslang v. Zamora*, G.R. No. 156375, May 30, 2011, 649 SCRA 92, 107.

<sup>19</sup> *Id.*

purchasers in good faith. In holding thus, the CA relied on the settled principle that one who deals with property registered under the Torrens System need not go beyond the same, but only has to rely on the title.<sup>20</sup> In the instant case, there is no dispute that the subject property was already covered by a Torrens title when respondents bought the same. There was no allegation in the Amended Complaint that respondents were not buyers in good faith. More particularly, there was nothing in the said complaint to indicate that respondents were aware of or were participants in the alleged fraud supposedly committed against petitioners' predecessor-in-interest, or that they have notice of any defect in the title of the seller. As the CA correctly noted, from the time that petitioners' predecessor-in-interest was supposedly deprived of ownership of the subject lot through an alleged fraudulent sale, the same had already been sold thrice. Moreover, since the subject property was already covered by a Torrens title at the time that respondents bought the same, the law does not require them to go beyond what appears on the face of the title. The lot has, thus, passed to respondents, who are presumed innocent purchasers for value, in the absence of any allegation to the contrary.

Paragraph 3, Section 53 of Presidential Decree No. 1529 provides:

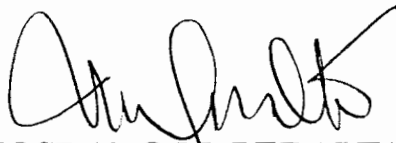
In all cases of registration procured by fraud, the owner may pursue all his legal and equitable remedies against the parties to such fraud without prejudice, however, to the rights of any innocent holder for value of a certificate of title. x x x

Petitioners' cause of action should, therefore, be directed not against respondents, who are innocent holders for value, but against those whom petitioners alleged to have defrauded them.

Based on the above discussions, the Court no longer finds any need to resolve the other issues raised in the instant petition.

**WHEREFORE**, the petition for review on *certiorari* is **DENIED**. The April 27, 2005 Decision and July 12, 2006 Resolution of the Court of Appeals in CA-G.R. SP No. 84537 are **AFFIRMED**.

**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

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<sup>20</sup> *Casimiro Development Corporation v. Mateo*, G.R. No. 175485, July 27, 2011, 654 SCRA 676, 689; *Clemente v. Razo*, G.R. No. 151245, March 4, 2005, 452 SCRA 769, 776-777; 493 Phil. 119, 128 (2005).

**WE CONCUR:**



**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson



**ROBERTO A. ABAD**  
Associate Justice



**JOSE CATRAL MENDOZA**  
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.

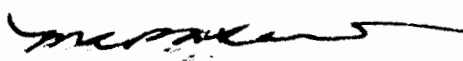


**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson, Third Division

**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