



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

HILARIA BAGAYAS,

Petitioner,

G.R. Nos. 187308 & 187517

-versus-

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

ROGELIO BAGAYAS,
FELICIDAD BAGAYAS,
ROSALINA BAGAYAS,
MICHAEL BAGAYAS, and
MARIEL BAGAYAS,

Respondents.

Promulgated:

SEP 18 2013

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ are the Resolutions² dated January 6, 2009³ and Order⁴ dated March 16, 2009 of the Regional Trial Court of Camiling, Tarlac, Branch 68 (RTC) which dismissed on the ground of *res judicata* the twin petitions of Hilaria Bagayas (petitioner) for amendment of Transfer Certificate of Title (TCT) Nos. 375657 and 375658, docketed as Land Registration Case (LRC) Nos. 08-34 and 08-35.

The Facts

On June 28, 2004, petitioner filed a complaint⁵ for annulment of sale and partition before the RTC, docketed as Civil Case No. 04-42, claiming that Rogelio, Felicidad, Rosalina, Michael, and Mariel, all surnamed Bagayas (respondents) intended to exclude her from inheriting from the

¹ Rollo, pp. 9-33.

² Id. at 36-47. Penned by Presiding Judge Jose S. Vallo.

³ Id. at 18. Erroneously appearing as January 6, 2008. See footnote 1 of the Petition.

⁴ Id. at 48.

⁵ Id. at 49-55.

estate of her legally adoptive parents, Maximino Bagayas (Maximino) and Eligia Clemente (Eligia), by falsifying a deed of absolute sale (deed of absolute sale) purportedly executed by the deceased spouses (Maximino and Eligia) transferring two parcels of land (subject lands) registered in their names to their biological children, respondent Rogelio and Orlando Bagayas⁶ (Orlando).⁷ Said deed, which was supposedly executed on October 7, 1974,⁸ bore the signature of Eligia who could not have affixed her signature thereon as she had long been dead since August 21, 1971.⁹ By virtue of the same instrument, however, the Bagayas brothers were able to secure in their favor TCT Nos. 375657¹⁰ and 375658¹¹ over the subject lands.

As a matter of course, trial ensued on the merits of the case. Petitioner presented herself and five other witnesses to prove the allegations in her complaint. Respondents likewise testified in their defense denying any knowledge of the alleged adoption of petitioner by Maximino and Eligia, and pointing out that petitioner had not even lived with the family.¹² Furthermore, Rogelio claimed¹³ that after their parents had died, he and Orlando executed a document denominated as Deed of Extrajudicial Succession¹⁴ (deed of extrajudicial succession) over the subject lands to effect the transfer of titles thereof to their names. Before the deed of extrajudicial succession could be registered, however, a deed of absolute sale transferring the subject lands to them was discovered from the old files of Maximino, which they used by “reason of convenience” to acquire title to the said lands.¹⁵

In a Decision¹⁶ dated March 24, 2008 dismissing the case *a quo*, the RTC summarized the threshold issues for resolution, to wit:

[1] Whether or not [petitioner] is an adopted child of the late spouses Maximino Bagayas and Eligia Clemente;

[2] Whether or not the Deed of Absolute Sale dated October 7, 1974 is valid;

[3] Whether or not plaintiff can ask for partition of the subject properties assuming that she is an adopted child of the late spouses Maximino Bagayas and Eligia Clemente and assuming further that the subject deed of sale is invalid; and

⁶ Deceased. Survived by wife, respondent Rosalina, and children, respondents Michael and Mariel.

⁷ *Rollo*, pp. 51-52.

⁸ *Id.* at 61-62

⁹ *Id.* at 62.

¹⁰ *Id.* at 85. Including the dorsal portion.

¹¹ *Id.* at 93. Including the dorsal portion.

¹² *Id.* at 57-59.

¹³ *Id.* at 59.

¹⁴ There is no copy of the deed of extrajudicial succession in the records.

¹⁵ *Rollo*, p. 57.

¹⁶ *Id.* at 56-63.

[4] Is the prevailing party entitled to damages?¹⁷

With respect to the first issue, the RTC declared petitioner to be an adopted child of Maximino and Eligia on the strength of the order of adoption, which it considered as more reliable than the oral testimonies of respondents denying the fact of adoption.¹⁸ On the issue of the validity of the questioned deed of absolute sale, the RTC ruled that Eligia's signature thereon was a mere surplusage, as the subject lands belonged exclusively to Maximino who could alienate the same without the consent of his wife.¹⁹

The RTC further held that, even though petitioner is an adopted child, she could not ask for partition of the subject lands as she was not able to prove any of the instances that would invalidate the deed of absolute sale. Moreover, the action for annulment of sale was improper as it constituted a collateral attack on the title of Rogelio and Orlando.²⁰

Insisting that the subject lands were conjugal properties of Maximino and Eligia, petitioner filed a motion for reconsideration²¹ from the aforesaid Decision, which was denied by the RTC in a Resolution²² dated June 17, 2008 holding that while it may have committed a mistake in declaring the subject lands as exclusive properties of Maximino (since the defendants therein already admitted during the pre-trial conference that the subject lands are the conjugal properties of Maximino and Eligia), the action was nevertheless dismissible on the ground that it was a collateral attack on the title of Rogelio and Orlando.²³ Citing the case of *Tapuroc v. Loquellano Vda. de Mende*,²⁴ it observed that the action for the declaration of nullity of deed of sale is not the direct proceeding required by law to attack a Torrens certificate of title.²⁵

No appeal was taken from the RTC's Decision dated March 24, 2008 or the Resolution dated June 17, 2008, thereby allowing the same to lapse into finality.

Subsequently, however, petitioner filed, on August 1, 2008, twin petitions²⁶ before the same RTC, docketed as LRC Nos. 08-34 and 08-35, for the amendment of TCT Nos. 375657 and 375658 to include her name and those of her heirs and successors-in-interest as registered owners to the extent of one-third of the lands covered therein.²⁷ The petitions were

¹⁷ Id. at 60.

¹⁸ Id. at 61.

¹⁹ Id. at 61-62.

²⁰ Id. at 62.

²¹ Id. at 64-74. Dated April 13, 2008.

²² Id. at 75-77.

²³ Id. at 76.

²⁴ 541 Phil. 93 (2007).

²⁵ *Rollo*, p. 77.

²⁶ Id. at 78-83 (for LRC No. 08-34) and 86-91 (for LRC No. 08-35).

²⁷ See id. at 83 and 91.

anchored on Section 108 of Presidential Decree No. (PD) 1529,²⁸ otherwise known as the “Property Registration Decree,” which provides as follows:

Section 108. *Amendment and alteration of certificates.* No erasure, alteration, or amendment shall be made upon the registration book after the entry of a certificate of title or of a memorandum thereon and the attestation of the same be [sic] Register of Deeds, except by order of the proper Court of First Instance. A registered owner [sic] of other person having an interest in registered property, or, in proper cases, the [sic] Register of Deeds with the approval of the Commissioner of Land Registration, may apply by petition to the court upon the ground that x x x **new interest not appearing upon the certificate have arisen or been created;** x x x; or **upon any other reasonable ground;** and the court may hear and determine the petition after notice to all parties in interest, and may order the entry or cancellation of a new certificate, the entry or cancellation of a memorandum upon a certificate, or grant of any other relief upon such terms and conditions, requiring security or bond if necessary, as it may consider proper; Provided, however, That this section shall not be construed to give the court authority to reopen the judgment or decree of registration, and that nothing shall be done or ordered by the court which shall impair the title or other interest of a purchaser holding a certificate for value and in good faith, or his heirs and assigns, without his or their written consent. x x x.

x x x x (Emphasis supplied)

To substantiate her “interest” in the subject lands, petitioner capitalized on the finding of the RTC in its Decision dated March 24, 2008 that she is the adopted child of Maximino and Eligia, and that the signature of the latter in the deed of absolute sale transferring the subject lands to Rogelio and Orlando was falsified.²⁹

The petitions were dismissed³⁰ by the RTC, however, on the ground of *res judicata*. The RTC ruled that the causes of action in the two cases filed by petitioner are similar in that the ultimate objective would be her inclusion as co-owner of the subject lands and, eventually, the partition thereof.³¹ Since judgment had already been rendered on the matter, and petitioner had allowed the same to attain finality, the principle of *res judicata* barred further litigation thereon.³²

Dissatisfied, petitioner argued in her motion for reconsideration³³ that the dismissal of Civil Case No. 04-42 (for annulment of sale and partition) on the ground that it was a collateral attack on the title of Rogelio and Orlando did not amount to a judgment on the merits, thus, precluding the

²⁸ “AMENDING AND CODIFYING THE LAWS RELATIVE TO REGISTRATION OF PROPERTY AND FOR OTHER PURPOSES.”

²⁹ *Rollo*, pp. 87-88.

³⁰ *Id.* at 36-47. See Resolutions dated January 6, 2008 (supposed to be January 6, 2009).

³¹ *Id.* at 40 and 46.

³² *Id.* at 39-41 and 45-47.

³³ *Id.* at 107-114. Dated January 10, 2009.

applicability of *res judicata*.³⁴ The motion was resolved against petitioner, and the dismissal of LRC Nos. 08-34 and 08-35 (for amendment of TCT Nos. 375657 and 375658) was upheld by the RTC in an Order³⁵ dated March 16, 2009. Hence, the instant petition.

The Issue Before the Court

The essential issue in this case is whether or not the dismissal of the earlier complaint on the ground that it is in the nature of a collateral attack on the certificates of title constitutes a bar to a subsequent petition under Section 108 of PD 1529.

The Court's Ruling

At the outset, it must be stressed that Civil Case No. 04-42 was a complaint for annulment of sale and partition. In a complaint for partition, the plaintiff seeks, *first*, a declaration that he is a co-owner of the subject properties; and *second*, the conveyance of his lawful shares. An action for partition is at once an action for declaration of co-ownership and for segregation and conveyance of a determinate portion of the properties involved.³⁶ The determination, therefore, as to the existence of co-ownership is necessary in the resolution of an action for partition. As held in the case of *Municipality of Biñan v. Garcia*:³⁷

The first phase of a partition and/or accounting suit is taken up with the determination of whether or not a co-ownership in fact exists, and a partition is proper (*i.e.*, not otherwise legally proscribed) and may be made by voluntary agreement of all the parties interested in the property. This phase may end with a declaration that plaintiff is not entitled to have a partition either because a co-ownership does not exist, or partition is legally prohibited. It may end, on the other hand, with an adjudgment that a co-ownership does in truth exist, partition is proper in the premises and an accounting of rents and profits received by the defendant from the real estate in question is in order. In the latter case, the parties may, if they are able to agree, make partition among themselves by proper instruments of conveyance, and the court shall confirm the partition so agreed upon. In either case – *i.e.*, either the action is dismissed or partition and/or accounting is decreed – the order is a final one, and may be appealed by any party aggrieved thereby.³⁸ (Emphasis supplied; citations omitted)

In dismissing Civil Case No. 04-42, the RTC declared that petitioner could not ask for the partition of the subject lands, even though she is an adopted child, because “she was not able to prove any of the instances that

³⁴ Id. at 110-112.

³⁵ Id. at 48.

³⁶ *Dapar v. Biascan*, G.R. No. 141880, September 27, 2004, 439 SCRA 179, 197.

³⁷ G.R. No. 69260, December 22, 1989, 180 SCRA 576.

³⁸ Id. at 584-585.

would invalidate the deed of absolute sale”³⁹ purportedly executed by Maximino and Eligia. This conclusion came about as a consequence of the RTC’s finding that, since the subject lands belonged exclusively to Maximino, there was no need to secure the consent of his wife who was long dead before the sale took place. For this reason, the forgery of Eligia’s signature on the questioned deed was held to be inconsequential. However, on reconsideration, the RTC declared that it committed a mistake in holding the subject lands as exclusive properties of Maximino “since there was already an admission [by] the defendants during the pre-trial conference that the subject properties are the conjugal properties of the spouses Maximino Bagayas and Eligia Clemente.”⁴⁰ Nonetheless, the RTC sustained its dismissal of Civil Case No. 04-42 on the ground that it constituted a collateral attack upon the title of Rogelio and Orlando.

In *Lacbayan v. Samoy, Jr.*⁴¹ (*Lacbayan*) which is an action for partition premised on the existence or non-existence of co-ownership between the parties, the Court categorically pronounced that a resolution on the issue of ownership does not subject the Torrens title issued over the disputed realties to a collateral attack. It must be borne in mind that what cannot be collaterally attacked is the certificate of title and not the title itself. As pronounced in *Lacbayan*:

There is no dispute that a Torrens certificate of title cannot be collaterally attacked, but that rule is not material to the case at bar. **What cannot be collaterally attacked is the certificate of title and not the title itself.** The certificate referred to is that document issued by the Register of Deeds known as the TCT. **In contrast, the title referred to by law means ownership which is, more often than not, represented by that document.** Petitioner apparently confuses title with the certificate of title. Title as a concept of ownership should not be confused with the certificate of title as evidence of such ownership although both are interchangeably used.⁴² (Emphases supplied)

Thus, the RTC erroneously dismissed petitioner’s petition for annulment of sale on the ground that it constituted a collateral attack since she was actually assailing Rogelio and Orlando’s title to the subject lands and not any Torrens certificate of title over the same.

Be that as it may, considering that petitioner failed to appeal from the dismissal of Civil Case No. 04-42, the judgment therein is final and may no longer be reviewed.

The crucial issue, therefore, to be resolved is the propriety of the dismissal of LRC Nos. 08-34 and 08-35 on the ground of *res judicata*.

³⁹ *Rollo*, p. 62.

⁴⁰ *Id.* at 77.

⁴¹ G.R. No. 165427, March 21, 2011, 645 SCRA 677.

⁴² *Id.* at 689.

It must be pointed out that LRC Nos. 08-34 and 08-35 praying that judgment be rendered directing the Registry of Deeds of Tarlac to include petitioner's name, those of her heirs and successors-in-interest as registered owners to the extent of one-third of the lands covered by TCT Nos. 375657 and 375658, were predicated on the theory⁴³ that Section 108 of PD 1529 is a mode of directly attacking the certificates of title issued to the Bagayas brothers. On the contrary, however, the Court observes that the amendment of TCT Nos. 375657 and 375658 under Section 108 of PD 1529 is actually not the direct attack on said certificates of title contemplated under Section 48⁴⁴ of the same law. Jurisprudence instructs that an action or proceeding is deemed to be an attack on a certificate of title when its objective is to nullify the same, thereby challenging the judgment pursuant to which the certificate of title was decreed.⁴⁵ Corollary thereto, it is a well-known doctrine that the issue as to whether the certificate of title was procured by falsification or fraud can only be raised in an action expressly instituted for such purpose. As explicated in *Borbajo v. Hidden View Homeowners, Inc.*:⁴⁶

It is a well-known doctrine that the issue as to whether [the certificate of] title was procured by falsification or fraud can only be raised in an action expressly instituted for the purpose. A Torrens title can be attacked only for fraud, within one year after the date of the issuance of the decree of registration. Such attack must be direct, and not by a collateral proceeding. The title represented by the certificate cannot be changed, altered, modified, enlarged, or diminished in a collateral proceeding. The certificate of title serves as evidence of an indefeasible title to the property in favor of the person whose name appears therein.⁴⁷ (Citations omitted)

Contrary to the foregoing characterization, Section 108 of PD 1529 explicitly states that said provision “shall not be construed to give the court authority to reopen the judgment or decree of registration.” In fact, based on settled jurisprudence, Section 108 of PD 1529 is limited only to seven instances or situations, namely: (a) when registered interests of any description, whether vested, contingent, expectant, or inchoate, have terminated and ceased; (b) when new interests have arisen or been created which do not appear upon the certificate; (c) when any error, omission or mistake was made in entering a certificate or any memorandum thereon or on any duplicate certificate; (d) when the name of any person on the certificate has been changed; (e) when the registered owner has been married, or, registered as married, the marriage has been terminated and no right or interest of heirs or creditors will thereby be affected; (f) when a corporation, which owned registered land and has been dissolved, has not conveyed the same within three years after its dissolution; and (g) when

⁴³ *Rollo*, p. 38.

⁴⁴ 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 proceeding in accordance with law. (Emphasis supplied)

⁴⁵ See *Jarantilla, Jr. v. Jarantilla*, G.R. No. 154486, December 1, 2010, 636 SCRA 299, 319.

⁴⁶ *Borbajo v. Hidden View Homeowners, Inc.*, G. R. No. 152440, January 31, 2005, 450 SCRA 315.

⁴⁷ *Id.* at 325.

there is reasonable ground for the amendment or alteration of title.⁴⁸ Hence, the same cannot be said to constitute an attack on a certificate of title as defined by case law. That said, the Court proceeds to resolve the issue as to whether or not the dismissal of petitioner's twin petitions for the amendment of TCT Nos. 375657 and 375658 was proper.

Petitioner claims that the determination of the RTC in Civil Case No. 04-42 that she is an adopted child and that the signature of her adoptive mother Eligia in the deed of absolute sale transferring the subject land to Rogelio and Orlando was forged amounts to a new interest that should be reflected on the certificates of title of said land, or provides a reasonable ground for the amendment thereof.

The Court disagrees for two reasons:

First. While the RTC may have made a definitive ruling on petitioner's adoption, as well as the forgery of Eligia's signature on the questioned deed, no partition was decreed, as the action was, in fact, dismissed. Consequently, the declaration that petitioner is the legally adopted child of Maximino and Eligia did not amount to a declaration of heirship and co-ownership upon which petitioner may institute an action for the amendment of the certificates of title covering the subject land. More importantly, the Court has consistently ruled that the trial court cannot make a declaration of heirship in an ordinary civil action, for matters relating to the rights of filiation and heirship must be ventilated in a special proceeding instituted precisely for the purpose of determining such rights.⁴⁹

Second. Petitioner cannot avail of the summary proceedings under Section 108 of PD 1529 because the present controversy involves not the amendment of the certificates of title issued in favor of Rogelio and Orlando but the partition of the estate of Maximino and Eligia who are both deceased. As held in *Philippine Veterans Bank v. Valenzuela*,⁵⁰ the prevailing rule is that proceedings under Section 108 of PD 1529 are summary in nature, contemplating corrections or insertions of mistakes which are only clerical but certainly not controversial issues.⁵¹ Relief under said legal provision can only be granted if there is unanimity among the parties, or that there is no adverse claim or serious objection on the part of any party in interest. This is now the controlling precedent, and the Court should no longer digress from such ruling.⁵² Therefore, petitioner may not avail of the remedy provided under Section 108 of PD 1529.

⁴⁸ *Paz v. Republic*, G.R. No. 157367, November 23, 2011, 661 SCRA 74, 81.

⁴⁹ *Heirs of Teofilo Gabatan v. CA*, G.R. No. 150206, March 13, 2009, 581 SCRA 70, 78-79, citing *Milagros Joaquin v. Lourdes Reyes*, G.R. No. 154645, July 13, 2004, 434 SCRA 260, 274.

⁵⁰ G.R. No. 163530, March 9, 2011, 645 SCRA 66.

⁵¹ *Id.* at 73.

⁵² See *City Government of Tagaytay v. Guerrero*, G.R. Nos. 140743 & 140745, September 17, 2009, 600 SCRA 33, 58-59.


In fine, while LRC Nos. 08-34 and 08-35 are technically not barred by the prior judgment in Civil Case No. 04-42 as they involve different causes of action, the dismissal of said petitions for the amendment of TCT Nos. 375657 and 375658 is nonetheless proper for reasons discussed above. The remedy then of petitioner is to institute intestate proceedings for the settlement of the estate of the deceased spouses Maximino and Eligia.

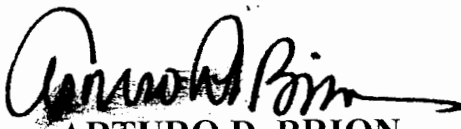
WHEREFORE, the petition is **DENIED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson.


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio", written in a cursive style.

ANTONIO T. CARPIO
Acting Chief Justice