



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
AUG 08 2019
BY: YSA
TIME: 8:51

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

TRANQUILINO AGBAYANI,
Petitioner,

G.R. No. 201193

Present:

CARPIO, J., *Chairperson,*
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR.,* and
LAZARO-JAVIER, JJ.

- versus -

LUPA REALTY HOLDING CORPORATION,
Respondent.

Promulgated:

10 JUN 2019
[Signature]

x-----x

RESOLUTION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Rules of Court assailing the Decision² dated September 14, 2011 (CA Decision) and the Resolution³ dated March 9, 2012 (CA Resolution) of the Court of Appeals⁴ (CA) in CA-G.R. CV No. 93912. The CA Decision reversed and set aside the Decision⁵ dated June 15, 2009 rendered by the Regional Trial Court, Branch 7, Aparri, Cagayan (RTC) in Civil Case No. 07-532. The CA Decision also dismissed the complaint of petitioner Tranquilino Agbayani (Tranquilino) as well as the third-party complaint of respondent Lupa Realty Holding Corporation (Lupa Realty), fourth-party complaint of Moriel Urdas (Moriel) and the counterclaims. The CA Resolution denied the motion for reconsideration filed by Tranquilino.

The Facts and Antecedent Proceedings

The CA Decision narrates the factual antecedents as follows:

* On leave.
1 *Rollo*, pp. 9-34, excluding Annexes.
2 *Id.* at 36-52. Penned by Associate Justice Ricardo R. Rosario, with Associate Justices Hakim S. Abdulwahid and Danton Q. Bueser concurring.
3 *Id.* at 55-56.
4 Ninth Division and Former Ninth Division, respectively.
5 *Rollo*, pp. 86-95. Penned by Judge Oscar T. Zaldivar.

The property subject of the instant case is a 91,899-square meter parcel of land, situated in Barrio Sinungan, Sta. Ana, Cagayan, originally registered under OCT No. P-46041 in the name of x x x Tranquilino Agbayani (**Tranquilino**), pursuant to Free Patent No. 587747 on 7 June 1979.

On 11 October 1999, Tranquilino, who was by then already residing in America, filed a *Complaint* for Reivindicacion, Cancellation of Title and Document with Damages against Lupa Realty Holding Corporation (**Lupa Realty**), through his brother, Kennedy Agbayani, and his nephew, Vernold Malapira (**Vernold**). We note that Vernold is also written as "Bernold" in other parts of the record, and is admitted to be the same "Bernard" referred to in the *Complaint* and in the *Special Power of Attorney* as having been authorized by Tranquilino to file the instant case.

The *Complaint* alleged that sometime in April 1999, [Vernold] went to the Office of the Municipal Treasurer of Sta. Ana, Cagayan to pay the real estate taxes on the subject property, but was told that Lupa Realty was already the new owner thereof and that the tax declaration had already been transferred to its name. Tranquilino further alleged that upon verifying with the Registry of Deeds for Cagayan, [Vernold] discovered that the subject property was already registered in the name of Lupa Realty under TCT No. T-109129 pursuant to a *Deed of Absolute Sale* purportedly executed by Tranquilino on 29 October 1997 in favor of Lupa Realty, in consideration of the sum of P425,500.00.

In his complaint, Tranquilino denied having executed said *Deed of Absolute Sale*, insisting that his signature thereon must be a forgery because he was in America on 29 October 1997. Accordingly, [he] prayed for the cancellation of Lupa Realty's TCT No. T-109129 and the reinstatement of OCT No. P-46041 in his name, plus damages.

In its *Answer*, Lupa Realty countered that contrary to the allegation of Tranquilino that he never sold the subject property, he sold the same to his brother, Nonito Agbayani (**Nonito**), as shown by a notarized *Deed of Absolute Sale* executed on 21 January 1992. In turn, Nonito sold the subject property to Moriel Urdas (**Moriel**) in a notarized *Deed of Absolute Sale*, dated 30 May 1997. According to Lupa Realty, it acquired the subject property not from Tranquilino but from Moriel by way of a notarized *Deed of Absolute Sale*, dated 29 October 1997.

Lupa Realty further insisted that it was an innocent purchaser for value and in good faith. Lupa Realty explained that it was Moriel and his mother who registered the sale in the Registry of Deeds, as shown by the *Affidavit* executed by Moriel's mother. According to Lupa Realty, it had no idea that Moriel and his mother had used a falsified deed of sale with Tranquilino's forged signature in registering the sale. Thus, Lupa Realty filed a third-party complaint against Moriel to enforce the latter's warranty of a valid title and peaceful possession against the claims of third persons.

In his *Answer to the Third-Party Complaint*, Moriel denied having caused the registration of the sale to Lupa Realty, and denied having prepared the falsified deed of sale that was used in transferring the title to Lupa Realty. Moriel insisted that contrary to Lupa Realty's assertions, it was actually the latter's personnel who registered the sale.



Moriel laid the blame squarely on Tranquilino for having entrusted his original certificate of title to his brother Nonito, thereby making it possible for the latter to fraudulently transfer the property to an innocent third person like Moriel. Thus, Moriel filed a *Fourth-Party Complaint* against Nonito, praying that if it turns out that Tranquilino really did not sell the subject property to Nonito, the latter should be made liable for whatever liability may be adjudged against [Moriel].

In his *Answer (to the Fourth-Party Complaint)*, Nonito admitted to having signed the *Deed of Absolute Sale* in favor of Moriel, but qualified that the execution of the same was “attended by undue pressure considering that at that time, [Nonito] was of confused state of mind brought about by the numerous unfortunate events that beset his family.” According to Nonito, it was Moriel who prepared the *Deed of Absolute Sale*, which [Nonito] mistakenly believed to be merely one of mortgage to secure a loan that he had obtained from Moriel. Accordingly, Nonito prayed that the fourth-party complaint against him be dismissed and that the *Deed of Absolute Sale* in favor of Moriel be nullified.

Curiously, during trial, despite Tranquilino’s insistence that his signature on the deed of sale in favor of Lupa Realty was forged, he did not present a handwriting expert to prove the alleged forgery. Neither did Tranquilino present any evidence controverting Lupa Realty’s allegations that he had sold the property to his brother Nonito, who, in turn, transferred the property to Moriel, and the latter eventually transferred the same to Lupa Realty.

Instead, Tranquilino presented only his nephew, Vernold, and his tenants, Felino Rizaldo (**Felino**) and Florante Ruiz (**Florante**). [Vernold] testified on the matters contained in the *Complaint*; i.e., about how he discovered that the land is now registered in the name of Lupa Realty. While Felino and Florante both testified that they were instituted as tenants in the property by the family of Tranquilino since 1992 and no one has ever disturbed them in their possession thereof.

On the other hand, Lupa Realty presented its former employee, Demetria Balisi [(Demetria)], who testified that she was one of the two witnesses to the deed of sale between Lupa Realty and Moriel.

Demetria further testified that because the OCT was in the name of Tranquilino and not Moriel, Lupa Realty had asked for proof of Moriel’s ownership thereof, and the latter submitted to them the deed of sale between Tranquilino and Nonito, and the deed of sale between Nonito and Moriel. We note that Tranquilino’s counsel admitted in open court the existence of the deed of sale between Tranquilino and Nonito.

Demetria acknowledged that none of the deeds of conveyances – between Tranquilino and Nonito; between Nonito and Moriel; and between Moriel and Lupa Realty – was used in registering the transfer of the subject property to Lupa Realty. According to Demetria, it was Moriel’s mother who processed the registration, and this was further confirmed by Moriel’s mother in an affidavit stating that they “were able to secure at (their) own ways and means a new Title of the subject property in favor of [Lupa Realty].”

To prove that Nonito really sold the subject property to him, Moriel presented Onorio Rumbaoa [(Onorio)], who testified that he was the agent



of the sale between Nonito and Moriel. Onorio testified that both Nonito and Moriel are his townmates and he arranged for the two to meet when Nonito wanted to sell the subject property. According to Onorio, when he remarked to Nonito that the OCT was not in his name, Nonito showed him the deed of sale executed by Tranquilino to prove that he (Nonito) already own[ed] the subject property. Onorio testified that after Moriel agreed to purchase the property, the three of them (Nonito, Moriel and Onorio) went to the notary public where they signed the deed of sale, with Onorio as witness. Moriel corroborated the testimony of Onorio with regard to the details of the sale to him of the subject property by Nonito.

Finally, Nonito testified that he only borrowed money from Moriel and denied having sold the subject property to him. According to Nonito, he gave Moriel a collateral for the purported loan but it was not the subject property. When asked on cross-examination what the collateral was, Nonito could not say. When asked how Moriel came into possession of the OCT in Tranquilino's name, Nonito also could not say.

After due proceedings, the trial court rendered a decision with the following disposition:

“WHEREFORE, premises considered, the Court declares and Orders that:

1. OCT (*sic*) No. P-109129 in the name of Lupa Realty is null and void, hence, the Register of Deeds, Tuguegarao, Cagayan is ordered to immediately cancel the same;

2. TCT (*sic*) No. T-46041 in the name of the plaintiff is reinstated and the property subject of the same is reconveyed to the plaintiff;

3. Defendant shall pay plaintiff attorney's fees in the amount of P30,000.00;

4. Third Party Defendant Moriel Urdas shall pay Defendant/Third Party Plaintiff Lupa Realty the amount of P551,394 plus legal interest from the time the Third Party complaint was filed until full satisfaction of this judgment;

5. Fourth Party Defendant Nonito Agbayani pays Third Party Defendant/Fourth Party Plaintiff Moriel Urdas the amount of P286,698.32 plus legal interest from the time the Fourth Party complaint was filed up to full satisfaction of this judgment;

6. For the same reason that the Court allows the plaintiff to collect attorney's fees from the Defendant, the 3rd party defendant is likewise adjudged to pay the Third Party plaintiff reasonable attorney's fees in the amount of P30,000.00. Likewise 4th party plaintiff is entitled to collect from the 4th party defendant the amount of P30,000.00 by way of attorney's fees.



The other damages sought in the 3rd party and 4th party complaints as well as the parties' respective counter claims are denied for lack of merit.

SO ORDERED.”

Hence, [the] appeal by [Lupa Realty to the CA.]⁶

Ruling of the CA

The CA in its Decision dated September 14, 2011 granted the appeal. The CA held that the conclusions reached by the RTC are not in accord with law and the evidence on record; therefore, the reversal of the trial court's decision is warranted.⁷

The CA ruled that Tranquilino failed to discharge his burden to present clear and convincing evidence to overthrow the presumption of regularity in the execution on January 21, 1992 of the *Deed of Absolute Sale* (1992 DAS) in favor of his brother Nonito and to prove his allegation of forgery regarding his signature.⁸ According to the CA, Tranquilino's insistence that he could not have signed the 1992 DAS because he was in America at that time⁹ was insufficient.¹⁰ Further, the CA stated that the fact that there is a *Deed of Absolute Sale* (1997 DAS) purportedly executed by Tranquilino on October 29, 1997 in favor of Lupa Realty, which Moriel and his mother used in registering the sale to Lupa Realty, is not sufficient in itself to invalidate Transfer Certificate of Title (TCT) No. T-109129 in the name of Lupa Realty.¹¹

In fine, the CA ruled in favor of the dismissal of Tranquilino's complaint based on the lack of evidence regarding his forgery allegation and its postulation that his action for declaration of nullity of the 1997 DAS is not the direct proceeding required by law to attack a Torrens certificate of title since it cannot be collaterally attacked.¹²

The dispositive portion of the CA Decision states:

WHEREFORE, the **Decision**, dated 15 June 2009, of the Regional Trial Court, Branch 7, Aparri, Cagayan, in Civil Case No. 07-532 is **REVERSED** and **SET ASIDE**. Tranquilino Agbayani's complaint, as well as Lupa Realty's third-party complaint, Moriel Urdas' fourth-party complaint, and all parties' counterclaims, are **DISMISSED**.

SO ORDERED.¹³

⁶ Id. at 37-44.

⁷ Id. at 46.

⁸ Id. at 48.

⁹ The RTC Decision states that as testified upon by Vernold, his uncle Tranquilino left for California, U.S.A. in April, 1989. Id. at 89.

¹⁰ *Rollo*, pp. 48-49.

¹¹ Id. at 50.

¹² Id at 50-51.

¹³ Id. at 51.



Tranquilino filed a motion for reconsideration, which was denied by the CA in its Resolution¹⁴ dated March 9, 2012.

Hence, the instant Rule 45 Petition. Lupa Realty filed its Comment¹⁵ dated October 8, 2012. Tranquilino filed a Reply¹⁶ dated June 28, 2013.

The Issues

The Petition raises the following issues:

1. whether the CA erred in reversing the RTC Decision that declared the nullity of TCT No. T-109129 in the name of Lupa Realty;
2. whether the CA erred in reversing the RTC Decision on the ground that the RTC erred in ordering the cancellation of the TCT under Lupa Realty's name because the action filed by Tranquilino constitutes a collateral attack on a Torrens title; and
3. whether the CA erred in recognizing and protecting Lupa Realty's right as an innocent purchaser for value (IPV).

The Court's Ruling

The Petition is meritorious.

Rule 45 of the Rules of Court on Appeal by *Certiorari* to the Supreme Court mandates that: the petition shall raise only questions of law;¹⁷ this mode of review is not a matter of right, but of sound judicial discretion; and it will be granted only when there are special and important reasons therefor.¹⁸ A Rule 45 review is warranted when there is finding by the Court that the court *a quo* has decided a question of substance in a way probably not in accord with law or with the applicable decisions of the Court.¹⁹

While only questions of law may be raised in a Rule 45 *certiorari* petition, there are admitted exceptions, which includes the instance when there is conflict in the findings of fact of the trial court and the CA. The instant case falls under this exception.

The RTC found that the 1992 DAS between Tranquilino and Nonito was established by preponderance of evidence to be a falsified document;²⁰

¹⁴ Id. at 55-56.

¹⁵ Id. at 108-137.

¹⁶ Id. at 144-149.

¹⁷ RULES OF COURT, Rule 45, Sec. 1.

¹⁸ Id., Rule 45, Sec. 6.

¹⁹ Id., Rule 45, Sec. 6(a).

²⁰ *Rollo*, pp. 92-93.



the 1997 DAS between Tranquilino and Lupa Realty was also falsified;²¹ and Lupa Realty was not an IPV.²² On the other hand, the CA ruled that the 1992 DAS was valid because Tranquilino was unable to prove that his signature therein was forged.²³ The CA did not, however, rule squarely on whether the 1997 DAS was falsified²⁴ and whether Lupa Realty was an IPV.²⁵

Given the conflict in the findings of the RTC and the CA, a review of the facts is justified.

Tranquilino posits that both the 1992 DAS in favor of Nonito and the 1997 DAS in favor of Lupa Realty, which Tranquilino purportedly executed, are spurious and false.

As to the 1997 DAS (Exh. "F"²⁶), which is purportedly a unilateral sale in favor of Lupa Realty and signed only by Tranquilino, he reproduces the following portion of the RTC Decision in support of his argument regarding its falsity:

"What really boggles the mind of the court is the existence of the Deed of Sale (Exh. "F") dated Oct. 29, 1997 allegedly executed between Tranquilino Agbayani and LUPa Relaty (*sic*) and which was registered and instrumental for the cancellation of OCT No. P-4601 [*sic*] and the issuance of TCT No. T-109129. Worst, a careful study of said deed of sale and the Deed of Sale executed by and between Moriel Urdas and Lupa Realty would reveal that the two deeds, although allegedly executed and notarized on different dates, have the same Doc. No., Book No., Page No., and series. The defendant [Lupa Realty] cannot feign ignorance and innocence on the existence of the Deed of Sale (Exh. "F"). It is a corporation whose business is, as apparent in its business name, mainly concerns real estate, thus, it is incredible that it would entirely leave the transfer of the title into the hands of Moriel Urdas and his mother. It is expected that it would exert due diligence in its transactions, it being in the realty business. Defendant having uttered a Deed of Sale (Exh. "F"), which plaintiff has established by preponderance of evidence to have been falsified and which Defendant impliedly admitted in its Answer and Third Party Complaint as indeed falsified when it claimed that its title was derived from the Deed of Sale executed in its favor by Third Party Defendant Moriel Urdas, Defendant cannot [n]ow claim it was an innocent purchaser for value.

The operative act in the cancellation of TCT [*sic*] No. 4604 [*sic*] and the issuance of the TCT No. 109129 in favor of the defendant was the presentation with the Register of Deeds of falsified Deed of Sale allegedly executed by Tranquilino Agbayani in favor of Lupa Realty."²⁷

²¹ Id. at 93.

²² Id.

²³ See id. at 48.

²⁴ The CA merely stated: "The fact that there is a *Deed of Sale* between Tranquilino and Lupa Realty that Moriel and his mother used in registering the sale is not sufficient in itself to invalidate TCT No. T-109129 in the name of Lupa Realty." Id. at 50.

²⁵ The CA merely stated: "Lupa Realty presented sufficient proof of its lawful acquisition of the subject property" and "Tranquilino's action for declaration of nullity of said *Deed of Sale* is not the direct proceeding required by law to attack a Torrens certificate of title." Id.

²⁶ Records, pp. 239-240.

²⁷ *Rollo*, pp. 25-26 and 92-93.

The CA justified the validity of the sale to Lupa Realty and its TCT in this wise:

On the other hand, Lupa Realty presented sufficient proof of its lawful acquisition of the subject property. The deeds of sale between Tranquilino and Nonito; between Nonito and Moriel; and between Moriel and Lupa Realty show the legal tie that bind the parties and legally conveyed the subject property to Lupa Realty.

The fact that there is a *Deed of Sale* between Tranquilino and Lupa Realty that Moriel and his mother used in registering the sale is not sufficient in itself to invalidate TCT No. T-109129 in the name of Lupa Realty.²⁸

The “DEED ABSOLUTE SALE” (DAS Moriel-Lupa Realty; Exh. 2 Lupa²⁹) by and between Moriel and Lupa Realty with “29 day of Oct 1997” as date of execution, which bears both the signatures of “Roberto P. Alingog” with “CTC No. 7968352, Issued at Cauayan, Isa[bela], Issued on 01/22/97” and “Moriel C. Urdas” (but the acknowledgment does not reflect Moriel’s name but the name of “Luzviminda Urdas” (Moriel’s spouse) without the specifics of her CTC information) bears the following notarial information: “Doc. No. 47; Page No. 10, Book No. 11; Series of 1997.”³⁰

On the other hand, the “DEED ABSOLUTE SALE” (1997 DAS; Exh. “F”³¹) also bears “29 day of Oct 1997” as date of execution; the name of “Roberto P. Alingog” with “CTC No. 7968352, Issued at Cauayan, Isa[bela], Issued on 01/22/97” in the acknowledgment portion, together with Tranquilino Agbayani and the specifics of his CTC, but Roberto P. Alingog is not a signatory thereto; and the following notarial information: “Doc. No. 47; Page No. 10, Book No. 11; Series of 1997.”³²

The Court notes that the 1997 DAS contains this recital: “Their right thereto being duly registered in accordance with the Land Registration Act and evidenced by **Original Certificate of Title No. P-26619 with Homestead Patent No. 119163.**”³³ It must be noted that Tranquilino’s title is Original Certificate of Title (OCT) No. P-46041 with Free Patent No. 587747.³⁴

In both documents, the Notary Public’s name is illegible. However, the following entries below the signature of the Notary Public are almost identical:

²⁸ Id. at 50.

²⁹ Records, pp. 331-332.

³⁰ Id. at 332.

³¹ Id. at 239-240.

³² Id. at 239.

³³ *Rollo*, p. 152. Emphasis supplied.

³⁴ Id. at 57.

DAS Moriel-Lupa Realty:³⁵1997 DAS³⁶

Notary Public

Notary Public

Until Dec. 31. 1997

Until Dec. **31, 1997**

PTR No. 5445937 S

PTR No. **5445937- S**Issued at Ilagan, IsabelaIssued at **ILAGAN, ISABELA**Issued on January 8, 1997Issued on **JAN. 8, 1997**

The Court agrees with the RTC that it is indeed mind boggling how two distinct documents which were supposedly notarized on the same date by one Notary Public have identical notarial details, *i.e.*, document number, page number, book number and year series. Indeed, one of them must be fake or false.

Based on all the facts narrated, it is the 1997 DAS which is sham or spurious. As noted above, these are: (1) the similarity of its notarial details with those of the DAS Moriel-Lupa Realty; (2) the recital that it pertained to the land covered by "Original Certificate of Title No. P-26619 with Homestead Patent No. 119163" and not to Tranquilino's OCT No. P-46041 with Free Patent No. 587747; (3) the inclusion of Lupa Realty, represented by its President, Roberto P. Alingog, as a party and the CTC details of Roberto P. Alingog, but who is not made a signatory thereto; (4) the identity of its date of execution with that of the DAS Moriel-Lupa Realty; and (5) the identity of the notary public's details in both 1997 DAS and the DAS Moriel-Lupa Realty.

In addition, the Court does not lose sight of the fact that there is uncontested evidence that Tranquilino could not have signed the 1997 DAS because he had left for California, U.S.A. in April, 1989.³⁷

It is likewise significant to note the fact that Lupa Realty did not even have the 1997 DAS marked and offered as its evidence is a very strong indication of its falsity. In the Formal Offer of Documentary Exhibits of Lupa Realty, the 1997 DAS was not marked and offered as one of its exhibits.³⁸ If the 1997 DAS was truly executed by Tranquilino and is genuine, why did not Lupa Realty have it marked and offered as its documentary exhibit? The answer is obvious: because Lupa Realty wanted to distance itself therefrom because it might be accused as being complicit with Moriel and/or his mother in falsifying the 1997 DAS.

In *People v. Sendaydiego*,³⁹ the Court stated the rule that if a person had in his possession a falsified document and he made use of it (uttered it), taking advantage of it and profiting therefrom, the presumption is that he is

³⁵ Id. at 151. Entries below appear to be computer generated.

³⁶ Id. at 153. Entries in bold appear to be handwritten.

³⁷ This was noted in the RTC Decision. Id. at 89.

³⁸ Records, pp. 326-344.

³⁹ 171 Phil. 114 (1978).

the material author of the falsification.⁴⁰ Pursuant to *Re: Fake Decision Allegedly in G.R. No. 75242*,⁴¹ the simulation of a public or official document, done in a manner as to easily lead to error as to its authenticity, constitutes the crime of falsification.⁴² Under Rule 132, Section 19(b), documents acknowledged before a notary public except last wills and testaments are public documents. Further, it is presumed that “evidence willfully suppressed would be adverse if produced.”⁴³

Article 1409(2) of the Civil Code provides that contracts “which are absolutely simulated or fictitious” are inexistent and void from the beginning. It is also provided in Article 1346 that “[a]n absolutely simulated or fictitious contract is void.”

Justice Eduardo P. Caguioa discusses the concept and requisites of simulation in the following manner:

x x x Simulation is the declaration of a fictitious intent manifested deliberately and in accordance with the agreement of the parties in order to produce for the purpose of deceiving others the appearance of a transaction which does not exist or which is different from their true agreement.⁴⁴ Simulation involves a defect in the declaration of the will. x x x Simulation requires the following: (1) A deliberate declaration contrary to the will of the parties; (2) Agreement of the parties to the apparently valid act; and (3) The purpose is to deceive or to hide from third persons although it is not necessary that the purpose be illicit or for purposes of fraud. The above three requisites must concur in order that simulation may exist. x x x⁴⁵

The three requisites are present in the 1997 DAS. There is a deliberate declaration that Tranquilino sold the subject land to Lupa Realty, which is contrary to their will. The agreement appears on its face to be a valid act. The purpose is to deceive third persons into believing that there was such a sale between Tranquilino and Lupa Realty. The purpose, in this case, is evidently tainted with fraud.

Since the 1997 DAS is void, its registration is likewise void pursuant to Section 53 of Presidential Decree No. (PD) 1529 (the Property Registration Decree), which provides that “any subsequent registration procured by the presentation of a forged duplicate certificate of title, or a forged deed or other instrument, shall be null and void.” The registration of the 1997 DAS being null and void, it follows that TCT T-109129 in the name of Lupa Realty is also null and void. Being null and void, it should be cancelled.

⁴⁰ Id. at 134.

⁴¹ 491 Phil. 539 (2005).

⁴² Id. at 567.

⁴³ RULES OF COURT, Rule 131, Sec. 3(e).

⁴⁴ IV Eduardo P. Caguioa, COMMENTS AND CASES ON CIVIL LAW, CIVIL CODE OF THE PHILIPPINES, 1983 Rev. Second Ed., p. 549, citing 1 Castan, 8th Ed., Part II, p. 504.

⁴⁵ Id., citing 1 Castan, 8th Ed., Part II, p. 504, citing Ferrara.



Moreover, the Court is perplexed why the Registry of Deeds for the Province of Cagayan allowed the registration of the 1997 DAS.

While the Court has held that registration is a mere ministerial act by which a deed, contract or instrument is sought to be inscribed in the records of the Office of the Register of Deeds and annotated at the back of the certificate of title covering the land subject of the deed, contract or instrument and is not a declaration by the state that such an instrument is a valid and subsisting interest in land; it is merely a declaration that the record of the title appears to be burdened with such instrument, according to the priority set forth in the certificate,⁴⁶ and that no valid objection can be interposed to the registration of a document by the Register of Deeds who finds nothing defective or irregular on its face upon an examination thereof,⁴⁷ the fact of the matter is that **the 1997 DAS is not regular on its face** because, as duly noted above, it pertained to the land covered by OCT No. P-26619 with Homestead Patent No. 119163. Presented with the 1997 DAS that has reference to an OCT different from that of Tranquilino's title and to a Homestead Patent instead of a Free Patent, the Register of Deeds concerned should not have allowed its registration because of the obvious or patent irregularity appearing on the face of the 1997 DAS.

From the foregoing, the CA erred when it ruled that the TCT of Lupa Realty is valid.

With the declaration by the Court that the 1997 DAS is sham or spurious and the TCT in the name of Lupa Realty is null and void, does it follow that the sale of the subject land to Lupa Realty is also null and void? In other words, can Lupa Realty be nonetheless declared as the lawful owner of the subject land despite the finding that the TCT issued in his favor is void?

The resolution of this issue hinges on the validity of the 1992 DAS. If the 1992 DAS between Tranquilino and Nonito is valid, then Nonito could have validly sold the subject land to Moriel and Moriel could have thereafter validly sold it to Lupa Realty. The invalidity of Lupa Realty's TCT does not necessarily render invalid its right of ownership over the subject land if the sales preceding the sale to it by Moriel are valid.

As to the 1992 DAS, Tranquilino argues that the unqualified admission made during the pre-trial proceedings in the RTC by Nonito, through his counsel on record, Atty. Frederick Aquino, that there was no such sale between Tranquilino and Nonito is a judicial admission that it is spurious,

⁴⁶ *Agricultural Credit Cooperative Association of Hinigaran v. Yusay*, 107 Phil. 791, 793-794 (1960).

⁴⁷ Antonio H. Noblejas and Edilberto H. Noblejas, *REGISTRATION OF LAND TITLES AND DEEDS*, p. 349 (2007 rev. ed.); see also Narciso Peña, *REGISTRATION OF LAND TITLES AND DEEDS*, p. 166 (1980 rev. ed.).



which dispenses with the need to present proof of the matter of fact already admitted.⁴⁸ The Pre-Trial Order dated April 22, 2003 states: “Atty. Aquino denied that Tranquilino Agbayani executed a Deed of Absolute Sale in favor of Nonito Agbayani. According to Atty. Aquino there was no such sale.”⁴⁹

Regarding admissions by counsel of a party during the preliminary conference, *Camitan v. Fidelity Investment Corporation*⁵⁰ is instructive:

x x x Unfortunately for petitioners, their counsel admitted the genuineness of the owner’s duplicate copy of the TCT presented by Fidelity during the preliminary conference at the CA. The following exchange is revealing:

J. MARTIN:

Counsel for the private respondent, will you go over the owner’s copy and manifest to the court whether that is a genuine owner’s copy?

ATTY. MENDOZA:

Yes, Your Honor.

J. MARTIN:

Alright. Make it of record that after examining the owner’s copy of TCT NO. (T-12110) T-4342, counsel for the private respondent admitted that the same appears to be a genuine owner’s copy of the transfer certificate of title. x x x

x x x x

The foregoing transcript of the preliminary conference indubitably shows that counsel for petitioners made a judicial admission and failed to refute that admission during the said proceedings despite the opportunity to do so. A judicial admission is an admission, verbal or written, made by a party in the course of the proceedings in the same case, which dispenses with the need for proof with respect to the matter or fact admitted. It may be contradicted only by a showing that it was made through palpable mistake or that no such admission was made.⁵¹

On the other hand, American jurisprudence sets the following parameters on judicial admissions:

A judicial admission is a formal statement, either by party or his or her attorney, in course of judicial proceeding which removes an admitted fact from field of controversy. It is a voluntary concession of fact by a party or a party’s attorney during judicial proceedings.

Judicial admissions are used as a substitute for legal evidence at trial. Admissions made in the course of judicial proceedings or judicial

⁴⁸ See *rollo*, p. 23.

⁴⁹ Records, p. 167.

⁵⁰ 574 Phil. 672 (2008).

⁵¹ Id. at 680-682, citing RULES OF COURT, Rule 129, Sec. 4.

admissions waive or dispense with, the production of evidence, and the actual proof of facts by conceding for the purpose of litigation that the proposition of the fact alleged by the opponent is true. x x x

A judicial admission is a deliberate, clear, unequivocal statement of a party about a concrete fact within that party's peculiar knowledge, not a matter of law. x x x In order to constitute a judicial admission, the statement must be one of fact, not opinion. To be a judicial admission, a statement must be contrary to an essential fact or defense asserted by the person giving the testimony; it must be deliberate, clear and unequivocal x x x.

Judicial admissions are evidence against the party who made them, and are considered conclusive and binding as to the party making the judicial admission. A judicial admission bars the admitting party from disputing it. x x x

A judicial admission of fact may carry with it an admission of other facts necessarily implied from it.

x x x x

Judicial admissions may occur at any point during the litigation process. An admission in open court is a judicial admission. x x x⁵²

The admission by Nonito's counsel during the pre-trial proceedings before the RTC that there was no sale between Tranquilino and Nonito qualifies as a judicial admission because the statement is a deliberate, clear, unequivocal statement of a party's attorney during judicial proceedings in open court about a concrete or essential fact within that party's peculiar knowledge. Since such statement is a judicial admission, it does not require proof according to Section 4, Rule 129 of the Rules of Court, which provides:

SEC. 4. *Judicial admissions.* – An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

Moreover, there was no palpable mistake on the part of Nonito's counsel in making the admission because in the offer of Nonito's testimony on December 2, 2008, he stated that "the land was the property in suit was never sold to him [Nonito] by his brother Tranquilino Agbayani."⁵³ That is not all. The admission by Nonito himself, on cross-examination by Tranquilino's counsel, that Tranquilino was in the United States at the time of the purported transaction⁵⁴ supports the statement of the counsel of Nonito that there was no sale between Tranquilino and Nonito.

Since there is judicial admission that there was no sale of the subject land between Tranquilino and Nonito, affirmed anew during oral testimony

⁵² 29A Am. Jur. 2d, Evidence §§ 770-771, pp. 136-138. Citations omitted.

⁵³ TSN, December 2, 2008, p. 3.

⁵⁴ Id. at 8.

by Nonito himself, then there is no question that the 1992 DAS is void. The three requisites of a simulated contract are existent. There is a deliberate declaration that Tranquilino sold the subject land to Nonito, which is contrary to their will because there was no sale between them. The agreement appears on its face to be a valid act. The purpose is to deceive third persons into believing that there was such a sale between them.

Consequently, the CA committed egregious error when it made the finding that the 1992 DAS is valid. Given that Tranquilino did not sell the subject land to Nonito, it could not have been sold by Nonito to Moriel and Moriel could not, in turn, have sold it to Lupa Realty.

Lupa Realty's argument that Tranquilino's action for declaration of nullity of the 1997 DAS is not the direct proceeding required by law to attack a Torrens certificate of title since it cannot be collaterally attacked, upheld by the CA, is untenable.

In deference to the conclusiveness and indefeasibility of Torrens titles, a certificate of title shall not be subject to collateral attack pursuant to Section 48 of PD 1529.

As to what constitutes a direct attack on a Torrens title, the Court observed in *Firaza, Sr. v. Spouses Ugay*:⁵⁵

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.** x x x⁵⁶

Here, there is a direct attack on Lupa Realty's TCT.

Firstly, the Complaint filed by Tranquilino before the RTC is captioned: "For: Reivindicacion, Cancellation of Title and Document with Damages."⁵⁷

Secondly, the Complaint alleged:

7. That the "Deed Absolute Sale" [or 1997 DAS] (Annex "B") is a falsified document and the signature purporting to be that of the plaintiff in said document is a forgery for the reason that he never sold the land in suit to anybody; that he never signed said document; that he never received P425,500.00 from the defendant; that he never appeared before

⁵⁵ 708 Phil. 24 (2013).

⁵⁶ Id. at 29. Citations omitted.

⁵⁷ *Rollo*, p. 63.



Notary Public Agustin Ladera in Cauayan, Isabela on October 29, 1997 because on that date he was in the United States of America.

8. That as a consequence, the “Deed Absolute Sale” (Annex “B”) should be declared null and void and that Transfer Certificate of Title No. T-109129 (in the name of the defendant) should also be declared null and void, and cancelled and that Original Certificate of Title No. P-46041 in the name of the plaintiff should be revived and reinstated.⁵⁸

Thirdly, the Complaint prayed that judgment be rendered for Tranquilino declaring, among others, the nullity and ordering the cancellation of TCT No. T-109129 (in the name of Lupa Realty) and ordering the revival and reinstatement of OCT No. P-46041 in the name of Tranquilino.⁵⁹

The foregoing clearly show that the Complaint purposefully sought the cancellation of Lupa Realty’s TCT, which is a direct attack thereon.

With the pronouncement that there could not have been a valid sale of the subject land to Lupa Realty, the latter cannot qualify as an IPV. Also, the Court totally agrees with the RTC that:

x x x [Lupa Realty] is a corporation whose business is, as apparent in its business name, mainly concern[ed with] real estate, thus, it is incredible that it would entirely leave the transfer of the title into the hands of Moriel x x x and his mother. It is expected that it would exert due diligence in its transactions, it being in the realty business. x x x⁶⁰

Evidently, in allowing the falsified 1997 DAS to cause the cancellation of Tranquilino’s OCT and the issuance of a TCT in its name, Lupa Realty acted in bad faith.

WHEREFORE, the Petition is hereby **GRANTED**. The Decision dated September 14, 2011 and the Resolution dated March 9, 2012 of the Court of Appeals in CA-G.R. CV No. 93912 are **REVERSED** and **SET ASIDE**. The Decision dated June 15, 2009 rendered by the Regional Trial Court, Branch 7, Aparri, Cagayan in Civil Case No. 07-532 is **REINSTATED** with **modifications**: with respect to no. 1: “OCT No. P-109129 in the name of Lupa Realty ...” should instead read “**TCT** No. **T**-109129 in the name of Lupa Realty ...” and no. 2: “TCT No. T-46041 in the name of the plaintiff ...” should instead read “**OCT** No. **P**-46041 in the name of the plaintiff ...”

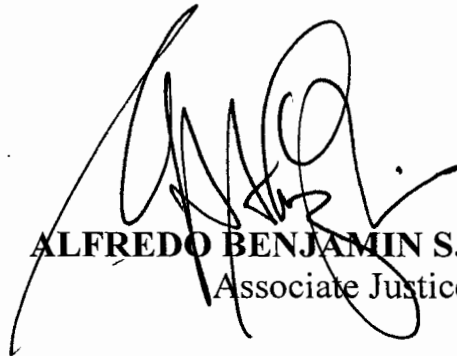
⁵⁸ Id. at 64-65.

⁵⁹ Id. at 65.

⁶⁰ Id. at 92.



SO ORDERED.

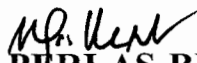


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice

(On leave)

JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

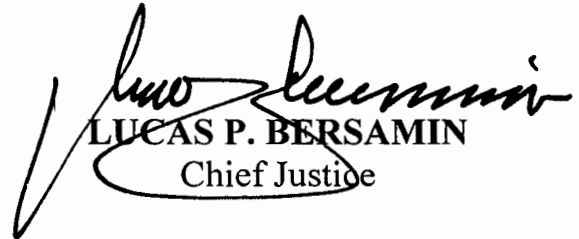
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

