



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 February 2022** which reads as follows:*

**“G.R. No. 251319 (*Gregorio B. Cancio, Jr. v. AFP-Retirement and Separation Benefits System (AFPRSBS)*). –** Before the Court is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision<sup>2</sup> dated August 9, 2019 and the Resolution<sup>3</sup> dated January 6, 2020 of the Court of Appeals (CA) in CA-G.R. CV No. 107281. The CA reversed the Decision<sup>4</sup> dated April 18, 2016 and the Order<sup>5</sup> dated June 24, 2016 of Branch 227, Regional Trial Court (RTC), Quezon City that dismissed the complaint for cancellation of titles filed by respondent AFP-Retirement and Separation Benefits System (AFPRSBS) for lack of jurisdiction.

*The Antecedents*

The case involves two lots situated in New Manila, Quezon City each covered by two different Transfer Certificates of Titles (TCTs)<sup>6</sup> with the following details:

1. Lot No. 52 with an area of 63 square meters (sqm) covered by TCT Nos. 335141<sup>7</sup> and 384032<sup>8</sup> both registered in the name of Lily T. David (David); and

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<sup>1</sup> *Rollo*, pp. 12-31.

<sup>2</sup> *Id.* at 33-46; penned by Associate Justice Pablito A. Perez with Associate Justices Manuel M. Barrios and Ronaldo Roberto B. Martin, concurring.

<sup>3</sup> *Id.* at 58-60.

<sup>4</sup> *Id.* at 90-97; rendered by Presiding Judge Elvira D.C. Panganiban.

<sup>5</sup> *Id.* at 120.

<sup>6</sup> *Id.* at 34.

<sup>7</sup> *Id.* at 72-74.

<sup>8</sup> *Id.* at 82-84.

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2. Lot No. 53 with an area of 63 sqm covered by TCT Nos. 335140<sup>9</sup> and 384031<sup>10</sup> both registered in the name of Virginia V. Reyes (Reyes).<sup>11</sup>

TCT Nos. 335141 and 335140 were issued on September 23, 1985 from cancelled TCT Nos. 324297/T-1626 and 324298/T-1626, respectively. On the other hand, TCT Nos. 384032 and 384031 were issued on June 7, 1988 also from TCT Nos. 324297/T-1626 and 324298/T-1626, respectively. Both TCT Nos. 384032 and 384031 contained a Memorandum stating that “[t]his title has been issued by virtue of an order of the court dated June 3, 1988.”<sup>12</sup>

The original copies of TCT Nos. 335141, 335140, 384032, and 384031 were destroyed when the Registry of Deeds of Quezon City caught fire on June 11, 1988.<sup>13</sup>

Reyes and David, through their Attorney-in-Fact, Evelyn Calidguid,<sup>14</sup> mortgaged the two lots to AFPRSBS on November 14, 1991 as security for a loan of ₱4,500,000.00. Because the original copies of the titles were not yet reconstituted, AFPRSBS provisionally registered the mortgages on the owner’s duplicate copies of TCT Nos. 335141 and 335140 on the same date.<sup>15</sup>

However, on June 28, 1993, the two lots were again mortgaged by Reyes and David to herein petitioner Gregorio Cancio, Jr. (Cancio) as security for their respective loans amounting to ₱600,000.00 each. The mortgages were likewise provisionally registered on the same date on the owner’s duplicate copies of TCT Nos. 384032 and 384031.<sup>16</sup>

When Reyes and David failed to pay their debts, they offered to sell the lots to Cancio by way of *dacion en pago*. They obtained certifications from the Register of Deeds of Quezon City stating that the owner’s copies of the TCTs were genuine and authentic. Thus, Cancio released the subject lots from mortgage and had his liens cancelled from the titles. Thereafter, Reyes and David executed Deeds of Absolute Sale

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<sup>9</sup> *Id.* at 69-71.

<sup>10</sup> *Id.* at 79-81.

<sup>11</sup> *Id.* at 34.

<sup>12</sup> *Id.* at 80, 83.

<sup>13</sup> *Id.* at 34.

<sup>14</sup> *Id.* at 75-78.

<sup>15</sup> *Id.* at 34, 71, 74.

<sup>16</sup> *Id.* at 34-35, 81, 84.

over the lots in favor of Cancio.<sup>17</sup>

Meanwhile, Reyes and David also defaulted on their loan obligations with AFPRSBS. Thus, AFPRSBS commenced the foreclosure on the mortgages on TCT Nos. 335141 and 335140.<sup>18</sup>

When AFPRSBS found out that the lots had already been sold to Cancio, it filed a Complaint<sup>19</sup> for Cancellation of TCT Nos. 384031 and 384032 before the RTC. It alleged that the issuance of the TCTs on June 7, 1988 was null and void because they pertain to the same lots respectively covered by TCT Nos. 335141 and 335140 which were issued earlier or on September 23, 1985. Following the legal maxim *prior est in tempore, potior est in jure* or “he who is first in time is preferred in right,” AFPRSBS prayed that TCT Nos. 384032 and 384031 be cancelled and declared as null and void.<sup>20</sup>

#### *Ruling of the RTC*

In the Decision<sup>21</sup> dated April 18, 2016, the RTC dismissed the complaint for lack of jurisdiction. It ruled that the complaint being in the nature of a real action, AFPRSBS should have alleged the assessed value of the property that is the subject matter of a controversy; and the complaint and evidence presented by AFPRSBS were bereft of any showing of such fact which was fatal to its cause. Thus, it dismissed the complaint for lack of jurisdiction over the action.<sup>22</sup>

AFPRSBS sought reconsideration<sup>23</sup> of the Decision, but the RTC denied it in an Order<sup>24</sup> dated June 24, 2016.

#### *Ruling of the CA*

On appeal by AFPRSBS, the CA, in its assailed Decision<sup>25</sup> dated August 9, 2019, reversed the RTC. The decretal portion of the decision reads:

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<sup>17</sup> *Id.* at 35.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 62-68.

<sup>20</sup> *Id.* at 65-66.

<sup>21</sup> *Id.* at 90-97.

<sup>22</sup> *Id.* at 95.

<sup>23</sup> See Motion for Reconsideration dated May 23, 2016, *id.* at 99-105.

<sup>24</sup> *Id.* at 120.

<sup>25</sup> *Id.* at 33-46.

WHEREFORE, this Appeal is GRANTED. The *Decision* and *Order* dated April 18, 2016 and June 24, 2016 respectively, of the Regional Trial Court, National Capital Judicial Region, Branch 227, Quezon City in Civil Case No. Q-98-34699 are hereby REVERSED and SET ASIDE.

The Register of Deeds of Quezon City is hereby ordered to CANCEL Transfer Certificate of Title No. 384031 in the name of Virginia V. Reyes and Transfer Certificate of Title No. 384032 in the name of Lily T. David which are hereby declared as NULL and VOID.

SO ORDERED.<sup>26</sup>

In granting the appeal, the CA explained that AFPRSBS did not raise before the RTC the issue of who between it and Cancio had title to the two lots; although Cancio claimed ownership over the two lots by reason of the sale executed by Reyes and David in his favor, AFPRSBS did not claim title or ownership over them being a mere mortgagee of the lots. Thus, it ruled that the issue before the RTC was which TCTs, among the several TCTs covering the properties, were valid. It further ruled that consequently, the action before the RTC was not a real action that involved title, ownership, or interest in real property; but rather an action incapable of pecuniary estimation cognizable by the RTC.<sup>27</sup>

Further, the CA, in resolving the case on the merits, pointed out the following irregularities in the issuance of TCT Nos. 384031 and 384032 which raised serious doubts on their authenticity:

1. The title numbers of TCT Nos. 384031 and 384032 do not have the letters "RT" which ordinarily precede title numbers of reconstituted titles.
2. The Memorandum on TCT Nos. 384031 and 384032 do not contain the information required to be stated on reconstituted titles under Section 17 of RA 26.

x x x x.

The Memorandum on TCT Nos. 384031 and 384032 cannot be taken as compliance with the above-described certification for all that it contains is a statement that the certificates "were issued by virtue of an Order of the court dated June 3, 1998" without specifying which court and in what proceedings said order was issued.

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<sup>26</sup> *Id.* at 43.

<sup>27</sup> *Id.* at 40-41.

3. Based on practice, the Register of Deeds of Quezon City takes more than fifteen (15) days to issue reconstituted certificates of title. This is to ensure that the order of reconstitution has become final and executory. Here, TCT Nos. 384031 and 384032 were issued merely four (4) days after the issuance of the order dated June 3, 1988 directing its reconstitution. This shows that TCT Nos. 384031 and 384032 were issued posthaste.<sup>28</sup>

The CA furthermore observed that Cancio made no attempts to explain the foregoing irregularities. Worse, he did not present a copy of the Order dated June 3, 1988 which was the basis for the issuance of the TCTs. Because of the irregularities and the failure of Cancio to prove the basis for the issuance of the titles, the CA declared them to be null and void and ordered their cancellation.<sup>29</sup>

Cancio filed a Motion for Reconsideration<sup>30</sup> of the CA Decision. However, the CA denied it in a Resolution<sup>31</sup> dated January 6, 2020.

Hence, the petition before the Court.

#### *The Issues*

The issues to be resolved in the case are: *First*, whether the CA erred in declaring TCT Nos. 384031 and 384032 as null and void and *Second*, whether the CA erred in not holding that Cancio was an innocent purchaser in good faith.

In his petition, Cancio asserts that there is no issue as to the Order of reconstitution because the complaint itself alleged such court order.<sup>32</sup> Moreover, he submits that AFPRSBS forwarded the theory that the issuance of TCT Nos. 384031 and 384032 has no basis in fact and in law because they involve the same properties covered by TCT Nos. 335141 and 335140. Thus, it was grave error on the part of the CA to rule on the irregularities surrounding the issuance of the titles when they were not made subject of litigation, evidence, and arguments of the parties.<sup>33</sup>

Still, Cancio argues that before accepting the properties as payment

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<sup>28</sup> See CA Decision, *id.* at 42.

<sup>29</sup> *Id.* at 43.

<sup>30</sup> *Id.* at 47-56.

<sup>31</sup> *Id.* at 58-60.

<sup>32</sup> *Id.* at 21-22.

<sup>33</sup> *Id.* at 22-23.

for loans obtained from him by Reyes and David, he required the submission of certifications from the Register of Deeds of Quezon City on the genuineness and authenticity of the TCTs. Hence, assuming that the titles were invalid, they should not be cancelled because it will prejudice him who is an innocent purchaser in good faith and for value.<sup>34</sup>

In its Comment,<sup>35</sup> AFPRSBS maintains that the parties actively participated during the trial of the case where they presented their respective sides of the issues.<sup>36</sup> Through its witnesses and documentary pieces of evidence, it clearly established that TCT Nos. 384031 and 384032 were fabricated, falsified, and issued anomalously and fictitiously. The burden of evidence was then shifted to Cancio to contravene AFPRSBS's *prima facie* case, but he failed to discharge such burden.<sup>37</sup>

Further, AFPRSBS contends that Cancio is a purchaser in bad faith. It points out that while Cancio claims that the properties were first mortgaged to him before Reyes and David executed deeds of absolute sale in his favor, the annotations on the titles would reveal otherwise. The alleged deeds of absolute sale were dated and notarized on June 21, 1993 or before the date of the real estate mortgages on June 28, 1993. For AFPRSBS, the documentary pieces of evidence were contrary to Cancio's testimony.<sup>38</sup> Moreover, AFPRSBS asserts that Cancio only paid ₱818,000.00 for the two lots that he considered to be prime properties; and that he never occupied or possessed them from the date of his purchase in 1993.<sup>39</sup>

In his Reply,<sup>40</sup> Cancio counters that there is no evidence that the issuance of TCT Nos. 384031 and 384032 was tainted with irregularities. Cancio further argues that Atty. Carlo V. Alcantara (Atty. Alcantara), the Deputy Registrar of Deeds of Quezon City and AFPRSBS' witness, was neither an expert witness nor a witness who could testify on the regularity or irregularity in the issuance of the subject titles; and that he only testified on the Register of Deeds' procedure in issuing a new title in favor of a new owner.<sup>41</sup>

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<sup>34</sup> *Id.* at 25.

<sup>35</sup> *Id.* at 123-130.

<sup>36</sup> *Id.* at 124.

<sup>37</sup> *Id.* at 125-126.

<sup>38</sup> *Id.* at 127.

<sup>39</sup> *Id.* at 126.

<sup>40</sup> *Id.* at 135-142.

<sup>41</sup> *Id.* at 135-136.

*The Court's Ruling*

The petition lacks merit.

*First*, Cancio insists that there is no issue on the Order of reconstitution as the complaint in the RTC itself alleged such court order. In his petition, he even quoted paragraph 11 of the complaint:

53. First. There is NO ISSUE in the proceedings a quo on the validity of the court order to reconstitute TCT Nos. 384031 and 384032. This is because the Complaint itself alleged that TCT Nos. 384031 and 384032 “were issued by the Register of Deeds in the name of Virginia V. Reyes and Lily T. David” “by virtue of a court order dated June 3, 1988.”<sup>42</sup>

Cancio submits that there was a judicial admission by AFPRSBS on the existence of the court order which need not be proven or questioned anymore.<sup>43</sup>

However, a reading of the complaint would show that the following phrase was used by AFPRSBS in paragraph 11:

11. That by virtue of an alleged court order dated June 3, 1988,  
x x x<sup>44</sup>

Cancio wants the Court to believe that the purported June 3, 1988 Order of an unknown court is already a non-issue because AFPRSBS admitted its existence in its complaint before the RTC. This is an outright misleading allegation. As can be readily seen, Cancio purposely omitted the word “alleged” before the word “court order” when he quoted paragraph 11 of the complaint in the present petition. This omission is material in that the use of the word “alleged” by AFPRSBS would belie Cancio’s contention that there was already an admission by AFPRSBS as to the existence of the supposed June 3, 1988 Order which, in turn, directed the reconstitution of TCT Nos. 335141 and 335140.

Interestingly, while Cancio refers to the June 3, 1988 Order as the basis for the issuance of TCT Nos. 384031 and 384032, the record is bereft of any indication that a copy of the purported Order was presented in evidence before the RTC. Although the assailed CA Decision

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<sup>42</sup> *Id.* at 21.

<sup>43</sup> *Id.* at 22.

<sup>44</sup> *Id.* at 64.

mentioned this issue,<sup>45</sup> Cancio still failed to attach a copy thereof in the petition even as a last-ditch effort to prove its existence. Verily, instead of claiming lack of due process, Cancio could have set the issue straight as he had all the time and the opportunity to do so from the proceedings in the RTC all the way to the present petition in the Court. The Court notes that the case was heard on the merits and a full-blown trial was conducted by the RTC. Thus, Cancio's claim that the assailed CA Decision was "unfair and inequitable and an utter violation of due process"<sup>46</sup> is wanting in factual and legal bases.

*Second*, contrary to the submission of Cancio, the CA did not change the theory of the case. The RTC Decision dated April 18, 2016 states that the issue submitted to the Court was "*whether or not TCT Nos. 384031 and 384032 should be cancelled on the ground that Defendant Cancio allegedly secured the reconstitution of the originally burned TCT Nos. 335140 and 335141 so that while the owner's copies of which were surrendered to the plaintiff by virtue of a mortgage, a second replacement set was issued on the same parcels of land to said defendant Cancio, Jr. without knowledge and to the prejudice of plaintiff mortgagee.*"<sup>47</sup>

In sum, the complaint before the RTC was for the cancellation of TCT Nos. 384031 and 384032 and the issue precisely revolves around their issuances. While the RTC dismissed the case for lack of jurisdiction, AFPRSBS appealed to the CA raising the issues on the propriety of the RTC's dismissal of the case and the validity of the TCTs.<sup>48</sup>

In this regard, Section 15, Rule 44 of the Rules of Court sets forth the matters that may be raised on appeal, *viz.*:

Section 15. *Questions that may be raised on appeal.* — Whether or not the appellant has filed a motion for new trial in the court below he may include in his assignment of errors any question of law or fact that has been raised in the court below and which is within the issues framed by the parties.

From the foregoing, it is clear that there was no change of theory in the case from the RTC to the CA. The complaint for the cancellation

<sup>45</sup> As culled from the CA Decision; *id.* at 43.

<sup>46</sup> *Id.* at 22.

<sup>47</sup> *Id.* at 94.

<sup>48</sup> See *id.* at 38.



of the subject titles necessarily involved issues pertaining to their validity. Thus, there was no grave error on the part of the CA when it ruled on the merits of the case after issues in connection with the validity of the titles were raised by AFPRSBS in its appeal.

At any rate, Cancio should not feign surprise as to the issues raised in the appeal. During the trial in the RTC, Atty. Carlos Alcantara, Deputy Register of Deeds of Quezon City, testified on the procedure on the issuance of reconstituted titles pursuant to a court order. It was from his testimony that the CA found out that the issuance of TCT Nos. 384031 and 384032 was tainted with irregularities.<sup>49</sup> Cancio cannot expect the CA to turn a blind eye to the facts established by evidence on record. This is especially true given that the RTC dismissed the case on technicality and without discussion on the merits. For sure, the CA is not precluded from examining the whole records of cases elevated before it particularly when issues on the merits are raised on appeal.

*Lastly*, the Court adheres to the principle in land registration that he or she who is first in time is preferred in right.<sup>50</sup> As similarly enunciated by the Court in the case of *Metropolitan Waterworks and Sewerage Systems v. Court of Appeals*,<sup>51</sup> where two certificates of titles refer to the same land, the title earlier in date prevails. Thus:

It must be observed that the title of petitioner MWSS was a transfer from TCT No. 36957 which was derived from OCT No. 994 registered on May 3, 1917. Upon the other hand, private respondents' title was derived from the same OCT No. 994 but dated April 19, 1917. Where two certificates (of title) purport to include the same land, the earlier in date prevails xxx. In successive registrations, where more than one certificate is issued in respect of a particular estate or interest in land, the person claiming under the prior certificate is entitled to the estate or interest; and the person is deemed to hold under the prior certificate who is the holder of, or whose claim is derived directly or indirectly from the person who was the holder of the earliest certificate issued in respect thereof. Hence, in point of priority of issuance, private respondents' title prevails over that of petitioner MWSS.<sup>52</sup>

As earlier stated, TCT Nos. 335141 and 335140 were issued on September 23, 1985 from cancelled TCT Nos. 324297/T-1626 and 324298/T-1626, respectively. On the other hand, TCT Nos. 384032 and

<sup>49</sup> *Id.* at 42.

<sup>50</sup> *See Garcia v. Court of Appeals*, 184 Phil. 358, 365 (1980).

<sup>51</sup> 290 Phil. 284, 289 (1992), citing *Pamintuan v. San Agustin*, 43 Phil. 558 (1922).

<sup>52</sup> *Id.* at 289.

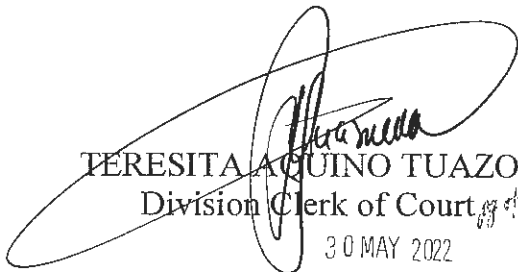
384031 were issued later on June 7, 1988 also from TCT Nos. 324297/T-1626 and 324298/T-1626 by virtue of a supposed court order. Following jurisprudence, TCT Nos. 335141 and 335140, which were issued on an earlier date, prevail. Whether or not Cancio is an innocent purchaser in good faith of the properties is rendered immaterial.

All told, the Court sees no reason to deviate from the ruling of the CA in the assailed Decision and Resolution.

**WHEREFORE**, the petition is **DENIED**. The Decision dated August 9, 2019 and the Resolution dated January 6, 2020 of the Court of Appeals in CA-G.R. CV No. 107281 are **AFFIRMED**.

**SO ORDERED.**"

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
30 MAY 2022

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HON. PRESIDING JUDGE (reg)  
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(Civil Case No. Q-98-34699)

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