



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **January 16, 2023** which reads as follows:*

“G.R. No. 258152 (ANALYN L. CHAN, Petitioner v. CARLITO AGUINALDO, Respondent). — This Petition for Review on *Certiorari*¹ assails the Decision² dated June 15, 2021 of the Court of Appeals in CA-G.R. CV No. 114396 dismissing the petition for cancellation of notice of adverse claim and Resolution³ dated November 12, 2021 denying reconsideration.

Antecedents

On June 16, 2017, petitioner Analyn L. Chan filed a verified petition for cancellation of notice of adverse claim⁴ before the Regional Trial Court–Imus, Cavite. She alleged that she is the registered and absolute owner of five (5) parcels of land located in Kawit, Cavite, with an aggregate area of 7,663 square meters, covered by Transfer Certificate of Title (TCT) Nos. 071-2016000935,⁵ 071-2016000936,⁶ 071-2016000937,⁷ 071-2016000939⁸ and 071-2016000940,⁹ issued by the Register of Deeds for Cavite City. As owner, she has been religiously paying the real property taxes on the properties.¹⁰ She purchased the same from Bermuda Development Corporation and titles thereto were transferred to her name on March 9, 2016.¹¹

On January 10, 2017, a notice of adverse claim was caused to be annotated by respondent Carlito Aguinaldo on TCT Nos. 071-2016000935, 071-2016000936, 071-2016000937, 071-2016000939, and 071-2016000940

¹ *Rollo*, pp. 3-27.

² *Id.* at 33-45; Penned by Associate Justice Myra V. Garcia-Fernandez, and concurred in by Associate Justices Louis P. Acosta and Carlito B. Calpatura.

³ *Id.* at 47-48; Penned by Associate Justice Myra V. Garcia-Fernandez, and concurred in by Associate Justices Louis P. Acosta and Carlito B. Calpatura.

⁴ *Id.* at 6.

⁵ Area covering 7,275 square meters, more or less.

⁶ Area covering 24 square meters, more or less.

⁷ Area covering 161 square meters, more or less.

⁸ Area covering 31 square meters, more or less.

⁹ Area covering 172 square meters, more or less.

¹⁰ *Rollo*, pp. 5-6.

¹¹ *Id.* at 6.

entered as Entry No. 201700077.¹² In his Sworn Affidavit of Adverse Claim,¹³ respondent rooted his claim on his “actual, open, adverse and continuous physical possession of the subject properties in the concept of an owner” for “several years” prior to the issuance of the certificates of title over the subject properties in the name of petitioner. Further, he stated that the subject properties were still being disputed before the Department of Environment and Natural Resources, Community Environment and Natural Resources Office (DENR CENRO).¹⁴

Five (5) months after the inscription, however, respondent did not file any action to prove and defend his claim.¹⁵

In his comment/opposition, respondent argued that “he had factual and legal basis for the annotation of his adverse claim which is the existence of his adverse title of ownership of the properties in question as can be gleaned from his *“Affidavit of Adverse Claim.”*”¹⁶

During the hearing, petitioner testified that she only found out about the adverse claim after the titles were already transferred to her name.¹⁷ After petitioner’s direct testimony, respondent’s counsel opted not to conduct his cross-examination but prayed that the parties be allowed to submit their position papers. On petitioner’s motion, the trial court considered respondent to have waived his right to cross-examine petitioner. As for respondent’s motion to submit position paper, the trial court denied the same.¹⁸

On April 26, 2018, petitioner made her formal offer of evidence which was admitted by the Regional Trial Court–Imus on April 30, 2018. The case was then submitted for decision.¹⁹

On May 7, 2018, however, respondent filed a Memorandum alleging that he strongly opposed the petition for cancellation of adverse claim; the petition was anchored merely on the lapse of the thirty (30) day-period as mandated by Presidential Decree No. 1529 (PD No. 1529); the same, however, will not automatically nullify the adverse claim; the documentary exhibits formally offered by petitioner merely proved her ownership of the properties but did not show that respondent’s adverse claim was invalid; and the determination of which between the two (2) certificates of title should prevail cannot be adjudged in a mere summary proceeding. Respondent's

¹² *Id.*

¹³ *Id.* at 97-103.

¹⁴ *Id.* at 100.

¹⁵ *Id.*

¹⁶ *Id.* at 35.

¹⁷ *Id.* at 37.

¹⁸ *Id.*

¹⁹ *Id.* at 165.

Memorandum bore as attachments photocopies of the Original Certificate of Title (OCT) No. 2011000082 (issued by the Department of Natural Resources denominated as *Katibayan ng Orihinal na Titulo Blg. 2011000082, Patente Blg. 042111-10-13556*)²⁰ and his Affidavit of Adverse Claim.²¹ As it was, though, the trial court admitted respondent's Memorandum "in the interest of justice."²²

The Trial Court's Ruling

By Decision²³ dated November 20, 2018, the trial court granted the petition and directed the cancellation of the annotation of adverse claim under Entry No. 2017000077 appearing on TCT Nos. 071-2016000935, 071-2016000936, 071-2016000937, 071-2016000939 and 071-2016000940 pursuant to Section 70 of Presidential Decree No. 1529. The trial court concluded that a mere photocopy of the title cannot ultimately prove the falsity or truth of respondent's adverse claim.

In his motion for reconsideration, respondent asserted that he can already present a certified true copy of OCT No. 2011000082. He, however, did not readily attach to his motion for reconsideration the alleged certified true copy, but submitted it only much later²⁴ through a pleading captioned as "Manifestation Submitting for Resolution Oppositor's Motion for Reconsideration,"²⁵ *sans* appearance and further argument.²⁶ Petitioner opposed both motion for reconsideration and manifestation.

At the hearing on the motion for reconsideration, only petitioner and her counsel appeared.²⁷ Hence, the trial court considered the motion for reconsideration submitted for resolution. Thereafter, by Order dated July 29, 2019, the trial court denied the motion for reconsideration.²⁸

The Court of Appeals' Ruling

In his appeal, respondent maintained that: (1) the adverse claim is lawful and valid being anchored on another existing original certificate of title in his name covering the same properties, (2) the mere lapse of thirty (30) days will not automatically nullify the adverse claim, and (3) the best evidence rule

²⁰ *Id.* at 99.

²¹ *Id.* at 39.

²² *Id.* at 51.

²³ Penned by Acting Presiding Judge Josefina E. Siscar; *id.* at 49-52.

²⁴ *Id.* at 40.

²⁵ *Id.* at 8.

²⁶ *Id.* at 40.

²⁷ *Id.*

²⁸ *Id.*

does not apply to the case because the OCT is a public document which is self-authenticating and requires no further authentication in order to be presented in court.²⁹

Petitioner, on the other hand, argued that respondent's adverse claim is anchored on an unidentified and merely photocopied OCT No. 2011000082 which was not properly presented despite the fact that respondent was given his day in court. Thus, OCT No. 2011000082 is inadmissible in evidence.

By Decision³⁰ dated June 15, 2021, the Court of Appeals granted respondent's appeal and reversed the trial court's Decision dated November 20, 2018 and Resolution dated July 29, 2019. It ruled that the evidence presented by petitioner merely showed that she is the registered owner of the subject properties, as evidenced by the TCTs issued in her name. Such documents did not show that respondent's adverse claim is invalid. Further, a notice of adverse claim remains to be effective unless ordered by the court upon a finding that the same is invalid. It ruled that other than the lapse of the 30-day period, petitioner did not raise any other argument to show that the notice of adverse claim is invalid.

Petitioner's motion for reconsideration was denied per Resolution³¹ dated November 12, 2021.

The Present Petition for Review on *Certiorari*

Petitioner now seeks to reverse the foregoing dispositions of the Court of Appeals and reinstate the trial court's dispositions in her favor. She argues that her petition for cancellation of respondent's notice of adverse claim was proper because a mere photocopy of respondent's alleged title has no weight in evidence; the so-called certified true copy of respondent's alleged title was not tendered by him as evidence; respondent's adverse claim is invalid; and the frivolous character of respondent's adverse claim was all the more apparent from his actions and inaction since the annotation of his adverse claim and even during the proceedings before the trial court. She points out respondent's false declaration in his Sworn Affidavit of Adverse Claim that the subject properties were still being disputed when in fact, said controversy has already been resolved when the DENR CENRO ordered the cancellation of respondent's free patent on December 18, 2014, as annotated on his title. She further asserts that the continuous annotation of respondent's adverse claim affects the negotiability of her properties.

²⁹ *Id.* at 168-178.

³⁰ Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Louis P. Acosta and Carlito B. Calpatura; *id.* at 33-45.

³¹ Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Louis P. Acosta and Carlito B. Calpatura; *id.* at 47-48.

In his comment, respondent reiterates that his adverse claim is valid being anchored on another existing original certificate of title; and the mere lapse of 30 days will not automatically nullify the adverse claim.

Our Ruling

We reverse.

Section 70 of Presidential Decree No. 1529 governs how adverse claims are registered and resolved, thus:

Section 70. Adverse claim. Whoever claims any part or interest in registered land adverse to the registered owner, arising subsequent to the date of the original registration, may, if no other provision is made in this Decree for registering the same, make a statement in writing setting forth fully his alleged right or interest, and how or under whom acquired, a reference to the number of the certificate of title of the registered owner, the name of the registered owner, and a description of the land in which the right or interest is claimed.

The statement shall be signed and sworn to, and shall state the adverse claimant's residence, and a place at which all notices may be served upon him. This statement shall be entitled to registration as an adverse claim on the certificate of title. The adverse claim shall be effective for a period of thirty days from the date of registration. After the lapse of said period, the annotation of adverse claim may be canceled upon filing of a verified petition therefor by the party in interest: Provided, however, that after cancellation, no second adverse claim based on the same ground shall be registered by the same claimant.

Before the lapse of thirty days aforesaid, any party in interest may file a petition in the Court of First Instance where the land is situated for the cancellation of the adverse claim, and the court shall grant a speedy hearing upon the question of the validity of such adverse claim, and shall render judgment as may be just and equitable. If the adverse claim is adjudged to be invalid, the registration thereof shall be ordered canceled. If, in any case, the court, after notice and hearing, shall find that the adverse claim thus registered was frivolous, it may fine the claimant in an amount not less than one thousand pesos nor more than five thousand pesos, in its discretion. Before the lapse of thirty days, the claimant may withdraw his adverse claim by filing with the Register of Deeds a sworn petition to that effect. (Emphasis supplied)

Submission of a mere photocopy of the supposed overlapping title and even the so-called certified true copy

thereof, sans its identification or authentication, much less, formal offer is devoid of any evidentiary value

Respondent never formally offered in evidence the so-called OCT No. 2011000082 supposedly bearing his name as registered owner of the land in question. He simply attached a photocopy thereof to his Opposition to the Petition for Cancellation of Adverse Claim. Nor did he submit, much less, offer in evidence, the original or certified true copy of the title. He did not even attach the same to his subsequent motion for reconsideration. As it was though, a supposed certified true copy of OCT No. 2011000082 surfaced much later as a mere attachment to his "Manifestation Submitting for Resolution Oppositor's Motion for Reconsideration," which he qualified with "*sans* appearance and further argument." Nonetheless, during the hearing on his motion for reconsideration, neither he nor his counsel appeared. Only petitioner and her counsel were present.

In *Sps. Bautista v. Del Valle*,³² this Court laid down the general rule that evidence not formally offered during the trial cannot be used for or against a party litigant. Even the failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it. To rule otherwise will deprive the other party of his or her right to due process since he or she will never get the chance to rebut the evidence not formally offered. There is no dispute here that the required formal offer of the belatedly submitted certified true copy of the disputed title was never accomplished, hence, the trial court correctly ordered the cancellation of respondent's adverse claim on petitioner's title.

In any event, it is true that a document not formally offered may still be admitted in evidence when these twin requisites are present: a) when the evidence not formally offered has been duly identified by testimony duly recorded; and b) the evidence must have been incorporated in the records of the case.³³

As stated, a certified true copy of OCT No. 2011000082 had belatedly found its way into the records when respondent submitted it through his Manifestation Submitting for Resolution Oppositor's Motion for Reconsideration, *sans* appearance and further argument. But the document was not duly identified by testimony duly recorded. As a matter of fact, there was no identification of respondent's alleged title at all during the entire proceedings before the trial court.

The value of identifying and authenticating the subject document cannot be overemphasized. OCT No. 2011000082, which is the title claimed

³² G.R. No. 209621 (Notice), [March 12, 2018].

³³ *Id.*

by respondent, pertains to a 17,026-square meters parcel of land, while the aggregate area of the subject properties registered under the name of petitioner is only 7,663 square meters. The huge disparity between these areas instantly creates the possibility that the property claimed by respondent is different from the subject properties owned and registered under the name of petitioner. With more reason that OCT No. 2011000082 should have been identified by respondent or his duly authorized representative or the government agency concerned in order to resolve once and for all if truly the parties are claiming the same properties or if the adverse claim should be ordered to subsist or be otherwise cancelled. As things stand, however, this never happened. Respondent therefore failed to establish his claimed right to have his adverse claim remain as an encumbrance on petitioner's titles.

***Doubtful and uncertain facts stated in
Sworn Affidavit of Adverse Claim***

First. As asserted in the present petition (which respondent controverts in his Comment/Opposition), respondent made a false claim in his Sworn Affidavit of Adverse Claim that the subject properties were still being disputed and that there was an unresolved controversy over the same, when in fact, said controversy had already been resolved when the DENR CENRO ordered the cancellation of respondent's free patent on December 18, 2014, which order was annotated on his title.

Second. In his Sworn Affidavit of Adverse Claim, respondent rooted his claim on his "actual, open, adverse and continuous physical possession of the subject properties in the concept of an owner"³⁴ for "several years"³⁵ prior to the issuance of the certificates of title over the subject properties in the name of petitioner, to wit:³⁶

2. My adverse claim on the above described real estate properties consists of certain rights and interests thereon which are set forth specifically hereunder;

3. Several years prior to the issuance of the foregoing certificates of title over the subject real estate properties in the name of Analyn Chan, I was in actual, open, adverse and continuous physical possession of the subject properties in the concept of an owner. more specifically, that one (1) parcel of land situated in Malamok, Binakayan, Cavite, with an area of Seventeen Thousand Twenty-Six (17,026) square meters, more or less;

4. As I was qualified to legally own said property under our laws, I applied for and was eventually issued on 03 March 2011 by the Department of Natural Resources (DENR) a certificate of title over said land which is denominated as Katibayan ng Original na Titulo Blg. 2011000082 (Patente Big. 042111-10-13556). A certified true copy of which is hereto attached and marked as Annex "B";³⁷

³⁴ *Rollo*, p. 99.

³⁵ *Id.*

³⁶ *Id.* at 97-104.

³⁷ *Id.* at 99.

Verily, respondent failed to establish the number of years of his alleged possession which is crucial in determining whether his continued possession of the subject property has ripened into ownership by prescription.

Frivolous nature of the adverse claim

True, a notice of adverse claim remains valid even after the lapse of the 30-day period provided under Section 70 of PD No. 1529 and its cancellation is still necessary to render it ineffective; otherwise, the inscription will remain annotated and shall continue as a lien upon the property. But here, the frivolous nature of the adverse claim is apparent from the respondent's (1) failure to substantiate his adverse claim despite the lapse of its validity period, (2) inaction from the time of the annotation of the adverse claim, as well as his (3) actions before the trial court.

If respondent truly had a valid claim over the subject properties, he should have filed a separate action to recover possession or to quiet his alleged title. But this he did not do. Instead, he merely relied on the annotation of his adverse claim on petitioner's titles, without taking any affirmative action on the disputed property itself.

As decreed in *Castro v. Monsod*,³⁸ the annotation of an adverse claim over registered land under Section 70 of Presidential Decree No. 1529 requires a claim on the title of the disputed land. Annotation is done to apprise third persons that **there is a controversy over the ownership of the land** and to preserve and protect the right of the adverse claimant during the pendency of the controversy. It is a notice to third persons that **any transaction regarding the disputed land is subject to the outcome of the dispute.**

Here, the alleged dispute had already been resolved as early as December 18, 2014 when the DENR CENRO ordered the cancellation of respondent's free patent. Thus, at the time respondent executed his Sworn Affidavit of Adverse Claim on January 9, 2017 (which was annotated on January 10, 2017), there was no more existing controversy to speak of. Neither did respondent subsequently file a separate action to recover possession or to quiet his alleged title. Worse, respondent's patent lack of interest in prosecuting his adverse claim is a matter of record, e.g., he failed to formally offer any evidence or to present any witness, he waived his right to cross-examine petitioner's witness, he belatedly produced a so-called certified true copy of OCT No. 2011000082 on which his adverse claim was allegedly anchored, and he failed to appear during the hearing of his own motion for reconsideration.

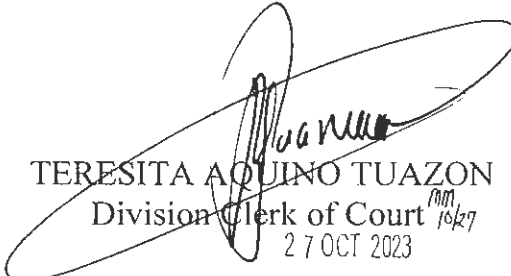
³⁸ 656 Phil. 502 (2011) [Per. J. Nachura, Second Division].

All told, the frivolous character of the respondent's adverse claim is indubitable. It should not be allowed any minute longer to continue as an encumbrance on petitioner's properties.

FOR THESE REASONS, the Petition is **GRANTED**. The Decision dated June 15, 2021 and Resolution dated November 12, 2021 of the Court of Appeals in CA-G.R. CV No. 114396 are **REVERSED**. The Decision dated November 20, 2018 of the Regional Trial Court, Branch 20–Imus, Cavite is **REINSTATED**.

SO ORDERED." (J. Kho, Jr., on leave).

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court ^{RM} 1627
 27 OCT 2023

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HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 20
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 (LRC Case No. 3372-17)

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