Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

ROSITA U. ALBERTO, *Petitioner,*	**G.R. No. 251233**
	Present:
- *versus* -	CAGUIOA, *J.*, *Chairperson*, INTING, GAERLAN, DIMAAMPAO, and SINGH, *JJ.*
HEIRS OF JUAN A. PANTI, represented by JUANCHO B. PANTI, *Respondents.*	Promulgated: March 29, 2023 MisDCBatt

x- x

D E C I S I O N

INTING, *J.*:

Before the Court is a Petition for Review[1] under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision[2] dated May 27, 2019, and the Resolution[3] dated January 15, 2020, of the Court of Appeals (CA) in CA-G.R. CV No. 110711. The CA reversed the Decision[4] dated January 8, 2018, of Branch 43, Regional Trial Court (RTC), Virac, Catanduanes, in Special Proceeding No. 1203 which, *inter alia*, denied the petition to cancel adverse claim filed by Heirs of Juan A. Panti (Heirs of Panti) against Rosita U. Alberto (Alberto) and the Register of Deeds of the Province of Catanduanes (RD of Catanduanes).

---

[1] *Rollo*, pp. 11-42.
[2] Id. at 45-65-A. Penned by Associate Justice Rafael Antonio M. Santos and concurred in by Associate Justices Mariflor P. Punzalan-Castillo and Danton Q. Bueser.
[3] Id. at 75-81.
[4] Id. at 66-72. Penned by Presiding Judge Lelu P. Contreras.

The Antecedents

The present case stemmed from the Petition for Cancellation of Affidavit of Adverse Claim[5] (petition for cancellation) filed in the RTC by the Heirs of Panti[6] against Alberto and the RD of Catanduanes.

In the petition for cancellation, the Heirs of Panti alleged that Juan A. Panti is the registered owner of a 16,210-square-meter parcel of land covered by Original Certificate of Title (OCT) No. 157[7] located at Calatagan, Virac, Catanduanes (subject property). On May 19, 2008, they averred that Alberto caused the annotation of an Affidavit of Adverse Claim[8] on OCT No. 157 before the RD of Catanduanes, the contents of which were bereft of any clear and legal basis.[9] Thus, the Heirs of Panti prayed that after due notice and hearing, the RD of Catanduanes be ordered to cancel the adverse claim annotated on the title.[10]

In her Comment and Opposition[11] to the petition for cancellation, Alberto manifested that the page that would show the adverse claim as annotated on OCT No. 157 was not attached to the petition which warranted its dismissal on the grounds of lack of jurisdiction, lack of cause of action, and failure to state a cause of action.[12] At any rate, Alberto narrated that she is one of the heirs of the late Congressman Jose M. Alberto and Rosita U. Alberto (Spouses Alberto). Sometime in the year 1966, Spouses Alberto purchased the subject property from the Heirs of Panti, represented by Lydia B. Panti (Lydia), for a valuable consideration. Thus, Alberto maintained that while title to the subject property remained under the name of the Heirs of Panti, the latter merely held it in trust for Spouses Alberto who were its true owners.[13]

Alberto further contended that their family was in open and peaceful possession of the subject property from the time of the sale up to the filing of the adverse claim or for more than 40 years. They have also been paying the real property taxes due thereon.[14] Thus, the annotation of an adverse claim on OCT No. 157 was warranted to protect the rights and

---

5 Records, pp. 1-2.
6 The petition was signed by Juancho B. Panti and Jane Panti; id. at 2.
7 Id. at 3.
8 Id. at 4-6.
9 Id. at 1.
10 Id. at 2.
11 Id. at 20-34.
12 Id. at 21, Comment and Opposition of petitioner.
13 Id. at 22-24.
14 Id. at 24-26.

interest of the Alberto family on the property.[15]

In their Reply,[16] the Heirs of Panti pointed out that no deed of sale was executed between them and Spouses Alberto. What Alberto showed were only two receipts of partial payment; hence, there was no perfected contract of sale and no resulting transfer of ownership from them to Spouses Alberto. In addition, they asseverated that OCT No. 157 was a free patent issued on January 15, 1965 which stated that the property shall not be subject to encumbrance for a period of five years. However, the receipts presented by Alberto were dated June 12, 1966 and July 28, 1966 which were within the five-year period of prohibition. Consequently, the supposed sale of the subject property was contrary to law and cannot be given any legal effect.[17]

Alberto and the Heirs of Panti filed their Rejoinder[18] and Sur-Rejoinder,[19] respectively, essentially reiterating their earlier arguments before the RTC.

On December 9, 2008, the RTC rendered a Decision[20] denying the petition for cancellation on the ground that the adverse claim annotated on OCT No. 157 was proper and with factual and legal basis.

On appeal by the Heirs of Panti,[21] the CA set aside the RTC ruling in a Decision[22] dated July 24, 2012 in CA-G.R. CV No. 92294. The CA found that the court *a quo* did not conduct any hearing to determine the propriety of the adverse claim and that the RTC Decision was merely based on pleadings submitted by the parties. Thus, the CA directed the RTC to conduct a trial and receive the parties' evidence necessary to determine the validity or invalidity of Alberto's adverse claim.[23]

The RTC then conducted a pre-trial where the parties admitted, among others, that an adverse claim was annotated on OCT No. 157 and that the latter remained in the possession of the Heirs of Panti.[24]

---

15 Id. at 32.
16 Id. at 68-72.
17 Id. at 69-70, Reply of Heirs of Panti.
18 Id. at 77-86.
19 Id. at 89-90.
20 Id. at 92-94.
21 Id. at 102.
22 Id. at 106-113. Penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Isaias P. Dicdican and Michael P. Elbinias.
23 Id. at 113.
24 Id. at 237.

Trial on the merits ensued.

Ruling of the RTC

In a Decision[25] dated January 8, 2018, the RTC reiterated its earlier finding that Alberto had a valid and lawful claim over the subject property. Accordingly, the RTC denied the petition to cancel the adverse claim filed by the Heirs of Panti. Thus:

> WHEREFORE, this Court reiterates its previous finding that Rosita U. Alberto has valid and lawful claim over Lot No. 4276 covered by Original Certificate of Title No. 157. Thus, the Petition to Cancel Adverse Claim is, hereby, DENIED.
>
> SO ORDERED.[26]

The Heirs of Panti sought for reconsideration,[27] but the RTC denied it in an Order[28] dated February 9, 2018. Thus, they elevated the matter to the CA on appeal.[29]

Ruling of the CA

The CA granted the appeal in the assailed Decision[30] dated May 27, 2019. The *fallo* of the CA decision reads:

> WHEREFORE, appeal is GRANTED. The Decision dated 8 January 2018 of the trial court is hereby REVERSED. The Petition to Cancel Adverse Claim filed by the Heirs of Juan A. Panti is GRANTED. The Adverse Claim annotated as Entry Number 106669 on page 403, Volume X of Original Certificate of Title No. 157, is hereby CANCELLED.
>
> SO ORDERED.[31]

The CA ruled as follows:

First, Alberto failed to show that she [or her family] had fully paid the purchase price or the balance of ₱550.00 to Lydia; she also failed to

---

25 *Rollo*, pp. 66-72. Penned by Presiding Judge Lelu P. Contreras.
26 Id. at 72.
27 Records, pp. 619-621.
28 *Rollo*, pp. 73-74. Penned by Presiding Judge Lelu P. Contreras.
29 Records, p. 633.
30 *Rollo*, pp. 45-65.
31 Id. at 65.

categorically state in her affidavit of adverse claim such fact. Thus, this contract being construed as a contract to sell, the non-fulfillment of the suspensive condition, *i.e.*, payment of the balance of the purchase price, averted the perfection of a contract of sale and prevented the vendor's obligation to convey title from becoming effective.[32]

Second, after the issuance of the acknowledgment receipts on June 12, 1966, and July 28, 1966, and pending the fulfillment of the suspensive condition, Alberto's interest over the subject property, either based on a conditional sale and a contract to sell, was registrable under Section 52[33] of Act No. 496,[34] now provided in Section 54[35] of Presidential Decree No. (PD) 1529 or the Property Registration Decree.[36]

Third, Alberto insisted that her adverse claim should remain annotated on the title because she could not register the sale as Lydia refused to surrender the owner's duplicate title. However, Alberto did not even allege that the balance of the purchase price was already paid or that Lydia refused to accept payment of the balance such that she was constrained to tender it in court.[37]

Fourth, Alberto filed her Affidavit of Adverse Claim only on May 19, 2008, or more than 41 years after Lydia's execution of the acknowledgment receipts. Thus, Alberto failed to prove that she still had an enforceable claim or interest over the subject property as against the Heirs of Panti when she caused the annotation of an adverse claim thereto.[38]

---

32 Id. at 60, CA Decision.

33 Section 52 of Act No. 496 provides:

> SEC. 52. No new certificate shall be entered or issued upon any transfer of registered land which does not divest the land in fee simple from the owner or from some one of the registered owners. All interests in registered land less than an estate in fee simple shall be registered by filing with the register of deeds the instrument creating or transferring or claiming such interest and by a brief memorandum thereof made by the register of deeds upon the certificate of title, signed by him. A similar memorandum shall also be made on the owner's duplicate. The cancellation or extinguishment of such interests shall be registered in the same manner.

34 The Land Registration Act, approved on November 6, 1902.

35 Section 54 of Presidential Decree No. (PD) 1529 provides:

> SEC. 54. *Dealings Less Than Ownership, How Registered.* — No new certificate shall be entered or issued pursuant to any instrument which does not divest the ownership or title from the owner or from the transferee of the registered owners. All interests in registered land less than ownership shall be registered by filing with the Register of Deeds the instrument which creates or transfers or claims such interests and by a brief memorandum thereof made by the Register of Deeds upon the certificate of title, and signed by him. A similar memorandum shall also be made on the owner's duplicate. The cancellation or extinguishment of such interests shall be registered in the same manner.

36 Approved on June 11, 1978.

37 *Rollo*, p. 62, CA Decision.

38 Id. at 62-63.

Fifth, assuming that Alberto's interest arose from an implied trust, as she claimed, such implied trust was not registrable as an adverse claim pursuant to Section 68[39] of PD 1529.[40]

Last, Alberto's allegations that her family had been in open and peaceful possession and administration of the subject property for forty one (41) years; that they have been paying the real estate taxes due thereon; and that they have assigned a caretaker therein, cannot be the basis for the annotation of an adverse claim. The assertion of ownership based on prescription and adverse possession is not registrable as an adverse claim.[41]

Alberto filed a motion for reconsideration[42] questioning the CA decision, but the CA denied it in the Resolution[43] dated January 15, 2020.

Hence, the present petition.

The Petition

In her petition, Alberto avers that the CA failed to appreciate the evidence establishing their five-decade long exclusive possession of the subject property and the four-decade long inaction of the Heirs of Panti with respect thereto. She submits that *laches* had already set in because of the Heirs' failure to perform positive acts to assert whatever right they may have to recover the subject property; and this serves as sufficient basis for the annotation of the adverse claim on the title.[44]

Alberto further points out that she paid the real property taxes on the subject property from 1997 until 2008;[45] that they engaged the services of a caretaker thereon who caused the planting of anahaw, pili, and bamboo trees, that served as barrier from outsiders, as reinforced by a wire

---

39 Section 68 of PD 1529 provides:

SEC. 68. *Implied Trusts, How Established.* — Whoever claims an interest in registered land by reason of any implied or constructive trust shall file for registration with the Register of Deeds a sworn statement thereof containing a description of the land, the name of the registered owner and a reference to the number of the certificate of title. Such claim shall not affect the title of a purchaser for value and in good faith before its registration.

40 *Rollo,* p. 63, CA Decision.

41 Id. at 63-64.

42 Id. at 82-97.

43 Id. at 75-81.

44 Id. at 26, Petition for Review.

45 Id. at 29.

fence; and that as of the filing of the petition, Alberto remained in possession and control of the premises. Conversely, the Heirs of Panti merely asserted that they are the registered owners of the subject property and there was no mention that they promptly asserted their right to recover it from Alberto or her family.[46]

In their Comment[47] to the Petition for Review, the Heirs of Panti counter that the CA correctly cancelled Alberto's adverse claim for failure of the Spouses Alberto and/or Alberto to fully pay the purchase price of the subject property.[48] Moreover, Alberto's adverse claim of ownership was based on prescription and adverse possession which would serve no useful purpose and could not validly and legally affect the subject property. Thus, Alberto failed to show that she has an enforceable claim or interest over the property which may properly be registered as an adverse claim against the Heirs of Panti.[49]

Issue

The main issue in the case is whether there is basis to cancel the affidavit of adverse claim which was executed by Alberto and annotated on the title to the subject property.

Our Ruling

The petition is without merit.

Section 70 of PD 1529 provides:

> SEC. 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

---

46 Id. at 30.
47 Id. at 246-267.
48 Id. at 254.
49 Id. at 265.

> 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.

An adverse claim is a type of involuntary dealing designed to protect the interest of a person over a real property by apprising third persons that there is a controversy over its ownership. The purpose of annotating an adverse claim on a title is to preserve and protect the right of the adverse claimant during the pendency of the controversy where registration of such interest or right is not otherwise provided for by PD 1529.[50]

To put things into perspective, Alberto avers that her parents bought the subject property from the Heirs of Panti in the year 1966 as evidenced by two acknowledgement receipts. However, it is undisputed that the receipts both stated that they were *partial* payments for the supposed sale of the subject property[51] and that there was no deed of sale executed evidencing such sale. Moreover, it is undisputed that the free patent was issued under the name of the Heirs of Panti on January 15, 1965 while the acknowledgment receipts which were offered to prove the sale to Spouses Alberto were both issued in 1966 or within the five-year period of prohibition on its alienation or transfer to other persons.[52]

Further, it was established that Alberto and her parents have been in possession of the subject property for more than 40 years and that they have been paying the real property taxes due thereon.[53]

---

50 *Logarta v. Mangahis*, 789 Phil. 244, 252-253 (2016).
51 *Rollo*, pp. 120-121.
52 Id. at 172.
53 Id. at 64 and 68-70.

On the other hand, there is no question that the title to the subject property is under the name of the Heirs of Panti who are still in physical possession of the OCT.[54]

The question now is whether the Albertos, who are the possessors of the subject property, can register their adverse claim on the title thereto which is under the name of the Heirs of Panti. To answer this, the Court deems it necessary to review the contents of Alberto's Affidavit of Adverse Claim, the relevant portion of which provides:

> 2. Sometimes [*sic*] in the year 1966, Congressman Jose M. Alberto and Mrs. Rosita U. Alberto purchased from [the] heirs of the late Juan A. Panti a parcel of land consisting of 16,210 square meters at Contod, Calatagan, Virac, Catanduanes;
>
> 3. The said property is Lot No. 4276, registered in the name of Heirs of Juan A. Panti, represented by Lydia B. Panti, under Original Certificate of Title No. 157 of the Office of the Registry of Deeds for the Province of Catanduanes, and Free Patent No. 279275. Attached as *Annex "A"* is a copy of Original Certificate of Title No. 157 that entered Free Patent No. 279275;
>
> 4. The said sale was for a valuable consideration. Attached as *Annexes "B"* and *"C"* are copies of ACKNOWLEDGMENT RECEIPTS signed by Lydia B. Panti;
>
> 5. Said property was being held in trust by and in the name of the Heirs of Juan A. Panti represented by Lydia B. Panti, but is actually owned by Congressman Jose M. Alberto and Mrs. Rosita U. Alberto as beneficial owners;
>
> 6. There is between our deceased parents on one hand and the Heirs of Juan A. Panti on the other hand an existing "resulting implied trust". Resulting trust [is] based on the equitable title of interest and are presumed always to have been contemplated by the parties. [It arises] from the nature of circumstances of the consideration involved in transaction whereby one person thereby becomes invested with legal title for the benefit of another;
>
> 7. From the time of the sale and until the present when this Affidavit is executed, we are in open and peaceful possession and administration of the property without any opposition and/or resistance from any of the heirs of the late Juan A. Panti. It is explicit from the records of the Assessor's Office that the administration and possession of the property is in my name, Rosita U. Alberto. x x x

---

[54] Id. at 67.

> 8. My mother Rosita U. Alberto and, to this date, our family has been the one paying for the real property taxes on the property. x x x[55]

From the foregoing, it is clear that Alberto's adverse claim in 2008 was anchored *first*, on the supposed sale of the subject property in her family's favor which, as she alleged, resulted in an implied trust; and *second*, their possession and administration of the subject property, and their payment of real property taxes due thereon.

Pursuant to Section 70 of PD 1529, an adverse claim may be made by whoever claims any part or interest in a registered land adverse to the registered owner and *only if* there is no other provision in the law for the registration of the claimant's right. In the case, however, there is another provision in PD 1529, particularly Section 68 thereof, which states how implied trusts are registered:

> Sec. 68. *Implied, trusts, how established.* — Whoever claims an interest in registered land by reason of any implied or constructive trust shall file for registration with the Register of Deeds a sworn statement thereof containing a description of the land, the name of the registered owner and a reference to the number of the certificate of title. Such claim shall not affect the title of a purchaser for value and in good faith before its registration.

Indeed, an adverse claim is only proper if there is *no other provision* in the law for the registration of the claimant's alleged right or interest in the property.[56] Consequently, there being another provision in PD 1529 under which Alberto could register her supposed interest, *i.e.*, Section 68 on implied trust, she can no longer register it as an adverse claim under Section 70 thereof.

Alberto cannot also register an adverse claim as the possessor of the subject property against the Heirs who are the registered owners thereof, pursuant to Section 47 of PD 1529, *viz.*:

> Sec. 47. *Registered land not subject to prescriptions.* — No title to registered land in derogation of the title of the registered owner shall be acquired by prescription or adverse possession.

---

55 Id. at 163-164.

56 *Lasam Savings and Credit Cooperative v. Spouses Tan*, G.R. No. 200129 (Notice), April 28, 2021, citing *L.P. Leviste & Co., Inc. v. Noblejas*, 178 Phil. 422 (1979).

Because the subject property is a registered land, no title in derogation to that of the registered owner may be acquired by prescription or adverse possession. Indeed, an adverse claim would serve no useful purpose because it could not validly and legally affect the parcel of land in question.[57]

Clutching at straws, Alberto now comes before the Court with a new theory: that the Heirs of Panti are guilty of *laches* in view of the more than forty-year long delay in asserting whatever right or claim they may have over the subject property. In support thereof, Alberto cites the cases of *Heirs of Panganiban v. Dayrit*[58] (*Heirs of Panganiban*) and *Bartola M. Vda. De Tirona v. Encarnacion*[59] (*De Tirona*) wherein the Court stated that even the registered owner of a property may be barred from recovering possession thereof by virtue of *laches*.

The *Heirs of Panganiban*, however, involves a petition for cancellation of owner's duplicate copy of an original certificate of title with prayer for quieting of title; while *De Tirona* pertains to a case for *accion publiciana.* While both cases discussed the concepts of *laches* and possession, none of them dealt with the issue of the propriety of an adverse claim annotated on a land title. Alberto's reliance thereon is thus misplaced.

At any rate, the issue in the present case is whether Alberto's adverse claim should be cancelled or not. A reading of the Affidavit of Adverse Claim would readily show that it is based on the supposed purchase of the subject property and on implied trust. As earlier discussed, these are not valid grounds for the registration of an adverse claim which is the subject matter of the case. For the same reasons, the Court cannot likewise sustain Alberto's contention that the Heirs of Panti are guilty of *laches*. For one, the adverse claim was not based on *laches*; and for another, the Court cannot give merit to Alberto's change of theory on appeal, *i.e.*, that the adverse claim was based not only on the supposed purchase of the subject property and on implied trust, but on *laches*.

All told, the CA did not err in rendering the assailed Decision and Resolution, there being sufficient factual and legal justifications supporting its findings and conclusion.

---

57 See *Estella v. Register of Deeds of Rizal*, 106 Phil. 911 (1960).
58 502 Phil 612 (2005).
59 560 Phil. 650 (2007).

WHEREFORE, the petition is **DENIED**. The Decision dated May 27, 2019 and the Resolution dated January 15, 2020 of the Court of Appeals in CA-G.R. CV No. 110711 are **AFFIRMED**.

SO ORDERED.

HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

JAPAR B. DIMAAMPAO
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

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

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ALEXANDER G. GESMUNDO
Chief Justice