

## THIRD DIVISION

[ G.R. NO. 139464, September 09, 2005 ]

**REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE  
DIRECTOR OF LANDS, PETITIONER, VS. SPS. FELIX BAES AND  
RAFAELA BAES AND THE REGISTER OF DEEDS OF PASAY CITY,  
RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.**

Before us is the instant petition for review on *certiorari* seeking to reverse the Decision<sup>[1]</sup> of the Court of Appeals dated May 28, 1999 and Resolution dated July 23, 1999 in CA-G.R. SP No. 49521.

The facts as gleaned from the records are:

On November 29, 1980, the Regional Trial Court (RTC). Branch 110, Pasay City rendered its Decision in Civil Case No. 0460-P for annulment of titles and reversion in favor of the Republic of the Philippines, herein petitioner, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered declaring null and void TCT Nos. 14405, 29592, 29593, 29594, 29595, and TCT No. 29593's derivative titles TCT No. 124725, 124726, 124727, and 124729 and ordering the Register of Deeds for Pasay City to cancel them and to issue new ones in their stead in the name of the plaintiff after segregating from TCT No. 29593 452 sq.m., the actual area of Lot 2958-C (covered by cancelled TCT No. 11043) belonging to defendant Felix Baes. The counterclaim is hereby dismissed.

Let a copy of this Decision be furnished the Register of Deeds for Pasay City.

SO ORDERED.<sup>[2]</sup>

The Decision was affirmed by the Court of Appeals on November 27, 1992 in CA-G.R. CV No. 30907 and by this Court on July 6, 1993 in G.R. No. 108065.<sup>[3]</sup>

The RTC Decision then became final and executory.

Notwithstanding the finality of the RTC Decision, spouses Felix and Rafaela Baes, respondents, mortgaged the parcels of land (reverted to petitioner Republic) covered by Transfer Certificates of Title (TCT) Nos. 124725, 124726, and 124727 (still in their names), with the Philippine Savings Bank for P15 million. Atty. Augusto Tobias, Register of Deeds of Pasay City, annotated the mortgage contract at the

back of the said land titles.

On March 6, 1995, the trial court upon petitioner's motion, issued an Order directing the execution of its Decision. Despite receipt of the Order, Atty. Tobias refused to cancel the contested land titles and to issue new ones to petitioner Republic.

On November 16, 1995, Atty. Tobias again annotated on the same titles an amendment to the mortgage contract between respondent spouses Baes and the Philippine Savings Bank. The amendment increased the amount of respondent spouses' loan from P15 million to P30 million.

For failure of Atty. Tobias to comply with the Order of the trial court directing the execution of its Decision and for annotating the mortgage contract and its amendment on the said titles, petitioner filed a motion to declare him in contempt of court.

On January 7, 1997, Atty. Tobias submitted to the trial court an "Explanation and Full Compliance." He explained that he failed to fully comply with the Decision reverting Lot 2958-C (covered by TCT No. 11043) consisting of 452 square meters to petitioner since a part thereof, covered by TCT No. 124728, had been transferred to and was registered in the name of the Light Rail Transit Authority.

Before the motion for contempt against him could be resolved, Atty. Tobias died.

Upon receipt of the newly-issued titles in its name, petitioner Republic observed that the annotations earlier mentioned also appear thereon.

Petitioner then filed with the trial court a motion that the new Register of Deeds of Pasay be substituted as defendant in place of Atty. Tobias or that the said new Register of Deeds be ordered to comply with its Order of March 6, 1995 directing the execution of its Decision.

On July 20, 1995, the trial court issued an Order denying the motion, holding that a contempt proceeding is in the nature of an original action and is a personal liability of the person charged. Thus, the death of Atty. Tobias extinguished his liability. Moreover, it has no jurisdiction to order the new Register of Deeds of Pasay City to cancel the annotations because to do so will affect the vested right of the Philippine Savings Bank not impleaded as a party in the case.

Petitioner filed a motion for reconsideration but it was denied by the trial court on August 28, 1998.

This prompted petitioner to file with the Court of Appeals a special civil action for certiorari, docketed as CA-G.R. SP No. 49521. Petitioner alleged therein that the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying its motion to substitute the new Register of Deeds of Pasay City in place of the late Atty. Tobias and to order the former to implement the March 6, 1995 Order of Execution.

On May 28, 1999, the Court of Appeals rendered its Decision dismissing the petition and sustaining the assailed Order of the trial court.