

## **SPECIAL ELEVENTH DIVISION**

**[ CA-G.R. CV NO. 97012, February 24, 2015 ]**

**REPUBLIC REAL ESTATE CORPORATION AND PASAY CITY,  
PETITIONERS-APPELLANTS, VS. REPUBLIC OF THE PHILIPPINES  
AND CULTURAL CENTER OF THE PHILIPPINES, RESPONDENTS-  
APPELLEES.**

### **DECISION**

**SADANG, J.:**

This is an appeal seeking to nullify the Orders<sup>[1]</sup> dated August 16, 2010 and February 7, 2011, of the Regional Trial Court, Branch 108, Pasay City in Civil Case No. 09-0830-CFM.

#### ***The Antecedents***

On May 29, 2009, petitioners-appellants Republic Real Estate Corporation (RREC) and Pasay City (hereafter, petitioners), both represented by Alentajan Law Office, filed a Petition<sup>[2]</sup> for Declaration of Unconstitutionality of Presidential Decree No. 774<sup>[3]</sup>. Impleaded as respondents were the Republic of the Philippines and the Cultural Center of the Philippines (CCP).

Petitioners alleged that: Sometime in 1959, they entered into a Reclamation Agreement whereby RREC would reclaim 300 hectares at the Manila Bay. RREC shall advance the cost of the reclamation as a loan to Pasay City and, as alternative payment, RREC has the option to purchase at most 60% of the reclaimed land at P10.00 per square meter and the payment shall be applied against the outstanding obligation of Pasay City. In 1961, during the reclamation, the legality of the contract was questioned before the Court of First Instance of Rizal but the case was dismissed for lack of merit. While the appeal was pending before the Court of Appeals (CA), President Marcos issued Presidential Decree (P.D.) No. 3-A, whereby Construction Development Corporation of the Philippines took over the reclamation contract. On August 22, 1975, President Marcos issued P.D. No. 774 whereby 50.47 hectares of the reclaimed land in Pasay City were assigned, transferred and conveyed to the CCP. On the basis of P.D. No. 774, Transfer Certificate of Title (TCT) Nos. 75676, 75678, 75679, 75681, 75682, 75683, 75685 were issued in the name of CCP. The lands covered by these titles are part of the 55 hectares reclaimed by RREC. On January 28, 1992, the CA rendered a decision finding the contract to be legal and valid, thus, the Republic was ordered to return to RREC and Pasay City the reclaimed lands. On April 28, 1992, the CA rendered an Amended Decision limiting petitioners' claim to 35 hectares of open spaces where no buildings have been erected by the government. On November 25, 1998, the Supreme Court, in G.R. No. 103882 and G.R. No. 105276, applying the principle of *quantum meruit*, ordered the Republic to pay petitioners P10,926,071.29, plus interest of six (6%) percent per annum from May 1, 1962 until full payment. On October 17, 2000, the Supreme

Court issued a Resolution declaring that its November 25, 1998 decision is final and executory. On May 4, 2007, the RTC of Pasay, Branch 109, issued an Order granting the Motion for Execution, thus, a writ of execution dated May 8, 2007 was issued. Thereafter, the RTC issued an Order denying the Republic's Very Urgent Motion to Quash the Writ of Execution and the Sheriff's Notice of Execution and Notice to Pay. The Republic filed a Motion for Reconsideration but it was denied in an Order dated February 28, 2007. In accordance with the writ of execution, the Sheriff levied on two parcels of land belonging to the Republic/CCP under TCT No. 75676 (Lot 22) and TCT No. 75681 (Lot 29) and said lots were the subject of an auction sale wherein RREC and Pasay City were the only bidders. These lots are part of the 50.47 hectares gratuitously transferred to CCP under PD No. 774.

Petitioners alleged that PD No. 774 is unconstitutional because it impaired the obligation of contract between them and said decree amounts to an arbitrary and despotic confiscation of property without regard to due process and other constitutional rights.

Petitioners prayed that PD No. 774 be declared unconstitutional, that the transfer of 50.47 hectares to CCP be declared null and void, that TCT Nos. 76676, 75678, 75679, 75682, 75685 be cancelled, and that the lands covered by PD No. 774 be transferred to RREC and Pasay City and TCTs be issued in their names.

By special appearance, respondent CCP filed a Motion to Dismiss<sup>[4]</sup> on the ground that the RTC has not acquired jurisdiction over it due to non-service of summons.

On August 27, 2009, the Republic, through the Office of the Solicitor General (OSG) also filed a Motion to Dismiss<sup>[5]</sup> dated August 24, 2009, on these grounds: (a) lack of jurisdiction; (b) no cause of action because the constitutionality of PD No. 774 has been passed upon in G.R. No. 103882 and G.R. No. 105276; (c) petitioners are bereft of legal personality to institute the present petition; (d) the petition which prays for the ultimate relief of reconveyance of real property has been barred by res judicata; (e) petitioners are guilty of forum shopping; (f) petitioners are estopped from claiming reconveyance which has been prayed for in G.R. No. 103882 and G.R. No. 105276; (g) petitioner Pasay City is not properly represented by the City Legal Officer as mandated by Section 481 (B) (3) (I) of the Local Government Code. On August 20, 2009, the RTC issued an Order directing the issuance of summons to the Republic and the CCP.

On March 3, 2010, the Republic filed a Manifestation and Motion<sup>[6]</sup> praying that its Motion to Dismiss, dated August 24, 2009, be resolved.

On September 15, 2009, CCP filed a Very Urgent Omnibus Motion<sup>[7]</sup> (for Reconsideration of the August 20, 2009 Order; To Recall Wrongfully Issued Summons dated August 24, 2009 and to Suspend, Nullify and Set Aside Reglementary Period to File Responsive Pleading).

On February 9, 2010, the RTC issued an Order<sup>[8]</sup> denying CCP's Motion to Dismiss.

On May 28, 2010, the RTC issued an Order<sup>[9]</sup> directing the Republic and CCP to file their answer in view of the denial of CCP's motion to dismiss in the February 9, 2010 Order.

On July 1, 2010, the Republic filed a Motion for Reconsideration<sup>[10]</sup> of the May 28, 2010 Order, pointing out that it was only the motion to dismiss of CCP that was dismissed by the court but not its motion to dismiss. The Republic prayed that its Motion to Dismiss dated August 4, 2009 be resolved. The hearing of the motion was set on July 9, 2010.

On July 9, 2010, the RTC issued an Order<sup>[11]</sup> giving petitioners 15 days to file their comment/opposition to the motion. The OSG was given the same number of days upon receipt to file its reply.

On July 19, 2010, the CCP filed its Answer with Special & Affirmative Defenses and Compulsory Counterclaim.<sup>[12]</sup>

On July 21, 2010, petitioners filed their Opposition/Comment to the Republic's Motion for Reconsideration.<sup>[13]</sup>

On August 10, 2010, the Republic filed a Reply (Re: Opposition/Comment to Republic's Motion for Reconsideration dated June 29, 2010).<sup>[14]</sup>

On August 16, 2010, the RTC issued the first assailed Order,<sup>[15]</sup> the *fallo* of which reads:

WHEREFORE, after finding merits in the motion to dismiss filed by the Republic, this Court hereby grants the same.

SO ORDERED.

The RTC dismissed the complaint on these grounds: 1) Pasay City was represented by a private law firm and not by the City Legal Officer; 2) the petition is a collateral attack on the titles; 3) *res judicata* has set in; and 4) the petition has no cause of action.

On February 7, 2011, the RTC issued its second assailed Order<sup>[16]</sup> denying petitioners' Motion for Reconsideration<sup>[17]</sup> (of the Order dated August 16, 2010).

Hence, this appeal assigning these alleged errors committed by the RTC:

I. THE LOWER COURT COMMITTED GRAVE, SERIOUS AND REVERSIBLE ERROR WHEN IT GRANTED THE REPUBLIC OF THE PHILIPPINES' DEFECTIVE MOTION TO DISMISS AND MOTION FOR RECONSIDERATION, AND IN EFFECT ORDERED THE DISMISSAL OF THE INSTANT CASE ON CERTAIN DUBIOUS GROUNDS NOT EVEN PROVIDED, AUTHORIZED OR SANCTIONED BY RULE 16 OF THE RULES OF COURT.

II. THE LOWER COURT COMMITTED GRAVE SERIOUS AND REVERSIBLE ERROR WHEN IT RECOGNIZED AND ACTED ON THE DEFECTIVE MOTION FOR RECONSIDERATION FILED BY THE REPUBLIC, IN VIOLATION OF THE MANDATORY RULE ON NOTICE OF HEARING PROVIDED UNDER SECTION 4, RULE 15 OF THE RULES ON CIVIL PROCEDURE.

## ***Ruling***

The issues raised by petitioners may be boiled down to two: 1) whether the Republic's motion for reconsideration violated the three-day notice rule; 2) whether the decision of the Supreme Court in G.R. No. 103882 and G.R. No. 105276 constitutes *res judicata* in this case.

We shall first resolve the procedural issue.

Petitioners contend that the Republic's motion for reconsideration should not have been considered by the RTC because it was fatally defective as it violated the three-day notice rule.

The three-day notice rule is embodied in Sections 4, 5, and 6 of Rule 15 of the Rules of Court which read:

SECTION 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.

Every written motion required to be heard and the notice of the hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good cause sets the hearing on shorter notice.

SECTION 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

SECTION 6. *Proof of service necessary.* – No written motion set for hearing shall be acted upon by the court without proof of service thereof.

It is clear that the rules mandate that the other party receives a copy of the written motion at least three days before the date set for its hearing. The purpose of the three-day notice rule, which was established not for the benefit of the movant but rather for the adverse party, is to avoid surprises upon the latter and to grant it sufficient time to study the motion and to enable it to meet the arguments interposed therein.<sup>[18]</sup>

However, the three-day notice rule is not a hard and fast rule.<sup>[19]</sup> Neither is it an absolute rule. A liberal construction of the procedural rules is proper where the lapse in the literal observance of a rule of procedure has not prejudiced the adverse party and has not deprived the court of its authority.<sup>[20]</sup> The test is the presence of opportunity to be heard, as well as to have time to study the motion and meaningfully oppose or controvert the grounds upon which it is based.<sup>[21]</sup> Thus, in *Jehan Shipping Corporation v. National Food Authority*<sup>[22]</sup> it was ruled that despite the lack of notice of hearing of the motion for reconsideration, there was substantial compliance with the requirements of due process because the other party had the opportunity to be heard and had filed pleadings in opposition to the motion.<sup>[23]</sup>

At this point, it must be stated that, as correctly noted by the Republic, the May 28, 2010 Order that was sought to be reconsidered did not deny said party's motion to dismiss which was filed as early as August 27, 2009. The Republic filed the motion for reconsideration of the May 28, 2010 Order simply to seek the resolution of its motion to dismiss. Thus, acting on the motion, the RTC issued the assailed August 16, 2010 Order granting the Republic's motion to dismiss. The motion for reconsideration, which merely prayed for the resolution of a pending motion to dismiss, is not a litigious motion that required notice of hearing.

But even if the motion for reconsideration were to be considered a litigious motion, the RTC did not err in acting on it. The records show that the motion was set for hearing on July 9, 2010 at 8:30 AM. A copy of the motion was sent to Atty. Alentajan via registered mail on July 1, 2010<sup>[24]</sup> and it was received by petitioners on July 8, 2010, or a day before the scheduled hearing. On the day of the hearing on July 9, 2010, the RTC did not act on the motion but issued another Order<sup>[25]</sup> giving petitioners 15 days to file their comment or opposition thereto. On July 21, 2010, petitioners filed their Opposition/Comment to the motion for reconsideration. Considering that petitioners were given the opportunity to give their side of the issue, a liberal application of the rules is proper. The RTC did not err in acting on the motion.

Petitioners contend that the grounds upon which the RTC dismissed their petition – Pasay City was not represented by the City Legal Officer, the petition is a collateral attack on the titles, and forum shopping, are affirmative defenses which can only be resolved after a full-blown trial. They are not grounds to dismiss under Rule 16 of the Rules of Court.

The CCP counters that the grounds for dismissal are not exclusive. CCP insists that the petition is a collateral attack on the TCTs and there is res judicata because the ultimate relief of reconveyance has already been adjudged and finally determined by the Supreme Court in G.R. Nos. 103882 and 105276.

For its part, the Republic argues that: 1) the RTC did not acquire jurisdiction due to improper service of summons; 2) petitioners have no cause of action to assail PD 774 based on the non-impairment clause because their reclamation contract has already been declared invalid in G.R. Nos. 103882 and 105276; 3) petitioners have no legal personality to institute the petition; 4) the petition is barred by res judicata; 5) petitioners are guilty of forum shopping; 6) petitioners are estopped from seeking reconveyance because they had sought the execution of the judgment in G.R. Nos. 103882 and 105276 which awarded them compensatory damages based on equity.

At bottom, the determinative issue is whether the decision of the Supreme Court in G.R. No. 103882/G.R. No. 105276 is res judicata in this case. It is therefore imperative to examine these cases.

G.R. No. 103882 is entitled "*Republic of the Philippines, petitioner, v. Court of Appeals and Republic Real Estate Corporation, respondents, Cultural Center of the Philippines, Intervenor.*" In this case, the Republic assailed the ruling of the CA that upheld the validity of Pasay City Ordinance Nos. 121 and 158 and the Reclamation Agreement between Pasay City and RREC.