

NINETEENTH DIVISION

[CA-G.R. CV NO. 04516, February 13, 2015]

CONSORCIA VILLAVIEJA-VILLANUEVA, REPRESENTED BY HER AIF LUZ C. ARAULLO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

D E C I S I O N

QUIJANO-PADILLA, J.:

Before Us is an Appeal^[1] from the Resolution^[2] dated December 22, 2011 of the Regional Trial Court, Sixth (6th) Judicial Region, Branch 12, San Jose, Antique in RTC Cad. Case No. 10-0206 for Cancellation of Decree No. 624072, Re-issuance of a New Decree and Original Certificate of Title for Lot No. 655 of the Sibalom Cadastre.

The Antecedents^[3]

Subject of the present controversy is Lot No. 655 situated at Barangay Egana, Sibalom, Antique, which is particularly described as follows:

"Bounded on the NW., along lines 1-2-3-4-5-6-7-8-9-10 by Catungan Creek; on the NE., along line 10-11-12-13-14-15-16-17-18-19 by Lot 630 Cad. 247 Sibalom Cadastre; on the SE., along line 19-20-21-22-23-24-25-26 by Creek; on the SW., along line 26-27-28-29 by Service Road and Irrigation Canal; along line 29-30-31-32-33-34-35-36-37-38-39-40 by Creek; on the NW., along line 40-1 by Lot 571, Cad. 247 Sibalom Cadastre containing an area of ONE HUNDRED THIRTEEN THOUSAND THREE HUNDRED FORTY FOUR (113,344) SQUARE METERS, more or less."^[4]

Petitioner-appellee Consorcia Villavieja-Villanueva, represented by her attorney-in-fact, Luz C. Araullo, alleged that she is a lawful owner and actual possessor of a portion of Lot No. 655 of the Sibalom Cadastre, Antique.

She acquired the property by virtue of the Decision^[5] dated March 7, 1932 of the Court of First Instance of Antique, 29th Judicial District in Cadastral Case No. 23, which declared herein petitioner-appellee as one of the adjudicatees of Lot No. 655 of the Sibalom Cadastre. Moreover, petitioner-appellee being the only living and surviving adjudicatee of the said lot, as her siblings predeceased her without issue, adjudicated unto herself their respective shares.^[6] However, petitioner-appellee has no personal knowledge as to whether a certificate of title has ever been issued for such property.

Upon query with the Registry of Deeds, Antique, a Certification was issued stating that since the issuance of Decree No. 624072 in February 17, 1937, their office has no record that an Original Certificate of Title was issued for the said property. This

was also supported by Certifications^[7] issued by the Land Registration Authority in Manila stating that indeed Decree No. 624072 was issued, but, a copy of the said decree was not among the salvaged decrees in their possession. Presumably, it was one of those lost or destroyed during the last World War. Having no other recourse, petitioner-appellee asked for the cancellation of Decree No. 624072, the re-issuance of a new decree and the corresponding certificate of title thereof.

The Ruling of the Regional Trial Court

In a Resolution^[8] dated December 22, 2011, the Regional Trial Court, Branch 12, San Jose, Antique in RTC Cad. Case No. 10-0206 ruled in favor of the petitioner-appellee by granting the petition. The dispositive portion of the assailed resolution reads:

“PREMISES CONSIDERED, the Commissioner's Report filed on December 22, 2011, is hereby approved and adopted as an integral part of this Resolution and the Petition dated February 4, 2010 is hereby GRANTED.

NECESSARILY, the Administrator of the Land Registration Authority (LRA) is hereby directed to cancel Decree No. 624072 issued for Lot No. 655 of the Cadastral Survey of Sibalom, Antique, on February 17, 1937. In its stead, he is further directed to cause to be prepared a new decree of registration in the names of the decreed owners, as well as the original and duplicate copies of the corresponding original certificate of title for Lot No. 655 of the Sibalom (Antique) Cadastre, which decree of registration shall be signed by him, entered and filed in the LRA, and thereafter, to send the same to the Register of Deeds of Antique, for entry in the registration book, pursuant to Section 39 of P.D. No. 1529.

Upon receipt of the original and duplicate copies of the original certificate of title for Lot No. 655 of the Sibalom (Antique) Cadastre, the Registrar of Deeds for the province of Antique is hereby enjoined to enter the same in his record book and shall be numbered, dated, signed and sealed with the seal of his office and thereafter, to notify the petitioner of such facts, conformably with Section 40 of P.D. 1529, otherwise known as the Property Registration Decree.

SO ORDERED.”^[9]

Hence, this appeal.

Assignment of Error

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR CANCELLATION OF DECREE NO. 624072, RE-ISSUANCE OF A NEW DECREE AND ORIGINAL CERTIFICATE OF TITLE FOR LOT NO. 655 OF THE SIBALOM CADASTRE (ANTIQUE) IN CLEAR VIOLATION OF SECTION 2 OF R.A NO. 26 (AN ACT PROVIDING A SPECIAL PROCEDURE FOR THE RECONSTITUTION OF TORRENS CERTIFICATE OF TITLE LOST OR DESTROYED).

The Ruling of this Court

The appeal is bereft of merit.

Primarily, the oppositor-appellant Republic, through the Office of the Solicitor General (OSG) argued that the petitioner-appellee should have complied with Section 2 of R.A. No. 26 (An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed).

In reply, petitioner-appellee posited that the cited provision is inapplicable since a torrens certificate of title is yet to be issued in the instant case.

We find the contention of the petitioner-appellee persuasive.

To properly expound on this matter, We deem it imperative to ascertain the purpose or intention of Section 2 of R.A. No. 26 (An Act Providing a Special Procedure for the Reconstitution of Torrens Certificate of Title Lost or Destroyed), which states:

Sec. 2. **Original certificate of title** shall be reconstituted from such of the sources hereunder enumerated as may be available in the following order:

- (a) The owner's duplicate of the certificate of title;
- (b) The co-owner's mortgagee's, or lessee's duplicate of the certificate of title;
- (c) A certified copy of the certificate of title, previously issued by the register of deeds or by a legal custodian thereof;
- (d) An authenticated copy of the decree of registration or patent, as the case may be, pursuant to which the original certificate of title was issued;
- (e) A document on file in the Registry of Deeds by which the property, the description of which is given in said document, is mortgaged, leased or encumbered, or an authenticated copy of said document showing that its original has been registered; and
- (f) Any other document which, in the judgment of the court, is sufficient and proper basis for reconstituting the lost or destroyed certificate of title. (*emphasis supplied*)

Evidently, it can be inferred that for this specific provision to be applicable, it must be proven that a certificate of title of the property has already been issued, as it pertains to the reconstitution of an original certificate of title which subsequently was lost or destroyed. It must also be emphasized that this section refers exclusively to lost or damaged original certificates of title only.

Anent thereto, in the case at bench, the Certification^[10] dated January 26, 2010 issued by the Registry of Deeds of San Jose, Antique did not categorically state that a certificate of title corresponding to the subject property has already been issued. In fact, the certification elucidates that the Registry of Deeds was not sure whether or not a title was ever issued. Thus, clearly implying an uncertainty as to the